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CUMULATIVE TABLE OF VIRGINIA ADMINISTRATIVE CODE SECTIONS ADOPTED, AMENDED, OR REPEALED

The table printed below lists regulation sections, by Virginia Administrative Code (VAC) title, that have been amended, added or repealed in the *Virginia Register* since the regulations were originally published or last supplemented in VAC (the Fall 2004 VAC Supplement includes final regulations published through *Virginia Register* Volume 20, Issue 24, dated August 9, 2004). 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 75-40-10 through 1 VAC 75-40-60	Added	20:25 VA.R. 3082	9/22/04
Title 2. Agriculture			
2 VAC 5-500	Repealed	21:8 VA.R. 861	1/26/05
2 VAC 5-501-10 through 2 VAC 5-501-110	Added	21:8 VA.R. 861-869	1/26/05
2 VAC 5-530	Repealed	21:8 VA.R. 869	1/26/05
2 VAC 5-531-10 through 2 VAC 5-531-140	Added	21:8 VA.R. 869-908	1/26/05
2 VAC 20-30 (Forms)	Erratum	20:25 VA.R. 3111	--
Title 3. Alcoholic Beverages			
3 VAC 5-50-60	Amended	21:7 VA.R. 803	2/26/05
Title 4. Conservation and Natural Resources			
4 VAC 3-20-10 through 4 VAC 3-20-351	Repealed	21:3 VA.R. 317	1/29/05
4 VAC 15-20-100	Amended	21:3 VA.R. 318	10/1/04
4 VAC 15-40-280	Amended	21:1 VA.R. 24	10/20/04
4 VAC 15-260-10	Amended	20:25 VA.R. 3082	7/28/04
4 VAC 15-320-100	Amended	21:1 VA.R. 24	9/20/04
4 VAC 20-25-10 through 4 VAC 20-25-40	Added	21:8 VA.R. 908-909	12/1/04
4 VAC 20-252-50	Amended	21:13 VA.R. 1824	2/2/05
4 VAC 20-252-55	Amended	21:13 VA.R. 1824	2/2/05
4 VAC 20-252-130	Amended	21:13 VA.R. 1825	2/2/05
4 VAC 20-252-150	Amended	21:13 VA.R. 1825	2/2/05
4 VAC 20-252-160	Amended	21:13 VA.R. 1826	2/2/05
4 VAC 20-270-30	Amended	20:26 VA.R. 3191	8/6/04
4 VAC 20-320-10	Amended	20:26 VA.R. 3191	8/6/04
4 VAC 20-320-70	Amended	20:26 VA.R. 3192	8/6/04
4 VAC 20-320-80	Amended	20:26 VA.R. 3192	8/6/04
4 VAC 20-450-30	Amended	21:13 VA.R. 1827	2/2/05
4 VAC 20-564-10 through 4 VAC 20-564-50 emer	Added	20:25 VA.R. 3096	8/16/04-9/3/04
4 VAC 20-620-40	Amended	21:10 VA.R. 1231	1/1/05
4 VAC 20-620-40	Amended	21:14 VA.R. 1992	3/1/05
4 VAC 20-620-50	Amended	21:14 VA.R. 1993	3/1/05
4 VAC 20-620-60	Amended	21:14 VA.R. 1993	3/1/05
4 VAC 20-620-70	Amended	21:14 VA.R. 1994	3/1/05
4 VAC 20-650-20	Amended	21:8 VA.R. 909	12/1/04
4 VAC 20-720-10 emer	Amended	21:12 VA.R. 1563	2/1/05-2/28/05
4 VAC 20-720-20	Amended	21:4 VA.R. 408	10/1/04
4 VAC 20-720-20	Amended	21:8 VA.R. 910	12/1/04
4 VAC 20-720-20 emer	Amended	21:12 VA.R. 1563	2/1/05-2/28/05
4 VAC 20-720-20	Amended	21:14 VA.R. 1994	3/1/05
4 VAC 20-720-40 emer	Amended	21:12 VA.R. 1564	2/1/05-2/28/05
4 VAC 20-720-40	Amended	21:14 VA.R. 1995	3/1/05
4 VAC 20-720-40 through 4 VAC 20-720-100	Amended	21:4 VA.R. 409-411	10/1/04
4 VAC 20-720-40 through 4 VAC 20-720-90	Amended	21:8 VA.R. 911-913	12/1/04
4 VAC 20-720-49 emer	Added	21:14 VA.R. 2016	3/1/05-3/9/05

Cumulative Table of VAC Sections Adopted, Amended, or Repealed

SECTION NUMBER	ACTION	CITE	EFFECTIVE DATE
4 VAC 20-720-50 emer	Amended	21:12 VA.R. 1564	2/1/05-2/28/05
4 VAC 20-720-50	Amended	21:14 VA.R. 1995	3/1/05
4 VAC 20-720-60 emer	Amended	21:12 VA.R. 1565	2/1/05-2/28/05
4 VAC 20-720-75	Added	21:8 VA.R. 912	12/1/04
4 VAC 20-720-110 emer	Amended	21:12 VA.R. 1565	2/1/05-2/28/05
4 VAC 20-910-45 emer	Amended	21:5 VA.R. 499	11/1/04-11/30/04
4 VAC 20-910-45	Amended	21:8 VA.R. 913	12/1/04
4 VAC 20-910-45 emer	Amended	21:10 VA.R. 1234	1/1/05-1/30/05
4 VAC 20-910-45	Amended	21:13 VA.R. 1827	2/2/05
4 VAC 20-920-45	Added	21:8 VA.R. 914	12/1/04
4 VAC 20-950-47	Amended	21:5 VA.R. 497	10/29/04
4 VAC 20-950-48 emer	Amended	21:3 VA.R. 334	9/29/04-10/30/04
4 VAC 20-950-48	Amended	21:5 VA.R. 497	10/29/04
4 VAC 20-950-48	Amended	21:13 VA.R. 1828	2/2/05
4 VAC 20-950-48.1	Added	21:5 VA.R. 497	10/29/04
4 VAC 20-1045-10	Added	21:4 VA.R. 412	10/1/04
4 VAC 20-1045-20	Added	21:4 VA.R. 412	10/1/04
4 VAC 20-1045-30	Added	21:4 VA.R. 412	10/1/04
4 VAC 20-1065-10 through 4 VAC 20-1065-40	Added	21:12 VA.R. 1523	2/1/05
4 VAC 25-31 (Forms)	Amended	21:1 VA.R. 28	--
4 VAC 25-130 (Forms)	Amended	21:2 VA.R. 225	--
4 VAC 50-60-10 through 4 VAC 50-60-1240	Added	21:3 VA.R. 317	1/29/05
Title 6. Criminal Justice and Corrections			
6 VAC 20-180-10 through 6 VAC 20-180-50	Amended	21:14 VA.R. 1996-1998	4/20/05
6 VAC 20-180-60	Added	21:14 VA.R. 1998	4/20/05
6 VAC 20-190-10	Amended	21:2 VA.R. 127	11/3/04
6 VAC 20-190-50	Amended	21:2 VA.R. 127	11/3/04
6 VAC 20-190-150	Amended	21:2 VA.R. 127	11/3/04
6 VAC 20-190-160	Amended	21:2 VA.R. 128	11/3/04
6 VAC 20-240-10 through 6 VAC 20-240-140 emer	Added	20:25 VA.R. 3097-3102	8/23/04-8/22/05
6 VAC 35-170-10 through 6 VAC 35-170-230	Added	21:9 VA.R. 1073	2/9/05
Title 8. Education			
8 VAC 20-90-10	Amended	21:14 VA.R. 1999	5/2/05
8 VAC 20-90-30	Amended	21:14 VA.R. 2000	5/2/05
8 VAC 20-90-40	Amended	21:14 VA.R. 2003	5/2/05
8 VAC 20-90-70	Amended	21:14 VA.R. 2003	5/2/05
8 VAC 20-140-10	Repealed	21:3 VA.R. 332	1/1/05
8 VAC 20-200-10	Repealed	21:7 VA.R. 804	3/1/05
8 VAC 20-210-10	Erratum	21:13 VA.R. 1941	--
8 VAC 20-210-10	Amended	21:4 VA.R. 413	1/1/05
8 VAC 20-260-10 through 8 VAC 20-260-60	Repealed	21:7 VA.R. 805-806	3/1/05
8 VAC 20-360-10	Amended	21:8 VA.R. 1011	3/15/05
8 VAC 20-360-20	Amended	21:8 VA.R. 1012	3/15/05
8 VAC 20-360-30	Repealed	21:8 VA.R. 1012	3/15/05
8 VAC 20-380-10 through 8 VAC 20-380-40	Repealed	21:7 VA.R. 806-807	3/1/05
8 VAC 20-400-10 through 8 VAC 20-400-50	Repealed	21:7 VA.R. 807-808	3/1/05
8 VAC 20-430-10 through 8 VAC 20-430-50	Repealed	21:7 VA.R. 808-809	3/1/05
8 VAC 20-470-10	Repealed	21:4 VA.R. 423	3/1/05
8 VAC 20-480-10	Repealed	21:7 VA.R. 809	3/1/05
8 VAC 20-520-5 emer	Added	21:14 VA.R. 2016	3/1/05-2/28/06
8 VAC 20-520-10 emer	Repealed	21:14 VA.R. 2017	3/1/05-2/28/06
8 VAC 20-520-20 through 8 VAC 20-520-60 emer	Added	21:14 VA.R. 2017-2018	3/1/05-2/28/06
8 VAC 20-680-10	Added	21:12 VA.R. 1559	5/9/05
8 VAC 20-680-20	Added	21:12 VA.R. 1559	5/9/05
8 VAC 20-690-10 through 8 VAC 20-690-50	Added	21:12 VA.R. 1525	3/29/05
8 VAC 20-700-10 through 8 VAC 20-700-50 (emer)	Added	21:13 VA.R. 1928-1929	2/16/05-2/15/06

Cumulative Table of VAC Sections Adopted, Amended, or Repealed

SECTION NUMBER	ACTION	CITE	EFFECTIVE DATE
8 VAC 40-30 emer	Repealed	21:6 VA.R. 684	11/8/04-11/7/05
8 VAC 40-31-10 through 8 VAC 40-31-320 emer	Added	21:6 VA.R. 684-698	11/8/04-11/7/05
Title 9. Environment			
9 VAC 5-20-21	Amended	21:11 VA.R. 1360	3/9/05
9 VAC 5-20-204	Erratum	20:26 VA.R. 3210-3211	--
9 VAC 5-20-204	Amended	21:7 VA.R. 790	1/12/05
9 VAC 5-20-205	Erratum	20:26 VA.R. 3210-3211	--
9 VAC 5-40-7240 through 9 VAC 5-40-7360	Added	21:11 VA.R. 1364-1389	3/9/05
9 VAC 5-40-7260	Erratum	21:13 VA.R. 1941	--
9 VAC 5-40-7270	Erratum	21:13 VA.R. 1941	--
9 VAC 5-50-400	Amended	21:7 VA.R. 791	1/12/05
9 VAC 5-60-60	Amended	21:7 VA.R. 791	1/12/05
9 VAC 5-60-90	Amended	21:7 VA.R. 791	1/12/05
9 VAC 5-60-91	Repealed	21:7 VA.R. 791	1/12/05
9 VAC 5-60-100	Amended	21:7 VA.R. 791	1/12/05
9 VAC 5-80-2000	Amended	21:4 VA.R. 413	12/1/04
9 VAC 5-80-2010	Amended	21:4 VA.R. 414	12/1/04
9 VAC 5-80-2250	Amended	21:4 VA.R. 419	12/1/04
9 VAC 20-80 (Forms)	Amended	21:13 VA.R. 1930	--
9 VAC 20-130 (Forms)	Amended	21:11 VA.R. 1417	--
9 VAC 20-130 (Forms)	Amended	21:13 VA.R. 1930	--
9 VAC 25-31-10	Amended	21:2 VA.R. 128	11/3/04
9 VAC 25-31-10	Amended	21:9 VA.R. 1073	2/9/05
9 VAC 25-31-10	Amended	21:10 VA.R. 1233	2/9/05
9 VAC 25-31-10	Erratum	21:13 VA.R. 1941	--
9 VAC 25-31-30	Amended	21:2 VA.R. 139	11/3/04
9 VAC 25-31-100	Amended	21:2 VA.R. 140	11/3/04
9 VAC 25-31-100	Amended	21:9 VA.R. 1084	2/9/05
9 VAC 25-31-100	Amended	21:10 VA.R. 1233	2/9/05
9 VAC 25-31-100	Erratum	21:14 VA.R. 2022	--
9 VAC 25-31-120	Amended	21:9 VA.R. 1100	2/9/05
9 VAC 25-31-120	Amended	21:10 VA.R. 1233	2/9/05
9 VAC 25-31-120	Erratum	21:13 VA.R. 1941	--
9 VAC 25-31-121	Repealed	21:9 VA.R. 1111	2/9/05
9 VAC 25-31-121	Repealed	21:10 VA.R. 1233	2/9/05
9 VAC 25-31-130	Amended	21:2 VA.R. 158	11/3/04
9 VAC 25-31-130	Amended	21:9 VA.R. 1117	2/9/05
9 VAC 25-31-130	Amended	21:10 VA.R. 1233	2/9/05
9 VAC 25-31-170	Amended	21:2 VA.R. 160	11/3/04
9 VAC 25-31-170	Amended	21:9 VA.R. 1119	2/9/05
9 VAC 25-31-170	Amended	21:10 VA.R. 1233	2/9/05
9 VAC 25-31-200	Amended	21:2 VA.R. 162	11/3/04
9 VAC 25-31-200	Amended	21:9 VA.R. 1121	2/9/05
9 VAC 25-31-200	Amended	21:10 VA.R. 1233	2/9/05
9 VAC 25-31-220	Amended	21:9 VA.R. 1123	2/9/05
9 VAC 25-31-220	Amended	21:10 VA.R. 1233	2/9/05
9 VAC 25-31-390	Amended	21:9 VA.R. 1128	2/9/05
9 VAC 25-31-390	Amended	21:10 VA.R. 1233	2/9/05
9 VAC 25-71-10	Amended	21:2 VA.R. 165	11/3/04
9 VAC 25-71-60	Amended	21:2 VA.R. 166	11/3/04
9 VAC 25-101-30	Amended	21:2 VA.R. 166	11/3/04
9 VAC 25-101-35	Added	21:2 VA.R. 167	11/3/04
9 VAC 25-101-40	Amended	21:2 VA.R. 167	11/3/04
9 VAC 25-101-45	Added	21:2 VA.R. 170	11/3/04
9 VAC 25-101-50	Amended	21:2 VA.R. 170	11/3/04
9 VAC 25-101-60	Amended	21:2 VA.R. 172	11/3/04

Cumulative Table of VAC Sections Adopted, Amended, or Repealed

SECTION NUMBER	ACTION	CITE	EFFECTIVE DATE
9 VAC 25-101-70	Amended	21:2 VA.R. 172	11/3/04
9 VAC 25-151-140	Amended	21:2 VA.R. 173	11/3/04
9 VAC 25-151-150	Amended	21:2 VA.R. 175	11/3/04
9 VAC 25-151-160	Amended	21:2 VA.R. 179	11/3/04
9 VAC 25-151-180	Amended	21:2 VA.R. 179	11/3/04
9 VAC 25-151-230	Amended	21:2 VA.R. 181	11/3/04
9 VAC 25-151-280	Amended	21:2 VA.R. 182	11/3/04
9 VAC 25-191-50	Erratum	21:9 VA.R. 1170	--
9 VAC 25-191-50	Erratum	21:11 VA.R. 1425	--
9 VAC 25-191-10 through 9 VAC 25-191-50	Added	21:2 VA.R. 183-198	11/3/04
9 VAC 25-192-10	Amended	21:2 VA.R. 199	11/3/04
9 VAC 25-192-20	Amended	21:2 VA.R. 200	11/3/04
9 VAC 25-192-30	Repealed	21:2 VA.R. 200	11/3/04
9 VAC 25-192-40	Repealed	21:2 VA.R. 200	11/3/04
9 VAC 25-192-50	Amended	21:2 VA.R. 200	11/3/04
9 VAC 25-192-60	Amended	21:2 VA.R. 201	11/3/04
9 VAC 25-192-70	Amended	21:2 VA.R. 202	11/3/04
9 VAC 25-260-30 Bottom Creek	Amended	21:11 VA.R. 1389	*
9 VAC 25-260-30 Lake Drummond	Amended	21:11 VA.R. 1390	*
9 VAC 25-260-30 Little Stony Creek	Amended	21:11 VA.R. 1390	*
9 VAC 25-260-30 Ragged Island	Amended	21:11 VA.R. 1390	*
9 VAC 25-400-10	Repealed	20:25 VA.R. 3083	9/22/04
9 VAC 25-401-10 through 9 VAC 25-401-50	Added	20:25 VA.R. 3083	9/22/04
9 VAC 25-590-10 through 9 VAC 25-590-100	Amended	21:8 VA.R. 915-919	1/26/05
9 VAC 25-590-120	Amended	21:8 VA.R. 919	1/26/05
9 VAC 25-590-120	Repealed	21:8 VA.R. 919	1/26/05
9 VAC 25-590-140 through 9 VAC 25-590-210	Amended	21:8 VA.R. 919-923	1/26/05
9 VAC 25-590-260	Amended	21:8 VA.R. 924	1/26/05
9 VAC 25-630 (Forms)	Erratum	21:9 VA.R. 1170	--
9 VAC 25-630-10	Amended	21:2 VA.R. 211	11/3/04
9 VAC 25-630-20	Amended	21:2 VA.R. 212	11/3/04
9 VAC 25-630-30	Amended	21:2 VA.R. 212	11/3/04
9 VAC 25-630-50	Amended	21:2 VA.R. 212	11/3/04
9 VAC 25-660-10 through 9 VAC 25-660-100	Amended	21:8 VA.R. 929-940	1/26/05
9 VAC 25-670-10 through 9 VAC 25-670-100	Amended	21:8 VA.R. 940-957	1/26/05
9 VAC 25-680-10 through 9 VAC 25-680-100	Amended	21:8 VA.R. 957-976	1/26/05
9 VAC 25-690-10 through 9 VAC 25-690-100	Amended	21:8 VA.R. 976-997	1/26/05
9 VAC 25-720-50	Amended	21:9 VA.R. 1130	--
9 VAC 25-720-50	Amended	21:12 VA.R. 1526	3/23/05
9 VAC 25-720-50	Erratum	21:11 VA.R. 1425	--
9 VAC 25-720-60	Amended	21:9 VA.R. 1136	2/9/05
9 VAC 25-720-80	Amended	21:9 VA.R. 1143	2/9/05
9 VAC 25-720-80	Amended	21:12 VA.R. 1527	3/23/05
9 VAC 25-720-90	Amended	21:9 VA.R. 1152	2/9/05
9 VAC 25-720-90	Amended	21:12 VA.R. 1527	3/23/05
9 VAC 25-720-130	Amended	21:12 VA.R. 1528	3/23/05
Title 10. Finance and Financial Institutions			
10 VAC 5-100-10	Repealed	21:6 VA.R. 630	6/30/05
10 VAC 5-100-20	Repealed	21:6 VA.R. 630	6/30/05
10 VAC 5-100-30	Repealed	21:6 VA.R. 630	6/30/05
10 VAC 5-110-10	Added	21:6 VA.R. 631	11/15/04
10 VAC 5-110-20	Added	21:6 VA.R. 631	11/15/04

* 30 days after publication of notice of EPA approval.

Cumulative Table of VAC Sections Adopted, Amended, or Repealed

SECTION NUMBER	ACTION	CITE	EFFECTIVE DATE
Title 11. Gaming			
11 VAC 10-20-200	Amended	20:25 VA.R. 3083	9/23/04
11 VAC 10-20-240 emer	Amended	20:25 VA.R. 3102	7/28/04-7/27/05
11 VAC 10-45 (Forms)	Erratum	20:25 VA.R. 3112	--
Title 12. Health			
12 VAC 5-90-10 emer	Amended	21:6 VA.R. 699	11/5/04-11/4/05
12 VAC 5-90-40 emer	Amended	21:6 VA.R. 702	11/5/04-11/4/05
12 VAC 5-90-90 emer	Amended	21:6 VA.R. 703	11/5/04-11/4/05
12 VAC 5-90-100 emer	Amended	21:6 VA.R. 705	11/5/04-11/4/05
12 VAC 5-90-105 emer	Added	21:6 VA.R. 705	11/5/04-11/4/05
12 VAC 5-90-110 emer	Amended	21:6 VA.R. 706	11/5/04-11/4/05
12 VAC 5-90-120 emer	Added	21:6 VA.R. 708	11/5/04-11/4/05
12 VAC 5-220-10	Amended	20:26 VA.R. 3193	9/27/04
12 VAC 5-220-160	Amended	20:26 VA.R. 3196	9/27/04
12 VAC 5-220-230	Amended	20:26 VA.R. 3197	9/27/04
12 VAC 5-220-385	Amended	20:26 VA.R. 3198	9/27/04
12 VAC 5-371-110	Amended	20:26 VA.R. 3200	9/27/04
12 VAC 5-410-10	Amended	21:12 VA.R. 1561	5/9/05
12 VAC 5-410-440	Erratum	21:8 VA.R. 1016	--
12 VAC 5-410-440	Amended	21:6 VA.R. 665	2/14/05
12 VAC 5-410-441 through 12 VAC 5-410-447	Added	21:6 VA.R. 666-681	2/14/05
12 VAC 5-590-10	Amended	21:13 VA.R. 1829	4/6/05
12 VAC 5-590-370	Amended	21:13 VA.R. 1835	4/6/05
12 VAC 5-590-410	Amended	21:13 VA.R. 1860	4/6/05
12 VAC 5-590-420	Amended	21:13 VA.R. 1863	4/6/05
12 VAC 5-590-500	Amended	21:13 VA.R. 1879	4/6/05
12 VAC 5-590-505 emer	Added	21:9 VA.R. 1165	12/21/04-12/20/05
12 VAC 5-590-530	Amended	21:13 VA.R. 1880	4/6/05
12 VAC 5-590-540	Amended	21:13 VA.R. 1886	4/6/05
12 VAC 5-590-550	Amended	21:13 VA.R. 1890	4/6/05
12 VAC 5-590, Appendix L	Amended	21:13 VA.R. 1891	4/6/05
12 VAC 5-590, Appendix M	Amended	21:13 VA.R. 1897	4/6/05
12 VAC 5-590, Appendix O	Amended	21:13 VA.R. 1901	4/6/05
12 VAC 30-10-650	Amended	21:6 VA.R. 631	1/3/05
12 VAC 30-50-210	Amended	21:6 VA.R. 632	1/3/05
12 VAC 30-50-490 emer	Amended	21:12 VA.R. 1566	2/1/05-1/31/06
12 VAC 30-70-301	Amended	21:14 VA.R. 2014	6/6/05
12 VAC 30-70-331	Amended	21:6 VA.R. 683	7/1/05
12 VAC 30-80-30	Amended	21:7 VA.R. 797	1/12/05
12 VAC 30-80-40	Amended	21:6 VA.R. 632	1/3/05
12 VAC 30-80-40 emer	Amended	21:6 VA.R. 709	12/1/04-11/30/05
12 VAC 30-80-190 emer	Amended	20:26 VA.R. 3203	9/1/04-8/31/05
12 VAC 30-80-190 emer	Amended	20:26 VA.R. 3204	9/1/04-8/31/05
12 VAC 30-80-190	Amended	21:7 VA.R. 800	1/12/05
12 VAC 30-90-29	Amended	21:2 VA.R. 223	11/3/04
12 VAC 30-120-10 through 12 VAC 30-120-60 emer	Repealed	21:12 VA.R. 1601	2/1/05-1/31/06
12 VAC 30-120-211 emer	Amended	21:6 VA.R. 711	12/1/04-11/30/05
12 VAC 30-120-213 emer	Amended	21:6 VA.R. 714	12/1/04-11/30/05
12 VAC 30-120-215 emer	Amended	21:6 VA.R. 715	12/1/04-11/30/05
12 VAC 30-120-219 emer	Amended	21:6 VA.R. 718	12/1/04-11/30/05
12 VAC 30-120-223 emer	Amended	21:6 VA.R. 719	12/1/04-11/30/05
12 VAC 30-120-225 emer	Amended	21:6 VA.R. 720	12/1/04-11/30/05
12 VAC 30-120-227 emer	Amended	21:6 VA.R. 724	12/1/04-11/30/05
12 VAC 30-120-229 emer	Amended	21:6 VA.R. 725	12/1/04-11/30/05
12 VAC 30-120-233 emer	Amended	21:6 VA.R. 726	12/1/04-11/30/05
12 VAC 30-120-237 emer	Amended	21:6 VA.R. 728	12/1/04-11/30/05

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12 VAC 30-120-241 emer	Amended	21:6 VA.R. 729	12/1/04-11/30/05
12 VAC 30-120-243 emer	Amended	21:6 VA.R. 730	12/1/04-11/30/05
12 VAC 30-120-245 emer	Amended	21:6 VA.R. 732	12/1/04-11/30/05
12 VAC 30-120-247 emer	Amended	21:6 VA.R. 733	12/1/04-11/30/05
12 VAC 30-120-249 emer	Amended	21:6 VA.R. 734	12/1/04-11/30/05
12 VAC 30-120-260	Amended	21:11 VA.R. 1391	3/10/05
12 VAC 30-120-280	Amended	21:11 VA.R. 1392	3/10/05
12 VAC 30-120-290	Amended	21:11 VA.R. 1394	3/10/05
12 VAC 30-120-310	Amended	21:11 VA.R. 1395	3/10/05
12 VAC 30-120-320	Amended	21:11 VA.R. 1395	3/10/05
12 VAC 30-120-350	Amended	21:11 VA.R. 1395	3/10/05
12 VAC 30-120-360	Amended	21:11 VA.R. 1396	3/10/05
12 VAC 30-120-370	Amended	21:11 VA.R. 1398	3/10/05
12 VAC 30-120-380	Amended	21:11 VA.R. 1400	3/10/05
12 VAC 30-120-400	Amended	21:11 VA.R. 1401	3/10/05
12 VAC 30-120-410	Amended	21:11 VA.R. 1401	3/10/05
12 VAC 30-120-420	Amended	21:11 VA.R. 1402	3/10/05
12 VAC 30-120-490 through 12 VAC 30-120-550 emer	Repealed	21:12 VA.R. 1601	2/1/05-1/31/06
12 VAC 30-120-700 emer	Amended	21:12 VA.R. 1568	2/1/05-1/31/06
12 VAC 30-120-710 emer	Amended	21:12 VA.R. 1572	2/1/05-1/31/06
12 VAC 30-120-720 emer	Amended	21:12 VA.R. 1572	2/1/05-1/31/06
12 VAC 30-120-730 emer	Amended	21:12 VA.R. 1576	2/1/05-1/31/06
12 VAC 30-120-740 emer	Amended	21:12 VA.R. 1578	2/1/05-1/31/06
12 VAC 30-120-750 emer	Amended	21:12 VA.R. 1579	2/1/05-1/31/06
12 VAC 30-120-752 emer	Amended	21:12 VA.R. 1580	2/1/05-1/31/06
12 VAC 30-120-753 emer	Amended	21:12 VA.R. 1582	2/1/05-1/31/06
12 VAC 30-120-754 emer	Amended	21:12 VA.R. 1583	2/1/05-1/31/06
12 VAC 30-120-756 emer	Amended	21:12 VA.R. 1584	2/1/05-1/31/06
12 VAC 30-120-758 emer	Amended	21:12 VA.R. 1585	2/1/05-1/31/06
12 VAC 30-120-760 emer	Amended	21:12 VA.R. 1586	2/1/05-1/31/06
12 VAC 30-120-762 emer	Amended	21:12 VA.R. 1586	2/1/05-1/31/06
12 VAC 30-120-764 emer	Amended	21:12 VA.R. 1587	2/1/05-1/31/06
12 VAC 30-120-766 emer	Amended	21:12 VA.R. 1588	2/1/05-1/31/06
12 VAC 30-120-768 emer	Amended	21:12 VA.R. 1590	2/1/05-1/31/06
12 VAC 30-120-770 emer	Amended	21:12 VA.R. 1592	2/1/05-1/31/06
12 VAC 30-120-772 emer	Amended	21:12 VA.R. 1596	2/1/05-1/31/06
12 VAC 30-120-774 emer	Amended	21:12 VA.R. 1597	2/1/05-1/31/06
12 VAC 30-120-776 emer	Amended	21:12 VA.R. 1598	2/1/05-1/31/06
12 VAC 30-120-780 emer	Repealed	21:12 VA.R. 1600	2/1/05-1/31/06
12 VAC 30-120-790 emer	Repealed	21:12 VA.R. 1601	2/1/05-1/31/06
12 VAC 30-120-900 through 12 VAC 30-120-990 emer	Added	21:12 VA.R. 1601-1619	2/1/05-1/31/06
12 VAC 30-130-290	Amended	21:6 VA.R. 631	1/3/05
12 VAC 30-130-310	Amended	21:6 VA.R. 631	1/3/05
12 VAC 30-130-320	Amended	21:6 VA.R. 631	1/3/05
12 VAC 30-130-330	Amended	21:6 VA.R. 631	1/3/05
12 VAC 30-130-335	Added	21:6 VA.R. 631	1/3/05
12 VAC 30-130-400	Amended	21:6 VA.R. 631	1/3/05
12 VAC 30-130-1000	Added	21:6 VA.R. 633	1/3/05
Title 13. Housing			
13 VAC 5-62-260	Amended	20:25 VA.R. 3084	9/8/04
13 VAC 5-63-110	Erratum	21:14 VA.R. 2021	--
13 VAC 10-180-10	Amended	21:11 VA.R. 1403	1/14/05
13 VAC 10-180-50	Amended	21:11 VA.R. 1403	1/14/05
13 VAC 10-180-60	Amended	21:11 VA.R. 1403	1/14/05
13 VAC 10-180-90	Amended	21:11 VA.R. 1412	1/14/05
13 VAC 10-180-110	Added	21:11 VA.R. 1412	1/14/05

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SECTION NUMBER	ACTION	CITE	EFFECTIVE DATE
Title 14. Insurance			
14 VAC 5-90-10 through 14 VAC 5-90-50	Amended	20:25 VA.R. 3090-3091	8/4/04
14 VAC 5-90-55	Added	20:25 VA.R. 3091	8/4/04
14 VAC 5-90-60 through 14 VAC 5-90-180	Amended	20:25 VA.R. 3092	8/4/04
14 VAC 5-90 (Forms)	Amended	20:25 VA.R. 3092	8/4/04
Title 16. Labor and Employment			
16 VAC 25-40-10	Amended	20:26 VA.R. 3201	10/15/04
16 VAC 25-40-20	Amended	20:26 VA.R. 3201	10/15/04
16 VAC 25-40-50	Amended	20:26 VA.R. 3202	10/15/04
16 VAC 25-90-1910	Erratum	21:1 VA.R. 44	--
16 VAC 25-90-1910.103	Amended	20:26 VA.R. 3202	10/15/04
16 VAC 25-90-1910.134	Amended	21:11 VA.R. 1412	3/15/05
16 VAC 25-90-1910.217	Amended	20:26 VA.R. 3202	10/15/04
16 VAC 25-90-1910.219	Amended	20:26 VA.R. 3202	10/15/04
16 VAC 25-90-1910.268	Amended	20:26 VA.R. 3202	10/15/04
16 VAC 25-90-1926.307	Amended	20:26 VA.R. 3202	10/15/04
16 VAC 25-100-1915.5	Amended	21:11 VA.R. 1413	3/15/05
16 VAC 25-100-1915.501 through 16 VAC 25-100-1915.509	Added	21:11 VA.R. 1413-1414	3/15/05
16 VAC 25-155-10	Added	21:6 VA.R. 634	1/1/05
16 VAC 25-175-1926	Erratum	21:1 VA.R. 44	--
16 VAC 25-175-1926.950(c)(1)	Repealed	21:6 VA.R. 634	1/1/05
Title 18. Professional and Occupational Licensing			
18 VAC 5-30-10 through 18 VAC 5-30-110	Repealed	21:3 VA.R. 318	11/3/04
18 VAC 10-20-60	Amended	21:3 VA.R. 318	12/1/04
18 VAC 10-20-90	Amended	21:3 VA.R. 318	12/1/04
18 VAC 10-20-170	Amended	21:3 VA.R. 318	12/1/04
18 VAC 10-20-280	Amended	21:3 VA.R. 318	12/1/04
18 VAC 10-20-400	Amended	21:3 VA.R. 318	12/1/04
18 VAC 10-20-520	Amended	21:3 VA.R. 318	12/1/04
18 VAC 10-20-565	Amended	21:3 VA.R. 318	12/1/04
18 VAC 10-20-580	Amended	21:3 VA.R. 318	12/1/04
18 VAC 10-20-625	Amended	21:3 VA.R. 318	12/1/04
18 VAC 10-20-630	Amended	21:3 VA.R. 318	12/1/04
18 VAC 10-20-665	Amended	21:3 VA.R. 318	12/1/04
18 VAC 45-10-10 through 18 VAC 45-10-40	Amended	20:25 VA.R. 3093-3094	11/8/04
18 VAC 45-10-60 through 18 VAC 45-10-90	Amended	20:25 VA.R. 3094-3095	11/8/04
18 VAC 62-20-60	Erratum	21:1 VA.R. 44	--
18 VAC 62-20-40 emer	Added	20:25 VA.R. 3104	7/23/04-2/1/05
18 VAC 62-20-90 emer	Added	20:25 VA.R. 3104	7/23/04-2/1/05
18 VAC 85-15-10	Added	21:1 VA.R. 26	9/1/04-8/31/05
18 VAC 85-15-20	Added	21:1 VA.R. 26	9/1/04-8/31/05
18 VAC 85-15-30	Added	21:1 VA.R. 26	9/1/04-8/31/05
18 VAC 85-80-61 emer	Added	20:25 VA.R. 3105	7/27/04-7/26/05
18 VAC 90-15-10	Added	21:1 VA.R. 27	9/1/04-8/31/05
18 VAC 90-15-20	Added	21:1 VA.R. 27	9/1/04-8/31/05
18 VAC 90-15-30	Added	21:1 VA.R. 27	9/1/04-8/31/05
18 VAC 90-20-361 through 18 VAC 90-20-364	Repealed	21:9 VA.R. 1156-1157	3/26/05
18 VAC 90-25-15	Added	21:9 VA.R. 1157	3/26/05
18 VAC 90-25-100	Amended	21:9 VA.R. 1158	3/26/05
18 VAC 90-25-110 through 18 VAC 90-25-140	Added	21:9 VA.R. 1158-1160	3/26/05
18 VAC 90-30-10	Amended	21:11 VA.R. 1414	3/9/05
18 VAC 90-30-60 through 18 VAC 90-30-90	Amended	21:11 VA.R. 1415-1416	3/9/05
18 VAC 90-30-85	Added	21:11 VA.R. 1415	3/9/05
18 VAC 95-20-471 emer	Added	20:25 VA.R. 3105	7/28/04-7/27/05
18 VAC 105-20-5 emer	Added	21:6 VA.R. 735	12/8/04-12/7/05

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18 VAC 105-20-10 emer	Amended	21:6 VA.R. 736	12/8/04-12/7/05
18 VAC 105-20-15 emer	Amended	21:6 VA.R. 736	12/8/04-12/7/05
18 VAC 105-20-16 emer	Added	21:6 VA.R. 736	12/8/04-12/7/05
18 VAC 105-20-20 emer	Amended	21:6 VA.R. 736	12/8/04-12/7/05
18 VAC 105-20-46	Added	21:8 VA.R. 998	12/8/04
18 VAC 105-20-47	Added	21:8 VA.R. 998	12/8/04
18 VAC 105-20-70 emer	Amended	21:6 VA.R. 737	12/8/04-12/7/05
18 VAC 105-30 emer	Repealed	21:6 VA.R. 735	12/8/04-12/7/05
18 VAC 125-15-10 emer	Added	20:25 VA.R. 3106	7/28/04-7/27/05
18 VAC 125-15-20 emer	Added	20:25 VA.R. 3106	7/28/04-7/27/05
18 VAC 125-15-30 emer	Added	20:25 VA.R. 3106	7/28/04-7/27/05
18 VAC 145-20-151	Amended	21:3 VA.R. 319	12/1/04
18 VAC 160-20-102	Amended	21:3 VA.R. 319	12/1/04
Title 19. Public Safety			
19 VAC 30-70-1	Amended	21:4 VA.R. 420	9/22/04
19 VAC 30-70-2	Amended	21:4 VA.R. 420	9/22/04
19 VAC 30-70-6	Amended	21:4 VA.R. 420	9/22/04
19 VAC 30-70-7	Amended	21:4 VA.R. 420	9/22/04
19 VAC 30-70-8	Amended	21:4 VA.R. 420	9/22/04
19 VAC 30-70-9	Added	21:4 VA.R. 420	9/22/04
19 VAC 30-70-10	Amended	21:4 VA.R. 420	9/22/04
19 VAC 30-70-30 through 19 VAC 30-70-110	Amended	21:4 VA.R. 420	9/22/04
19 VAC 30-70-130 through 19 VAC 30-70-170	Amended	21:4 VA.R. 420	9/22/04
19 VAC 30-70-190 through 19 VAC 30-70-230	Amended	21:4 VA.R. 420	9/22/04
19 VAC 30-70-250 through 19 VAC 30-70-300	Amended	21:4 VA.R. 420	9/22/04
19 VAC 30-70-340	Amended	21:4 VA.R. 420	9/22/04
19 VAC 30-70-350	Amended	21:4 VA.R. 420	9/22/04
19 VAC 30-70-360	Amended	21:4 VA.R. 420	9/22/04
19 VAC 30-70-400	Amended	21:4 VA.R. 420	9/22/04
19 VAC 30-70-430 through 19 VAC 30-70-560	Amended	21:4 VA.R. 420	9/22/04
19 VAC 30-70-580	Amended	21:4 VA.R. 420	9/22/04
19 VAC 30-70-600	Amended	21:4 VA.R. 420	9/22/04
19 VAC 30-70-650	Amended	21:4 VA.R. 420	9/22/04
Title 22. Social Services			
22 VAC 15-30-10	Amended	21:12 VA.R. 1528	6/1/05
22 VAC 15-30-30	Amended	21:12 VA.R. 1532	6/1/05
22 VAC 15-30-50	Amended	21:12 VA.R. 1532	6/1/05
22 VAC 15-30-70	Amended	21:12 VA.R. 1533	6/1/05
22 VAC 15-30-80	Amended	21:12 VA.R. 1533	6/1/05
22 VAC 15-30-90	Amended	21:12 VA.R. 1533	6/1/05
22 VAC 15-30-110	Amended	21:12 VA.R. 1534	6/1/05
22 VAC 15-30-140	Amended	21:12 VA.R. 1534	6/1/05
22 VAC 15-30-150	Amended	21:12 VA.R. 1534	6/1/05
22 VAC 15-30-160	Amended	21:12 VA.R. 1534	6/1/05
22 VAC 15-30-180	Amended	21:12 VA.R. 1535	6/1/05
22 VAC 15-30-190	Amended	21:12 VA.R. 1535	6/1/05
22 VAC 15-30-200	Amended	21:12 VA.R. 1536	6/1/05
22 VAC 15-30-200	Erratum	21:13 VA.R. 1941	--
22 VAC 15-30-230	Amended	21:12 VA.R. 1536	6/1/05
22 VAC 15-30-250	Amended	21:12 VA.R. 1537	6/1/05
22 VAC 15-30-260	Amended	21:12 VA.R. 1537	6/1/05
22 VAC 15-30-290	Amended	21:12 VA.R. 1538	6/1/05
22 VAC 15-30-310 through 22 VAC 15-30-390	Amended	21:12 VA.R. 1538-1542	6/1/05
22 VAC 15-30-410	Amended	21:12 VA.R. 1542	6/1/05
22 VAC 15-30-430	Amended	21:12 VA.R. 1543	6/1/05
22 VAC 15-30-440	Amended	21:12 VA.R. 1543	6/1/05

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SECTION NUMBER	ACTION	CITE	EFFECTIVE DATE
22 VAC 15-30-451	Amended	21:12 VA.R. 1545	6/1/05
22 VAC 15-30-461	Amended	21:12 VA.R. 1545	6/1/05
22 VAC 15-30-471	Amended	21:12 VA.R. 1545	6/1/05
22 VAC 15-30-490	Amended	21:12 VA.R. 1546	6/1/05
22 VAC 15-30-500	Amended	21:12 VA.R. 1547	6/1/05
22 VAC 15-30-510	Amended	21:12 VA.R. 1547	6/1/05
22 VAC 15-30-520	Amended	21:12 VA.R. 1548	6/1/05
22 VAC 15-30-540 through 22 VAC 15-30-670	Amended	21:12 VA.R. 1548-1556	6/1/05
22 VAC 15-30-575	Erratum	21:13 VA.R. 1941	--
22 VAC 15-30-585	Added	21:12 VA.R. 1550	6/1/05
22 VAC 40-141-10 through 22 VAC 40-141-40	Amended	21:6 VA.R. 635	2/1/05
22 VAC 40-141-60 through 22 VAC 40-141-130	Amended	21:6 VA.R. 635	2/1/05
22 VAC 40-141-87	Added	21:6 VA.R. 634	2/1/05
22 VAC 40-141-150	Amended	21:6 VA.R. 636	2/1/05
22 VAC 40-141-170 through 22 VAC 40-141-210	Amended	21:6 VA.R. 636-638	2/1/05
22 VAC 40-705-30	Amended	21:4 VA.R. 421	12/1/04
Title 24. Transportation and Motor Vehicles			
24 VAC 20-70-10 through 24 VAC 20-70-50	Repealed	20:25 VA.R. 3092	9/22/04
24 VAC 30-41-30	Amended	21:13 VA.R. 1911	4/6/05
24 VAC 30-41-50	Amended	21:13 VA.R. 1913	4/6/05
24 VAC 30-41-110	Amended	21:13 VA.R. 1913	4/6/05
24 VAC 30-41-190	Amended	21:13 VA.R. 1914	4/6/05
24 VAC 30-41-210	Amended	21:13 VA.R. 1915	4/6/05
24 VAC 30-41-220	Amended	21:13 VA.R. 1916	4/6/05
24 VAC 30-41-230	Amended	21:13 VA.R. 1916	4/6/05
24 VAC 30-41-250	Amended	21:13 VA.R. 1917	4/6/05
24 VAC 30-41-280	Amended	21:13 VA.R. 1917	4/6/05
24 VAC 30-41-290	Amended	21:13 VA.R. 1918	4/6/05
24 VAC 30-41-300	Amended	21:13 VA.R. 1918	4/6/05
24 VAC 30-41-310	Amended	21:13 VA.R. 1918	4/6/05
24 VAC 30-41-320	Amended	21:13 VA.R. 1919	4/6/05
24 VAC 30-41-350	Amended	21:13 VA.R. 1920	4/6/05
24 VAC 30-41-430	Amended	21:13 VA.R. 1920	4/6/05
24 VAC 30-41-500	Amended	21:13 VA.R. 1921	4/6/05
24 VAC 30-41-510	Amended	21:13 VA.R. 1921	4/6/05
24 VAC 30-41-520	Amended	21:13 VA.R. 1921	4/6/05
24 VAC 30-41-530	Amended	21:13 VA.R. 1922	4/6/05
24 VAC 30-41-580	Amended	21:13 VA.R. 1922	4/6/05
24 VAC 30-41-650	Amended	21:13 VA.R. 1923	4/6/05
24 VAC 30-41-660	Amended	21:13 VA.R. 1923	4/6/05
24 VAC 30-41-680	Amended	21:13 VA.R. 1923	4/6/05
24 VAC 30-90-10 through 24 VAC 30-90-380	Repealed	21:6 VA.R. 643	1/1/05
24 VAC 30-91-10	Erratum	21:12 VA.R. 1776	--
24 VAC 30-91-110	Erratum	21:12 VA.R. 1776	--
24 VAC 30-91-130	Erratum	21:12 VA.R. 1776	--
24 VAC 30-91-10 through 24 VAC 30-91-160	Added	21:6 VA.R. 643-663	1/1/05
24 VAC 30-120-170	Amended	21:3 VA.R. 330	11/17/04

PETITIONS FOR RULEMAKING

TITLE 18. PROFESSIONAL AND OCCUPATIONAL LICENSING

BOARD OF OPTOMETRY

Agency Decision

Title of Regulation: **18 VAC 105-20. Regulations Governing the Practice of Optometry.**

Statutory Authority: §§ 54.1-2400 and 54.1-3211 of the Code of Virginia.

Name of Petitioner: Paul E. Webb.

Nature of Petitioner's Request: To amend requirements for licensure to accept any examination in optometry acceptable to any other jurisdiction in the United States.

Agency Decision: Request Denied.

Statement of Reasons for Decision: At its meeting on March 8, 2005, the board voted to deny the petition because the requested amendment could have the effect of lowering the standard for licensure in Virginia, which is not in the best interest of the public.

Agency Contact: Elizabeth A. Carter, Ph.D., Executive Director, Board of Optometry, 6603 West Broad Street, Richmond, VA 23230-1712, telephone (804) 662-9910, FAX (804) 662-9943, or e-mail elizabeth.carter@dhp.virginia.gov.

VA.R. Doc. No. R05-98; Filed March 10, 2005, 2:32 p.m.

BOARD OF COUNSELING

Initial Agency Notice

Title of Regulation: **18 VAC 115-20. Regulations Governing the Practice of Professional Counseling.**

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

Name of Petitioner: Mary Clark and Claire Bellingham.

Nature of Petitioner's Request: To revise the continuing education regulations to reduce the number of hours required for licensed professional counselors who are "retired-active" practitioners.

Agency's Plan for Disposition of Request: The board will hold a regular board meeting on Friday, June 3, 2005, at 6603 West Broad Street, Richmond, Virginia. At that meeting, it will consider whether to recommend amendments to the requirements for continuing education.

Public comments may be submitted until May 4, 2005.

Agency Contact: Evelyn B. Brown, Executive Director, Board of Counseling, 6603 West Broad Street, Richmond, VA 23230-1717, telephone (804) 662-9912, FAX (804) 662-7250, or e-mail evelyn.brown@dhp.virginia.gov.

VA.R. Doc. No. R05-152; Filed March 10, 2005, 2:32 p.m.

NOTICES OF INTENDED REGULATORY ACTION

Symbol Key

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

TITLE 8. EDUCATION

2403, FAX (804) 225-2524 or e-mail
anne.wescott@doe.virginia.gov.

VA.R. Doc. No. R05-142; Filed March 1, 2005, 2:37 p.m.

STATE BOARD OF EDUCATION

Notice of Intended Regulatory Action

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 Education intends to consider amending regulations entitled **8 VAC 20-21, Licensure Regulations for School Personnel**. The purpose of the proposed action is to revise the regulations based on federal and state legislation as well as to address recommendations to clarify and change requirements for licensure.

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

Statutory Authority: §§ 22.1-16 and 22.1-298 of the Code of Virginia.

Public comments may be submitted until April 20, 2005.

Contact: Dr. Margaret N. Roberts, Office of Policy and Communications, Department of Education, P.O. Box 2120, Richmond, VA 23218-2120, telephone (804) 225-2540, FAX (804) 225-2524 or e-mail margaret.roberts@doe.virginia.gov.

VA.R. Doc. No. R05-141; Filed March 1, 2005, 2:37 p.m.

Notice is hereby given in accordance with § 2.2-4007 of the Code of Virginia that the State Board of Education intends to consider amending regulations entitled **8 VAC 20-520, Regulations Governing Reduction of State Aid When Length of School Term Below 180 School Days**. The purpose of the proposed action is to conform the regulations to state law. The 2004 Virginia General Assembly passed HB 575, HB 1256 and SB 452 that amended § 22.1-98 of the Code and made the changes effective from passage of the bills. HB 1256 and SB 452 clarify the schedule of makeup days and circumstances in which approval may be granted so that state basic aid funding will not be reduced because of school closings due to severe weather conditions or other emergency situations. HB 575 permits the Board of Education to waive the requirement that school divisions compensate for school closings resulting from a declared state of emergency.

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

Statutory Authority: §§ 22.1-16 and 22.1-98 of the Code of Virginia.

Public comments may be submitted until April 25, 2005.

Contact: Dr. Margaret N. Roberts, Office of Policy and Communications, Department of Education, P.O. Box 2120, Richmond, VA 23218-2120, telephone (804) 225-2540, FAX (804) 225-2524 or e-mail margaret.roberts@doe.virginia.gov.

VA.R. Doc. No. R05-144; Filed March 1, 2005, 2:41 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 Education intends to consider amending regulations entitled **8 VAC 20-131, Regulations Establishing Standards for Accrediting Public Schools in Virginia**. The purpose of the proposed action is to conduct a comprehensive review of the regulations to determine if there are changes that might be needed now that most Virginia schools are fully accredited, and the first high school class required to earn verified units of credit has graduated from high school. Section 22.1-253.13:3 of the Code of Virginia requires the Board of Education to establish standards for accreditation. The regulations were last amended in 2000. Since that time, public schools in Virginia have implemented more rigorous requirements for accountability both at the school level and the student level.

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

Statutory Authority: § 22.1-253.13:3 of the Code of Virginia.

Public comments may be submitted until April 20, 2005.

Contact: Anne Wescott, Assistant Superintendent, Office of Policy and Communications, Department of Education, P.O. Box 2120, Richmond, VA 23218-2120, telephone (804) 225-

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 Education intends to consider amending regulations entitled **8 VAC 20-541, Regulations Governing Approved Programs for Virginia Institutions of Higher Education**. The purpose of the proposed action is to include a review of endorsement programs and competencies set forth by the licensure regulations, clarify that institutions must provide evidence that demonstrates that the competencies are met, and make any needed revisions to the procedures as the review process is implemented and participating individuals and organizations provide feedback.

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

Statutory Authority: §§ 22.1-16 and 22.1-298 of the Code of Virginia.

Notices of Intended Regulatory Action

Public comments may be submitted until April 25, 2005.

Contact: Dr. Margaret N. Roberts, Office of Policy and Communications, Department of Education, P.O. Box 2120, Richmond, VA 23218-2120, telephone (804) 225-2540, FAX (804) 225-2524 or e-mail margaret.roberts@doe.virginia.gov.

VA.R. Doc. No. R05-143; Filed March 1, 2005, 2:38 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 Education intends to consider adopting regulations entitled **8 VAC 20-700, Regulations for Conducting Division-Level Academic Reviews**. The purpose of the regulation is to outline the process and procedures for conducting the division-level academic review and submitting the corrective action plan to the Board of Education. The criteria for selection for the division-level academic review, the structure of the division-level academic review, and the requirements for the division improvement plans and corrective actions will be addressed. In addition, provision for reviews to be conducted by agencies or organizations other than the Department of Education when appropriate will be addressed.

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

Statutory Authority: § 22.1-253.13:3 of the Code of Virginia.

Public comments may be submitted until April 6, 2005.

Contact: Dr. Margaret N. Roberts, Executive Assistant, Department of Education, P.O. Box 2120, Richmond, VA 23218-2120, telephone (804) 225-2924, FAX (804) 225-2524 or e-mail margaret.roberts@doe.virginia.gov.

VA.R. Doc. No. R05-135; Filed February 16, 2005, 11:19 a.m.

TITLE 9. ENVIRONMENT

STATE WATER CONTROL BOARD

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 amending regulations entitled **9 VAC 25-260, Water Quality Standards**. The purpose of the proposed action is to include new numerical and narrative criteria to protect designated uses of lakes and reservoirs from the impacts of nutrients. The rulemaking may also include new or revised use designations for certain categories of lakes and reservoirs.

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

Statutory Authority: § 62.1-44.15 of the Code of Virginia; Clean Water Act (33 USC § 1251 et seq.); 40 CFR Part 131.

Public comments may be submitted until April 8, 2005.

Contact: Jean W. Gregory, Department of Environmental Quality, P.O. Box 10009, Richmond, VA 23240, telephone (804) 698-4113, FAX (804) 698-4522 or e-mail jwgregory@deq.virginia.gov.

VA.R. Doc. No. R05-113; Filed January 26, 2005, 3:07 p.m.

TITLE 12. HEALTH

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

Notice of Intended Regulatory Action

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 consider amending regulations entitled **12 VAC 35-115, Rules and Regulations to Assure the Rights of Individuals Receiving Services from Providers of Mental Health, Mental Retardation and Substance Abuse Services**. The purpose of the proposed action is to clarify terminology and various procedures in order to improve the human rights protections provided by the regulations. The action will also align provisions with applicable federal and state laws and regulations, including federal regulations for health information pursuant to the Health Insurance Portability and Accountability Act of 1996.

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

Statutory Authority: § 37.1-84.1 of the Code of Virginia.

Public comments may be submitted until April 22, 2005.

Contact: Margaret Walsh, Director, Office of Human Rights, Department of Mental Health, Mental Retardation and Substance Abuse Services, Jefferson Bldg., 1220 Bank St., 13th Floor, Richmond, VA 23219, telephone 804-786-2008, FAX 804-371-2308, or e-mail margaret.walsh@co.dmhmrzas.virginia.gov.

VA.R. Doc. No. R05-146; Filed March 2, 2005, 9:52 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 repealing regulations entitled **22 VAC 40-**

71, Standards and Regulations for Licensed Assisted Living Facilities and adopting **22 VAC 40-72, Standards for Licensed Assisted Living Facilities**. The purpose of the proposed action is to repeal the existing assisted living facility licensing regulation and adopt revisions to the assisted living facility licensing requirements to provide increased protection for the health, safety and welfare of aged, infirm or disabled persons who reside in such facilities. Because of the probable extent of the changes to this regulation in both content and format, it is proposed that the current regulation, 22 VAC 40-71 be repealed and a new regulation, 22 VAC 40-72 be adopted. The proposed action to adopt a new regulation would include a comprehensive examination of the current regulation and revisions based on implementation experience, changes in populations served in the facilities, legislative mandates, revisions to related regulations, current practices and research findings. The new regulation would also include technical amendments and clarifications.

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

Statutory Authority: §§ 63.2-217 63.2-1732, 63.2-1802, 63.2-1803, 63.2-1805 and 63.2-1808 of the Code of Virginia.

Public comments may be submitted until April 6, 2005.

Contact: Judith McGreal, Program Development Consultant, Department of Social Services, 7 N. 8th St., Richmond, VA 23219, telephone (804) 726-7157, FAX (804) 726-7132 or e-mail judith.mcgreal@dss.virginia.gov.

VA.R. Doc. No. R05-134; Filed February 16, 2005, 10:20 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 3. ALCOHOLIC BEVERAGES

ALCOHOLIC BEVERAGE CONTROL BOARD

Notice of Additional Public Comment Period

Title of Regulation: **3 VAC 5-30. Tied-House.**

Statutory Authority: §§ 4.1-103 and 4.1-111 of the Code of Virginia.

The Alcoholic Beverage Control Board noticed a public comment period on the proposed Tied House regulations (3 VAC 5-30) in the August 23, 2004, issue of the Virginia Register of Regulations (20:25 VA.R. 3038-3046 August 23, 2004). The purpose of the proposed action is to lessen the restrictions on the provision of certain service items and business entertainment to retailers of alcoholic beverages by manufacturers and wholesalers, and to remove the restriction on Sunday merchandising activities by wholesalers on retail premises. At the September 27, 2004, public hearing on the proposed amendments, the Alcoholic Beverage Control Board received a request that the proposed amendments to 3 VAC 5-30-10, removing the restriction against wholesalers performing certain merchandising activities on Sunday, be made applicable only to beer wholesalers, with the Sunday restriction remaining in place for wine wholesalers. The board is now considering modifying its proposed amendments to comply with this request. Prior to acting, the board will receive further public comment on this aspect of the proposed amendments.

Public comments on the proposed action will be received until 5 p.m. on May 4, 2005.

Agency Contact: W. Curtis Coleburn, III, Chief Operating Officer, Department of Alcoholic Beverage Control, 2901 Hermitage Road, Post Office Box 27491, Richmond, VA 23261, telephone (804) 213-4409, FAX (804) 213-4411, or e-mail curtis.coleburn@abc.virginia.gov.

VA.R. Doc. No. R03-114; Filed March 16, 2005, 9:28 a.m.

TITLE 9. ENVIRONMENT

STATE WATER CONTROL BOARD

Title of Regulation: **9 VAC 25-780. Local and Regional Water Supply Planning (adding 9 VAC 25-780-10 through 9 VAC 25-780-190).**

Statutory Authority: §§ 62.1-44.15 and 62.1-44.38:1 of the Code of Virginia.

Public Hearing Dates:

May 4, 2005 - 2 p.m. (Abingdon)
May 5, 2005 - 2 p.m. (Roanoke)
May 9, 2005 - 2 p.m. (Harrisonburg)
May 10, 2005 - 7 p.m. (South Hill)
May 11, 2005 - 2 p.m. (Lynchburg)
May 12, 2005 - 4 p.m. (Glen Allen)
May 16, 2005 - 7 p.m. (Woodbridge)
May 17, 2005 - 7 p.m. (Virginia Beach)

Public comments may be submitted until June 3, 2005.

(See Calendar of Events section for additional information)

Agency Contact: Scott Kudlas, Department of Environmental Quality, P.O. Box 10009, Richmond, VA 23240, telephone (804) 698-4456, FAX (804) 698-4347, or e-mail swkudlas@deq.virginia.gov.

Basis: This regulation was developed to implement the mandate of § 62.1-44.38:1 of the Code of Virginia which requires that: "The Board, with the advice and guidance from the Commissioner of Health, local governments, public service authorities, and other interested parties, shall establish a comprehensive water supply planning process for the development of local, regional and state water supply plans consistent with the provisions of this chapter." This is a mandatory rather than discretionary action by the Board.

Section 62.1-44.15 of the Code of Virginia provides the State Water Control Board with legal authority to promulgate the proposed regulation.

Purpose: The proposed regulation protects the health, safety and welfare of citizens by requiring local and regional water supply planning. The goal of the new regulation is to establish a basic set of criteria that each local or regional water supply plan must contain so that they may plan for and provide adequate water to their citizens in a manner that balances the need for environmental protection and future growth.

Substance: The proposed regulation establishes all the necessary provisions for local and regional water supply plan application, plan contents, plan submittal and plan review.

Issues: Water supply is a critical factor for the economic vitality and public health of the Commonwealth, as well as its political subdivisions. The demand for water supply is constantly increasing and the amount available to meet these needs is finite. In fact, unmet needs for local and statewide water supply planning have been identified throughout the past quarter century. The primary advantage to the public of this proposed regulation is the increased probability of a safe and adequate water supply for the citizens of the Commonwealth in the future as well as the continued enjoyment of all existing off-stream and in-stream beneficial uses. Advantages to local and regional planners include:

1. Improved information on resource issues that impact long-term plans and projects;

2. Promotes focus on most viable water supply alternative;
3. Improved coordination and preparation for permitting and regulatory processes; and
4. Economic development tool (i.e., documented plans for meeting water supply needs).

One disadvantage that may be perceived by the public may be the lack of a direct relationship between the planning required by the proposed regulatory action and the permitting of a particular water supply project.

Some advantages to the Commonwealth of this proposed regulation include:

1. Greater understanding of water resources and water demands;
2. Increased information for use in evaluating water supply projects;
3. Increased public involvement in resource management decisions;
4. Earlier opportunity to identify and address conflicts among users; and
5. Improved responsiveness and preparation for drought.

There are no apparent disadvantages of this regulatory action to the Commonwealth.

Pertinent matters of interest to the regulated community, government officials, and the public are the potential costs to meet the requirements of 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 H of the Administrative Process Act and Executive Order Number 21 (02). Section 2.2-4007 H 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. Chapter 227 of the 2003 Acts of Assembly requires the State Water Control Board (board), with advice and guidance from the Commissioner of Health, local governments, public service authorities, and other interested parties, to establish a comprehensive water supply planning process for the development of local, regional, and state water supply plans that (i) ensure adequate and safe drinking water for all citizens of the Commonwealth, (ii) encourage, promote, and protect all other beneficial uses of the Commonwealth's water resources, and (iii) encourage, promote, and develop incentives for alternative water sources, including but not limited to desalination.

The proposed regulation establishes a process for the development of local and regional water supply plans and criteria to be used by local governments in the development of these plans.

Estimated economic impact. Description of regulation: The proposed regulation establishes a process for the development of local and regional water supply plans. Local governments are required, in consultation and coordination with community water systems, to develop water supply planning programs that ensure availability of adequate and safe drinking water, encourage and protect all in-stream and off-stream beneficial uses¹, encourage and promote alternative water sources, and promote conservation. Localities with population in excess of 35,000 are required to submit a local water supply planning program to the Department of Environmental Quality (DEQ) within three years of the effective date of this regulation.² Localities with population in excess of 15,000 are required to submit a plan within four years and localities with population less than and or equal to 15,000 are required to submit a plan within five years of the effective date of this regulation. Localities can also elect to participate in regional water supply plans. If they choose to do so, they are required to provide DEQ with notice of their intent to participate in a regional plan and submit a list of other localities participating in the plan within three years of the effective date of this regulation and are required to submit the regional plan within six years of the effective date of this regulation.

The proposed regulation also establishes criteria to be used by local governments in the development of their local and/or regional water supply planning programs. Water supply planning programs are to include (i) a description of existing water sources, existing water uses, and existing water resource conditions, (ii) an assessment of projected water demand, (iii) a description of water management actions including drought response, contingency plans, and other water demand management information, (iv) a statement of need, (v) an analysis that identifies alternatives to address projected deficits in water supply, (vi) map(s) identifying important elements of the program such as existing water sources, proposed new sources, and significant existing water uses, (vii) a copy of relevant local program documents, (viii) a resolution approving the water supply plan for each locality participating in the plan, and (ix) a record of the public hearing, a copy of all written comments, and a copy of all responses to written comments.

The proposed regulation establishes criteria to be used by localities in the development of their water supply plans. It provides specific guidance regarding the content of these plans. For example, the proposed regulation details information to be reported in a locality's water supply plan regarding existing water sources, existing water uses, and existing resource information. It also specifies the methodology to be used when projecting water demand, the various levels of aggregation at which demand projections are

¹ In-stream beneficial uses include the protection of fish and wildlife habitat, maintenance of waste assimilation, recreational uses, navigational uses, and cultural and aesthetic values. Off-stream uses include domestic, agricultural, electric power generation, and commercial and industrial uses.

² Population figures are to be based on the most recent U.S. census.

Proposed Regulations

to be made, and the time horizon over which projections are to be made. The proposed regulation requires water supply plans to address conservation and drought response as part of the plan's water management actions. Contingency plans are required to be developed in accordance with the proposed regulation. Finally, all local and regional water supply plans are required to include a statement of need based on the adequacy of existing water sources to meet current and projected water demand over the planning horizon. In the event that existing sources are determined to be inadequate to meet demand over the planning period, water supply plans are required to include an analysis conducted in accordance with the requirements of this regulation that identifies alternative ways of meeting the shortfall in water supply.

The proposed regulation also establishes the state's role in the planning process. It requires that the state assist localities technically and financially in the development of their water supply plans, provide local governments with guidance on compliance options, facilitate the provision of existing resource, existing use, and water management information, identify acceptable methods for projection of future water demand, provide information relating to known conflicts in the development of alternatives to meet shortfalls in water supply, convene a meeting of the Technical Evaluation Committee at the request of the locality, and provide notice of local public hearing(s) on local programs.

All local and regional water supply plans are to be reviewed by the board in order to ensure compliance with the requirements of the regulation and consistency with the State Water Resources Plan. The Department of Health, the Department of Conservation and Recreation, the Marine Resources Commission, the Department of Historic Resources, the Department of Game and Inland Fisheries, and all other interested parties are to be provided with an opportunity to comment on the board's tentative and final decisions relating to local and regional program compliance.

Localities are required to review all water supply planning programs within five years of the program's compliance determination by the board. In the event of a change in circumstances or new information becoming available that results in water demand not being met by the alternatives listed in the plan, localities required to submit a revised plan. In the event of no significant changes, localities are required to notify DEQ that the existing plan continues to remain in effect. The five-year review notwithstanding, localities are required to review, revise, and resubmit their water supply planning program every 10 years.

Estimated economic impact: The proposed regulation is likely to impose economic costs. Localities will be required to develop a local water supply plan or participate in a regional water supply plan in accordance with this regulation. The cost of developing a local or regional water supply plan varies depending on the size of the locality, the complexity of delivery systems and current sources of supply, the degree of local need for additional supply, and the type of strategies identified to address shortfalls in water supply. DEQ estimates that it is likely to cost localities between \$13,000 and \$79,00 if the plan is developed using in-house resources and between \$19,000 and \$115,000 if it is developed using a

combination of in-house resources and external consultants. Based on the number and size of the localities required to submit local water supply plans, the total cost of developing these plans is estimated to be approximately \$4.5 million if only in-house resources are used and approximately \$6.5 million if a combination of in-house resources and external consultants are used. Localities are also likely to incur costs in reviewing and revising plans every five or 10 years. However, DEQ believes that these costs are likely to be much smaller than the costs associated with initially developing the plan. The cost to localities participating in regional water supply plans is likely to be lower. However, an estimate of the cost savings to localities participating in regional plans is not available at this time.

DEQ anticipates awarding between seven and 17 water supply grants ranging from \$20,000 to \$50,000 to localities over the next two years to defray some of the costs associated with preparing these plans. The agency anticipates providing \$350,000 in such grants in FY 2006 and \$500,000 in such grants each year after that to defray some of the cost to localities of developing, reviewing, and revising local and regional water supply plans.

In addition to the cost to localities, DEQ is also likely to incur costs in running the program. The agency estimates that it will incur administrative costs of \$850,000 per year, including the cost associated with creating 13 full-time positions.³ In addition, the agency intends to conduct ground water characterization studies. According to DEQ, comprehensive ground water studies have not been conducted since the late-1970s and early-1980s. Such studies are necessary in order to have accurate existing water source information when developing the local and regional water supply plans. DEQ estimates that it will cost the agency \$350,000 per year over the next 10-15 years to conduct these studies.

The proposed regulation is also likely to produce economic benefits for the state. These benefits include the provision of adequate and safe drinking water, encouragement and protection of beneficial in-stream and off-stream uses, encouragement and promotion of alternative water sources, and promotion of conservation activities. The drought of 2002 is a case in point when inadequate planning resulted shortfalls in water supply. According to DEQ, several localities were within weeks or months of running out of drinking water during the summer of 2002. In August 2002, the city of Charlottesville had less than 90 days of drinking water supplies and even considered postponing the re-opening of institutions of higher education in order to ease the situation. Localities had not envisaged such an event and, hence, had no contingency plans in place to ensure a continuing supply of drinking water under drought conditions. The proposed regulation is intended to prevent such a situation from occurring again. The proposed regulation is also intended to identify potential conflicts between localities and between in-stream and off-stream when securing adequate drinking water supplies uses before they arise. By rationalizing state water

³ The 13 full-time positions include one water supply planning manager, one ground water data management position, one stream gauging position, eight water supply planning positions, and two ground water characterization positions.

resource use such that in-stream and off-stream benefits are balanced and ensuring consistency in the use of water resources on a statewide basis, the proposed regulation is likely to produce additional economic benefits by encouraging more efficient use of Virginia's water resources.

It is worth noting that DEQ does not currently intend to directly link the water supply planning process to the permitting of water supply projects. Thus, localities are not required by regulation to ensure that water supply projects undertaken by them are consistent with their local or regional water supply plan. Water supply projects are currently permitted under the Virginia Water Protection Permit (VWPP) regulations.⁴ While DEQ intends to evaluate VWPP applications in the context of local and regional water supply plans, the proposed regulation specifically states that a review of local and regional water supply planning programs is not a prerequisite in order to apply for a permit for a water supply project. Moreover, amendments to the VWPP regulation currently being considered by DEQ and the board do not include changes that would directly link water supply projects to local and regional water supply plans.

Uncertainty on the part of water suppliers and conservationists regarding the impact of directly linking water supply projects to local and regional water supply plans was a major factor in the planning and permitting processes not being linked.⁵ However, by not explicitly linking the planning and permitting process, some of the potential economic benefits accruing from this regulation could be foregone. A significant portion of the benefits of local and regional water supply planning accrue from the improvement in efficiency in the use of the state's water resource as a result of having local and regional water supply plans. While DEQ believes that most localities will undertake water supply projects that are consistent with their local or regional water supply plans, not requiring a direct link between these two aspects of water supply management could result in not all the benefits of the proposed regulation being realized.

The net economic impact depends on whether the costs imposed by the proposed regulation are greater than or less than the benefits accruing from it. The additional costs include the cost to localities in developing, reviewing, and revising their water supply plans⁶ and the cost to DEQ in running the program. Estimates of these costs are provided above. The economic benefits accruing from this regulation include the provision of adequate drinking water supplies and an improvement in efficiency in the use of state water resources. However, estimates of these benefits are not available at this time. A benefits estimate would require

⁴ The VWPP regulations deal with the permitting of intake structures and development of reservoirs to support the water supply planning activities of the state.

⁵ Water suppliers were concerned about linking the planning process to the permitting process due to the difference in horizon for these processes. While water supply planning is done over a 30-50 year horizon, water supply projects are undertaken on the basis of a much shorter horizon. Conservationists were concerned about linking the planning process to the permitting process due to the difference in the level of scrutiny and review of these two processes. The planning process is subject to less scrutiny and review than the permitting process for a water supply project.

⁶ As discussed above, some of the cost to localities is likely to be defrayed by water supply planning grants provided by the state.

calculating the reduction in risk to drinking water supplies through local and regional water supply planning and a valuation the risk reduction in terms of improved public health and safety. It would also require estimation of the impact of this regulation in preserving the state's water resources through improved efficiency in its use. While precise estimates of the benefits are not possible at this time, they are likely to be significant. Demand for water supply is likely to continue to increase over time, increasing the strain on existing water resources and making the provision of drinking water supplies increasingly challenging. Thus, the benefits of the proposed regulation are likely to be in the ballpark of the costs, if not larger than them.

Businesses and entities affected. The proposed regulation is likely to have a positive impact on businesses and entities providing water supply planning services. There will be an increase in demand for these services as localities seeking to develop, review, and revise their water supply plans. The precise number of such businesses operating in Virginia is not known.

Localities particularly affected. The proposed regulation applies to all localities in the Commonwealth. All cities, counties, and incorporated towns will be required to develop local and/or regional water supply plans and submit them to DEQ for approval. They will also be required to review the plans every five years and review, revise, and resubmit the plans every ten years. According to DEQ, there are 41 localities with population of less than or equal to 15,000, 48 localities with population between 15,000 and 35,000, and 45 localities with population greater than 35,000.

The cost of developing, reviewing, and revising local and regional water supply plans will be incurred by localities. However, DEQ intends to provide water supply planning grants to defray some of the cost to localities. The remaining costs are likely to be passed on to taxpayers in the form of higher rates and fees.

Projected impact on employment. DEQ intends to create 13 full-time positions to administer the program. In addition, there is likely to be an increase in demand for water supply planning specialists from localities trying to meet the requirements of this regulation. This, in turn, could lead to more individuals employed in this area.

Effects on the use and value of private property. The proposed regulation is likely to result in an increase in demand for water supply planning services. Consequently, businesses and entities providing these services are likely to see an increase in demand for their services that, in turn, is likely to have a positive effect on their asset value.

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:

The proposed regulation establishes a planning process and criteria that all local governments will use in the development of local or regional water plans. These plans will be reviewed by the Department of Environmental

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Quality and a determination will be made by the State Water Control Board on whether the plans comply with this regulation. Within five years of a compliance determination by the board, the plans will be reviewed to assess adequacy and significant changes will require the submission of an amended plan and review by the board. All local programs will be reviewed, revised and resubmitted to the Department of Environmental Quality every 10 years after the last approval.

CHAPTER 780.

LOCAL AND REGIONAL WATER SUPPLY PLANNING.

9 VAC 25-780-10. Application.

A. All counties, cities and towns (hereinafter "local governments") in the Commonwealth of Virginia shall submit a local water supply plan or shall participate in a regional planning unit in the submittal of a regional water supply plan to the board in accordance with this chapter.

B. The provisions of this regulation shall not affect any water supply project for which a permit application was submitted prior to January 1, 2003, to any state or federal agency. The provisions of this regulation shall not affect any water supply project for which an application for grant, loan or other funding has been made to a state or federal agency prior to January 1, 2003. All projects shall remain subject to applicable federal and state regulatory requirements.

C. Nothing in this chapter shall be construed as altering or authorizing any alteration of any existing surface, ground water or common law water rights of any property owner within the Commonwealth, except as required by federal or state law.

D. The review required by 9 VAC 25-780-140 shall not be a prerequisite for applying for a permit from the Commonwealth of Virginia for a water supply project.

9 VAC 25-780-20. Purpose of chapter.

The purpose of this chapter is to establish a comprehensive water supply planning process for the development of local, regional, and state water supply plans. This process shall be designed to (i) ensure that adequate and safe drinking water is available to all citizens of the Commonwealth; (ii) encourage, promote, and protect all other beneficial uses of the Commonwealth's water resources; and (iii) encourage, promote, and develop incentives for alternative water sources, including but not limited to desalinization.

This chapter establishes the required planning process and criteria that local governments shall use in the development of the local and regional plans.

9 VAC 25-780-30. Definitions.

Unless otherwise defined in this chapter or unless the context clearly indicates otherwise, the terms used in this regulation shall have the meanings ascribed to them by the State Water Control Law, Chapter 3.1 (§ 62.1-44.2 et seq.) of Title 62.1 of the Code of Virginia; the Ground Water Management Act of 1992, Chapter 2.5 (§ 62.1-254 et seq.) of Title 62.1 of the Code of Virginia; the Virginia Water Protection Permit Regulation, 9 VAC 25-210 (2004); and the Surface Water

Management Area Regulation, 9 VAC 25-220 (2004), including any general permits issued thereunder.

"Beneficial use" means both instream and offstream uses. Instream beneficial uses include, but are not limited to, the protection of fish and wildlife habitat, maintenance of waste assimilation, recreation, navigation, and cultural and aesthetic values. Offstream beneficial uses include, but are not limited to, domestic (including public water supply), agricultural, electric power generation, and commercial and industrial uses.

"Board" means the State Water Control Board.

"Community water system" means a waterworks that serves at least 15 service connections used by year-round residents or regularly serves at least 25 year-round residents, and is regulated by the Virginia Department of Health Waterworks Regulation (12 VAC 5-590).

"Conservation" means practices, techniques, and technologies that improve the efficiency of water use.

"Department" means the Department of Environmental Quality.

"Local government" means a city, incorporated town or county.

"Local program" means the combined water plan, resource conditions, and drought response and contingency plan developed in compliance with this regulation. The term "local program" will be used in this regulation to mean either local or regional programs. The term "program" implies the institution of a continuous planning process for maintenance of these documents.

"Planning area" means the geographical area as defined by local government boundaries that is included in a local or regional water supply plan.

"Planning period" means the 30- to 50-year time frame used by the locality to project future water demand in accordance with 9 VAC 25-780-100 B.

"Regional planning unit" means a collection of local governments who have voluntarily elected to develop and submit a regional water plan. A regional planning unit may be composed of all local governments located within the bounds of a planning district, any subset of local governments within the bounds of a planning district, or any group of local governments within multiple planning districts.

"Regional water plan" means a water plan developed and submitted by two or more cities or counties or both. Two or more towns may develop and submit a regional water plan where the plan results in the proposed development of future water supply projects that supply the water supply demands of the affected towns. Such plans developed by two or more towns may be included in regional water plans developed and submitted by counties or cities. Regional water plans shall be developed and submitted in conjunction with all public service authorities operating community water systems within the regional planning unit, if applicable.

"Safe yield of a complex intake (impoundments in conjunction with streams)" means the minimum withdrawal rate available

to withstand the worst drought of record in Virginia since 1930. If actual gauge records are not available, correlation is to be made with a similar watershed and numbers synthesized in order to develop the report. Local governments may request this aid from the board.

"Safe yield of a simple intake (free-flowing stream)" means the minimum withdrawal rate available during a day and recurring every 30 years (30 year - one day low flow). To generate the report for this, data is to be used to illustrate the worst drought of record in Virginia since 1930. If actual gauge records are not available for this, gauges are to be correlated from similar watersheds and numbers are to be synthesized. Local governments may request this aid from the board.

"Self-supplied user" means any person making a withdrawal of surface water or ground water from an original source (e.g., a river, stream, lake, aquifer, or reservoir fed by any such water body) for their own use. Self-supplied users do not receive water from a community water system.

"Service area" means the geographical area served by a community water system.

"Technical evaluation committee" means a committee of state agencies, including but not limited to the Department of Health, the Department of Conservation and Recreation, the Marine Resources Commission, the Department of Historic Resources, and the Department of Game and Inland Fisheries, convened by the Department of Environmental Quality in accordance with subdivision 8 of 9 VAC 25-780-60 to provide comments on the impacts to or conflicts among instream and offstream uses resulting from proposed alternatives for meeting projected water demands.

"Unaccounted for losses" means the difference between a community water system's billing records for volumes of water distributed and production records for volumes of water treated.

"Water demand management" means plans for water conservation, reuse, and reducing unaccounted for water losses contained in a local program.

"Water plan" means a document developed in compliance with this regulation. The term "water plan" will be used in this regulation to mean either local or regional water plans.

"Water sources" means wells, stream intakes, and reservoirs that serve as sources of water supplies.

9 VAC 25-780-40. Program development.

Local governments shall develop programs for local or regional water plans that are necessary to comply with this chapter. Local governments shall consult and coordinate with all community water systems in the planning area during the preparation of local or regional programs. Community water systems within the planning area shall cooperate and participate with the locality during preparation of the local program. Counties, cities, and towns are encouraged to develop regional programs. Local programs shall be designed to (i) ensure that adequate and safe drinking water is available, (ii) encourage and protect all beneficial uses, (iii) encourage and promote alternative water sources, and (iv) promote conservation.

9 VAC 25-780-50. Preparation and submission of a program.

A. Local governments must adopt a local program as defined in this section, including any revisions to comprehensive plans, water supply plans, water and sewer plans, and other local authorities necessary to implement this chapter. A local public hearing consistent with § 15.2-1427 of the Code of Virginia is required during the development of the local program. The public hearing may be combined with other public hearings that may be required.

B. All local governments shall submit a local program to the department in accordance with the following schedule:

1. Local governments with populations in excess of 35,000 persons based on the most recent U.S. Census shall do so no later than [three years after the effective date of this regulation].

2. Local governments with populations in excess of 15,000 persons but no more than 35,000 persons based on the most recent U.S. Census shall do so no later than [four years after the effective date of this regulation].

3. Local governments with populations less than or equal to 15,000 persons based on the most recent U.S. Census shall do so no later than [five years after the effective date of this regulation].

4. Notwithstanding the above, local governments may elect to participate in the submittal of regional water supply plans. [Within three years of the effective date of this regulation], local governments participating in a regional plan shall provide notice to the department of the intent to participate in a regional plan and shall include the names of the other participating localities. Such regional plans shall be submitted no later than [six years after the effective date of this regulation].

Nothing in this section shall be construed as limiting the submittal of local or regional water supply plans before the date when such plans are due.

C. Local programs shall contain the elements listed below. This information may be derived from existing, readily available information and additional detailed studies shall not be required.

1. A description of existing water sources in accordance with the requirements of 9 VAC 25-780-70;

2. A description of existing water use in accordance with the requirements of 9 VAC 25-780-70;

3. A description of existing water resource conditions in accordance with the requirements of 9 VAC 25-780-90;

4. An assessment of projected water demand in accordance with the requirements of 9 VAC 25-780-100;

5. A description of water management actions in accordance with the requirements of 9 VAC 25-780-110 and 9 VAC 25-780-120;

6. A statement of need in accordance with the requirements of 9 VAC 25-780-130;

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7. An alternatives analysis that identifies potential alternatives to address projected deficits in water supplies in accordance with the requirements of 9 VAC 25-780-130;

8. A map or maps identifying important elements of the program that may include existing environmental resources, existing water sources, significant existing water uses, and proposed new sources;

9. A copy of the adopted program documents including any local plans or ordinances or amendments that incorporate the local program elements required by this chapter;

10. A resolution approving the plan from each local government that is party to the plan; and

11. A record of the local public hearing, a copy of all written comments and the submitter's response to all written comments received.

D. All local programs shall be reviewed no later than five years after a compliance determination by the board in accordance with 9 VAC 25-780-140 F. Revised plans shall be submitted when this review indicates that circumstances have changed or new information has been made available that will result in water demands that will not be met by alternatives contained in the water plan. These circumstances may be caused by changes in demands, the availability of the anticipated source, cumulative impacts, in-stream beneficial uses, or other factors. In the case where the review by the local government or regional planning unit indicates that the circumstances have not changed sufficiently to warrant a revision of the water plan after five years, the locality shall notify the department that the existing plan is still in effect.

E. Notwithstanding subsection D of this section, all local programs shall be reviewed, revised and resubmitted to the department every 10 years after the date of last approval.

9 VAC 25-780-60. State role in program preparation.

To assist local governments in the development of local programs, the board will:

1. Provide technical and financial assistance;

2. Provide guidance on compliance options;

3. Facilitate acquisition of existing resource conditions (the department shall prepare and post on its website a list of readily available sources for the items identified in 9 VAC 25-780-90 B);

4. Facilitate acquisition of existing use information that has been reported to the department;

5. Facilitate acquisition of water management information (the department shall prepare and post on its website a list of acceptable practices that are used with regard to the topics in 9 VAC 25-780-110);

6. Identify acceptable methods for the projection of future water demands as per 9 VAC 25-780-100;

7. Provide any information regarding known conflicts relating to the development of alternatives;

8. At the request of the applicant, convene a technical evaluation committee meeting; and

9. Provide notice of local public hearings on the local program upon notification by the locality.

9 VAC 25-780-70. Existing water source information.

A. A water plan shall include current information on existing water sources.

B. A water plan shall include, for community water systems using ground water, the name and identification number of the well or wells, the well depth, the casing depth, the screen depth (top and bottom) or water zones, the well diameter, the design capacity for the average daily withdrawal and maximum daily withdrawal, the system capacity permitted by Department of Health, and the annual and monthly permitted amounts contained in ground water withdrawal permits for all wells located within ground water management areas.

C. A water plan shall include, for community water systems using surface water reservoirs, the name of the reservoirs, the sub-basins in which the reservoirs are located, the drainage area, the amount of on-stream storage available for water supply, the design capacity for average daily and maximum daily withdrawals from the reservoirs, the safe yield of the reservoirs, the capacity of any associated water treatment plant, the Department of Health permitted capacity of the systems, and any limitations on withdrawal established by permits issued by the board. For a community water system that operates a system of interconnected reservoirs, the reporting of the design capacity for withdrawals, designed average daily withdrawal, the designed maximum daily withdrawal and the safe yield may be for the entire system or may be reported as subsets of the system. The plan shall designate which reservoirs and which intakes constitute a system for the purposes of this paragraph. The plan must report the drainage area and amount of storage available for water supply from each reservoir independently.

D. A water plan shall include, for community water systems using stream intakes, the name of the stream or river, the drainage area of the intake, the sub-basin in which the intake is located, the design capacity for average daily and designed maximum daily withdrawal from the stream, the safe yield, the design capacity of the pump station, the design capacity of the water treatment plant, the capacity of the system permitted by the Department of Health, and any limitation on withdrawals established by permits issued by the board.

E. To the extent that information is available, a water plan shall include a list of all self-supplied users of more than 300,000 gallons per month of surface water for nonagricultural uses, the name of the water body utilized, the design capacity for the average daily and maximum daily withdrawal, and any limitation on withdrawals established by permits issued by the board, the Department of Health or any other agency.

F. To the extent that information is available, a water plan shall include, for all self-supplied users of more than 300,000 gallons per month of ground water for nonagricultural uses, the name and identification number of the well or wells, the well depth, the casing depth, the screen depth (top and bottom) or water zones, the well diameter, the design capacity

for the average daily and maximum daily withdrawal and any limitation on withdrawal established by permits issued by the board.

G. A water plan shall include the amount of ground or surface water to be purchased from water supply systems outside the geographic boundaries of the planning area on a maximum daily and average annual basis, any contractual limitations on the purchase of the water including but not limited to the term of any contract or agreement, the recipient(s) or areas served by the water purchased, and the name(s) of the supplier(s).

H. A plan shall include the amount of water available to be purchased outside the planning area from any source with the capacity to withdraw more than 300,000 gallons per month of surface and ground water, reported on a maximum daily and average annual basis and any contractual limitations on the purchase of the water including but not limited to the term of any contract or agreement, the geographic region(s) that receive the water purchased, and the name(s) of the supplier(s).

I. A water plan shall include, to the extent possible, a list of agricultural users who utilize more than 300,000 gallons per month, an estimate of total agricultural usage by source, whether the use is irrigation or nonirrigation, and whether the source is surface or ground water.

J. A water plan shall include an estimate of the number of residences and businesses that are self-supplied by individual wells withdrawing less than 300,000 gallons per month and an estimate of the population served by individual wells.

K. When available, a water plan shall include a summary of findings and recommendations from applicable source water assessment plans or wellhead protection programs.

9 VAC 25-780-80. Existing water use information.

A. A water plan shall include, at a minimum, current information documenting existing water use as listed below. Water use information shall be obtained from Department of Health waterworks permit compliance reports, the department ground water permit compliance reports or department water use reports. Information shall be reported for the most recent previous annual compilation of such data that is available on the date of submission of the water plan.

B. A water plan shall include the following information for community water systems:

1. The population within the planning area served by each community water system.
2. The number of connections within the planning area for each community water system.
3. The average and maximum daily withdrawal for each community water system within the planning area.
4. The amount of water used within the planning area on an annual average basis, and on an average monthly basis for each community water system expressed in terms of million gallons per day.
5. The peak day water use by month for each community water system within the planning area.

6. An estimate of the water used on an average annual basis by self-supplied nonagricultural users of more than 300,000 gallons per month of surface and ground water within the service area of each community water system.

7. An estimate of the amount of water used on an average annual basis by self-supplied agricultural users of more than 300,000 gallons per month of surface and ground water within the service area of each community water supply.

8. An estimate of the number of self-supplied users of less than 300,000 gallons per month of ground water and an estimate of the total amount of water used by them on an annual average basis within the service area of each community water supply.

9. For each community water system included in the water plan, the plan shall include an estimate of the disaggregated amounts of water used in categories of use appropriate for the system. Typical categories may include:

- a. Residential use;
- b. Commercial institutional and light industrial (CIL) use;
- c. Heavy industrial use;
- d. Military water use;
- e. Water used in water production processes;
- f. Unaccounted for losses;
- g. Sales to other community water systems and the names of such systems; or
- h. Subtotals of the above categories for all community water systems

10. To the extent that information is available pursuant to 9 VAC 25-780-60 and other sources, for each community water system included in the water plan using stream intakes, the plan shall include a qualitative description of existing in-stream beneficial uses within the planning area or outside the planning area that may be affected by the point of stream withdrawal.

C. A water plan shall include an estimate of the water used on an average annual basis by self-supplied nonagricultural user of more than 300,000 gallons per month of surface and ground water outside the service areas of community water systems.

D. A water plan shall include an estimate of the amount of water used on an average annual basis by self-supplied agricultural users of more than 300,000 gallons per month of surface and ground water outside the service areas of community water systems.

E. A water plan shall include an estimate of the number of self-supplied users of less than 300,000 gallons per month of ground water and an estimate of the total amount of water used by them on an annual average basis outside the service areas of community water systems.

9 VAC 25-780-90. Existing resource information.

A. A program shall include a description of existing geologic, hydrologic, and meteorological conditions within the planning

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area, and in proximity to the point of withdrawal if it is outside the planning area.

B. A program shall include a description of existing environmental conditions that pertain to, or may affect, instream flow, instream uses, and sources that provide the current supply. This description of conditions may be provided in a distinct section of the plan document or as a part of the existing water sources information required pursuant to 9 VAC 25-780-70. This information may be derived from existing, readily available information and additional detailed studies shall not be required. The description of conditions shall include the following items, as they are applicable:

1. State or federal listed threatened or endangered species or habitats of concern;
2. Anadromous, trout and other significant fisheries;
3. River segments that have recreational significance including state scenic river status;
4. Sites of historic or archaeological significance;
5. Unusual geologic formations or special soil types;
6. Wetlands;
7. Riparian buffers and conservation easements;
8. Land use and land coverage including items such as percentage of impervious cover within a watershed and areas where new development may impact water quality of the source;
9. The presence of impaired streams and the type of impairment;
10. The location of point source discharges; and
11. Potential threats to the existing water quantity and quality, other than those from above.

9 VAC 25-780-100. Projected water demand information.

A. A water plan shall include projections of future water demand as listed below. Population in aggregate and disaggregate formulations should be estimated according to information from the U.S. Census Bureau, Bureau of Economic Analysis, the Virginia Employment Commission, or other accepted source of population information, including but not limited to, local or regional sources. Demand projection methodologies should be consistent with those outlined in the American Water Works Association or American Society of Civil Engineers manuals. Sources of information and methodologies used in projecting future water demand shall be documented.

B. A water plan shall estimate water demand within the planning area for 30 to 50 years into the future.

C. A water plan shall include an estimated future water use projected at the beginning of each decade (2010, 2020, 2030, etc.) within the planning period.

D. A water plan shall include the following projections for community water systems:

1. An estimate of population within the planning area served by each community water system;
2. A map depicting the proposed service area of each existing or proposed community water system;
3. Estimated water demand for each existing or proposed community water system on both an annual average and peak monthly basis;
4. Estimated water demand for each existing or proposed community water system disaggregated into categories of use appropriate for the system. Typical categories may include:
 - a. Residential use;
 - b. Commercial institutional and light industrial (CIL) use;
 - c. Heavy industrial use;
 - d. Military water use;
 - e. Water used in water production processes;
 - f. Unaccounted for losses;
 - g. Sales to other community water systems and the names of such systems; or
 - h. Subtotals of the above categories for all community water systems; and
5. Total projected water demand for all existing or proposed community water systems disaggregated into the categories used in subdivision 4 of this subsection.

E. A water plan shall include a projection of water demand within the planning area on an annual average basis for each existing and any proposed self-supplied nonagricultural user of more than 300,000 gallons per month of surface and ground water located outside the service areas of community water systems.

F. A water plan shall include a projection of the amount of water use on an annual average basis for each existing and any projected self-supplied agricultural user of more than 300,000 gallons per month of surface and ground water located outside the service areas of community water systems.

G. A water plan shall include a projection of the number of self-supplied users of less than 300,000 gallons per month of ground water and a projection of the amount of water used on an annual average basis outside the service areas of community water systems.

H. A water plan shall include, if available, any cumulative demand, use conflict, or in-stream flow information developed pursuant to 9 VAC 25-780-140 G.

I. A water plan shall explain how the projected needs of domestic consumption, in-stream uses, and economic development have been accounted for in the demand projection for the planning period.

9 VAC 25-780-110. Water demand management information.

A. As part of a long-term strategy, a water plan shall address conservation as a part of overall water demand management in accordance with the following requirements:

1. A water plan shall include information that describes practices for more efficient use of water that are used within the planning area. The type of measures to be described may include, but are not limited to, the adoption and enforcement of the Virginia Uniform Statewide Building Code sections that limit maximum flow of water closets, urinals and appliances; use of low-water use landscaping; and increases in irrigation efficiency.

2. A water plan shall include information describing the water conservation measures used within the planning area to conserve water through the reduction of use. The types of measures to be described may include, but are not limited to, technical, educational and financial programs.

3. A water plan shall include information that describes, within the planning area, the practices to address water loss in the maintenance of water systems to reduce unaccounted for water loss. The types of items to be described may include, but are not limited to: leak detection and repair and old distribution line replacement.

B. Current conservation practices, techniques, and technologies shall be considered in projecting water demand pursuant to 9 VAC 25-780-100 D.

9 VAC 25-780-120. Drought response and contingency plans.

A program that includes community water systems and self-supplied users who withdraw more than an average of 300,000 gallons per month of surface water and ground water shall contain drought response and contingency plans in accordance with the following requirements:

1. Drought response and contingency plans shall be structured to address the unique characteristics of the water source that is being utilized and the nature of the beneficial use of water.

2. Drought response and contingency plans shall contain, at a minimum, the following three graduated stages of responses to the onset of drought conditions:

a. Drought watch stage responses are generally responses that are intended to increase awareness in the public and private sector to climatic conditions that are likely to precede the occurrence of a significant drought event. Public outreach activities shall be identified to inform the population served by a community water system of the potential for drought conditions to intensify and potential water conservation activities that may be utilized.

b. Drought warning stage responses are generally responses that are required when the onset of a significant drought event is imminent. Voluntary water conservation activities shall be identified with the goal of reducing water use by 5-10%.

c. Drought emergency stage responses are generally responses that are required during the height of a significant drought event. Mandatory water conservation activities shall be identified with the goal of reducing water use by 10-15%.

3. Drought response and contingency plans shall include references to local ordinances, if adopted, and procedures for the implementation and enforcement of drought response and contingency plans.

9 VAC 25-780-130. Statement of need and alternatives.

A. A water plan shall determine the adequacy of existing water sources to meet current and projected demand by preparing a clear statement of need that is derived from an evaluation of the information required by 9 VAC 25-780-70 through 9 VAC 25-780-110. The statement of need shall contain, at a minimum, a determination of whether the existing source(s) is adequate to meet current and projected demands.

B. If the determination is that the existing source is inadequate to meet projected demands during the planning period, the program shall include an alternative analysis of potential sources that includes the following information:

1. A description of potential water savings from water demand management actions including an estimated volume for each action;

2. A description of potential sources for new supplies including an estimated volume from each source; and

3. A description of potential resource issues or impacts, identified in accordance with 9 VAC 25-780-140 G, known for each potential new source that any future water project will need to consider in its development.

C. Potential alternatives considered shall include water demand management alternatives as well as more traditional means of increasing supply, i.e., wells, reservoirs, impoundments and stream intakes. Where appropriate, the program shall consider nontraditional means of increasing supplies such as interconnection, desalination, recycling and reuse. The analysis of potential alternatives may include a combination of short-term and long-term alternatives. The result of this analysis shall be provided as part of the submission required by 9 VAC 25-780-50 C 7.

9 VAC 25-780-140. Review of local programs.

A. The board shall review all programs to determine compliance with this regulation and consistency with the State Water Resources Plan. The board will review adopted elements of a local program according to review policies adopted by the board. Copies of the adopted local program documents and subsequent changes thereto shall be provided to the board.

B. To assist in the review of the program, the board shall provide the Department of Health and other agencies listed in 9 VAC 25-780-150 B along with any other agency the board deems appropriate, 90 days to evaluate the program. Comments must be received from the Department of Health or other agency by the deadline stipulated in the written notification from the board.

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C. The board will assess the compliance of submitted programs with these regulations. The board shall prepare a tentative statement of findings on whether the program has demonstrated compliance with the following:

1. All elements of a local program identified in 9 VAC 25-780-50 have been submitted;
2. The program was developed through a planning process consistent with this chapter;
3. The results of any evaluation conducted pursuant to subsection G of this section have been appropriately accommodated;
4. The existing sources information complies with 9 VAC 25-780-70;
5. The existing water use information complies with 9 VAC 25-780-80;
6. The existing resources information complies with 9 VAC 25-780-90;
7. The projected water demand is based on an accepted methodology and complies with 9 VAC 25-780-100;
8. The water demand management information complies with 9 VAC 25-780-110;
9. The drought response and contingency plan complies with 9 VAC 25-780-120;
10. The statement of need complies with 9 VAC 25-78-130 A;
11. When required, the alternatives comply with 9 VAC 25-780-130;
12. The local program is consistent with 9 VAC 25-390-20, § 62.1-11 of the Code of Virginia and Chapter 3.2 (§ 62.1-44.36 et seq.) of Title 62.1 of the Code of Virginia.

D. If the board's tentative decision is to find the local program in compliance with subsection C of this section, the board shall provide public notice of its findings pursuant to this section.

E. If the tentative decision of the board is to find the local program in noncompliance with subsection C of this section, the board shall identify (i) the reason for the finding of noncompliance, (ii) what is required for compliance, and (iii) the right to an informational proceeding under Article 3 (§ 2.2-4018 et seq.) of Chapter 40 of the Virginia Administrative Process Act.

F. The board shall make a final decision on whether the local program is in compliance with this chapter after completing review of the submitted program, any agency comments received, and any public comment received from a public meeting held pursuant to 9 VAC 25-780-160.

G. In conjunction with the compliance determination made by the board, the state will develop additional information and conduct additional evaluation of local or regional alternatives in order to facilitate continuous planning. This additional information shall be included in the State Water Resources

Plan and used by localities in their program planning. This information shall include:

1. A cumulative demand analysis, based upon information contained in the State Water Resources Plan and other sources;
2. The evaluation of alternatives prepared pursuant to 9 VAC 25-780-130 B and C;
3. The evaluation of potential use conflicts among projected water demand and estimates of requirements for in-stream flow; and
4. An evaluation of the relationship between the local plan and the State Water Resources Plan.

H. The board may facilitate information sharing and discussion among localities when potential conflicts arise with regard to demands upon a source.

I. A local program's information shall be included in the State Water Resource Plan when determined to be in compliance by the board.

9 VAC 25-780-150. Public notice and public comment period.

A. The board shall give public notice on the department website for every tentative and final decision to determine local program compliance.

B. The board shall give public notice to the Department of Health, the Department of Conservation and Recreation, the Marine Resources Commission, the Department of Historic Resources, and the Department of Game and Inland Fisheries for every tentative and final decision on program compliance. The agencies shall have 90 days to submit written comment. At the request of the applicant, the board will convene a technical evaluation committee meeting to facilitate receipt of these comments.

C. The board shall provide a comment period of at least 30 days following the date of the public notice for interested persons to submit written comments on the tentative or final decision. All written comments submitted during the comment period shall be retained by the board and considered during its final decision.

D. Commenters may request a public meeting when submitting comments. In order for the board to grant a public meeting, there must be a substantial public interest and a factual basis upon which the commenter believes that the proposed program might be contrary to the purposes stated in 9 VAC 25-780-20.

E. The contents of the public notice of a proposed program compliance determination shall include:

1. Name(s) and address(es) of the locality(ies) that submitted the local or regional water plan;
2. Brief synopsis of the proposed plan including any identified future alternatives;
3. The name(s) of the principal water supply sources;

4. A statement of the tentative determination to certify or deny consistency with the regulation;
5. A brief description of the final determination procedure;
6. The address, e-mail address and phone number of a specific person at the state office from whom further information may be obtained; and
7. A brief description on how to submit comments and request a public meeting.

9 VAC 25-780-160. Public meetings.

A. Public notice of any public meeting held pursuant to 9 VAC 25-780-150 shall be circulated as follows:

1. Notice shall be published on the department website;
2. Notice shall be published once in a newspaper of general circulation in the county, city, or town where the local or regional water plan is in effect; and
3. Notice of the public meeting shall be sent to all persons and government agencies that requested a public meeting or have commented in response to the public notice.

B. Notice shall be effected pursuant to subdivisions A 1 through 3 of this section at least 30 days in advance of the public meeting.

C. The content of the public notice of any public meeting held pursuant to this section shall include at least the following:

1. Name and address of the localities who prepared the program;
2. The planning area covered by the program;
3. A brief reference to the public notice issued for the comment period including the date of issuance unless the public notice includes the public meeting notice;
4. Information regarding the time and location for the public meeting;
5. The purpose of the public meeting;
6. A concise statement of the relevant water resources planning, water quality, or fish and wildlife resource issues raised by the persons requesting the public meeting;
7. Contact person and the address, e-mail address and phone number of the department office at which the interested persons may obtain further information or request a copy of the draft statement of findings prepared pursuant to 9 VAC 25 780-140 D; and
8. A brief reference to the rules and procedures to be followed at the public meeting.

9 VAC 25-780-170. Appeals.

All appeals taken from actions of the board or the director relative to the provisions of this chapter shall be governed by the Virginia Administrative Process Act (§ 2.2-4000 et seq. of the Code of Virginia).

9 VAC 25-780-180. Enforcement.

Enforcement of this chapter will be in accordance with §§ 62.1-44.15, 62.1-44.23, and 62.1-44.32 of the Code of Virginia.

9 VAC 25-780-190. Delegation of authority.

The executive director, or his designee, may perform any action of the board provided under this chapter, except as limited by § 62.1-44.14 of the Code of Virginia.

VA.R. Doc. No. R03-214; Filed March 16, 2005, 9:51 a.m.



TITLE 11. GAMING

CHARITABLE GAMING BOARD

Title of Regulation: **11 VAC 15-22. Charitable Gaming Rules and Regulations (amending 11 VAC 15-22-10 through 11 VAC 15-22-120; adding 11 VAC 15-22-35).**

Statutory Authority: §§ 2.2-2456, 18.2-340.15, 18.2-340.19, and 18.2-340.30 of the Code of Virginia.

Public Hearing Date: N/A -- Public comments may be submitted until June 3, 2005.

(See Calendar of Events section for additional information)

Agency Contact: Clyde E. Cristman, Director, James Monroe Building, 101 N. 14th Street, 17th Floor, Richmond, VA 23219-3684, telephone (804) 371-0603, FAX (804) 786-1079, or e-mail clyde.cristman@dca.virginia.gov.

Basis: Section 2.2-2456 of the Code of Virginia sets forth the duties of the Charitable Gaming Board and general authority for the board to adopt regulations. Section 2.2-2456 provides that the board shall promulgate regulations not inconsistent with the laws of Virginia necessary to carry out the provisions of Article 19 (§ 2.2-2455 et seq.) of Chapter 24 and the provisions of Article 1.1:1 (§ 18.2-340.15 et seq.) of Chapter 8 of Title 18.2 of the Code of Virginia. Such regulations may include penalties for violations.

Section 18.2-340.15 of the Code of Virginia vests control of all charitable gaming in the Commonwealth with the department and authorizes the board to prescribe regulations and conditions under which such gaming is authorized.

Section 18.2-340.19 of the Code of Virginia provides the board specific authority to prescribe regulations and conditions under which charitable gaming is authorized.

The fifth enactment of Chapter 884 of the 2003 Acts of Assembly provides, "That the Charitable Gaming Board shall examine regulations, including the computation and percentage of gross receipts that are required to be used for charitable purposes by qualified organizations and provide a report to the Governor and the 2004 session of the General Assembly. The report shall include the board's plans regarding regulatory action on these issues, and anticipated timetable for such action."

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The required report, which was submitted on December 2, 2003, concluded: "The board concurs that a comprehensive revision to the Charitable Gaming Rules and Regulations and the Supplier Rules and Regulations is needed..." The board reported an anticipated timetable for the process to amend the regulations as approximately 18 months to complete, occurring between June 2004 and January 2006. Based in part on this report, the 2004 General Assembly extended a moratorium in the Code of Virginia that requires that the department shall not revoke the charitable gaming permit of any qualified organization based solely on failure to meet the required percentage of gross receipts used for charitable purposes until such time as the board adopts amended regulations (Chapter 213 of the 2004 Acts of Assembly).

Purpose: Chapter 884 of the 2003 Acts of Assembly created the Department of Charitable Gaming (the department) and the Charitable Gaming Board (the board) to replace the former Charitable Gaming Commission (the commission). The current Charitable Gaming Rules and Regulations were adopted by the former commission and became effective January 1, 1998. The current regulations include many references to the commission, which no longer exists, as well as other statutes that have since been amended. The goal of the amended regulations is to simplify and clarify the regulations while also making them consistent with current statutes. While mandated by § 18.2-340.19 A of the Code of Virginia, the promulgation of the Charitable Gaming Regulations also protects the public safety and welfare by preventing fraud and theft of funds raised for charitable purposes and preventing abuse of charitable gaming.

Substance: The regulations contain 54 references to the former Charitable Gaming Commission that are proposed to now be changed to the Department of Charitable Gaming or Charitable Gaming Board where appropriate and consistent with the statute. Several definitions are proposed to be updated and clarified. A new section is proposed to provide structure for the department to deny, suspend or revoke a permit while also providing alternative procedures in lieu of denial, suspension or revocation. The charitable gaming fiscal year is proposed to be changed from the current fiscal year of October 1 to September 30 to now be consistent with the calendar year.

Issues: The primary advantage to the public is that through consistent and effective regulation, the public will be able to participate in bingo, instant bingo and raffles that provide funding for charitable organizations while ensuring that the highest level of integrity is maintained. This will protect the public from fraud while increasing the funding for charity. There are no disadvantages to the public in the proposed regulations.

The primary advantage to the Commonwealth is that by requiring consistent reporting methods from all charities, the department will be more efficient in audit and control of permitted gaming activities and better able to detect and prosecute fraud, theft and other irregularities. There are no disadvantages to the Commonwealth in the proposed regulations.

The regulated community should benefit from regulations that are clearer and more concise, and therefore more easily

complied with. The regulated community may see some additional recordkeeping and reporting requirements that are necessary for the privilege to conduct charitable gaming in the Commonwealth.

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 H of the Administrative Process Act and Executive Order Number 21 (02). Section 2.2-4007 H 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 18.2-340.15 of the Code of Virginia provides the Charitable Gaming Board (board) with the power to prescribe regulations and conditions under which gaming is conducted such that it is conducted in a manner consistent with the purpose for which it is permitted. It also vests the Department of Charitable Gaming (DCG) with control of all charitable gaming in the Commonwealth. Chapter 884 of the 2004 Acts of Assembly required that the board examine regulations, including the computation and percentage of gross receipts that are required to be used for charitable purposes by qualified organizations, and provide a report to the Governor and the 2004 Session of the General Assembly. The report was required to include the board's plan regarding regulatory action on these issues and the anticipated timetable for such action. The report, which was submitted on December 2, 2003, concurred that a comprehensive revision to the Charitable Gaming Rules and Regulations and the Supplier Rules and Regulations was needed, including a review of the method for computation and the percentage of gross receipts required to be used for charitable purposes by qualified organizations.

The proposed regulation (1) establishes a uniform use-of-proceeds requirement of 10% for all organizations permitted or authorized to conduct charitable gaming and provides for additional flexibility to charitable gaming organizations in meeting this requirement, (2) expands the definition of what constitutes a discount and specifies that discounts provided by a charitable gaming organization in any given fiscal year not exceed 1.0% of the organization's previous year's gross receipts, (3) makes changes to the fee structure, (4) includes a number of changes that are intended to make the reporting process uniform, enhance the audit process, and reduce fraud and theft, and (5) reduces the maximum number of card faces that can be played per game on an electronic bingo machine from 72 to 54. In addition, the proposed regulation establishes rules for four new variations of bingo and raffle games (Decision Bingo, Lucky Seven, Treasure Chest, and Wingo), changes the fiscal year for reporting purposes from October 1 through September 30 to the calendar year, tightens requirements for the participation of minors in the operation, management, and conduct of charitable gaming,

increases the maximum value of complimentary food and beverages provided to volunteers working a bingo session from \$8 to \$15, prohibits volunteers from playing bingo at any session they have worked once the session has begun, and modifies the notification requirements regarding the date, time, and location of charitable gaming events.

The proposed regulation also adds new definitions, deletes unnecessary definitions, and modifies existing ones. According to DCG, these changes are not likely to significantly alter current practice. The proposed regulation also includes a number of changes that make the regulation consistent with current practice and technology and with the Code of Virginia. Finally, the proposed regulation also includes a number of other changes that clarify aspects of the regulation and make it more streamlined. For example, the proposed regulation includes a new section that provides guidance regarding the suspension, revocation, or denial of a permit or authorization.

Estimated economic impact. Significant changes: (1) The proposed regulation establishes a uniform use-of-proceeds¹ requirement of 10% for all organizations permitted or authorized to conduct charitable gaming. Under the existing regulation, an organization's use-of-proceeds requirement is based on its annual gross receipts: the use-of-proceeds requirement is 5.0% for organizations with annual gross receipts of less than \$150,000, 10% for organizations with annual gross receipts between \$150,000 and \$500,000, and 12% for organizations with annual gross receipts over \$500,000. Thus, the proposed change will result in some organizations having to meet a higher use-of-proceeds requirement than currently required and others having to meet a lower one.

The average use-of-proceeds in FY 2003 was 14.3%.² Table 1 provides a breakdown of charitable gaming organizations (including fire departments and rescue squads) by annual gross receipts, as reported for FY 2003.

Table 1: Annual Gross Receipts, FY 2003

Annual Gross Receipts	Number of Charitable Gaming Organizations	Existing Minimum Use-Of-Proceeds Requirement	Current Use-Of-Proceeds
< \$150,000	192	5%	22.2%
Between \$150,000 and \$500,000	175	10%	13.2%
> \$500,000	261	12%	13.5%

Based on the number of charitable gaming organizations operating in the state, the minimum required use-of-proceeds requirement on a statewide basis is 9.3%. However, this requirement was exceeded on a statewide basis in each fiscal year since 1999. As Table 1 indicates, minimum use-of-proceeds requirements were exceeded in FY 2003 in each of the three annual gross receipt slabs. Given that each slab

exceeded not only the existing use-of-proceeds requirement but also the proposed 10% requirement, the proposed change is not likely to affect current practice. Potentially, the biggest burden is on charitable gaming organizations making less than \$150,000 per year. They will be required to increase their minimum use-of-proceeds from 5.0% to 10%. However, given the magnitude by which these organizations have exceeded the existing and proposed requirement in FY 2003, the proposed change is not likely to prove very burdensome. In fact, less than 30 bingo organizations out of a total of 458 (not including fire departments and rescue squads) had a use-of-proceeds of less than 10% in FY 2003. As these organizations increase their use-of-proceeds, it is likely to be reflected in a small increase in the amount of charitable gaming proceeds used for lawful religious, charitable, community, or educational purposes. However, the proposed change could also lead to some organizations making more than \$500,000 per year reducing their contribution towards approved charitable activities.

The proposed regulation also provides additional flexibility to charitable gaming organizations in meeting their use-of-proceeds requirement. According to DCG, current compliance with existing use-of-proceeds requirements is at 70%. Under the existing regulation, an organization not meeting its use-of-proceeds requirement has its permit suspended for a length of time based on its deficiency in meeting the requirement. Failure to meet the requirement three times results in the permit being revoked. If an organization is within one percentage point of meeting its use-of-proceeds requirement, it can request a one-time approval to make up the deficiency in the following fiscal year. Failure to make up the deficiency the following year results in a 30-day suspension of the permit. The proposed regulation removes the mandatory suspension and revocation of a permit for not meeting the use-of-proceeds requirements. Instead, organizations will be provided with the opportunity to implement a corrective action plan. Failure to adequately implement the plan could then result in a permit being revoked or suspended. The proposed regulation also includes a new waiver provision that allows charitable gaming organizations to request a temporary reduction in the use-of-proceeds requirement. Finally, the proposed regulation removes limits on the amount of payments made to or on behalf of sick, indigent, or deceased members or their immediate families that can be included in the use-of-proceeds calculation. The existing regulation caps this amount at 1.0% of the prior year's gross receipts, with the exception of DCG approval of higher amounts under special circumstances.

The proposed change in the minimum use-of-proceeds requirement is likely to produce costs and benefits and the net economic impact will depend on the magnitude of these costs and benefits.³ Given that the use-of-proceeds for each gross receipt slab exceeded not only the existing use-of-proceeds requirement but also the proposed 10% requirement, the proposed change is not likely to have a large effect on the

¹ Use-of-proceeds is defined as the used of funds derived by an organization from its charitable gaming activities that are disbursed for lawful religious, charitable, community, or educational purposes.

² The use-of-proceeds for bingo sales was 12%, for raffle sales was 62%, and for fire departments and rescue squads was 21%.

³ The increased flexibility to meet the use-of-proceeds requirement is not likely to have a significant economic impact. To the extent that it provides charitable gaming organizations with additional ways of meeting their use-of-proceeds requirement at no significant additional cost to them or to the state, the proposed change could produce some small economic benefits.

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amount of charitable gaming proceeds going towards approved charitable activities. However, some smaller organizations may be required to increase their contribution while some larger organizations may choose to reduce them. The net effect of these two changes is not known.

The evaluation of any change in the amount of charitable gaming receipts going towards approved charitable activities (increase or decrease) will depend on the comparative benefits of spending on approved charitable activities compared to spending on other types of goods and services. These benefits will depend on the type and nature of the charitable activities being undertaken. If the expenditures are well targeted and in areas where there is a significant need, increased spending for religious, charitable, community, or educational purposes could produce a net positive economic impact. For example, there is strong empirical evidence that, if spent effectively, expenditures on education are likely to produce increased growth in employment and per capita income in the state. However, it is not possible to make a precise determination of the net economic impact of the proposed change at this time. Such a calculation would require knowledge of the direction and magnitude of the change in spending on approved charitable activities and of the types of charitable activities that benefit or lose out as a result of the change.

(2) The proposed regulation expands the definition of what constitutes a discount and specifies that discounts provided by a charitable gaming organization in a given fiscal year not exceed 1.0% of the organization's previous year's gross receipts. The proposed regulation expands what constitutes a discount to include any purchases, not just purchases of admission tickets and game packs, made using coupons, free packs, or other similar methods. In addition, the proposed regulation requires the total discount provided to not exceed 1.0% of the organization's gross receipts from the previous year. The existing regulation does not limit the value of discounts provided by an organization. According to DCG, less than 10% of organizations currently provide more than 1.0% in discount. However, this percentage is likely to increase when using the expanded definition of what constitutes a discount.

DCG believes that the proposed change will increase the amount of charitable gaming proceeds spent on approved charitable activities. Use-of-proceeds is calculated as a percentage of an organization's annual gross receipts. However, annual gross receipts are reported after discounts. Thus, assuming the number of bingo and raffle tickets sold remains unchanged, a reduction in the amount of discount will be reflected in an increase in gross receipts. This, in turn, will result in a larger amount of charitable gaming proceeds being spent on approved charitable activities. However, this argument hinges on the assumption that the number of bingo and raffle tickets sold remains unchanged despite a reduction in the amount of discount provided. However, in reality, it is more likely that bingo and raffle ticket sales will decline with a reduction in discount. The net impact on gross receipts will depend on the magnitude of the decline in bingo and raffle ticket sales compared to the increase in revenues from providing fewer discounts.

Thus, the net economic impact of the proposed change remains unclear. The impact on the amount of charitable gaming proceeds going toward approved charitable activities is itself not clear. As discussed in the previous section, estimation of the net economic impact of a change in the amount of the proceeds being used for charitable purposes (increase or decrease) would depend on the direction and magnitude of the change and on the types of charitable activities that benefit or lose out as a result of the change.

(3) The proposed regulations makes changes to the existing fee structure. The fee for reviewing and issuing an interim certification for charitable gaming has been increased from \$250 to \$500. According to DCG, the existing fee is not adequate to cover the costs incurred in conducting the review and issuing the certification. The activities of charitable gaming organizations when conducted improperly could result in fraud and theft. The aim of the charitable gaming rules and regulations is to reduce the potential for fraud and theft. Fees charged for the review and issue of interim certification can be viewed as part of the compliance cost incurred by charitable gaming organizations to ensure that they do not jeopardize public safety. Given that current fees do not cover the cost to DCG of conducting the review and issuing the certification, charitable gaming organizations are not paying the actual compliance cost associated with operating in a manner protective of public safety. Increasing the fees will transfer some or all of this cost to charitable gaming organizations and result in a more efficient allocation of resources. With some of the cost being subsidized by DCG (and hence the taxpayers), charitable gaming organizations are not paying costs commensurate with the risk posed to public safety from their activities. This could potentially result in more unsuitable and substandard businesses and individuals seeking to enter the industry than if fees reflected actual costs. Increasing fees such that they better reflect costs will ensure that charitable gaming organizations seeking to enter the industry are of a certain quality and the risk to public safety from their activities is kept at a level deemed appropriate.

The proposed regulation also modifies the fee structure for permits issued for less than one year. Under the existing regulation, permits for less than one year are charged a prorated fee: the \$200 permit fee is rounded off to the nearest \$50 per quarter. The proposed regulation eliminates the prorating provision. Applicants for certification will be required to pay the \$200 annual certification fee even if the certification is issued for less than a year. According to DCG, certification for less than a year is issued under two circumstances: new applicants who have no prior gaming experience and applicants for renewal who have been found to be delinquent or in violation of the regulation in the past. If all initial certification requirements are met under the former scenario and appropriate corrective action has been taken under the latter scenario, DCG automatically extends the certification for the balance of the year at no additional cost. However, if the applicant does not comply with initial certification requirements or does not undertake appropriate corrective action, the certification expires. As conditions for obtaining a permit for less than one year appear to be the same as the conditions for obtaining it for a full year, the cost to DCG of reviewing the application and issuing the permit is likely to be the same under both circumstances. Thus, charging a fee that is

identical to the fee charged for full-year permits and that reflects the actual cost of review and issuance will result in a more efficient allocation of resources (see discussion above).

While both the fee changes are likely to result in a more efficient allocation of resources and have an overall net positive economic impact, the magnitude of the impact is likely to be small. According to DCG, the agency does not routinely issue interim certifications. In fact, only two interim certifications have been issued since 2002. Moreover, the agency has not received any requests for and nor has it charged prorated fees to-date. While the agency does routinely issue certifications for less than one year, the certification is extended for the full year in most cases. In the past 18 months, there have been two instances when applicants did not have their certification extended and voluntarily quit the industry.

(4) The proposed regulation includes a number of changes that are intended to make the reporting process uniform, enhance the audit process, and reduce fraud and theft. Some of these changes include more extensive recordkeeping of a charitable gaming organization's finances, its use-of-proceeds, and its gaming and gaming supply (used and unused) documentation. Other changes include requiring all charitable gaming organizations to use door prize tickets with serial numbers printed on them, store gaming supplies in a secure area, announce door prizes at the end of the game, not alter bingo paper from its original form, not co-mingle seal card deals, return unused gaming supplies to DCG or the manufacturer, provide more information on raffle tickets and electronic bingo machine receipts, and not use a general fund account to pay for expenses and to meet use-of-proceeds requirements. In addition, the proposed regulation requires charitable gaming organizations with gross receipts between \$25,000 and \$50,000 to submit quarterly reports.⁴ The proposed regulation also removes the existing cap on the penalty for not submitting required reports, not requesting an extension, or not making fee payments.⁵ However, not all the proposed changes are likely to result in higher costs. Many, such as online reporting and additional flexibility in permit application and renewal requirements, are intended to streamline the recordkeeping and notification process and make it less burdensome. DCG believes that any increase in costs is likely to be counterbalanced by changes that streamline the process and make it more efficient.

Discussion of costs apart, the proposed changes are also likely to produce economic benefits. According to DCG, they are intended to facilitate better enforcement of the law and of the requirements of the regulation. As mentioned previously, there is a potential for fraud and theft in the charitable gaming industry. The changes being proposed are intended to increase accountability and reduce the potential improper conduct. In 2004, 20 felony and two misdemeanor charges

⁴ According to DCG, the additional reporting requirement is not likely to impose significant additional costs as most charitable gaming organizations affected by the proposed change use the services of volunteer accountants in preparing their reports. For organizations hiring the services of a professional, the hourly cost could range from \$25 per hour to \$100 per hour. DCG estimates that it takes 1-2 hours to prepare a financial report.

⁵ The penalty is \$25 per day up to a maximum of \$750 under the existing regulation. The proposed regulation eliminates the \$750 cap.

were brought against six individuals, with seven charges resulting in guilty verdicts, two charges not being prosecuted, and 13 charges pending court action. According to DCG, there are 21 investigations currently in progress. According to a 2003 Joint Legislative Audit and Review Commission (JLARC) report⁶, 54 out of the 75 audits of charitable gaming organizations conducted between October 2001 and September 2002 found revenues being underreported, by an average of \$116,141 or a total of \$6.3 million. In fact, audits were routinely found to uncover problems, including the underreporting of gross proceeds. However, the report found that only a small fraction of the organizations identified for audits actually got audited. For example, in 2002, 632 organizations were identified for audit for a number of reasons including excessive prize payouts, excessive player discounts, and insufficient charitable giving, but only 26 were actually audited. Thus, to the extent that the proposed changes facilitate the audit process, they are likely to increase the number of audits conducted by DCG in any given year and produce significant economic benefits in terms of fraud reduction.

The net economic impact of the proposed changes will depend on the magnitude of the costs and benefits associated with them. Precise estimate of the costs and benefits are not possible at this time. However, based on the above discussion of the magnitude of underreporting uncovered by audits, it appears likely that the benefits of better audit and enforcement will outweigh any additional costs associated with the proposed requirements.

(5) The proposed regulation reduces the maximum number of card faces that can be played per game on an electronic bingo machine from 72 to 54. Reducing the maximum number of card faces, in turn, reduces the chances of an individual winning and receiving a payout. According to DCG, the proposed change is intended to level the playing field between paper and electronic players. A good paper player can play up to 36 card faces simultaneously. By being able to play a larger number of card faces during a game, electronic bingo players have a higher probability of winning. However, reducing the maximum number of card faces from 72 to 54 is not likely to achieve much by way of leveling the playing field. Electronic bingo players are likely to continue to have an advantage over paper players. At the same time, reducing the likelihood of a payout using for electronic bingo players could discourage people from playing and, consequently, have a negative impact on charitable gaming proceeds. Organizations currently using and manufacturers currently supplying machines with a maximum 72 card faces will incur additional costs associated with replacing or modifying their equipment to comply with the proposed change.

However, any negative economic impact is likely to be small. According to DCG, a maximum of 54 card faces is the national standard. The agency estimates that less than 2.0% of charitable gaming organizations will be affected by the proposed change. Moreover, according to the agency, the

⁶ "Review of the Charitable Gaming Commission", House Document No. 22, Report of the Joint Legislative Audit and Review Commission to the Governor and General Assembly of Virginia, 2003.

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cost to suppliers of making the change is likely to be minimal. Regulation requires that the games be loaded onto the computers onsite, usually just before the game begins. The proposed change will simply require 54 instead of 72 games being loaded. Given the limited number of organizations offering games with 72 card faces, the costs associated with the proposed change, both in terms of discouraging people from playing and having to replace or modify equipment, is likely to be small.

Other Changes:

The proposed regulation makes a number of other changes. However, these changes are not likely to have significant economic impact.

- The proposed regulation establishes rules for four new variations of bingo and raffle games: Decision Bingo, Lucky Seven, Treasure Chest, and Wingo. However, these games are currently being played in Virginia and the rules established in the regulation are largely based on current practice.
- The proposed regulation changes the fiscal year for reporting purposes from October 1 through September 30 to the calendar year, i.e., January 1 through December 31. The change is intended to make the reporting process consistent with the state's budgeting process. According to DCG, currently budget projections of revenues from charitable gaming are based on just three months of actual data (July through October). After the proposed change, six months of actual data (July through December) will be available to the agency when making revenue projections. Moreover, the agency believes that consistency between the reporting period for charitable gaming and the reporting period for tax purposes will reduce confusion among the regulated community and streamline the reporting process. To the extent the proposed change achieves these objectives, it is likely to produce some small economic benefits.
- The proposed regulation tightens requirements for the participation of minors in the operation, management, and conduct of charitable gaming. It prohibits individuals under the age of 18 from participating in the management and operation of a bingo game and individuals between the ages of 11 and 13 from participating in the conduct of a bingo game when not accompanied by a parent or legal guardian. The existing regulation allows individuals eleven and older to participate in the management, operation, and conduct of bingo games, as long as the minors have parental consent. As the existing regulation already provides charitable gaming organizations with the flexibility to limit the participation of minors in bingo games, the proposed change is not likely to have a significant economic impact.
- The proposed regulation increases the maximum value of complimentary food and beverages provided to volunteers working a bingo session from \$8 to \$15. The existing limit was set in 1996.⁷ According to DCG, the proposed increase was requested by charitable gaming

organizations. As the proposed amount appears to be reasonable, the increase in the maximum value of complimentary food and beverages provided to volunteers is not likely to have a significant economic impact.

- The proposed regulation prohibits volunteers from playing bingo at any session they have worked once the session has begun. According to DCG, this change is intended to reduce the risk of fraud and cheating as well as the appearance of impropriety. To the extent that it does so, the proposed regulation could produce some small economic benefits.
- The proposed regulation modifies the notification requirements regarding the date, time, and location of charitable gaming events. The limit on the number of times an organization can make changes to the date, time, and location of a charitable gaming event in a given year has been removed.⁸ In addition, organizations are no longer allowed to make these changes based on special events and holidays. According to DCG, the initial scheduling of games should account to special events and holidays. The proposed change in the notification requirements is not likely to produce a significant economic impact.

Businesses and entities affected. The proposed regulation affects all organizations permitted or authorized to engage in charitable gaming. According to DCG, there currently are 458 organizations permitted and 170 organizations (fire departments and rescue squads) authorized to conduct charitable gaming. In addition, there are 22 suppliers of gaming supplies operating in Virginia.

Localities particularly affected. The proposed regulation applies to all localities in the Commonwealth.

Projected impact on employment. The proposed regulation is not likely to have a significant impact on employment in Virginia.

Effects on the use and value of private property. The proposed regulation makes some changes that are likely to increase operation costs for organizations involved in charitable gaming. This, in turn, will reduce the asset value of these businesses. However, the proposed regulation also makes changes are likely to reduce operating costs and have a positive impact on asset values. The net effect of the proposed regulation will depend on the relative magnitude of both these sets of changes. While a precise determination of the magnitudes and, hence of the net effect, is not possible at this time, the overall impact of the proposed regulation on the use and value of private property is not likely to be very large.

Agency's Response to the Department of Planning and Budget's Economic Impact Analysis: The Department of Charitable Gaming has reviewed the Economic Impact Analysis prepared by the Department of Planning and Budget with regard to the proposed changes to the Charitable Gaming Regulations (11 VAC 15-22) and takes no exception to the report.

⁷ The 2004 inflation-adjusted value is \$9.63.

⁸ It is currently restricted to a maximum of six.

Summary:

The proposed amendments (i) establish a uniform use-of-proceeds requirement of 10% for all organizations permitted or authorized to conduct charitable gaming and provides for additional flexibility to charitable gaming organizations in meeting this requirement; (ii) expand the definition of what constitutes a discount and specify that discounts provided by a charitable gaming organization in any given fiscal year not exceed 1.0% of the organization's previous year's gross receipts; (iii) reduce the maximum number of card faces that can be played per game on an electronic bingo machine from 72 to 54; (iv) increase the fee for tax exempt request reviews to \$500; (v) require charities to only use reporting forms issued or approved by the department; (vi) modify recordkeeping requirements; (vii) change the fiscal year for reporting purposes from October 1 through September 30 to the calendar year; (viii) provide that unused gaming supplies must either be returned to the supplier or turned into the department for disposal; (ix) remove the option of paying rent from the organization's general fund so that rent is only paid out of the organization's charitable gaming account; (x) eliminate the requirement that the amount attributable to rent, equipment or services provided by the landlord be itemized in the lease or contract; (xi) establish rules for four new variations of bingo and raffle games (Decision Bingo, Lucky Seven, Treasure Chest, and Wingo); (xii) tighten requirements for the participation of minors in the operation, management, and conduct of charitable gaming; (xiii) increase the maximum value of complimentary food and beverages provided to volunteers working a bingo session from \$8 to \$15; (xiv) prohibit volunteers from playing bingo at any session they have worked once the session has begun; (xv) modify the notification requirements regarding the date, time, and location of charitable gaming events; and (xvi) make the regulation consistent with current practice and technology and with the Code of Virginia.

PART I.
DEFINITIONS.

11 VAC 15-22-10. Definitions.

In addition to the definitions contained in § 18.2-340.16 of the Code of Virginia, the words and terms below, when used in this chapter, shall have the following meanings unless the context clearly indicates otherwise:

~~"Address of record" means an address provided to the commission on a permit application or exempt notification form or the most recent address on the commission's files.~~

"Board" means the Virginia Charitable Gaming Board.

"Board of directors" means the board of directors, managing committee or other supervisory body of a qualified organization.

~~"Building" means a structure enclosed by continuous exterior walls regardless of the configuration of the interior walls.~~

~~"Bundled pull tabs" means certain pull tabs, commonly referred to as "jar tickets," "guppies," etc., which are taped or stapled together and sold as one unit.~~

"Calendar day" means the period of 24 consecutive hours commencing at 12:01 a.m. and concluding at midnight.

"Calendar week" means the period of seven consecutive calendar days commencing at 12:01 a.m. on Sunday and ending at midnight the following Saturday.

"Cash" means United States currency or coinage.

~~"CGC number" means a unique identification number issued by the commission.~~

~~"Commission" means the Virginia Charitable Gaming Commission.~~

"Concealed face bingo card" means a nonreusable bingo card constructed to conceal the card face. This type of card is commonly referred to under trade names such as "Tear-open," or "Bonanza Bingo," ~~"Bullseye" and "Fortune Card."~~

"Conduct" means the actions associated with the provision of a gaming operation during and immediately before or after the permitted activity, which may include, but not be limited to (i) selling bingo cards or packs, electronic devices, instant bingo or pull-tab cards, or raffle tickets; (ii) calling bingo games; (iii) distributing prizes; or (iv) any other services provided by volunteer workers.

"DCG number" means a unique identification number issued by the department.

"Daubing" means covering a square containing a number called with indelible ink or otherwise concealing the number on a card or an electronic facsimile of a card.

"Deal" means each separate package or series of packages consisting of one game of instant bingo, pull-tab raffle or seal cards with the same serial number.

"Decision bingo" means a bingo game where the cost to a player to play is dependent on the number of balls called and the prize payout is in direct relationship to the number of participants and the number of balls called, but shall not exceed statutory prize limits for a regular bingo game.

"Department" means the Virginia Department of Charitable Gaming.

~~"Designator" means an object used in the number selection process, such as a ping pong ball, upon which bingo letters and numbers are imprinted.~~

"Director" means the Director of the Virginia Department of Charitable Gaming.

"Discount" means any reduction in cost of admission or game packs ~~via~~ or any other purchases through use of coupons, free packs or other similar methods.

"Disinterested player" means a player who is unbiased.

"Disposable paper card" means a nonreusable, paper bingo card manufactured with preprinted numbers.

"Door prize" means any prize awarded by the random drawing or random selection of a name or number ~~taken from any entry or admission ticket based solely on attendance at a gaming session.~~

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"Electronic bingo device" means an electronic device ~~which that uses proprietary software or hardware, or in conjunction with commonly available software and computers,~~ displays facsimiles of bingo cards and allows a player to daub such cards.

~~"Electronic verification" means the verification of bingo by entering the free space number of the winning bingo card into computer equipment which contains preprogrammed software for this purpose.~~

~~"Equipment and video systems" includes equipment which facilitates the conduct of charitable gaming such as ball blowers, flashboards, TV monitors, cameras, smoke eaters, P.A. systems, tables and chairs, electronic verifiers and replacement parts for such equipment.~~

"Fiscal year" or "annual reporting period" means the 12-month period beginning ~~October~~ *January 1 and ending December 31 of any given* and ending ~~September 30~~ of the following year.

~~"501(c) organization" means any organization that is tax exempt under 26 USC § 501(c)(3), (4), (8), (10) or (19).~~

"Flare" means a piece of paper, cardboard or similar material ~~which that~~ bears printed information relating to the name of the manufacturer or logo, name of the game, card count, cost per play, *serial number*, the number of prizes to be awarded and the specific prize amounts in a deal of instant bingo, pull-tab or seal cards.

"Free space number," "perm number," "center number," "card number" or "face number" means the number generally printed in the center space of a bingo card that identifies the unique pattern of numbers printed on that card.

"Game program" means a written list of all games to be played ~~and including, but not limited to, the sales price of all bingo paper and electronic bingo devices, pack configuration, prize amounts to be paid during a session for each game, where and an indication whether prize amounts are fixed or are based on attendance.~~

"Immediate family" means one's spouse, ~~mother, father parent, son, daughter child, brother, sister sibling,~~ grandchild, grandparent, mother-in-law, or father-in-law or stepchild.

~~"Interested parties persons"~~ means the president, an officer or bingo manager of any qualified organization which is exempt or is a permit applicant or holds a permit or exempt authorization to conduct charitable gaming or the owner, director, officer or partner of an entity engaged in supplying charitable gaming supplies to organizations.

"IRS" means the United States Internal Revenue Service.

"Lucky Seven" means a bingo game as authorized in § 18.2-340.33 (9a) (b) of the Code of Virginia.

"Management" means the provision of oversight ~~and supervision of a gaming operation, which may include, but not be limited to, the responsibilities of applying for and maintaining a permit or authorization, compiling, submitting and maintaining required records and financial reports, and ensuring that all aspects of the operation are in compliance with all applicable statutes and regulations.~~

"Manufacturer" means a person who assembles from raw materials or subparts a completed piece of bingo or other charitable gaming equipment or supplies. "Manufacturer" also means a person who modifies, converts, adds or removes parts to or from bingo or other charitable gaming equipment or supplies to further their promotion or sale for the conduct of charitable gaming.

~~"Operating costs" means charitable gaming fund disbursements for reasonable and proper expenses incurred in the conduct of charitable gaming including, but not limited to, costs of publicizing the time, date and location of charitable gaming; utilities; rent; prizes; professional fees; audit and administration or permit fees; and gaming supplies.~~

"Operation" or "conduct" means the authority for check writing, approval of expenses of charitable gaming funds, purchase of charitable gaming supplies, negotiation of contracts or leases, or service as a volunteer worker or assistant activities associated with production of a charitable gaming activity, which may include, but not be limited to (i) the direct on-site supervision of the conduct of charitable gaming; (ii) coordination of volunteers; and (iii) all responsibilities of charitable gaming designated by the organization's management.

"Owner" means any individual with financial interest of 10% or more in a supplier.

~~"Packet" "Pack" means sheets of bingo paper or electronic facsimiles assembled in the order of games to be played. This may or may not include specials, winner take alls and jackpots, but shall not include any winner-take-all, Lucky Seven or raffle.~~

~~"Person" means an individual, corporation, partnership, association, governmental body, municipal corporation or other legal entity.~~

"Prize" means cash, merchandise, certificate or other item of value awarded to a winning player.

"Progressive seal card game" means a seal card game in which a prize is carried forward to the next deal if not won when a deal is completed.

~~"Pull tabs" means individually prepackaged cards made completely of paper or paper products with winners being determined by the appearance of preprinted concealed letters, numbers or symbols that must be exposed by the player to determine wins and losses.~~

~~"Random selection" or "randomly selected" means a process of selecting number designators to produce random numbers during a bingo game in which each designator or number in the remaining population has an equal chance or probability of being selected.~~

"Remuneration" means payment in cash or the provision of anything of value for goods provided or services rendered.

"Seal card" means a board or placard used in conjunction with a deal of the same serial number which contains one or more concealed areas that, when removed or opened, reveal a predesignated winning number, letter or symbol located on that board or placard.

~~"Selection device" means a device that is operated manually or mechanically to randomly select bingo numbers.~~

"Serial number" means a unique number printed by the manufacturer on each bingo card in a set of , each instant bingo or pull-tab card in a deal, ~~each electronic bingo device, or each door prize ticket.~~

"Series number" means the number of unique card faces contained in a set of disposable bingo paper cards or bingo hard cards. A 9000 series, for example, has 9000 unique faces.

~~"Session" means a period of time during which one or more bingo games are conducted by a single qualified organization, or when approval for joint operation is obtained, by two or more qualified organizations that begins with the selection of the first ball for the first game and ends with the selection of the last ball for the last game.~~

~~"Set" means the bingo cards contained within each series number.~~

~~"Special permit" means a permit granted to a qualified organization to allow the organization to conduct more frequent operation of bingo games during carnivals, fairs or other similar public amusement events of limited duration.~~

"Treasure chest" means a raffle including a locked treasure chest containing a prize that a participant, selected through some other authorized charitable game, is afforded the chance to select from a series of keys a predetermined key that will open the locked treasure chest to win a prize.

"Use of proceeds" means the use of funds derived by an organization from its charitable gaming activities which are disbursed for those lawful religious, charitable, community or educational purposes. This includes expenses relating to the acquisition, construction, maintenance or repair of any interest in the real property involved in the operation of the organization and used for lawful religious, charitable, community or educational purposes.

"WINGO" is a variation of a traditional bingo game that uses visual devices rather than a verbal caller and is played by hearing impaired persons.

PART II.

PERMITS, EXEMPT NOTIFICATIONS, REGISTRATION CERTIFICATES.

11 VAC 15-22-20. Eligibility for permit to conduct charitable gaming; when valid; permit requirements.

A. The conduct of charitable gaming is a privilege ~~which that~~ may be granted or denied by the ~~commission~~ department. Except as provided in § 18.2-340.23 of the Code of Virginia, every eligible organization and volunteer fire department and rescue squad with anticipated gross gaming receipts ~~of that exceed \$25,000 or more annually in any 12-month period~~ shall obtain a permit or exempt authorization ~~number~~ from the ~~commission~~ department prior to the commencement of ~~authorized~~ charitable gaming activities. *To be eligible for a permit an organization must meet all of the requirements of § 18.2-340.24 of the Code of Virginia.*

~~B. Upon the organization's request and Pursuant to § 18.2-340.24 B of the Code of Virginia, the commission~~ department shall review a tax exempt request submitted to the IRS for a tax exempt status determination ~~and may issue an interim certification of tax-exempt status solely for the purpose of charitable gaming, conditioned upon a determination by the IRS.~~ A nonrefundable fee of ~~\$250~~ \$500 payable to the *Treasurer of Virginia* shall be charged for this review.

C. A permit or exempt authorization shall be valid only for activities, locations, days, dates and times as listed on the permit or exempt authorization.

D. In accordance with subdivision 1 of § 18.2-340.19 of the Code of Virginia, as a condition of receiving a permit or exempt authorization, ~~the following a minimum percentage of 10% of charitable gaming gross receipts shall be used for (i) those lawful religious, charitable, community or educational purposes for which the organization is specifically chartered or organized or (ii) those expenses relating to the acquisition, construction, maintenance or repair of any interest in real property involved in the operation of the organization and used for lawful religious, charitable, community or educational purposes:~~

~~For the fiscal year beginning October 1, 1997:~~

~~For organizations with annual gross receipts less than \$150,000 _____ 4%~~

~~For organizations with annual gross receipts between \$150,000 and \$500,000 _____ 6%~~

~~For organizations with annual gross receipts over \$500,000 9%~~

~~For the fiscal year beginning October 1, 1998, and later fiscal years:~~

~~For organizations with annual gross receipts less than \$150,000 _____ 5%~~

~~For organizations with annual gross receipts between \$150,000 and \$500,000 _____ 10%~~

~~For organizations with annual gross receipts over \$500,000 12%~~

~~Unless an organization has derived no gross receipts in the prior fiscal year, the gross receipts of the most recently completed fiscal year shall be used to determine the applicable percentage for the use of proceeds requirement. An organization with no prior charitable gaming activity shall be subject to a 5.0% minimum use of proceeds requirement.~~

E. If an organization fails to meet the minimum use of proceeds requirement, its permit ~~shall~~ may be suspended or revoked ~~based on the deficiency in use of proceeds according to the following schedule:~~ *However, the department shall not suspend or revoke the permit of any organization solely because of its failure to meet the required percentage without having first provided the organization with an opportunity to implement a corrective action plan. In such a case, the organization shall be afforded the opportunity to enter into a consent order with the department specifying the proposed corrective action and the timeframe to accomplish the plan.*

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Deficiency	First failure	Second failure
Less than 2.0%	10 days	20 days
2.0 to 5.0%	20 days	40 days
Over 5.0%	30 days	60 days

If an organization fails to meet the minimum use of proceeds requirement three times, its permit shall be revoked.

~~F. Notwithstanding the provisions of subsection E of this section, if an organization is within less than one percentage point of the minimum use of proceeds requirement for a given fiscal year, it may request a one-time approval to make up the deficiency (in dollars) in the following fiscal year. If such approval is granted, the deficiency will be added to the percentage requirement for the following year and the permit shall not be suspended. Failure to meet the required percentage in the year following such approval shall result in a 30-day suspension. An organization may request a temporary reduction in the predetermined percentage specified in subsection D of this section from the department. In reviewing such a request, the department shall consider such factors appropriate to and consistent with the purpose of charitable gaming, which may include, but not be limited to (i) the organization's overall financial condition; (ii) the length of time the organization has been involved in charitable gaming; (iii) the extent of the deficiency; and (iv) the progress that the organization has made in attaining the minimum percentage in accordance with a corrective action plan pursuant to subsection E of this section.~~

G. An organization whose permit is revoked for failure to comply with provisions set forth in subsection D of this section shall be eligible to reapply for a permit at the end of one year from the date of revocation. The ~~commission~~ department, at its discretion, may issue the permit if it is satisfied that the organization has made substantial changes to its management, operations or both.

11 VAC 15-22-30. Permit application and exempt notification process.

A. Organizations anticipating gross gaming receipts of ~~that exceed \$25,000 or more~~ (except volunteer fire departments and rescue squads) shall complete a ~~commission~~ department-prescribed application to request issuance or renewal of an annual permit to conduct charitable gaming. The application shall be accompanied by a nonrefundable fee payable to the Treasurer of Virginia in the amount of \$200. ~~The commission may also issue permits for periods of less than one year. Fees for such permits shall be prorated and rounded off to the nearest \$50 per quarter.~~

B. Volunteer fire departments and rescue squads anticipating gross receipts of ~~that exceed \$25,000 or more~~ shall file a ~~commission-prescribed~~ exempt notification on a form ~~prescribed by the department~~ to request an authorization to conduct charitable gaming.

C. The ~~commission~~ department may initiate action against any organization exempt from permit requirements when it reasonably believes the organization is not in compliance with the provisions of charitable gaming laws or applicable regulations, or both, of the ~~commission~~ board. The ~~commission~~ department may decline to issue an ~~exempt notification number~~

authorization to conduct charitable gaming to volunteer fire departments and rescue squads failing to meet the requirements of § 18.2-340.23 of the Code of Virginia.

D. Permit holders requiring a special permit pursuant to § 18.2-340.27 D of the Code of Virginia shall convey their request ~~in~~ on a form of a letter to prescribed by the ~~commission~~ department. There shall be a \$50 fee for special permits.

E. Permits and exempt authorizations shall be valid for a period of one year from the date of issuance or for a period specified on the permit or authorization. *The department may issue permits for periods of less than one year.*

F. Permits shall be granted only after a background investigation of an organization or interested parties persons, or both, to ensure public safety and welfare as required by § 18.2-340.25 of the Code of Virginia. Investigations shall consider the nature, the age and severity and the potential harm to public safety and welfare of any criminal offenses. The investigation may include, but shall not be limited to, the following:

1. A search of Virginia criminal history records for ~~all officers the chief executive officer and chief financial officer~~ of the organization and members who serve as game managers. Information and authorization to conduct these records checks shall be provided in the permit application. *In addition, the department shall require that the organization provides assurances that all other members involved in the management or operation of charitable gaming meet the requirements of subdivision 12 of § 18.2-340.33 of the Code of Virginia.* Applications may be denied if any game manager or officer has been convicted within ~~40~~ five years preceding the date of application for any:

- a. Felony involving fraud, theft or financial crimes; or
- b. Misdemeanor crimes involving moral turpitude, *fraud, theft or financial crimes.*

~~In addition, any felony conviction involving fraud, theft or financial crimes, regardless of age, may result in denial of application.~~

2. An inquiry as to whether the organization has been ~~investigated or examined~~ granted tax-exempt status pursuant to § 501 (c) by the Internal Revenue Service ~~in connection with charitable gaming activities during the previous three years.~~ *and is in compliance with IRS annual filing requirements;*

3. An inquiry as to whether the organization has entered into any contract with, or has otherwise employed for compensation, any persons for the purpose of organizing or managing, operating or conducting any charitable gaming activity.;

4. Inquiries into the finances and activities of an organization and the sources and uses of funds. ; *and*

5. Inquiries into the level of community or financial support to the organization and the level of community involvement in the membership and management of the organization.

G. The permit application for an organization that has not previously held a permit shall include:

1. A list of members participating in the ~~conduct management or operation~~ of charitable gaming;

2. A copy of the articles of incorporation, bylaws, charter, constitution or other appropriate organizing document;

3. A copy of the determination letter issued by the IRS under § 501(c) of the Internal Revenue Code, if appropriate, or a letter from the national office of an organization indicating the applicant organization is in good standing and is currently covered by a group exemption ruling. *A letter of good standing is not required if the applicable national or state office has furnished the department with a listing of member organizations in good standing in the Commonwealth as of January 1 of each year and has agreed to promptly provide the department any changes to the listing as they occur,*

4. A copy of the organization's most recent annual financial statement and balance sheet, *or most recent Form 990 that has been filed with the IRS;*

5. A copy of the written lease or proposed written lease agreement and all other agreements if the organization rents or intends to rent a facility where bingo is or will be conducted. Information on the lease shall include name, address, phone number of the landlord, square footage and maximum occupancy of the building and the rental amount ~~by each category of equipment or property rented per session;~~ and

6. An authorization by an officer or other appropriate official of an organization to permit the ~~commission department~~ to determine whether the organization has been investigated or examined by the Internal Revenue Service in connection with charitable gaming activities during the previous three years.

H. Copies of minutes of meetings of an organization and any contracts with landlords or suppliers to which the organization is, or may be a party, may be requested by the ~~commission department~~ prior to rendering a permitting decision.

~~I. Copies of amendments to an organization's articles of incorporation, bylaws, charter, constitution or other organizing document, as they occur, shall be submitted to the commission.~~

~~J. I. Organizations applying to renew a permit previously issued by the commission department shall submit articles of incorporation, bylaws, charter, constitution or other organizing document and IRS determination letter only if there are any amendments or changes to these documents that are directly related to the management, operation or conduct of charitable gaming. The most recent financial statements, information on officers and an IRS tax waiver form shall also be filed with a renewal application.~~

~~K. J. Organizations may request permits to conduct joint bingo games as provided in § 18.2-340.29 of the Code of Virginia and special permits as provided in § 18.2-340.27 of the Code of Virginia:~~

1. In the case of a joint game between a volunteer fire department or rescue squad and an organization not exempt from permit requirements, ~~both~~ they shall file the exempt notification form and permit application respectively.

Benefits extended by ~~regulation or~~ the Code of Virginia *or these regulations* to a volunteer fire department or rescue squad shall not extend to a nonexempt organization ~~solely~~ due to operation of a joint game.

2. The nonrefundable permit fee for joint games shall be a total of \$200.

3. A single permit shall be issued in the names of both organizations conducting a joint game. All restrictions and prohibitions applying to single organizations shall apply to qualified organizations jointly conducting bingo games pursuant to § 18.2-340.29 of the Code of Virginia.

4. No charitable gaming shall be conducted prior to the issuance of a joint permit ~~or joint exemption number.~~

5. Applications for joint games shall include an explanation of the division of manpower, costs and proceeds for the joint game.

~~L. K. An organization wishing to permanently change dates, times or locations of its charitable gaming shall request a change in the permit. Change requests shall be made in writing on a form prescribed by the department at least 30 days in advance of the proposed effective date.~~

~~M. No more than six temporary~~ L. Changes in dates ~~or~~, times or locations due to inclement weather, special events ~~or holidays disasters, or other circumstances outside the organization's control~~ may be made in a permit year without a permanent change in the permit. *The organization shall request such a change on a form prescribed by the department as soon as the necessity for the change is known.*

~~N. Change requests shall be made in writing at least 30 days in advance of the proposed effective date.~~

~~O. M. A nonrefundable fee of \$50, payable to the Treasurer of Virginia, shall be submitted with a request for a permanent permit change. The fee shall not be charged for temporary changes as described in subsection M L of this section or to changes in permits due to an addition or removal of a charitable gaming activity.~~

~~P. N. An organization located in the Northern Virginia Planning District may sell raffle tickets for a drawing to be held in another state in the United States provided:~~

1. The raffle is conducted by the organization in conjunction with a meeting outside the Commonwealth of Virginia or with another organization which is licensed to conduct raffles outside the Commonwealth of Virginia;

2. The raffle is conducted in accordance with *these regulations and the laws and regulations* of the state where the drawing is to be held; and

3. The portion of the proceeds derived from the sale of raffle tickets in the Commonwealth is reported to the ~~commission department.~~

~~O. Any permitted organization that ceases to conduct charitable gaming shall immediately notify the department in writing, return its permit to the department, and provide the department a report as to the disposition of all unused gaming supplies.~~

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11 VAC 15-22-35. Suspension, revocation, or denial of permit or authorization.

A. Pursuant to § 18.2-340.20 of the Code of Virginia, the department may suspend, revoke, or deny the permit or authorization to conduct charitable gaming of any organization for cause including, but not limited to, any of the following reasons:

1. The organization is found to be in violation of or has failed to meet any of the requirements of the statutes or regulations governing the operation, management, and conduct of charitable gaming in the Commonwealth.
2. The organization is found to be not in good standing with its state or national organization.
3. The IRS revokes or suspends the organization's tax-exempt status.
4. The organization willfully and knowingly provides false information in its application for a permit or authorization to conduct charitable gaming.
5. The organization is found to have a member involved in the management, operation or conduct of its charitable gaming who has been convicted of any felony or any misdemeanor crime involving moral turpitude, fraud, theft or financial crime within the past five years.

B. In lieu of suspending, revoking or denying a permit or authorization to conduct charitable gaming, the department may afford an organization an opportunity to enter into a consent order specifying additional conditions or requirements as it may deem necessary to ensure an organization's compliance with the statutes and regulations governing the conduct of charitable gaming activities and may require that an organization participates in such training as is offered by the department.

C. If a permit or authorization is suspended, the department shall set the terms of the suspension, which shall include the length of the suspension and a requirement that, prior to reinstatement of the permit or authorization, the organization shall submit a corrective action plan to address the conditions that resulted in the suspension.

PART III. CONDUCT OF GAMES, RULES OF PLAY, ELECTRONIC BINGO.

11 VAC 15-22-40. Conduct of bingo, instant bingo and raffles.

A. Organizations subject to this chapter shall post their permit or exempt authorization at all times on the premises where charitable gaming is conducted.

B. No individual shall provide any information or engage in any conduct that alters or is intended to alter the outcome of any charitable game.

C. Individuals under 18 years of age may play bingo provided such persons are accompanied by a parent or legal guardian. It shall be the responsibility of the organization to ensure that such individuals are eligible to play. An organization's house rules may further limit the play of bingo or purchase raffle tickets by minors.

D. Individuals under the age of 18 may sell raffle tickets for a qualified organization raising funds for activities in which they are active participants.

E. No individual under the age of ~~44~~ 18 may participate in the management, ~~or operation or conduct~~ of bingo games. Individuals ~~44~~ 14 through 17 years of age may participate in the ~~conduct or operation~~ of a bingo game provided the organization permitted for charitable gaming obtains and keeps on file written parental consent from the parent or legal guardian and verifies the date of birth of such youth. ~~Individuals 11 through 13 years of age may only participate in the conduct of a bingo game provided they are accompanied by a parent or legal guardian.~~ An organization's house rules may further limit the involvement of minors in the ~~operation or~~ conduct of bingo games.

F. ~~Immediate~~ family members of ~~bona fide~~ members and surviving spouses of deceased bona fide members may participate as volunteer game workers.

G. All volunteer ~~game~~ workers, ~~including nonmember spouses,~~ shall have in their possession a picture identification, such as a driver's license or other government-issued identification, while participating in the management, operation or conduct of a bingo game.

H. ~~There shall be~~ A game manager or person in charge who is a bona fide member of the organization and is designated by the organization's management as the person responsible for the operation of the bingo game shall be present any time a bingo game is conducted.

I. Organizations shall ensure that all charitable gaming equipment is in working order before charitable gaming activities commence.

J. Any organization selling bingo, instant bingo, ~~pull tab~~ raffles or seal cards shall:

1. Maintain a supplier's invoice or a legible copy thereof at the location where the gaming is taking place and cards are sold. The original invoice or legible copy shall be stored in the same storage space as the ~~supply of pull tabs, instant bingo or seal cards.~~ gaming supplies. All gaming supplies shall be stored in a secure area that has access limited only to bona fide members of the organization; and

2. Pay for ~~instant bingo, pull tab or seal card~~ all gaming supplies only by a check drawn on the charitable gaming account of the organization.

K. A volunteer working a bingo session may receive complimentary food and nonalcoholic beverages ~~for consumption~~ provided on premises, ~~provided as long as~~ the retail value of such food and beverages does not exceed ~~\$8.00~~ \$15 for each session.

L. ~~Individuals employed by an organization to work in the private social quarters open only to members and guests may sell seal cards or pull tab cards provided they are members who are not directly compensated for the sale of these products.~~ Permitted organizations shall not commingle records, supplies or funds from permitted activities with those from pull-tabs sold in social quarters in accordance with § 18.2-340.26:1 of the Code of Virginia.

M. Individuals who are not members of an organization or are members who do not participate in any charitable gaming activities may be paid reasonable fees for preparation of *quarterly and annual* financial reports.

~~N. Except for individuals identified in subsections K and M of this section and individuals allowed by law to be compensated for providing assistance to organizations for the deaf and blind, No free packs, free electronic bingo devices, discounts or remuneration in any other form shall be provided directly or indirectly to volunteers, members of their family or individuals residing in their household. The reduction of tuition, dues or any fees or payments due as a result of a member or shareholder, or anyone in their household, working bingo games or raffles is prohibited.~~

O. Individuals providing security for an organization's charitable gaming activity shall not participate in the charitable gaming activity ~~as a player~~ and shall not be compensated with charitable gaming supplies or with rentals of electronic bingo devices.

P. No organization shall award any prize money or any merchandise valued in excess of the ~~following~~ amounts *specified by the Code of Virginia*:

- ~~1. No bingo door prize shall exceed \$25.~~
- ~~2. No regular bingo or special bingo game prize shall exceed \$100.~~
- ~~3. No instant bingo prize for a single card shall exceed \$500.~~
- ~~4. No bingo jackpot of any nature whatsoever shall exceed \$1,000 nor shall the total amount of bingo jackpot prizes awarded in any one calendar day exceed \$1,000.~~
- ~~5. No pull tab card shall have a prize exceeding \$500.~~

~~The provisions of this subsection shall not apply to any bingo game in which all the gross receipts from players for that game up to \$1,000 are paid as prize money back to the players, provided there is no more than one such game per calendar day of play and the prize money from any such game does not exceed \$1,000, such games being commonly referred to as "winner take all" games.~~

Q. Multiple bingo sessions shall be permitted in a single premises as long as the sessions are distinct from one another and are not used to advertise or do not result in the awarding of more in prizes than is permitted for a single qualified organization. All leases for organizations to conduct charitable gaming in a single premises shall be for sessions separated by an interval of at least one hour ~~during which no sales shall take place. Bingo sales for the subsequent session may take place during the one-hour break once the building is cleared of all patrons and workers from the previous session.~~

~~R. Separate sessions at the same location shall require separate admission fees.~~

~~S. R. All bingo and instant bingo sales must occur within the time specified on the charitable gaming permit. In addition, instant bingo sales may occur as provided in subsection T of~~

~~this section provided no such sales take place in the required one hour break between sessions.~~

~~T. S. Instant bingo cards shall only be sold in conjunction with a regular bingo session. No instant bingo sales shall take place more than two hours before or after a session. If multiple sessions are held at the same location, no *instant bingo* sales shall be conducted during the required one hour break between sessions. The ~~commission~~ *department* may take action if it believes that a regular bingo session is not legitimate or is being conducted in a manner such that instant bingo cards are not being sold in conjunction with a normal, regular bingo session.~~

~~U. T. Only *bona fide* volunteers a *volunteer game worker* of qualified organizations may rent, exchange or otherwise provide electronic bingo devices to players.~~

~~V. U. A qualified organization shall conduct only bingo games and raffles listed on a game program for that session. The program shall list all ~~games and~~ prize amounts. If the prize amounts are determined by attendance or at the end of a game, the game program shall list the attendance required for the prize amount or disclose that prizes shall be determined at the end of a game and the method for determining the prize amount. In such case, the organization shall announce the prize amount at the end of the game.~~

~~W. V. A qualified organization selling instant bingo or pull-tab cards shall post a flare provided by the manufacturer at the location where such cards are sold. All such sales and prize payouts shall be in accordance with the flare for that deal.~~

~~X. W. Only qualified organizations shall advertise a bingo game. Providing players with information about bingo games through printed advertising is permitted, provided the name of the qualified organization shall be in a type size equal to or larger than the name of the premises, hall or the word "bingo." Printed advertisements shall identify the use of proceeds percentage reported in the past quarter or fiscal year.~~

~~Y. X. Raffles which award prizes based on a percentage of gross receipts shall use prenumbered tickets.~~

~~Z. Y. The following rules shall apply to ~~pull tab~~ *instant bingo* dispensing devices:~~

- ~~1. A dispenser shall only be used at a location ~~owned or leased by and time during which~~ a qualified organization ~~which~~ holds a permit to conduct charitable gaming ~~at that location~~. Only cards purchased by an organization to be used during the organization's charitable gaming activity shall be in the dispenser.~~
- ~~2. Keys to the dispensing area and coin/cash box shall be in the possession and control of the game manager or designee of the organization's board of directors at all times. Keys shall at all times be available at the location where the dispensing device is being used.~~
- ~~3. The game manager or designee shall provide ~~keys~~ access to a ~~commission representative~~ *department agent* for inspection upon request.~~
- ~~4. Only a volunteer game worker of an organization may stock the device, remove cash or pay winners' prizes.~~

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Z. Organizations shall only purchase gaming supplies from a supplier who has a current certificate of registration issued by the department.

AA. An organization shall not alter bingo paper from its original form as invoiced from the supplier.

BB. The total amount of all discounts given by any organization during any fiscal year shall not exceed 1.0% of the organization's prior year gross receipts.

11 VAC 15-22-50. Rules of play.

A. ~~Each~~ organization ~~may~~ shall adopt "house rules" regarding conduct of the game, ~~provided~~. Such rules ~~are~~ shall be consistent with the provisions of the law and this chapter. "House rules" shall be conspicuously posted or, at an organization's option, printed on the game program.

B. All players shall be physically present at the location where the balls for a bingo game are drawn to play the game or to claim a prize. Seal card prizes that can only be determined after a seal is removed or opened must be claimed within 30 days of the close of a deal. All other prizes must be claimed on the game date.

C. The following rules of play shall govern the sale of instant bingo and ~~pull tab~~ seal cards:

~~1. Cards shall not be sold to the public from the original packing box or container. Cards from the original packing box or container shall be mixed thoroughly before being sold by volunteers, dispensing machines or from other containers.~~

~~2. 1. No cards which that have been marked, defaced, altered, tampered with or otherwise constructed in a manner which that tends to deceive the public or affect the chances of winning or losing shall be placed into play.~~

~~3. 2. Winning cards shall have the winning symbol or number defaced or punched immediately after redemption by the organization's authorized representative.~~

~~4. 3. An organization may commingle unsold instant bingo cards with no more than one additional deal. The practice of commingling deals shall be disclosed to the public via house rules or in a similar manner. Seal card deals shall not be commingled.~~

~~5. 4. If a deal is not played to completion and unsold cards remain, the remaining cards shall be sold on the next date the same type of ticket is scheduled to be sold. If no future date is anticipated, the organization shall, after making diligent efforts to sell the entire deal, consider the deal closed or completed. The unsold cards shall be retained in accordance with 11 VAC 15-22-70 for three years following the close of the fiscal year and shall not be opened.~~

~~6. 5. All seal card games purchased shall contain the sign-up sheet, seals and the cards packaged together in each deal.~~

~~7. 6. Progressive seal card prizes not claimed within 30 days shall be carried forward to the next progressive game in progress and paid to the next progressive game prize winner.~~

D. ~~Volunteers~~ Volunteer game workers may not play bingo at any session they have worked ~~provided they do not return to working a game after having played after the session has started.~~ ~~Volunteers~~ Volunteer game workers may not purchase directly or through others instant bingo, ~~pull tab~~ or seal card products from organizations they assist on the day they have volunteered or from any deal they have helped sell, whichever is later.

E. Electronic bingo.

1. Electronic bingo devices may be used by bingo players in the following manner:

a. Players must input into the device each number called;

b. Players must notify the game operator or caller of a winning pattern of bingo by a means other than use of the electronic device;

c. Players are limited to playing a maximum of ~~72~~ 54 card faces per device per game ~~on each device~~;

d. Electronic bingo devices shall not be reserved for players. Each player shall have an equal opportunity to use the available devices on a first come, first served basis;

e. Each ~~player using an~~ electronic bingo device shall possess a printed representation of all faces played or to be played by the device or produce a player receipt with the organization name, date, time, location, sequential transaction or receipt number, number of electronic bingo cards played loaded, cost of electronic bingo cards loaded, date and time of the transaction, and device identification number. Images of cards or faces stored in an electronic device must be exact duplicates of the printed faces if faces are printed;

f. ~~Commission representatives~~ Department agents may examine and inspect any electronic bingo device and related system. Such examination and inspection shall include immediate access to the device and unlimited inspection of all parts and associated systems and may involve the removal of equipment from the game premises for further testing;

g. All electronic bingo devices must be ~~programmed~~ loaded or enabled for play on the premises where the game will be played;

h. All electronic bingo devices shall be rented or otherwise provided to a player only by an organization and no part of the proceeds of the rental of such devices shall be paid to a landlord, his employee, agent or member of his immediate family; and

i. If a player's call of a bingo is disputed by another player or if a ~~commission representative~~ department agent makes a request, one or more cards stored on an electronic bingo device shall be printed by the organization.

2. Players may exchange a defective electronic bingo device for another device provided a disinterested player verifies that the device is not functioning. A disinterested player shall also verify that no numbers called for the game

in progress have been keyed into the replacement device prior to the exchange.

F. The following rules of play shall govern the conduct of raffles:

1. Before a prize drawing, each stub or other detachable section of each ticket sold shall be placed into a receptacle from which the winning tickets shall be drawn. The receptacle shall be designed so that each ticket placed in it has an equal chance to be drawn.

2. All prizes shall be valued at fair market value.

G. The following rules shall apply to "decision bingo" games:

1. Decision bingo shall be played on bingo cards in the conventional manner.

2. Players shall enter a game by paying a predetermined amount for each card face in play.

3. After the calling of each set of three numbers, players wishing to continue playing shall pay an additional predetermined fee for each card in play.

4. The prize amount shall be the total of all fees not to exceed \$100. Any excess funds shall be retained by the organization.

5. The predetermined amounts in subdivisions 2 and 3 of this subsection shall be printed in the game program. The prize amount for a game shall be announced before the prize is paid to the winner.

H. The following rules shall apply to "treasure chest" games:

1. The organization shall list the treasure chest game on the bingo game program as a "Treasure Chest Raffle."

2. The organization shall have house rules posted that describe how the game is to be played.

3. The treasure chest participant shall only be selected through some other authorized charitable game at the same bingo session.

4. The organization shall account for all funds as treasure chest/raffle sales on the session reconciliation form.

5. If the player does not open the lock on the treasure chest, the game manager shall proceed to try every key until the correct key opens the treasure chest lock to show all players that one of the keys will open the lock.

I. The following rules shall apply to "Lucky Seven" games:

1. General rules.

a. A "Lucky Seven" bingo card shall have a single face where seven numbers shall be chosen.

b. A "Lucky Seven" sheet shall have multiple faces where seven numbers shall be chosen per face.

c. A player shall select seven numbers between the numbers of 1 and 75.

d. No duplicate numbers shall be played on a purchased face.

e. If a duplicate number appears on a face, then the card shall be void.

f. "Lucky Seven" shall be played on a bingo card or sheet, or electronic facsimile thereof.

g. "Lucky Seven" bingo paper (i.e., card(s) and sheet(s)) shall conform to the construction and randomization standards in the Charitable Gaming Supplier Regulations (11 VAC 15-31).

h. "Lucky Seven" shall be sold separately from the bingo card(s) or sheet(s) issued for any other bingo game.

i. "Lucky Seven" shall not be a part of any pack of any kind such as a convenience pack, super pack, etc.

j. The financial accounting for "Lucky Seven" must include separate accounting for the "Lucky Seven" sales and prize payouts as well as informational entries for each session that records the following for the progressive jackpot: beginning balance, additions to the progressive jackpot, payouts and ending balance that is to be carried over to the next session.

k. "Lucky Seven" shall be listed on the game program for the session it is played.

l. "Lucky Seven" game card(s) or sheet(s) pricing shall be listed on the game program.

m. The pricing of "Lucky Seven" bingo card(s) or sheet(s) shall be by the number of faces.

n. The price for a "Lucky Seven" bingo card or sheet face shall be the same regardless of the number of faces purchased by a player.

o. No discounts shall be allowed.

p. "Lucky Seven" paper shall not be given away as a door prize.

q. There shall be no more than one "Lucky Seven" game per organization per calendar day.

r. No volunteer may play "Lucky Seven" at any session where he has worked.

s. The pricing for "Lucky Seven" faces shall remain constant from when the progressive jackpot is first started until the same jackpot has been won.

2. Progressive jackpot rules.

a. "Lucky Seven" shall begin with the calling of 16 random numbers by the game caller. These numbers will determine the winner of the "Lucky Seven" progressive jackpot. If the progressive jackpot has not been won during the session, then the maximum number of numbers called for the following session shall be increased by one number. This shall continue until the progressive jackpot has been won.

b. The amount of the progressive jackpot shall be announced prior to the game being played at the session. Multiple winners shall evenly split the progressive jackpot.

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c. The initial progressive jackpot for the "Lucky Seven" game shall not exceed \$500.

d. The organization shall take into consideration the number of players at its sessions when deciding the starting amount for its progressive jackpot.

e. Any increase in the amount for the "Lucky Seven's" progressive jackpot game shall be 50% of the moneys received from the sales of "Lucky Seven" bingo card(s) or sheet(s) during the previous session for which the sales occurred or \$100 per session, whichever amount is less.

f. Once the progressive jackpot has reached \$5,000, the organization shall not add any additional money generated from the sales of its "Lucky Seven" bingo card(s) or sheet(s) from a session to the jackpot.

g. The amount of numbers needed to win the "Lucky Seven" progressive jackpot and the amount of the jackpot shall be posted in a conspicuous place inside the bingo hall.

h. Once the progressive jackpot has been won, the next progressive jackpot shall not start in excess of \$500.

3. Regular or special prize rules.

a. If the progressive jackpot has not been won during the session, then the game caller shall continue to call numbers at random until there is a verified bingo winner of the regular or special prize amount.

b. The regular or special prize amount shall be announced prior to the game being played. Multiple winners shall evenly split the regular or special prize.

c. The regular or special prize amount shall be 50% of the moneys received from the sales of "Lucky Seven" bingo card(s) or sheet(s) during the current session or \$100, whichever amount is less.

d. The regular or special prize amount shall not be awarded when the progressive jackpot is won by a player.

J. The following rules shall apply to "WINGO":

1. "WINGO" shall be played only by organizations for the hearing impaired.

2. "WINGO" shall utilize a visual device such as an oversized deck of cards in place of balls selected from a blower.

3. A caller must be in an area visible to all players and shall randomly select cards or other visual devices one at a time and display them so that all players can see them.

4. The organization must have house rules for "WINGO" and the rules shall identify how players indicate that they have won.

5. All financial reporting shall be consistent with reporting for a traditional bingo game.

PART IV. BANK ACCOUNTS, RECORDKEEPING, FINANCIAL REPORTING, AUDITS, FEES.

11 VAC 15-22-60. Bank accounts.

A. Qualified organizations shall maintain a ~~separate bank account for charitable gaming receipts~~ *charitable gaming bank account that is separate from any other bank account and all gaming receipts shall be deposited into the charitable gaming bank account.*

B. Disbursements for expenses other than prizes and reimbursement of meal expenses shall be made by check directly from a charitable gaming account ~~or from a general fund account of the organization if charitable gaming funds are transferred to such an account.~~

C. All charitable gaming bank account records, including but not limited to monthly bank statements, canceled checks or facsimiles thereof, and reconciliations shall be maintained for three years following the close of a fiscal year (~~September 30~~).

D. All receipts from each session of bingo games and instant bingo shall be deposited by the second business day following the session at which they were received.

E. ~~Pull tab and~~ Raffle proceeds shall be deposited at least once every calendar week.

11 VAC 15-22-70. Recordkeeping.

A. In addition to the records required by § 18.2-340.30 D of the Code of Virginia, qualified organizations conducting bingo shall maintain a system of records *for each gaming session on forms prescribed by the department, or electronic facsimiles of those forms approved by the department, that documents and identifies include:*

1. Charitable gaming supplies purchased *and used*;

2. ~~Charitable gaming supplies used~~ A session reconciliation form and an instant bingo reconciliation form completed and signed within 48 hours of the end of the session by the bingo manager;

3. All discounts provided;

4. ~~Daily bingo reconciliation and instant bingo reconciliation~~ A reconciliation to account for cash received from floor workers for the sale of extra bingo sheets for any game;

5. Number of electronic bingo devices rented, unique serial numbers of such devices, number of faces sold by each unit and a summary report for each session to include date, time, location and detailed information on income and expenses;

6. ~~Unused charitable gaming supplies that were destroyed. Destruction must be witnessed by two officers of the organization who shall sign and date the itemized list if the retail face value of supplies destroyed exceeds \$1,000 in a fiscal year.~~ An admissions control system that provides a cross-check on the number of players in attendance and admission sales. This may include a ticket control system, cash register or any similar system;

7. All operating expenses including rent, advertising and security. Copies of invoices for all such expenses shall *also* be maintained;

8. Expected and actual receipts from games played on hard cards and number of games played on hard cards; and

9. *A record of the name and address of each winner for all seal cards, pull tabs and instant bingo prizes of \$250 and over along with the winning ticket and seal card; and*

10. *A record of all door prizes awarded.*

B. Qualified organizations conducting raffles shall have a recordkeeping system to account for cash receipts, cash disbursements and raffle tickets purchased or sold and prizes awarded. All records shall be maintained for three years from the close of the fiscal year. The recordkeeping system shall include:

1. Invoices for the purchase of ~~pull tab~~ raffle cards which shall reflect the following information:

- a. Name and address of supplier;
- b. Name of purchaser;
- c. Date of purchase;
- d. Invoice price for each deal;
- e. Form number and name of card;
- f. Serial numbers;
- g. Quantity purchased; and
- h. Sales price of cards.

2. A record of cash receipts from raffle ticket sales (other than pull-tabs) by tracking the total number of tickets available for sale, the number issued to sellers, the number returned, the number sold and reconciliation of all raffle sales to receipts;

3. Serial numbers of ~~door prize~~ tickets for raffle sales initiated and concluded at a bingo game or sequentially numbered tickets which shall state the name, address and telephone number of the organization, the prize or prizes to be awarded, the date of the prize drawing or selection, the selling price of the raffle ticket and the charitable gaming permit or exempt authorization number;

4. Receipts for all raffle prizes valued at \$500 or more on which prize winners must provide printed name, residence address and the amount and description of the prize received; and

5. Deposit records of the required weekly deposits of ~~pull tab~~ raffle receipts.

C. All raffle tickets (~~except for pull tab raffles~~) shall *have a detachable section; be consecutively numbered with the detachable section having the same number; provide space for the purchaser's name, complete address and telephone number; and state the name and address of the organization, the prize or prizes to be awarded, the date, time and location of the prize drawing, and the selling price of the ticket and the charitable gaming permit or exemption authorization number.*

~~All such tickets shall be sequentially numbered. Winning tickets for prizes of \$500 and over and unsold tickets shall be maintained for three years from the close of the fiscal year.~~

~~D. Organizations shall maintain a complete set of records for each deal of pull tab cards sold and a reconciliation of cash to determine gross receipts and prizes paid. The reconciliation must be performed at the close of each deal unless all pull tabs are sold for the same price. In this event, a reconciliation shall be performed at least once every week. All unused charitable gaming supplies shall either be returned for refund to the original supplier in unopened original packaging in resalable condition as determined by the supplier or turned in to the department for destruction. The organization shall maintain a receipt for all such supplies returned to the supplier or turned in to the department.~~

~~E. Each organization shall prepare and maintain the following records for each session:~~

- ~~1. A session reconciliation form and an instant bingo reconciliation form completed and signed within 48 hours of the end of the session by the bingo manager;~~
- ~~2. An admissions control system that provides a cross check on the number of players in attendance and admission sales. This may include a ticket control system, cash register or any similar system;~~
- ~~3. A reconciliation to account for cash received from floor workers for the sale of extra bingo sheets for any game; and~~
- ~~4. A record of all discounts exceeding \$2.00 per person given to customers may be required from organizations whose discounts for the previous fiscal year exceeded 1.0% of that fiscal year's gross receipts.~~

~~F. Organizations may value winner take all sheets sold in game packs at a different price from the sale price of such sheets on the floor provided players are notified as to the value attached to sheets in the packs via the house rules.~~

11 VAC 15-22-80. Financial reporting, penalties, inspections and audits.

A. Each charitable gaming permit holder shall file an annual report of receipts and disbursements by ~~December~~ *March* 15 of each year on a form prescribed by the ~~commission~~ *department*. The annual report shall cover the activity for the fiscal year. Volunteer fire departments and rescue squads shall file a ~~commission prescribed~~ resolution of their board of directors *on a form prescribed by the department* by ~~December~~ *March* 15 each year in lieu of the financial report.

B. The annual report shall be accompanied by the audit and administration fee as established by the ~~commission~~ *department* for the fiscal year unless the fee has been remitted with quarterly reports.

C. An organization desiring an extension to file annual reports for good cause shall pay the projected audit and administration fee by ~~December~~ *March* 15 and request the extension in writing *on a form prescribed by the department*.

D. *Unless exempted by § 18.2-340.23 of the Code of Virginia, qualified organizations realizing any gross gaming receipts in excess of \$50,000 in any calendar quarter shall file, in addition*

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~~to its annual report,~~ a quarterly report of receipts and disbursements on a form prescribed by the ~~commission department~~ as follows:

Quarter ending	Date due
December 31	March 1
March 31	June 1
June 30	September 1
September 30	December 1
December 31	March 1

Quarterly reports shall be accompanied by the appropriate audit and administration fee. An annual financial report may ~~not~~ substitute for a quarterly report ~~if the organization has no further charitable gaming income during the remainder of the reporting period and the annual report is filed by the due date for the applicable calendar quarter.~~

E. Organizations failing to file required reports, request an extension or make fee payments when due shall be charged a penalty of \$25 per day from the due date ~~up to a maximum of \$750 until such time as the required report is filed.~~

F. Any ~~other~~ qualified organization in possession of funds derived from charitable gaming (including those who have ceased operations) ~~as of September 30 of any year,~~ regardless of when such funds may have been received or whether it has a valid permit from the ~~commission department,~~ shall file an annual financial report ~~on a form prescribed by the department~~ on or before ~~December~~ March 15 of each year until such funds are depleted. *Volunteer fire departments and rescue squads that have ceased gaming but are still in possession of funds derived from charitable gaming shall file a resolution of their board of directors by March 15 each year, in lieu of the financial report, on a form prescribed by the department.* If an organization ceases the conduct of charitable gaming, it shall provide the ~~commission department~~ with the name of an individual who shall be responsible for filing financial reports. If no such information is provided, the president of an organization shall be responsible for filing reports until all charitable gaming proceeds are depleted.

G. If an organization has been identified through inspection, audit or other means as having deficiencies in complying with statutory or regulatory requirements or having ineffective internal controls, the ~~commission department~~ may impose restrictions or additional recordkeeping and financial reporting requirements.

~~H. The commission, at its option, may impose a penalty on any organization which fails to comply with provisions of the law or this chapter.~~

~~I. H.~~ Any records deemed necessary to complete an inspection, audit or investigation may be removed by the ~~commission department,~~ its employees or agents from the premises of an organization or any location where charitable gaming is conducted. The ~~commission department~~ shall provide a written receipt of such records at the time of removal.

11 VAC 15-22-90. Use of proceeds.

A. All payments by an organization intended as use of proceeds must be made by check written from the

organization's charitable gaming account ~~or the organization's general fund account.~~

B. Use of proceeds payments may be made for scholarship funds or the future acquisition, construction, remodeling or improvement of real property or the acquisition of other equipment or vehicles to be used for religious, charitable, educational or community purposes. In addition, an organization may obtain ~~commission department~~ approval to establish a special fund account or an irrevocable trust fund for special circumstances. Transfers such as an account or an irrevocable trust fund may be included as a use of proceeds if the ~~commission approved~~ payment is authorized by an organization's board of directors.

No payments made to such a special fund account shall be withdrawn for other than the specified purpose unless prior notification is made to the ~~commission department.~~

C. Expenditures of charitable gaming funds for social or recreational activities or for events, activities or programs which are open primarily to an organization's members and their families shall not qualify as use of proceeds unless substantial benefit to the community is demonstrated.

D. Payments made to or on behalf of indigent or sick or deceased members or their immediate families shall be allowed as use of proceeds ~~up to 1.0% of an organization's prior year gross receipts~~ provided they are approved by the ~~organization's~~ board of directors and the need is documented. ~~Organizations may obtain prior commission approval to exceed the 1.0% limit in special cases.~~

E. Payments made directly for the benefit of an individual member, member of his family or person residing in his household shall not be allowed as a use of proceeds unless authorized by law or elsewhere in this chapter.

F. Use of proceeds payments by an organization shall not be made for any activity which is not permitted by federal, state or local laws or for any activity which attempts to influence or finance directly or indirectly political ~~parties persons~~ or committees or the election or reelection of any person who is or has been a candidate for public office.

G. Organizations shall ~~provide~~ *maintain* details of ~~all~~ use of proceeds ~~with the annual financial report disbursements for a minimum of three years and shall make this information available to the department upon request.~~

H. The ~~commission or its employees department~~ may disallow a use of proceeds payment to be counted against the minimum percentage referred to in 11 VAC 15-22-20 D.

If any payment claimed as use of proceeds is subsequently disallowed, an organization may be allowed additional time as specified by the ~~commission department~~ to meet minimum use of proceeds requirements.

PART V. RENT.

11 VAC 15-22-100. Requirements regarding renting premises, agreements and landlord participation.

A. No organization shall rent or use any leased premises to conduct charitable gaming unless all terms for rental or use

are set forth in a written agreement and signed by the parties thereto prior to the issuance of a permit to conduct charitable gaming.

B. Organizations shall not make payments to a landlord except by check drawn on the organization's ~~general fund or~~ charitable gaming account.

C. No landlord, his agent or employee, member of his immediate family or person residing in his household shall make directly or indirectly a loan to any officer, director, game manager or entity involved in the management, operation or conduct of charitable gaming of an organization in Virginia which leases its charitable gaming facility from the landlord.

D. No landlord, his agent or employee, a member of his immediate family or person residing in his household shall make any direct or indirect payment to any officer, director, game manager or entity involved in the management, operation or conduct of charitable gaming conducted at a facility rented from the landlord in Virginia unless the payment is authorized by the lease agreement and is in accordance with the law.

E. No landlord, his agent or employee, person residing in the same household or member of his immediate family shall, at charitable games conducted on the landlord's premises:

1. Participate in the management, operation or conduct of any charitable games;
2. Sell, lease or otherwise provide any bingo supplies including, but not limited to, bingo cards, pull-tab cards, markers or other game pieces; or
3. Require as a condition of the lease or contract that a particular manufacturer, distributor or supplier of bingo supplies be used by the organization.

"Bingo supplies" as used in this chapter shall not include glue and tape sold from concession stands or from a location physically separated from the location where bingo supplies are normally sold.

~~F. If equipment or services are included by a landlord in any lease or contract, the lease or contract shall itemize the amount attributable to the rent of the premises, equipment and each service to be provided by the landlord.~~

~~G. F.~~ No member of an organization involved in the management, operation or conduct of charitable gaming shall provide any services to a landlord or be remunerated in any manner by the landlord of the facility where an organization is conducting its charitable gaming.

PART VI.

FACT FINDING CONFERENCES AND HEARINGS.

11 VAC 15-22-110. Procedural rules for the conduct of fact-finding conferences and hearings.

A. Fact-finding conference; notification, appearance, conduct.

1. Unless automatic revocation or immediate suspension is required by law, no authorization or permit to conduct charitable gaming shall be denied, suspended or revoked except upon notice stating the proposed basis for such action and the time and place for a fact-finding conference,

as set forth in ~~§ 9-6-14:14~~ 2.2-4019 of the Administrative Process Act.

2. If a basis exists for a refusal to renew a suspension or a revocation of a permit or authorization, the ~~commission department~~ shall notify, by certified mail or by hand delivery, the interested ~~parties~~ persons at the address of record maintained by the ~~commission department~~.

3. Notification shall include the basis for the proposed action and afford interested ~~parties~~ persons the opportunity to present written and oral information to the ~~commission which department~~ that may have a bearing on the proposed action at a fact-finding conference. If there is no withdrawal, a fact-finding conference shall be scheduled at the earliest mutually agreeable date, but no later than 60 days from the date of the notification. Organizations or suppliers who wish to waive their right to a conference shall notify the ~~commission department~~ at least 14 days before the scheduled conference.

4. If after consideration of evidence presented during an informal fact-finding conference, a basis for action still exists, the interested ~~parties~~ persons shall be notified in writing within 60 days of the fact-finding conference, via certified or hand-delivered mail, of the decision and the right to a formal hearing. Parties to the conference may agree to extend the report deadline if more time is needed to consider relevant evidence.

B. Hearing; notification, appearance, conduct.

1. If, after a fact-finding conference, a sufficient basis still exists to deny, suspend or revoke a permit or authorization, interested ~~parties~~ persons shall be notified by certified mail or hand delivery of the proposed action and of the opportunity for a hearing on the proposed action. If an organization desires to request a hearing, it shall notify the ~~commission department~~ within 14 days of receipt of a report on the conference. Parties may enter into a consent agreement to settle the issues at any time prior to, or subsequent to, an informal fact-finding conference.

2. If an interested party or representative fails to appear at a hearing, the hearing officer may proceed in his absence and make a recommendation.

3. Oral and written arguments may be submitted to and limited by the hearing officer. Oral arguments shall be recorded in an appropriate manner.

C. Hearing location. Hearings before a hearing officer shall be held, insofar as practicable, in the county or city in which the organization is located. *If the parties agree*, hearing officers may conduct hearings at locations convenient to the greatest number of persons or by telephone conference, video conference or similar technology, in order to expedite the hearing process.

D. Hearing decisions.

1. Recommendations of the hearing officer shall be a part of the record and shall include a written statement of the hearing officer's findings of fact and recommendations as well as the reasons or basis for the recommendations.

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Recommendations shall be based upon all the material issues of fact, law or discretion presented on the record.

2. The ~~commission~~ department shall review the recommendation of the hearing officer and render a decision on the recommendation within 30 days of receipt. The decision shall cite the appropriate rule, relief or denial thereof as to each issue.

E. Agency representation. The ~~executive secretary's~~ director's designee may represent the ~~commission~~ department in an informal conference or at a hearing.

PART VII. REPORTING VIOLATIONS.

11 VAC 15-22-120. Reporting violations.

A. Unless otherwise required by law, the identity of any individual who provides information to the ~~commission or its employees~~ department or its agents regarding alleged violations shall be held in strict confidence.

B. Any officer, director or game manager of a qualified organization shall immediately report to the ~~commission~~ department any information pertaining to the suspected misappropriation or theft of funds or any other violations of the law charitable gaming statutes or these regulations.

C. Failure to report the information required by subsection B of this section may result in the denial, suspension or revocation of a charitable gaming permit or authorization.

D. Any officer, director or game manager of a qualified organization involved in the management, operation or conduct of charitable gaming shall immediately notify the ~~commission~~ department upon conviction of a felony or a crime of moral turpitude or a crime involving fraud, theft or financial crimes.

E. Failure to report information required by subsection D of this section by any officer, director or game manager of a qualified organization or supplier may result in the denial, suspension or revocation of a permit or authorization.

F. Any officer, director or game manager of a qualified organization involved in charitable gaming shall immediately report to the ~~commission~~ department any change the Internal Revenue Service makes in the tax status of the organization, or if it is a chapter of a national organization covered by a group tax exempt determination, the tax status of the national organization.

G. All organizations regulated by the ~~commission~~ department shall display prominently a poster advising the public of a phone number where complaints relating to charitable gaming may be made. Such posters shall be provided by the ~~commission~~ department to organizations at no charge.

NOTICE: The forms used in administering 11 VAC 15-22, Charitable Gaming Rules and Regulations, are not being published due to the large number; however, the name of each form is listed below. The forms are available for public inspection at the Charitable Gaming Board, James Monroe Building, 101 N. 14th Street, 17th Floor, Richmond, Virginia,

or at the office of the Registrar of Regulations, General Assembly Building, 2nd Floor, Richmond, Virginia.

FORMS

Annual Financial Report for Year Ending ~~---/---/---~~, CGG Fiscal October 1 - September 30, DCG Form #101, rev. ~~9/19/97~~ 9/24/04.

2004 Exempt Organization Resolution, eff. ~~11/97~~ DCG Form 101-E, rev. 9/24/04.

~~Bingo Games Raffles~~ Quarterly Financial Report, CGG DCG Form #102, rev. ~~10/31/97~~ 1/1/04.

Quarterly Supplemental, DCG Form 102-A, rev. 1/1/04.

~~Report of Sales to Charitable Gaming Organizations,~~ CGG Bingo Session Reconciliation Summary, DCG Form #103, rev. ~~4/97~~ rev. 7/1/04.

~~Suggested Bingo Daily Reconciliation Form,~~ CGG Bingo Admission Sales, DCG Form #104-A, rev. ~~4/97~~ rev. 7/1/04.

Floor Sales, DCG Form 104-B, rev. 7/1/04.

Decision Bingo Reconciliation, DCG Form 104-C, rev. 7/1/03.

Raffle or Treasure Chest Sales - (Bingo), DCG Form 104-D, rev. 7/1/03.

~~Suggested Instant Bingo/Seal Card Ticket~~ Reconciliation Report, CGG DCG Form #105, rev. ~~11/97~~ rev. 9/1/04.

Instant Bingo/Seal Card Reconciliation Continuation Sheet, DCG Form 105-A, rev. 9/1/04.

~~Suggested Instant Bingo/Seal Card Reconciliation Report,~~ CGG Storeroom Issue Sheet - Session, DCG Form #106, rev. ~~11/97~~ rev. 7/1/03.

List of Volunteer Workers, DCG Form 107, rev. 7/1/03.

Prize Payout Receipts, DCG Form 108, rev. 7/1/03.

Storeroom Inventory - Paper, DCG Form 109-A, rev. 7/1/03.

Storeroom Inventory - Instants, DCG Form 109-B, rev. 7/1/03.

Raffle Sales - (Non-Bingo), DCG Form 110, rev. 7/1/03.

Request for Extension for Filing the Annual Financial Report, CGG DCG Form #117, eff. ~~10/97~~ rev. 9/24/04.

Bingo/Raffle Application - New Applicants Only, CGG DCG Form #201(a), rev. ~~9/97~~ rev. 7/1/03.

Bingo/Raffle Application - Renewal Applicants Only, DCG Form 201, rev. 8/8/03.

Bingo/Raffle Renewal Application - Fraternal Order of Elks, DCG Form 201 (Elks), rev. 7/1/03.

Exempt Organization - Notification New, CGG DCG Form # 202, rev. ~~11/97~~ rev. 7/1/03.

Exempt Organization - Notification Renewal, CGG DCG Form #202(a), rev. ~~11/97~~ rev. 3/1/05.

~~Supplier Registration Certificate Application to Distribute Authorized Gambling Paraphernalia and Supplies, CGC Form #203, rev. 11/97.~~

Tax Information Disclosure Authorization, ~~eff. 11/97~~ rev. 11/30/04.

Permit Amendment, rev. 8/1/03.

Gaming Personnel Information Update, rev. 7/1/03.

Report of Game Termination, rev. 8/8/03.

VA.R. Doc. No. R05-07; Filed March 4, 2005, 3:42 p.m.

Title of Regulation: 11 VAC 15-31. Supplier Regulations (amending 11 VAC 15-31-10, 11 VAC 15-31-20, 11 VAC 15-31-30, 11 VAC 15-31-50, 11 VAC 15-31-60).

Statutory Authority: §§ 2.2-2456, 18.2-340.15, 18.2-340.19 and 18.2-340.34 of the Code of Virginia.

Public Hearing Date: N/A -- Public comments may be submitted until June 3, 2005.

(See Calendar of Events section for additional information)

Agency Contact: Clyde E. Cristman, Director, James Monroe Building, 101 N. 14th Street, 17th Floor, Richmond, VA 23219-3684, telephone (804) 371-0603, FAX (804) 786-1079, or e-mail clyde.cristman@dca.virginia.gov.

Basis: Section 18.2-340.15 of the Code of Virginia provides that the department is vested with control of all charitable gaming in the Commonwealth and that the board shall have the power to prescribe regulations and conditions under which such gaming is authorized.

Section 2.2-2456 of the Code of Virginia sets forth the duties of the Charitable Gaming Board and general authority for the board to adopt regulations. Section 2.2-2456 provides that the board shall promulgate regulations not inconsistent with the laws of Virginia necessary to carry out the provisions of Article 19 (§ 2.2-2455 et seq.) of Chapter 24 and the provisions of Article 1.1:1 (§ 18.2-340.15 et seq.) of Chapter 8 of Title 18.2 of the Code of Virginia. Such regulations may include penalties for violations.

Section 18.2-340.19 of the Code of Virginia provides the board specific authority to prescribe regulations and conditions under which charitable gaming is authorized.

Section 18.2-340.34 of the Code of Virginia provides the board authority to prescribe by regulation reasonable criteria consistent with the provisions of this article for the registration of suppliers.

The fifth enactment of Chapter 884 of the 2003 Acts of Assembly provides, "That the Charitable Gaming Board shall examine regulations, including the computation and percentage of gross receipts that are required to be used for charitable purposes by qualified organizations and provide a report to the Governor and the 2004 session of the General Assembly. The report shall include the board's plans regarding regulatory action on these issues, and anticipated timetable for such action."

The required report, which was submitted on December 2, 2003, concluded: "The board concurs that a comprehensive revision to the Charitable Gaming Rules and Regulations and the Supplier Regulations is needed..." The board reported an anticipated timetable for the process to amend the regulations as approximately 18 months to complete, occurring between June 2004 and January 2006.

Purpose: The 2003 General Assembly (Chapter 884, 2003 Acts of Assembly) created the Department of Charitable Gaming (the department) and the Charitable Gaming Board (the board) to replace the former Charitable Gaming Commission (the commission). The current Supplier Regulations were adopted by the former commission and became effective January 1, 1998. They include many references to the commission, which no longer exists, as well as other statutes that have since been amended. The goal of the amended regulations is to simplify and clarify the regulations while also making them consistent with current statutes. While mandated by § 18.2-340.34 B of the Code of Virginia, the promulgation of the Supplier Regulations also protects the public safety and welfare by preventing fraud and theft of funds raised for charitable purposes and preventing abuse of charitable gaming.

Substance: The regulations contain 42 references to the former Charitable Gaming Commission that are proposed to be changed to the Department of Charitable Gaming or Charitable Gaming Board where appropriate and consistent with the statute. Several definitions are proposed to be updated and clarified. The regulations have also been amended where necessary to be consistent with the proposed Charitable Gaming Rules and Regulations (11 VAC 15-22). The Charitable Gaming fiscal year is proposed to be changed from the current fiscal year of October 1 to September 30 to now be consistent with the calendar year.

Issues: The primary advantage to the public is that through consistent and effective regulation, the public will be able to participate in bingo, instant bingo and raffles that provide funding for charitable organizations while ensuring that the highest level of integrity is maintained. This will protect the public from fraud while increasing the funding for charity. Clarified regulations should also benefit those businesses that are registered with the department as required by law by making it easier to understand and comply with the regulations. There are no disadvantages to the public or the businesses in the proposed regulations.

The primary advantage to the Commonwealth is that the department will be more efficient in audit and control of permitted gaming activities and better able to detect and prosecute fraud, theft and other irregularities. There are no disadvantages to the Commonwealth in the proposed regulations.

The regulated community should benefit from regulations that are clearer and more concise, and therefore more easily complied with. The regulated community may see some additional recordkeeping and reporting requirements that are necessary for the privilege of delivering supplies to gaming operations.

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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 H of the Administrative Process Act and Executive Order Number 21 (02). Section 2.2-4007 H 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 18.2-340.15 of the Code of Virginia provides the Charitable Gaming Board (board) with the power to prescribe regulations and conditions under which gaming is conducted such that it is conducted in a manner consistent with the purpose for which it is permitted. It also vests the Department of Charitable Gaming (DCG) with control of all charitable gaming in the Commonwealth. Chapter 884 of the 2004 Acts of Assembly required that the board examine existing charitable gaming regulations and provide a report to the Governor and the 2004 Session of the General Assembly. The report was required to include the board's plan regarding any regulatory action and the anticipated timetable for such action. The report, which was submitted on December 2, 2003, concurred that a comprehensive revision to the Charitable Gaming Rules and Regulations and the Supplier Regulations was needed.

The proposed regulation (1) imposes additional testing requirements on manufacturers of pull tab and instant bingo machines, (2) prohibits suppliers, supplier agents, and employees of the supplier from participating in gaming conducted by the supplier's customers, (3) reduces the maximum number of card faces that can be played per game on an electronic bingo machine from 72 to 54, and (4) includes a number of changes intended to improve enforcement and implementation of the regulation. In addition, the proposed regulation modifies some of the requirements relating to the manufacture of electronic bingo devices; eliminates the provision allowing for the issuance of provisional supplier certificates; establishes requirements for Lucky Seven, a new variation of bingo; and changes the fiscal year for reporting purposes from October 1 through September 30 to the calendar year.

The proposed regulation also adds new definitions, deletes unnecessary definitions, and modifies existing ones. According to DCG, these changes are not likely to significantly alter current practice. The proposed regulation also includes a number of changes that make the regulation consistent with current practice and technology. Other changes make the regulation consistent with federal requirements and with the Code of Virginia. Finally, the proposed regulation also includes a number of other changes that clarify aspects of the regulation, remove redundant language, and make it more streamlined.

Estimated economic impact. (1) The proposed regulation imposes additional testing requirements on manufacturers of pull tab and instant bingo machines. Manufacturers will be required to have a sample machine tested and approved by a testing facility recognized by DCG prior to supplying any new machines for use in charitable gaming. The cost of the additional testing is to be met by the manufacturer.

The proposed change is likely to produce costs and benefits. DCG estimates that the cost of meeting the additional testing requirement is approximately \$2,000. However, the agency believes that most new machines being introduced in Virginia are likely to have already been tested for use in other states.¹ In instances when this is not the case, DCG believes that the additional costs are not likely to be very burdensome as manufacturers stand to make millions of dollars through use of these machines. The proposed requirement is consistent with national standards recently adopted by the Electronic Bingo Manufacturers Association. Reliable estimates of the number of new pull tab and instant bingo machines introduced in Virginia each year and of the fraction of these machines that would require additional testing are not available. The benefits of the proposed change accrue from better enforcement of rules and regulations and laws relating to the conduct of charitable gaming in Virginia. Additional testing will ensure that pull tab and instant bingo machines are in compliance with all requirements and that charitable gaming in Virginia is conducted in a manner such that the risk of fraud and theft to the public is reduced to the minimum level possible. Manufacturers are also likely to benefit from eliminating any appearance of impropriety in the manufacture and sale of these machines. An estimate of the benefits associated with the proposed change is not possible at this time. Such a calculation would require an estimation of the reduction in risk of fraud or improper conduct in the use of pull tab and instant bingo machines from implementing the proposed change. As neither the costs nor the benefits can be reliably estimated, a precise estimate of the net economic impact of the proposed change is also not possible at this time.

(2) The proposed regulation prohibits suppliers, supplier agents, and employees of the supplier from participating in gaming conducted by the supplier's customers. Under the existing regulation, suppliers, supplier agents, and employees are only prohibited from being involved in the management, operation, and conduct of charitable gaming conducted by the supplier's customers. The proposed regulation will also prohibit them from participating in charitable gaming conducted by customers.

According to DCG, there have been problems in the past with regard to the participation of suppliers in charitable gaming conducted by a supplier's customer. The agency has received a number of complaints regarding this issue from other individuals participating in the game. Involvement of the supplier, the supplier's agent, or employees lead some of the other participants to call into question the integrity of the game, i.e., the potential for cheating. The proposed change is intended to address such complaints and remove any

¹ According to DCG, the charitable gaming market in Virginia is meager compared to some other states.

appearance of impropriety associated with supplier participation in these games. To the extent that the proposed change reduces the risk of fraud and impropriety in the conduct of charitable gaming, it is likely to produce some economic benefits. The net economic impact will depend on whether these benefits are greater than or less than the economic cost associated with the restriction on participation. The economic costs include the loss of welfare to suppliers from not being able to participate in charitable gaming to the extent that they are currently allowed and the impact of the participation restriction on charitable gaming revenues. While precise estimates of the costs and the benefits are not possible at this time, neither is likely to be very large. Thus, the overall economic impact of the proposed change is not likely to be very large.

(3) The proposed regulation reduces the maximum number of card faces that can be played per game on an electronic bingo machine from 72 to 54. Reducing the maximum number of card faces, in turn, reduces the chances of an individual winning and receiving a payout. According to DCG, the proposed change is intended to level the playing field between paper and electronic players. A good paper player can play up to 36 card faces simultaneously. By being able to play a larger number of card faces during a game, electronic bingo players have a higher probability of winning. However, reducing the maximum number of card faces from 72 to 54 is not likely to achieve much by way of leveling the playing field. Electronic bingo players are likely to continue to have an advantage over paper players. At the same time, reducing the likelihood of a payout using for electronic bingo players could discourage people from playing and, consequently, have a negative impact on charitable gaming proceeds. Organizations currently using and manufacturers currently supplying machines with a maximum 72 card faces will incur additional costs associated with replacing or modifying their equipment to comply with the proposed change.

However, any negative economic impact is likely to be small. According to DCG, a maximum of 54 card faces is the national standard. The agency estimates that less than 2.0% of charitable gaming organizations will be affected by the proposed change. Moreover, according to the agency, the cost to suppliers of making the change is likely to be minimal. Regulation requires that the games be loaded onto the computers onsite, usually just before the game begins. The proposed change will simply require 54 instead of 72 games being loaded. Given the limited number of organizations offering games with 72 card faces, the costs associated with the proposed change, both in terms of discouraging people from playing and having to replace or modify equipment, is likely to be small.

(4) The proposed regulation includes a number of changes that are intended to improve enforcement and implementation of the regulation. Some of these changes include more extensive recordkeeping and reporting requirements, including maintaining and reporting additional sales information and obtaining written statements from buyers who are not permitted or authorized to conduct charitable gaming activities that they do not intend to use the supplies for purposes of charitable gaming or unlawful gambling and keeping it on record for three years. In addition, suppliers are required to

be authorized to conduct business in Virginia². They are also required to notify DCG within 20 days in the event of any legal or administrative action against them relating to charitable gaming or the distribution of charitable gaming supplies and to ensure that serial numbers on disposable bingo papers are not repeated for three years.³ However, not all the proposed changes are likely to impose additional costs. Many, such as online reporting and additional flexibility in the payment for gaming supplies, are intended to streamline the process and make it less burdensome.

DCG believes that any increase in costs is likely to be counterbalanced by changes that streamline the process and make it more efficient. Neither the costs nor the benefits of the proposed change appear to be very large. Thus, the overall economic impact of the proposed changes is not likely to be very large.

The proposed regulation makes a number of other changes. However, these changes are not likely to have significant economic impact.

- The proposed regulation modifies some requirements relating to the manufacture of electronic bingo devices. However, these modifications are not likely to have a significant economic impact as they are consistent with the criteria that the industry has set for itself. In fact, the Electronic Bingo Manufacturers Association recommended the modifications.
- The proposed regulation eliminates the provision allowing for the issuance of provisional supplier certificates. The existing regulation allows for the issuance of provisional certificates valid for up to 180 days pending completion of the background investigation. However, no need has been felt for provisional certificates and none have been issued since 2002.
- The proposed regulation establishes requirements for Lucky Seven, a new variation of bingo. However, Lucky Seven games are currently being played in Virginia and the requirements established in the regulation are not expected to alter current practice.
- The proposed regulation changes the fiscal year for reporting purposes from October 1 through September 30 to the calendar year, i.e., January 1 through December 31. The change is intended to make the reporting process consistent with the state's budgeting process. According to DCG, currently budget projections of revenues from charitable gaming are based on just three months of actual data (July through October). After the proposed change, six months of actual data (July through December) will be available to the agency when making these projections. Moreover, the agency believes that consistency between the reporting period for charitable gaming and the reporting period for tax purposes will reduce confusion among the regulated community and streamline the entire process. To the extent the proposed

² Authorization can include registration with the State Corporation Commission, the Department of Taxation, and/or the Virginia Employment Commission.

³ The current requirement is for them not to be repeated for one year.

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change achieves these objectives, it is likely to produce some small economic benefits.

Businesses and entities affected. The proposed regulation affects certified charitable gaming suppliers. According to DCG, there currently are 22 charitable gaming suppliers operating in Virginia.

Localities particularly affected. The proposed regulation applies to all localities in the Commonwealth.

Projected impact on employment. The proposed regulation is not likely to have a significant impact on employment in Virginia.

Effects on the use and value of private property. The net impact of the proposed changes on the use and value of private property is not clear. For example, manufacturers of pull tab and instant bingo machines may have to undertake additional testing of their machines. This is likely to increase operating costs and reduce asset values. However, the additional testing is likely to remove any appearance of impropriety and increase the confidence of the public in these machines. This, in turn, could increase revenues for suppliers and have a positive impact on their asset values. The net effect of the proposed regulation will depend on the relative magnitude of the costs and the benefits associated with each of the proposed changes. While a precise determination of the magnitudes and, hence of the net effect, is not possible at this time, the overall impact of the proposed regulation on the use and value of private property is not likely to be very large.

Agency's Response to the Department of Planning and Budget's Economic Impact Analysis: The Department of Charitable Gaming has reviewed the Economic Impact Analysis prepared by the Department of Planning and Budget with regard to the proposed changes to the Supplier Regulations (11 VAC 15-31) and we take no exception to the report.

Summary:

The proposed amendments (i) impose additional testing requirements on manufacturers of pull-tab and instant bingo machines; (ii) prohibit suppliers, supplier agents, and employees of the supplier from participating in gaming conducted by the supplier's customers; (iii) reduce the maximum number of card faces that can be played per game on an electronic bingo machine from 72 to 54; (iv) clarify and add new definitions; (v) make technical adjustments to conform the regulation to federal requirements and the Code of Virginia; (vi) adjust requirements based on current law and industry standards; (vii) modify some of the requirements relating to the manufacture of electronic bingo devices; (viii) eliminate the provision allowing for the issuance of provisional supplier certificates; (ix) establish requirements for Lucky Seven, a new variation of bingo; (x) change the fiscal year for reporting purposes from October 1 through September 30 to the calendar year; and (xi) make other changes to conform the regulation to current practice and technology.

11 VAC 15-31-10. Definitions.

In addition to the definitions contained in § 18.2-340.16 of the Code of Virginia, the words and terms below, when used in

this chapter, shall have the following meanings unless the context clearly indicates otherwise:

~~"Address of record" means an address provided to the commission on a registration certificate application or the most recent address on the commission files.~~

"Agent" means any person authorized by a supplier to act for or in place of such supplier.

"Board" means the Virginia Charitable Gaming Board.

~~"Board of directors" means the board of directors, managing committee or other supervisory body of a qualified organization.~~

~~"Bundled pull tabs" means certain pull tabs, commonly referred to as "jar tickets," "guppies," etc., which are taped or stapled together and sold as one unit.~~

~~"Calendar day" means the period of 24 consecutive hours commencing at 12:01 a.m. and concluding at midnight.~~

~~"Calendar week" means the period of seven consecutive calendar days commencing at 12:01 a.m. on Sunday and ending at midnight the following Saturday.~~

"Cash" means United States currency or coinage.

~~"CGC number" means a unique identification number issued by the commission.~~

~~"Commission" means the Virginia Charitable Gaming Commission.~~

"Concealed face bingo card" means a nonreusable bingo card constructed to conceal the card face. This type of card is commonly referred to under trade names such as "Tear-open," or "Bonanza Bingo," "Bullseye" and "Fortune Card."

"Conduct" means the actions associated with the provisions of a gaming operation during and immediately before or after the permitted activity, which may include, but not be limited to (i) selling bingo cards or packs, electronic devices, instant bingo or pull-tab cards, or raffle tickets; (ii) calling bingo games; (iii) distributing prizes; or (iv) any other services provided by volunteer workers.

"DCG number" means a unique identification number issued by the department.

~~"Daubing" means covering a square containing a number called with indelible ink or otherwise concealing the number on a card or an electronic facsimile of a card.~~

"Deal" means each separate package or series of packages consisting of one game of instant bingo, pull-tab raffle or seal cards with the same serial number.

"Department" means the Virginia Department of Charitable Gaming.

"Designator" means an object used in the number selection process, such as a ping-pong ball, upon which bingo letters and numbers are imprinted.

"Director" means the Director of the Virginia Department of Charitable Gaming.

"Disposable paper card" means a nonreusable paper bingo card manufactured with preprinted numbers.

"Electronic bingo device" means an electronic device ~~which that uses proprietary software or hardware, or is used in conjunction with commonly available software and computers, to displays display~~ facsimiles of bingo cards and allows a player to daub such cards.

~~"Electronic verification" means the verification of bingo by entering the free space number of the winning bingo card into computer equipment which contains preprogrammed software for this purpose.~~

"Equipment and video systems" includes equipment which facilitates the conduct of charitable gaming such as ball blowers, flashboards, TV monitors, cameras, smoke eaters, P.A. systems, tables and chairs, electronic verifiers and replacement parts for such equipment.

"Fiscal year" or "annual reporting period" means the 12-month period beginning ~~October~~ *January 1 and ending December 31* of any given year ~~and ending September 30 of the following year.~~

"Flare" means a piece of paper, cardboard or similar material which bears printed information relating to the name of the manufacturer or logo, name of the game, card count, cost per play, *serial number*, the number of prizes to be awarded and the specific prize amounts in a deal of instant bingo, pull-tab or seal cards.

~~"Free space number," "perm number," "center number," "card number" or "face number" means the number generally printed in the center space of a bingo card that identifies the unique pattern of numbers printed on that card.~~

"Game program" means a written list of all games to be played and prize amounts to be paid during a session for each game, where prize amounts are fixed or are based on attendance.

"Immediate family" means one's spouse, ~~mother, father, parent, son, daughter, child, brother, sister, sibling,~~ grandchild, grandparent, ~~mother-in-law, or father-in-law~~ or stepchild.

"Interested parties ~~persons~~" means the owner, director, officer or partner of an entity engaged in supplying charitable gaming supplies to organizations.

"Management" means the provision of oversight ~~and supervision of a gaming operation, which may include, but not be limited to, the responsibilities of applying for and maintaining a permit or authorization; compiling, submitting and maintaining required records and financial reports; and ensuring that all aspects of the operation are in compliance with all applicable statutes and regulations.~~

"Manufacturer" means a person ~~who~~ *or entity that* assembles from raw materials or subparts a completed piece of bingo or other charitable gaming equipment or supplies. "Manufacturer" also means a person ~~who~~ *or entity that* modifies, converts, adds or removes parts to or from bingo or other charitable gaming equipment or supplies to further their promotion or sale for the conduct of charitable gaming.

"Operation" ~~or "conduct"~~ means the ~~authority for check writing, approval of expenses of charitable gaming funds, purchase of~~

~~charitable gaming supplies, negotiation of contracts or leases, or services as a volunteer worker or assistant activities associated with production of a charitable gaming activity, which may include, but not be limited to (i) the direct on-site supervision of the conduct of charitable gaming, (ii) coordination of volunteers, or (iii) all responsibilities of charitable gaming designated by the organization's management.~~

"Owner" means any individual with financial interest of 10% or more in a supplier.

"Packet" "Pack" means sheets of bingo paper ~~or electronic facsimiles~~ assembled in the order of games to be played. This may ~~or may not~~ include specials, ~~winner take-alls~~ and jackpots ~~but shall not include any winner-take-all, Lucky Seven or raffle.~~

~~"Person" means an individual, corporation, partnership, association, governmental body, municipal corporation or other legal entity.~~

"Prize" means cash, merchandise, certificate or other item of value awarded to a winning player.

"Progressive seal card game" means a seal card game in which a prize is carried forward to the next deal if not won when a deal is completed.

~~"Pull tabs" means individually prepackaged cards made completely of paper or paper products with winners being determined by the appearance of preprinted concealed letters, numbers or symbols that must be exposed by the player to determine wins and losses.~~

~~"Random selection" or "randomly selected" means a process of selecting number designators to produce random numbers during a bingo game in which each designator or number in the remaining population has an equal chance or probability of being selected.~~

"Remuneration" means payment in cash or the provision of anything of value for goods provided or services rendered.

"Seal card" means a board or placard used in conjunction with a deal of the same serial number which contains one or more concealed areas that, when removed or opened, reveal a predesignated winning number, letter or symbol located on that board or placard.

"Selection device" means a manually or mechanically operated device to randomly select bingo numbers.

"Serial number" means a unique number printed by the manufacturer on each bingo card in a set ~~of~~, each instant bingo or pull-tab card in a deal, ~~each electronic bingo device or each door prize ticket.~~

"Series number" means the number of unique card faces contained in a set of disposable bingo paper cards or bingo hard cards. A 9000 series, for example, has 9000 unique faces.

"Session" means a period of time during which one or more bingo games are conducted ~~by a single qualified organization, or when approval for joint operation is obtained, by two or more qualified organizations,~~ that begins with the selection of

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the first ball for the first game and ends with the selection of the last ball for the last game.

~~"Set" means the bingo cards contained within each series number.~~

11 VAC 15-31-20. Suppliers of charitable gaming supplies: application, qualifications, suspension, revocation or refusal to renew certificate; maintenance and production of records.

A. Prior to providing any charitable gaming supplies, a supplier shall submit an application on a form prescribed by the ~~commission department~~ and receive a registration certificate. A \$500 application fee payable to the Treasurer of Virginia is required. ~~Provisional registration certificates valid for no more than 180 days may be issued by the commission if the background investigation is not completed. In addition, a supplier must be authorized to conduct business in the Commonwealth of Virginia, which may include, but not be limited to, registration with the State Corporation Commission, the Department of Taxation, and the Virginia Employment Commission.~~ The actual cost of background investigations for a registration certificate may be billed by the ~~commission department~~ to an applicant. The ~~commission department~~ shall act on an application within 90 days of the date of the application.

B. The ~~commission department~~ may refuse to register a supplier or may suspend or revoke a registration certificate if an officer, director, employee, agent or owner:

1. Is operating without a valid license, permit or certificate as a supplier or manufacturer in any state in the United States;
2. Fails or refuses to recall a product as directed by the ~~commission department~~;
3. Conducts business with unauthorized entities or is not authorized to conduct business in the Commonwealth of Virginia;
4. Has been convicted of a ~~crime of moral turpitude or has violated the gambling laws of any state or province in the United States or Canada or pleaded nolo contendere to any crime as specified by § 18.2-340.34 B of the Code of Virginia; has had any license, permit certificate or other authority related to activities defined as charitable gaming in the Commonwealth suspended or revoked in the Commonwealth in any other jurisdiction; or has failed to file or has been delinquent in excess of one year in the filing of any tax returns or the payment of any taxes due the Commonwealth.~~ As this provision relates to employees or agents, it shall only apply to individuals involved in sales to or solicitations of customers in the Commonwealth of Virginia; or
5. Fails to notify the department within 20 days of the occurrence, knowledge, or receipt of the filing of any administrative or legal action relating to charitable gaming or the distribution of charitable gaming supplies involving or concerning the supplier, any officers or directors, employees, agent, or owner during the term of its registration certificate;

6. Fails to provide to the department upon request a current Letter for Company Registration on file with the U.S. Department of Justice - Gambling Devices Registration Unit, if required in accordance with The Gambling Devices Act of 1962, 15 USC §§ 1171-1178, for any device that it sells, distributes, services or maintains in the Commonwealth of Virginia; or

~~5-~~ 7. Has been engaged in conduct that would compromise the ~~commission's department's~~ objective of maintaining the highest level of integrity in charitable gaming.

C. A supplier shall not sell, offer to sell or otherwise provide charitable gaming supplies for use by anyone in the Commonwealth of Virginia other than to an organization with a permit or ~~exemption number~~ authorization from the ~~commission department~~ or another registered supplier. However, a supplier may:

1. Sell charitable gaming supplies to an organization which that expects to gross ~~less than \$25,000 or less in a fiscal year any 12-month period, providing that the amount of such purchase would not be reasonably expected to produce more than \$25,000 in gross sales.~~ For each such organization, the supplier shall maintain the name, address and telephone number. The supplier shall also obtain a written and signed statement from an officer or game manager of such organization confirming that gross receipts are expected to be ~~less than \$25,000 or less.~~ Such statement shall be dated and kept on file for three years from the end of a fiscal year.

2. Sell bingo cards, and paper and related supplies to persons or entities other than qualified organizations provided such supplies shall not be sold or otherwise provided for use in charitable gaming activities regulated by the ~~commission department~~ or in unlawful gambling activities. For each such sale, the supplier shall maintain the name, address and telephone number of the purchaser. The supplier shall also obtain a written statement from the purchaser verifying that such supplies will not be used in charitable gaming or any unlawful gambling activity. Such statement shall be dated and kept on file for three years from the end of a fiscal year. Payment for such sales in excess of \$50 shall be accepted in the form of a check. ~~Suppliers shall maintain records of these sales and provide them to the commission upon request.~~

3. Sell pull-tabs and seal cards to organizations for use only upon the premises owned or exclusively leased by the organization and at such times as the portion of the premises in which the pull-tabs or seal cards are sold is open only to members and their guests as authorized by § 18.2-340.26:1 of the Code of Virginia. Each such sale shall be accounted for separately and the accompanying invoice shall be clearly marked: "For Use in Social Quarters Only."

All such sales shall be documented pursuant to subsection H of this section and reported to the department pursuant to subsection J of this section. This provision shall not apply to the sale to landlords of equipment and video systems as defined in this chapter. Equipment and video systems shall

not include dispensing devices and electronic bingo devices.

D. A supplier shall not sell, offer to sell or otherwise provide charitable gaming supplies to any individual or organization in the Commonwealth of Virginia unless the charitable gaming supplies are purchased or obtained from a manufacturer or another registered supplier. ~~No supplier shall accept payment for the sale of charitable gaming supplies in the Commonwealth except by a check drawn on the charitable gaming or general fund account. This requirement shall not apply to sales of \$50 or less made under subdivision C 2 of this section and to sales by one registered supplier to another.~~ Suppliers may take back for credit and resell supplies received from an organization with a permit or exempt authorization which has ceased charitable gaming or is returning supplies not needed.

E. No supplier, supplier's agent, ~~or employee, member of the supplier's immediate family or person residing in the same household as a supplier~~ may be involved in the management, operation or conduct of charitable gaming ~~of any customer of the supplier in the Commonwealth of Virginia. No member of a supplier's immediate family or person residing in the same household as a supplier may be involved in the management, operation or conduct of charitable gaming of any customer of the supplier in the Commonwealth of Virginia. No supplier, supplier's agent or employee may participate in any charitable gaming of any customer of the supplier in the Commonwealth of Virginia. For the purposes of this regulation, servicing of electronic devices shall not be considered conduct or participation.~~

F. The ~~commission department~~ shall conduct a background investigation prior to the issuance of a certificate to any supplier. The investigation may include, but shall not be limited to, the following:

1. A search of the Virginia Central Criminal Records Exchange (CCRE) on all officers, directors and owners; and
2. Verification of current compliance with Commonwealth of Virginia state tax laws; and
3. *If the officers, directors or owners are domiciled outside of the Commonwealth of Virginia, or have resided in the Commonwealth of Virginia for fewer than five years, a criminal history search conducted by the appropriate authority in any state in which they have resided during the previous five years shall be provided by the applicant.*

G. Appropriate information and authorizations shall be provided to the ~~commission department~~ to verify information cited in subsection F of this section.

H. Suppliers shall document each sale *or rental* of charitable gaming supplies to an organization in the Commonwealth of Virginia on an invoice which reflects the following:

1. Name and address of the organization;
2. Date of sale *or rental* and location where bingo supplies are shipped if different from the billing address;

3. Name, form number and serial number of each deal of instant bingo or pull-tab raffle cards or bundles and the number of cards in each deal;

4. Quantity of deals sold, the ~~organization's~~ cost per deal ~~and~~, the selling price per card, ~~the cash take-in per deal and the cash payout per deal;~~

5. Serial number of the top sheet in each ~~packet~~ pack of disposable bingo paper, the number of sheets in each ~~packet~~ pack or pad, the cut and color and the number of ~~packs~~ or pads sold;

6. Serial number for each series of uncollated bingo paper and the number of sheets sold;

7. Detailed information concerning the type, quantity and individual price of any other charitable gaming supplies or related items including, but not limited to, concealed face bingo cards, hard cards, markers or daubers and refills, *or any other merchandise*. For concealed face bingo cards, the number of sets, price per set and the serial number of each set shall be included; and

8. Any type of equipment, device or product manufactured for or intended to be used in the conduct of charitable games including, but not limited to, designators, designator receptacles, number display boards, selection devices, dispensing machines and verification devices.

I. Suppliers shall ensure that two copies of the detailed invoice are provided to the customer for each sale of charitable gaming supplies.

J. Each supplier shall provide a report to the ~~commission department~~ by ~~January~~ March 1 of each year on sales of charitable gaming supplies for the fiscal year ending ~~September 30~~ December 31 of the previous year to each organization in the Commonwealth of Virginia. ~~Reports shall include the name and address of each organization; its CGC number; the sales (in dollars) of bingo paper, instant bingo cards, pull tabs, seal cards, daubers, tape and other supplies; and rental fees and sales of electronic bingo devices. For sales of instant bingo cards, pull tabs and seal cards, the records shall also indicate the name, form number, selling price per ticket and serial number of each deal or box of instant bingo or pull tab raffle cards and the number of tickets in each deal. This report may shall be provided to the commission department on paper, computer disk or other commission department-approved media. The report shall include the name and address of each organization and the following information for each sale or transaction:~~

1. *Bingo paper sales including purchase price, description of paper to include number of sheets in pack and number of faces on sheet, quantity of single sheets or packs shipped;*

2. *Deals of instant bingo, pull-tabs, seal cards, or any other raffle sales including purchase price, deal name, deal form number, number of tickets in deal, ticket price, cash take-in per deal, cash payout per deal, and number of deals;*

3. *Electronic bingo device sales including purchase or rental price and number of units; and*

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4. Sales of miscellaneous items such as daubers, markers, and other merchandise including purchase price, description of product, and number of units.

K. The ~~commission~~ department shall ~~have the right to~~ set manufacturing and testing criteria for all electronic bingo devices and ~~mechanical~~ other equipment used in the conduct of charitable gaming. An electronic bingo device shall not be sold, leased or otherwise furnished to any person in the Commonwealth of Virginia for use in the conduct of charitable gaming until an identical sample device containing identical proprietary software has been approved by a testing facility that has been formally recognized by the department as a testing facility that upholds the standards of integrity established by the department. The testing facility must certify that the device conforms, at a minimum, to the restrictions and conditions set forth in these regulations. Once the testing facility reports the test results to the department, the department will either approve or disapprove the submission and inform the manufacturer of the results within 10 business days. If any such equipment does not meet the department's criteria, it shall be recalled and shall not be distributed in the Commonwealth of Virginia. The cost of testing shall be borne by the manufacturer of such equipment.

L. ~~Commission~~ Department employees or agents shall have the right to inspect all electronic and mechanical equipment used in the conduct of charitable gaming.

M. Suppliers, their agents and employees, members of the supplier's immediate family or persons residing in their household shall not make any loan directly or indirectly to any organization or officer, director, game manager or entity involved in the management, operation or conduct of charitable gaming of a supplier's customer located in the Commonwealth of Virginia.

N. No supplier or, supplier's agent or employee shall directly or indirectly provide a rebate, discount or refund to any person other than an organization which purchases supplies or leases or purchases equipment from the supplier. All such transactions shall be recorded on the supplier's account books.

O. A supplier shall not rent, sell or otherwise provide electronic bingo devices unless he possesses a valid registration certificate in the Commonwealth of Virginia.

P. A written agreement specifying the terms of lease or rental shall be required for any electronic bingo devices provided to an organization.

11 VAC 15-31-30. Construction and other standards for bingo, instant bingo, pull-tabs, raffles; electronic bingo devices and pull-tab dispensers.

A. No supplier shall knowingly sell or otherwise provide to an organization and no organization shall knowingly use bingo supplies unless they conform to the following construction standards:

1. Disposable paper sold shall be of sufficient weight and quality to allow for clearly readable numbers and to prevent ink from spreading, bleeding or otherwise obscuring other numbers or cards.

2. Each sheet of disposable bingo paper shall be comprised of cards bearing a serial number. No serial number shall be repeated on or in the same style, series and color of cards within a ~~one-year~~ three-year period.

3. Disposable bingo paper assembled in books or ~~packets~~ packs shall not be separated except for single-sheet specials. This provision does not apply to two-part cards on which numbers are filled by players and one part is separated and provided to an organization for verification purposes.

4. Each ~~carton~~ unit of disposable bingo paper shall have an exterior label listing the following information:

- a. ~~Type~~ Description of product;
- b. Number of ~~booklets~~ packs or loose sheets;
- c. Series numbers;
- d. Serial number of the top sheet;
- e. Number of cases;
- f. Cut of paper; and
- g. Color of paper.

5. "Lucky Seven" bingo cards or electronic facsimiles thereof shall have a single face where seven numbers shall be chosen. "Lucky Seven" sheets or electronic facsimiles thereof shall have multiple faces where seven numbers shall be chosen per face.

B. No supplier shall knowingly sell or otherwise provide to an organization and no organization shall knowingly use instant bingo, pull-tab or seal cards unless they conform to the following construction standards:

1. Cards shall be constructed so that concealed numbers, symbols or winner protection features cannot be viewed or determined from the outside of the card by using a high intensity lamp of 500 watts, with or without utilizing a focusing lens.

2. Deals shall be designed, constructed, glued and assembled in a manner to prevent determination of a winning or losing ticket without removing the tabs or otherwise uncovering the symbols or numbers as intended.

3. Each card in a deal shall bear the same serial number. Only one serial number shall be used in a deal. No serial number used in a deal shall be repeated by the same manufacturer on that same manufacturer's form within a three-year period. The flare of each deal shall accompany the deal and shall have affixed to it the same serial number as the tickets in such deal.

4. Numbers or symbols on cards shall be fully visible in the window and shall be placed so that no part of a number or symbol remains covered when the tab is removed.

5. ~~Window slits on each card shall be perforated on the three cut sides.~~ Cards shall be glued on all four edges and ~~between~~ around each window. Glue shall be of sufficient strength and type to prevent the undetectable separation or delamination of the card. For banded tickets, the glue must

be of sufficient strength and quality to prevent the separation of the band from the ticket.

6. The following minimum information shall be printed on a card:

a. Break open pull-tab, instant bingo cards:

- (1) Name of the manufacturer or its distinctive logo;
- (2) Name of the game;
- (3) Manufacturer's form number;
- (4) Price per individual card or bundle, unless accompanied by a *manufacturer's preprinted publicly posted* flare with that information;
- (5) Unique minimum five-digit game serial number printed on the game information side of the card; and
- (6) Number of winners and respective winning number or symbols and specific prize amounts, unless accompanied by a *manufacturer's preprinted publicly posted* flare with that information.

b. Banded pull-tabs:

- (1) Manufacturer;
- (2) Serial number *and price per individual bundle*; and
- (3) Number of winners and respective winning numbers or symbols and prize amounts, or a *manufacturer's preprinted publicly posted* flare giving that information.

7. All seal card games sold to organizations shall contain the sign-up sheet, seals and cards packaged together in each deal.

C. No organization shall use raffle tickets (other than pull-tab cards) independent of a bingo game unless they conform to the following construction standards:

1. Each ticket shall have a detachable section and shall be consecutively numbered.
2. Each section of a ticket shall bear the same number. The section retained by the organization shall provide space for the purchaser's name, complete address and telephone number.
3. The following information shall be printed on the purchaser's section of each ticket:
 - a. Dates and times of drawings;
 - b. Locations of the drawings;
 - c. Name of the charitable organization conducting the raffle;
 - d. Price of the ticket;
 - e. Charitable gaming ~~Commission~~ permit or ~~exemption~~ *authorization* number; and
 - f. Prizes.

D. Electronic bingo.

1. ~~At any time, The commission department, at its discretion, may require additional testing at the manufacturer's expense of electronic bingo devices at any time as a condition of use. Such additional testing shall be at the manufacturer's expense and shall be a condition of the continued use of such device.~~

2. All electronic bingo devices shall *use proprietary software and hardware or commonly available software and computers and shall be programmed or enabled for play on the premises where the game is to be played.*

3. Each electronic bingo device shall have a unique identification number permanently coded into the software of such device. *Manufacturers of electronic bingo devices shall employ sufficient security safeguards in designing and manufacturing the devices such that it may be verified that all proprietary software components are authentic copies of the approved software components and all functioning components of the device are operating with identical copies of approved software programs. The device must also have sufficient security safeguards so that any restrictions or requirements authorized by the department or any approved proprietary software are protected from alteration by unauthorized personnel. The device shall not contain hard-coded or unchangeable passwords. Security measures that may be employed to comply with these provisions include, but are not limited to, the use of dongles, digital signature comparison hardware and software, secure boot loaders, encryption, and key and callback password systems.*

4. Electronic bingo devices shall not allow a player to create a card by the input of specific numbers on each card. *Manufacturers shall ensure that an electronic bingo device does not allow for the play of any bingo card faces other than those verifiably purchased by the patron.*

5. Electronic bingo devices shall not accept cash, currency or tokens for play.

6. Electronic bingo devices shall require the manual entry of numbers as they are called *or the manual verification of numbers as they have been electronically transmitted to the device. The transmission of data to electronic bingo devices shall be limited to one-way communication to the device and shall consist only of the number called.*

7. A device shall not allow the play of more than ~~72~~ 54 cards *per device* per game.

8. The electronic bingo device system shall record a sequential transaction number or audit tracking number for each transaction. The system shall not allow the manual resetting or changing of this number.

9. The system shall produce a receipt and a transaction log containing the following:

- a. Organization name;
- b. Location of bingo game;
- c. Sequential transaction or receipt number;
- d. Number of electronic bingo cards loaded;

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- e. Cost of electronic bingo cards loaded;
- f. Electronic device number issued to a player; and
- g. Date and time of ~~the~~ *each* transaction.

In addition, the system shall produce a summary report identifying the date and time of the report, voided transactions, *including the date and time of each voided transaction* and total gross receipts for each session.

10. Each device shall be programmed to automatically erase all stored electronic cards at the end of the last game of a session, ~~or~~ within a set time from their rental to a player, *or by some other clearance method approved by the department.*

11. All devices shall be reloaded with another set of cards at the beginning of each session if the devices are to be reused at the same location.

E. In instances where a defect in packaging or in the construction of deals or electronic devices is discovered by or reported to the ~~commission department~~, the ~~commission department~~ shall notify the manufacturer of the deals or devices containing the alleged defect. Should the ~~commission department~~, in consultation with the manufacturer, determine that a defect exists, and should the ~~commission department~~ determine the defect affects game security or otherwise threatens public confidence in the game, the ~~commission department~~ may, with respect to deals or electronic devices for use still located within the Commonwealth of Virginia, require the supplier to:

- 1. Recall the deals or electronic devices affected that have not been sold or otherwise provided; or
- 2. Issue a total recall of all affected deals or electronic devices.

F. *After [the effective date of these regulations], no pull-tab or instant bingo dispenser may be sold, leased or otherwise furnished to any person or organization in the Commonwealth of Virginia or used in the conduct of charitable gaming unless the device meets standards approved by the commission until an identical sample device containing identical proprietary software, if applicable, has been approved by a testing facility that has been formally recognized by the department as a testing facility that upholds the standards of integrity established by the department. The cost of testing shall be borne by the manufacturer of such equipment.* In addition, suppliers and manufacturers of such dispensers shall comply with the requirements of The Gambling Devices Act of 1962 (15 USC §§ 1171-1178).

G. All pull-tab dispensing devices must meet the following standards:

- 1. Each dispenser shall be manufactured in a manner that ensures a pull-tab ticket is dispensed only after insertion of United States currency or coinage into the dispenser. Such ticket and any change due shall be the only items dispensed from the machine.
- 2. Each dispenser shall be manufactured in a manner that ensures the device neither displays nor has the capability of

displaying or otherwise identifying a pull-tab as a winning or nonwinning ticket.

3. Each dispenser shall be manufactured in such a manner that any visual animation does not simulate or display rolling or spinning reels or produce audible music or enhanced sound effects.

4. Each dispenser shall be equipped with separate locks for the pull-tab supply modules and money boxes. Locks shall be configured so that no one key will operate both the supply modules and money boxes.

H. No dispensing devices shall be linked to other such devices so as to permit the play of progressive games.

I. The ~~commission department~~ may ~~test~~ *require additional testing* of a dispensing device at any time to ensure that it meets construction standards and allows for fair play. Such tests shall be conducted at the cost of the manufacturer of such devices.

J. The face value of cards being dispensed shall match the amount deposited in the currency/coin acceptor less change provided.

11 VAC 15-31-50. Procedural rules for the conduct of fact-finding conferences and hearings.

A. Fact-finding conference; notification, appearance, conduct.

1. Unless automatic revocation or immediate suspension is required by law, no certificate to sell charitable gaming supplies shall be denied, suspended or revoked except upon notice stating the basis for such proposed action and the time and place for a fact-finding conference, as set forth in ~~§ 9-6.14:14 2.2-4019~~ of the Administrative Process Act.

2. If a basis exists for a refusal to renew, suspend or revoke a certificate, the ~~commission department~~ shall notify, by certified mail or by hand delivery, the interested ~~parties persons~~ at the address of record maintained by the ~~commission department~~.

3. Notification shall include the basis for the proposed action and afford interested ~~parties persons~~ the opportunity to present written and oral information to the ~~commission department~~ which may have a bearing on the proposed action at a fact-finding conference. If there is no withdrawal, a fact-finding conference shall be scheduled at the earliest mutually agreeable date, but no later than 60 days from the date of the notification. Organizations or suppliers who wish to waive their right to a conference shall notify the ~~commission department~~ at least 14 days before the scheduled conference.

4. If, after consideration of evidence presented during an informal fact-finding conference, a basis for action still exists, the interested ~~parties persons~~ shall be notified in writing within 60 days of the fact-finding conference, via certified or hand-delivered mail, of the decision and the right to a formal hearing. Parties to the conference may agree to extend the report deadline if more time is needed to consider relevant evidence.

B. Hearing; notification, appearance, conduct.

1. If, after a fact-finding conference, a sufficient basis still exists to deny, suspend or revoke a certificate, interested parties persons shall be notified by certified or hand-delivered mail of the proposed action and of the opportunity for a hearing on the proposed action. If a supplier desires to request a hearing, it shall notify the commission department within 14 days of receipt of a report on the conference. Parties may enter into a consent agreement to settle the issues at any time prior to or subsequent to an informal fact-finding conference.

2. If an interested party or representative fails to appear at a hearing, the hearing officer may proceed in his absence and make a recommendation.

3. Oral and written arguments may be submitted to and limited by the hearing officer. Oral arguments shall be recorded in an appropriate manner.

C. Hearing location. Hearings before a hearing officer shall be held, insofar as practicable, in the county or city in which the supplier is located. If the parties agree, hearing officers may conduct hearings at locations convenient to the greatest number of persons or by telephone conference, video conference or similar technology, in order to expedite the hearing process.

D. Hearing decisions.

1. Recommendations of the hearing officer shall be a part of the record and shall include a written statement of the hearing officer's findings of fact and recommendations as well as the reasons or bases for the recommendations. Recommendations shall be based upon all the material issues of fact, law or discretion presented on the record.

2. The commission department shall review the recommendation of the hearing officer and render a decision on the recommendation within 30 days of receipt. The decision shall cite the appropriate rule, relief or denial thereof as to each issue.

E. Agency representation. The executive secretary's director's designee may represent the commission department in an informal conference or at a hearing.

11 VAC 15-31-60. Reporting violations.

A. Unless otherwise required by law, the identity of any individual who provides information to the commission department or its employees regarding alleged violations shall be held in strict confidence.

B. Any officer or director of a supplier, or his agent or employee, shall immediately report to the commission department any information pertaining to the suspected misappropriation or theft of funds or any other violations of the law.

C. Failure to report the information required by subsection B of this section may result in the denial, suspension or revocation of a certificate of registration.

D. Any officer, director, partner or owner of a supplier shall immediately notify the commission department upon conviction or plea of nolo contendere to a felony or a crime involving gambling or an action against any license or

certificate held by the supplier in any state in the United States.

E. Failure to report information required by subsection D of this section by any supplier may result in the denial, suspension or revocation of a registration certificate.

NOTICE: The forms used in administering 11 VAC 15-31, Supplier Regulations, are not being published; however, the name of each form is listed below. The forms are available for public inspection at the Department of Charitable Gaming, James Monroe Building, 101 N. 14th Street, 17th Floor, Richmond, Virginia, or at the office of the Registrar of Regulations, General Assembly Building, 2nd Floor, Richmond, Virginia.

FORMS

Supplier Registration Certificate Application, ~~CGG~~ DCG Form #203 301, ~~eff. 11/07~~ rev. 7/03.

Annual Supplier Sales and Transaction Report, DCG Form 302, rev. 10/04.

Certification of Non-Permit Holder, DCG Form 303, rev. 1/05.

VA.R. Doc. No. R05-08; Filed March 4, 2005, 3:42 p.m.

TITLE 12. HEALTH

DEPARTMENT OF MEDICAL ASSISTANCE SERVICES

Title of Regulation: 12 VAC 30-80. Methods and Standards for Establishing Payment Rates; Other Types of Care (amending 12 VAC 30-80-190).

Statutory Authority: §§ 32.1-324 and 32.1-325 of the Code of Virginia.

Public Hearing Date: N/A -- Public comments may be submitted until June 3, 2005.

(See Calendar of Events section for additional information)

Agency Contact: Brian McCormick, Regulatory Coordinator, Policy Division, Department of Medical Assistance Services, 600 East Broad Street, Suite 1300, Richmond, VA 23219, telephone (804) 786-7959, FAX (804) 786-1680, or e-mail brian.mccormick@dmas.virginia.gov.

Basis: Section 32.1-325 of the Code of Virginia grants to the Board of Medical Assistance Services the authority to administer and amend the Plan for Medical Assistance. Section 32.1-324 of the Code of Virginia authorizes the director of DMAS to administer and amend the Plan for Medical Assistance according to the board's requirements. The Medicaid authority as established by § 1902 (a) of the Social Security Act (42 USC § 1396a) provides governing authority for payments for services.

Item 326 JJJ of Chapter 4 of the 2004 Special Session I Acts of the Assembly directed DMAS to increase reimbursements

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to physicians delivering Medicaid services in hospital emergency rooms.

Purpose: These proposed regulatory actions are important for the health, safety, and welfare of Medicaid recipients because improving Medicaid reimbursement for these services will enable more providers to continue to render them. This is expected to improve access to care for these services across the Commonwealth.

The purpose of these changes is to conform the regulation to the legislative mandate to increase the reimbursement for certain emergency room procedures, and to increase reimbursement for certain obstetric/gynecological procedures in order to help address the growing problem with access to this care across the Commonwealth.

Substance: Provisions in 12 VAC 30-80-190 describe the methodology by which the Physician Fee schedule is established and updated. As directed by the appropriation act, the proposed amendment would add language providing that certain physician codes for emergency room evaluation and management fees be increased by 2.0% above the normal calculated amounts.

The Governor's Work Group on Rural Obstetrical Care examined issues related to a growing problem of access to obstetrical and gynecological care for women of the Commonwealth. This work group has focused on multiple issues causing access to care problems in obstetrical and gynecological services (OB/GYN), such as increased cost of professional liability insurance, cultural/legal barriers to care, and reimbursement rates, among others.

Based on preliminary findings of the work group, it has been concluded that low reimbursement rates under the Medicaid and FAMIS programs are a significant factor related to the access issue in obstetrics and gynecology for Medicaid and FAMIS recipients. While the work group continues its review and evaluation of these issues, addressing low reimbursement rates for obstetrical and gynecological services will be an important part of the work group's comprehensive approach to solving this access problem.

On August 12, 2004, the Governor declared that a threat to public health exists regarding access to OB/GYN care for Medicaid and FAMIS recipients across the Commonwealth and directed DMAS to increase Medicaid and FAMIS payment rates for OB/GYN physician services by 34% relative to rates currently in effect. This proposed amendment would add language providing that certain physician codes be increased by 34% above the normal calculated amounts.

Medicaid covers the cost of delivery for a significant percentage of the children born in Virginia through both the fee-for-service program as well as through managed care. This rate increase will be applied to both fee-for-service and MCOs.

Issues: These proposed changes benefit the citizens of the Commonwealth because the increases in provider reimbursement will preserve access to vital OB/GYN and emergency room services. The advantage to the agency and to the Commonwealth is that these reimbursement increases help to ensure an adequate network of providers, thereby

preventing large geographic gaps of providers rendering covered services.

Department of Planning and Budget's Economic Impact Analysis: The Department of Planning and Budget (DPB) has analyzed the economic impact of this proposed regulation in accordance with § 2.2-4007 H of the Administrative Process Act and Executive Order Number 21 (02). Section 2.2-4007 H 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. Pursuant to recommendations of the work group formed by the Governor's Executive Directive 2 issued on March 3, 2004, the proposed regulations increase Medicaid and Family Access to Medical Insurance Security reimbursements by 34% for obstetrical and gynecological (OB/GYN) physician services. Also, pursuant to Item 326 JJJ of the 2004 Acts of the Assembly, the proposed regulations increase Medicaid reimbursement by 2.0% to physicians delivering services in hospital emergency rooms. Both of the proposed permanent changes have been in effect since September 2004 under emergency regulations.

Estimated economic impact. In March 2004, the Governor formed a work group to investigate barriers to access in rural areas to prenatal, obstetrical, and labor and delivery services in the Commonwealth.¹ Item 298 of the 2004 appropriation act also mandated the Secretary of Health and Human Resources to report on the availability of obstetrical services in the Commonwealth and the areas where there is inadequate access to such services. The Secretary of Health and Human Resources issued its interim report on July 1, 2004 and the final report on October 29, 2004 to meet both the Executive Directive and the appropriation act requirements.

The interim report identified that four hospitals have cut back on or suspended obstetrical services within the eight-month period since November 2003. The report also found that the crisis in obstetrical care is a growing trend rather than being caused by a loss of a single provider or closure of a single hospital. The interim report contained two preliminary recommendations to relieve some of the immediate pressure on the system, to persuade providers to continue taking Medicaid patients, and to offer evidence that the Commonwealth understands the urgency of the crisis. One of the recommendations was to increase Medicaid obstetrical and gynecological physician fee schedule by 44.91% through emergency regulations. As a response to the preliminary recommendations, the Governor issued an emergency regulation on August 12, 2004 to increase Medicaid payments for obstetrical care by 34%, effective September 1, 2004. The

¹ Commonwealth of Virginia, Office of the Governor, Executive Directive 2.

proposed changes will make the emergency regulations permanent.

The estimated total fiscal impact of the proposed 34% rate increase is \$14.9 million in FY 2005 and \$18.3 million in FY 2006. Approximately one half of these amounts is financed by the state and the rest by the federal government. The Medicaid rates for OB/GYN services have been relatively steady for the last several years. The main economic benefit is to improve the Medicaid recipients' access to OB/GYN services compared to what it would be in the absence of this rate increase. Approximately four hospitals have suspended or cut back on these services since November 2003. The proposed rate increase is likely to provide incentives to current providers to maintain their participation in the Medicaid program as well as to provide incentives to participate to those who are not currently providing services to Medicaid recipients. The expected impact could be quite significant as Medicaid pays for about 35% to 40% of the 100,000 babies delivered in Virginia every year.

Secondary benefits are likely to result from improved access. Improved access means less distance pregnant women travel to deliver a baby. This could provide expecting families and the state valuable economic benefits. Improved access also means reduced utilization of emergency rooms for deliveries, which is a much more costly setting for healthcare. Improved access to OB/GYN services also produces better clinical outcomes, which reduces the cost of health care later. According to the Secretary's report, neonatal intensive care is as much as fifty times more expensive than a birth with no complications. Healthy births further improve one's ability to learn, productivity, and quality of life in general. Federal matching funds make it possible to realize all of these benefits at one half the price.

The other proposed change increases the emergency room physician rates by 2.0% for five evaluation and management codes. The estimated fiscal impact of this change is a \$280,604 increase in Medicaid physician payments in FY 2005 and a \$297,438 increase in FY 2006 and approximately the same amount thereafter. Similar to the OB/GYN services, improvement in access to emergency room services and improvement in quality of care are expected. These impacts could also generate an improvement in the health status of those who uses these services and provide secondary economic benefits not only to people who utilize the services, but also to the Commonwealth. And, all of these benefits could be realized at one half the price because of the federal matching funds.

Businesses and entities affected. The proposed regulations will affect the physicians and other practitioners providing OB/GYN and emergency room services. The number of physicians and practitioners that could be affected by the proposed rate changes is not known.

Localities particularly affected. The proposed regulations apply throughout the Commonwealth. However, Medicaid recipients in rural areas could have been experiencing relatively more difficulty in accessing OB/GYN services, and therefore may benefit proportionally more than their urban counterparts.

Projected impact on employment. The proposed regulations will increase Medicaid reimbursement to a subset of physicians and are expected to provide incentives to them to keep providing services to Medicaid recipients. Thus, a positive effect on employment is expected in terms of avoided reductions or suspensions of related health care services. This employment effect would not only apply to physicians, but also to other supporting professions.

Effects on the use and value of private property. The proposed regulations are not likely to affect the use and value of real property. However, a positive impact on the utilization and consequently the asset value of affected Medicaid providers is expected.

Agency's Response to the Department of Planning and Budget's Economic Impact Analysis: The Department of Medical Assistance Services has reviewed the Economic Impact Analysis prepared by the Department of Planning and Budget regarding the regulations concerning 12 VAC 30-80-190, Methods and Standards for Establishing Payment Rates; Other Types of Care - State Agency Fee Schedule for RBRVS. The agency raises no issues with this analysis.

Summary:

The proposed amendments (i) increase Medicaid and Family Access to Medical Insurance Security reimbursements by 34% for obstetrical and gynecological physician services and (ii) increase Medicaid reimbursement by 2.0% to physicians delivering certain Medicaid services in hospital emergency rooms.

12 VAC 30-80-190. State agency fee schedule for RBRVS.

A. Reimbursement of fee-for-service providers. Effective for dates of service on or after July 1, 1995, the Department of Medical Assistance Services (DMAS) shall reimburse fee-for-service providers, with the exception of home health services (see 12 VAC 30-80-180) and durable medical equipment services (see 12 VAC 30-80-30), using a fee schedule that is based on a Resource Based Relative Value Scale (RBRVS).

B. Fee schedule.

1. For those services or procedures which are included in the RBRVS published by the ~~Health Care Financing Administration (HCFA)~~ ~~Centers for Medicare and Medicaid Services (CMS)~~ as amended from time to time, DMAS' fee schedule shall employ the Relative Value Units (RVUs) developed by ~~HCFA CMS~~ as periodically updated.

2. DMAS shall calculate the RBRVS-based fees using conversion factors (CFs) published from time to time by ~~HCFA CMS~~. DMAS shall adjust ~~HCFA's CMS'~~ CFs by an additional factor so that no change in expenditure will result solely from the implementation of the RBRVS-based fee schedule. *DMAS shall calculate a separate additional factor for (i) obstetrical/gynecological procedures (defined as maternity care and delivery procedures, female genital system procedures, obstetrical/gynecological-related radiological procedures, and mammography procedures, as defined by the American Medical Association's (AMA) annual publication of the Current Procedural Terminology (CPT) manual) and for (ii) all other procedures set through the RBRVS process combined.* DMAS may revise the

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additional ~~factor~~ factors when HCFA CMS updates its RVUs or CFs so that no change in expenditure will result solely from such updates. Except for this adjustment, DMAS' CFs shall be the same as those published from time to time by HCFA CMS. The calculation of the additional ~~factor~~ factors shall be based on the assumption that no change in services provided will occur as a result of these changes to the fee schedule. The determination of the "additional ~~factor~~" factors required above shall be accomplished by means of the following calculation:

a. The estimated amount of DMAS expenditures if DMAS were to use Medicare's RVUs and CFs without modification, is equal to the sum, across all *relevant* procedure codes, of the RVU value published by the HCFA CMS, multiplied by the applicable conversion factor published by the HCFA CMS, multiplied by the number of occurrences of the procedure code in DMAS patient claims in the most recent period of time (at least six months).

b. The estimated amount of DMAS expenditures, if DMAS were not to calculate new fees based on the new HCFA CMS RVUs and CFs, is equal to the sum, across all *relevant* procedure codes, of the existing DMAS fee multiplied by the number of occurrences of the procedure code in DMAS patient claims in the period of time used in subdivision 1 of this subsection.

c. The *relevant* "additional factor" is equal to the ratio of the expenditure estimate (based on DMAS fees in subdivision 2 of this subsection) to the expenditure estimate based on unmodified HCFA CMS values in subsection A of this section.

3. For those services or procedures for which there are no established RVUs, DMAS shall approximate a reasonable relative value payment level by looking to similar existing relative value fees. If DMAS is unable to establish a relative value payment level for any service or procedure, the fee shall not be based on a RBRVS, but shall instead be based on the previous fee-for-service methodology.

4. Fees shall not vary by geographic locality.

5. ~~The RBRVS based fees shall be phased in over three years. During the first 12 months of implementation, fees shall be based 1/3 on RBRVS based fees and 2/3 on previously existing fees. During the second 12 months of implementation, fees shall be based 2/3 on RBRVS based fees and 1/3 on previously existing fees. Thereafter, fees shall be based entirely on RBRVS based fees. Effective for dates of service on or after September 1, 2004, fees calculated through subdivisions 1 through 4 of this subsection for CPT codes 99281, 99282, 99283, 99284, and 99285 shall be increased by 2.0%. This increase shall not be considered in the determination of the additional factor described in subdivision 2 of this subsection. These CPT codes shall be as published by the American Medical Association in its Current Procedural Terminology (2004 edition), as may be amended from time to time.~~

C. Effective for dates of service on or after September 1, 2004, fees for obstetrical/gynecological procedures (defined as maternity care and delivery procedures, female genital

system procedures, obstetrical/gynecological-related radiological procedures, and mammography procedures, as defined by the American Medical Association's (AMA) annual publication of the Current Procedural Terminology (CPT) manual) shall be increased by 34% relative to the fees in effect on July 1, 2004. This 34% increase shall be a one-time increase, but shall be included in subsequent calculations of the relevant additional factor described in subdivision 2 of this subsection.

VA.R. Doc. No. R05-06 and R05-10; Filed March 16, 2005, 11:55 a.m.

TITLE 18. PROFESSIONAL AND OCCUPATIONAL LICENSING

BOARD OF PHARMACY

Extension of Public Comment Period

Title of Regulation: **18 VAC 110-20. Regulations Governing the Practice of Pharmacy (adding 18 VAC 110-20-276 and 18 VAC 110-20-515).**

Statutory Authority: §§ 54.1-2400 and 54.1-3307 of the Code of Virginia.

The Board of Pharmacy noticed a public comment period on the proposed Regulations Governing the Practice of Pharmacy (18 VAC 110-20) in the January 10, 2005, issue of the Virginia Register of Regulations (21:9 VA.R. 1068-1072 January 10, 2005). The purpose of the proposed action is to set requirements that must be met for a dispensing pharmacy to outsource prescription order processing to a remote or centralized pharmacy. The board has scheduled an additional public hearing and has extended the public comment period until May 18, 2005.

The public hearing will be held at the Department of Health Professions, 6603 West Broad Street, 5th Floor, Board Room 3, Richmond, VA, on Monday, April 25, 2005, at 10 a.m.

Public comments may be submitted until May 18, 2005, to Elizabeth Scott Russell, Executive Director, Board of Pharmacy, 6603 West Broad Street, Richmond, VA 23230.

Agency Contact: Elaine J. Yeatts, Agency Regulatory Coordinator, Department of Health Professions, 6603 West Broad Street, Richmond, VA 23230, telephone (804) 662-9918, FAX (804) 662-9114, or e-mail elaine.yeatts@dhp.virginia.gov.

VA.R. Doc. No. R04-251; Filed March 23, 2005, 10:37 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 8. EDUCATION

STATE BOARD OF EDUCATION

REGISTRAR'S NOTICE: The following regulatory action is exempt 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 State Board of Education will receive, consider and respond to petitions by any interested person at any time with respect to reconsideration or revision.

Title of Regulation: 8 VAC 20-21. Licensure Regulations for School Personnel (amending 8 VAC 20-21-580).

Statutory Authority: §§ 22.1-16 and 22.1-298 of the Code of Virginia.

Effective Date: May 5, 2005.

Agency Contact: Dr. Margaret N. Roberts, Office of Policy and Public Affairs, Department of Education, P.O. Box 2120, 101 North 14th Street, 25th Floor, Richmond, VA 23219, telephone (804) 225-2540, FAX (804) 225-2524, or e-mail margaret.roberts@doe.virginia.gov.

Summary:

The amendments require that individuals seeking initial licensure as a principal or assistant principal on and after July 1, 2005, must pass the School Leaders Licensure Assessment.

8 VAC 20-21-580. Administration and supervision preK-12.

A. An individual may become eligible for an endorsement in administration and supervision preK-12 by completing the requirements in one of the options described in this section. *On and after July 1, 2005, individuals seeking initial licensure as a principal or assistant principal must pass the School Leaders Licensure Assessment.*

B. Virginia's approved program. The candidate must have:

1. A master's degree from an accredited college or university.
2. Completed three years of successful, full-time experience as a classroom teacher in an accredited nonpublic or public school.
3. Completed an approved administration and supervision program in Virginia which shall ensure that the candidate has demonstrated the following competencies:

a. Knowledge and understanding of student growth and development, including:

- (1) Applied learning and motivational theories;

(2) Curriculum design, implementation, evaluation and refinement;

(3) Principles of effective instruction, measurement, evaluation and assessment strategies;

(4) Diversity and its meaning for educational programs; and

(5) The role of technology in promoting student learning.

b. Knowledge and understanding of systems and organizations, including:

(1) Systems theory and the change process of systems, organizations and individuals;

(2) The principles of developing and implementing strategic plans;

(3) Information sources and processing, including data collection and data analysis strategies;

(4) Learning goals in a pluralistic society; and

(5) Effective communication, including consensus building and negotiation skills.

c. Knowledge and understanding of theories, models, and principles of organizational development, including:

(1) Operational procedures at the school and division/district level;

(2) Principles and issues of school safety and security;

(3) Human resources management and development, including adult learning and professional development models;

(4) Principles and issues related to fiscal operations of school management;

(5) Principles and issues related to school facilities and use of space;

(6) Legal issues impacting school operations and management; and

(7) Technologies that support management functions.

d. Knowledge and understanding of the conditions and dynamics of the diverse school community, including:

(1) Emerging issues and trends that impact the school community;

(2) Community resources and partnerships of school, family, business, government and higher education institutions; and

(3) Community relations and marketing strategies and processes.

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e. Knowledge and understanding of the purpose of education and its role in a modern society, including:

- (1) The philosophy and history of education;
- (2) Various ethical frameworks and professional ethics;
- (3) The value of the diverse school community; and
- (4) The role of leadership in modern society.

f. Knowledge and understanding of principles of representative governance that undergird the system of American schools, including:

- (1) The role of public education in developing and renewing a democratic society and an economically productive nation;
- (2) The law as related to education and schooling;
- (3) The political, social, cultural and economic systems and processes that impact schools;
- (4) Models and strategies of change and conflict resolution as applied to the larger political, social, cultural and economic contexts of schooling;
- (5) Global issues and forces affecting teaching and learning; and
- (6) The importance of diversity and equity in a democratic society.

4. Completed a beginning administration and supervision assessment when prescribed by the Board of Education reflecting the knowledge and understanding of the stated competencies or completed a full-time internship as a school principal. One year of successful, full-time experience as an assistant principal or principal in an accredited public or nonpublic school may be accepted instead of the internship.

C. Out-of-state approved program in administration and supervision. The candidate must have:

1. A master's degree from an accredited college or university;
2. Completed three years of successful, full-time experience as a classroom teacher in an accredited nonpublic or public school;
3. Completed an out-of-state approved program in administration and supervision; and
4. Completed a beginning administration and supervision assessment when prescribed by the Board of Education reflecting the knowledge and understanding of the stated competencies or completed a full-time internship as a school principal. One year of successful, full-time experience as an assistant principal or principal in an accredited public or nonpublic school may be accepted instead of the internship.

D. Out-of-state administration and supervision license. The candidate must:

1. Hold a master's degree from an accredited college or university;

2. Hold a current, valid out-of-state license (full credential with endorsements in administration and supervision); and

3. Have completed a beginning administration and supervision assessment when prescribed by the Board of Education reflecting the knowledge and understanding of the stated competencies or completed a full-time internship as a school principal. One year of successful, full-time experience as an assistant principal or principal in an accredited public or nonpublic school may be accepted instead of the internship.

V.A.R. Doc. No. R05-154; Filed March 15, 2005, 3:50 p.m.



TITLE 9. ENVIRONMENT

STATE AIR POLLUTION CONTROL BOARD

<p>REGISTRAR'S NOTICE: The following regulatory action is exempt from the Administrative Process Act in accordance with § 2.2-4006 A 4 c of the Code of Virginia, which excludes regulations that are necessary to meet the requirements of federal law or regulations provided such regulations do not differ materially from those required by federal law or regulation. The State Air Pollution Control Board will receive, consider and respond to petitions by any interested person at any time with respect to reconsideration or revision.</p>
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Title of Regulation: 9 VAC 5-10. General Definitions (Rev. B05) (amending 9 VAC 5-10-20).

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

Effective Date: May 4, 2005.

Agency Contact: Karen G. Sabasteanski, Policy Analyst, Department of Environmental Quality, P.O. Box 10009, Richmond, VA 23240, telephone (804) 698-4426, FAX (804) 698-4510 or e-mail kgsabastea@deq.virginia.gov.

Summary:

The definition of volatile organic compound (VOC) has been revised to exclude four compounds that have been demonstrated to be less reactive: 1,1,1,2,2,3,3-heptafluoro-3-methoxy-propane, 3-ethoxy-1,1,1,2,3,4,4, 5,5,6,6,6-dodecafluoro-2-(trifluoromethyl) hexane, 1,1,1,2,3,3,3-heptafluoropropane, and methyl formate. The definition of VOC has also been revised in order to partially exclude t-butyl acetate: it should be considered to be a VOC for recordkeeping, emissions reporting, photochemical dispersion modeling and inventory requirements that apply to VOCs, and should be uniquely identified in emission reports, but it is not a VOC for purposes of VOC emission standards, emission limitations, or content requirements.

9 VAC 5-10-20. Terms defined.

"Actual emissions rate" means the actual rate of emissions of a pollutant from an emissions unit. In general actual emissions shall equal the average rate, in tons per year, at which the unit actually emitted the pollutant during the most recent two-year period or some other two-year period which is

representative of normal source operation. If the board determines that no two-year period is representative of normal source operation, the board shall allow the use of an alternative period of time upon a determination by the board that it is more representative of normal source operation. Actual emissions shall be calculated using the unit's actual operating hours, production rates, and types of materials processed, stored, or combusted during the selected time period.

"Administrator" means the administrator of the U.S. Environmental Protection Agency (EPA) or his authorized representative.

"Affected facility" means, with reference to a stationary source, any part, equipment, facility, installation, apparatus, process or operation to which an emission standard is applicable or any other facility so designated. The term "affected facility" includes any affected source as defined in 40 CFR 63.2.

"Air pollution" means the presence in the outdoor atmosphere of one or more substances which are or may be harmful or injurious to human health, welfare or safety; to animal or plant life; or to property; or which unreasonably interfere with the enjoyment by the people of life or property.

"Air quality" means the specific measurement in the ambient air of a particular air pollutant at any given time.

"Air quality control region" means any area designated as such in 9 VAC 5-20-200.

"Alternative method" means any method of sampling and analyzing for an air pollutant which is not a reference or equivalent method, but which has been demonstrated to the satisfaction of the board, in specific cases, to produce results adequate for its determination of compliance.

"Ambient air" means that portion of the atmosphere, external to buildings, to which the general public has access.

"Ambient air quality standard" means any primary or secondary standard designated as such in 9 VAC 5 Chapter 30.

"Board" means the State Air Pollution Control Board or its designated representative.

"Class I area" means any prevention of significant deterioration area (i) in which virtually any deterioration of existing air quality is considered significant and (ii) designated as such in 9 VAC 5-20-205.

"Class II area" means any prevention of significant deterioration area (i) in which any deterioration of existing air quality beyond that normally accompanying well-controlled growth is considered significant and (ii) designated as such in 9 VAC 5-20-205.

"Class III area" means any prevention of significant deterioration area (i) in which deterioration of existing air quality to the levels of the ambient air quality standards is permitted and (ii) designated as such in 9 VAC 5-20-205.

"Continuous monitoring system" means the total equipment used to sample and condition (if applicable), to analyze, and

to provide a permanent continuous record of emissions or process parameters.

"Control program" means a plan formulated by the owner of a stationary source to establish pollution abatement goals, including a compliance schedule to achieve such goals. The plan may be submitted voluntarily, or upon request or by order of the board, to ensure compliance by the owner with standards, policies and regulations adopted by the board. The plan shall include system and equipment information and operating performance projections as required by the board for evaluating the probability of achievement. A control program shall contain the following increments of progress:

1. The date by which contracts for emission control system or process modifications are to be awarded, or the date by which orders are to be issued for the purchase of component parts to accomplish emission control or process modification.
2. The date by which the on-site construction or installation of emission control equipment or process change is to be initiated.
3. The date by which the on-site construction or installation of emission control equipment or process modification is to be completed.
4. The date by which final compliance is to be achieved.

"Criteria pollutant" means any pollutant for which an ambient air quality standard is established under 9 VAC 5 Chapter 30.

"Day" means a 24-hour period beginning at midnight.

"Delayed compliance order" means any order of the board issued after an appropriate hearing to an owner which postpones the date by which a stationary source is required to comply with any requirement contained in the applicable implementation plan.

"Department" means any employee or other representative of the Virginia Department of Environmental Quality, as designated by the director.

"Director" or "executive director" means the director of the Virginia Department of Environmental Quality or a designated representative.

"Dispersion technique"

1. Means any technique which attempts to affect the concentration of a pollutant in the ambient air by:
 - a. Using that portion of a stack which exceeds good engineering practice stack height;
 - b. Varying the rate of emission of a pollutant according to atmospheric conditions or ambient concentrations of that pollutant; or
 - c. Increasing final exhaust gas plume rise by manipulating source process parameters, exhaust gas parameters, stack parameters, or combining exhaust gases from several existing stacks into one stack; or other selective handling of exhaust gas streams so as to increase the exhaust gas plume rise.

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2. The preceding sentence does not include:

a. The reheating of a gas stream, following use of a pollution control system, for the purpose of returning the gas to the temperature at which it was originally discharged from the facility generating the gas stream;

b. The merging of exhaust gas streams where:

(1) The owner demonstrates that the facility was originally designed and constructed with such merged gas streams;

(2) After July 8, 1985, such merging is part of a change in operation at the facility that includes the installation of pollution controls and is accompanied by a net reduction in the allowable emissions of a pollutant. This exclusion from the definition of "dispersion techniques" shall apply only to the emission limitation for the pollutant affected by such change in operation; or

(3) Before July 8, 1985, such merging was part of a change in operation at the facility that included the installation of emissions control equipment or was carried out for sound economic or engineering reasons. Where there was an increase in the emission limitation or, in the event that no emission limitation was in existence prior to the merging, an increase in the quantity of pollutants actually emitted prior to the merging, the board shall presume that merging was significantly motivated by an intent to gain emissions credit for greater dispersion. Absent a demonstration by the owner that merging was not significantly motivated by such intent, the board shall deny credit for the effects of such merging in calculating the allowable emissions for the source;

c. Smoke management in agricultural or silvicultural prescribed burning programs;

d. Episodic restrictions on residential woodburning and open burning; or

e. Techniques under subdivision 1 c of this definition which increase final exhaust gas plume rise where the resulting allowable emissions of sulfur dioxide from the facility do not exceed 5,000 tons per year.

"Emergency" means a situation that immediately and unreasonably affects, or has the potential to immediately and unreasonably affect, public health, safety or welfare; the health of animal or plant life; or property, whether used for recreational, commercial, industrial, agricultural or other reasonable use.

"Emission limitation" means any requirement established by the board which limits the quantity, rate, or concentration of continuous emissions of air pollutants, including any requirements which limit the level of opacity, prescribe equipment, set fuel specifications, or prescribe operation or maintenance procedures to assure continuous emission reduction.

"Emission standard" means any provision of 9 VAC 5 Chapter 40, 9 VAC 5 Chapter 50 or 9 VAC 5 Chapter 60 which

prescribes an emission limitation, or other requirements that control air pollution emissions.

"Emissions unit" means any part of a stationary source which emits or would have the potential to emit any air pollutant.

"Equivalent method" means any method of sampling and analyzing for an air pollutant which has been demonstrated to the satisfaction of the board to have a consistent and quantitative relationship to the reference method under specified conditions.

"EPA" means the U.S. Environmental Protection Agency or an authorized representative.

"Excess emissions" means emissions of air pollutant in excess of an emission standard.

"Excessive concentration" is defined for the purpose of determining good engineering practice (GEP) stack height under subdivision 3 of the GEP definition and means:

1. For sources seeking credit for stack height exceeding that established under subdivision 2 of the GEP definition, a maximum ground-level concentration due to emissions from a stack due in whole or part to downwash, wakes, and eddy effects produced by nearby structures or nearby terrain features which individually is at least 40% in excess of the maximum concentration experienced in the absence of such downwash, wakes, or eddy effects and which contributes to a total concentration due to emissions from all sources that is greater than an ambient air quality standard. For sources subject to the provisions of Article 8 (9 VAC 5-80-1700 et seq.) of Part II of 9 VAC 5 Chapter 80, an excessive concentration alternatively means a maximum ground-level concentration due to emissions from a stack due in whole or part to downwash, wakes, or eddy effects produced by nearby structures or nearby terrain features which individually is at least 40% in excess of the maximum concentration experienced in the absence of the maximum concentration experienced in the absence of such downwash, wakes, or eddy effects and greater than a prevention of significant deterioration increment. The allowable emission rate to be used in making demonstrations under this provision shall be prescribed by the new source performance standard that is applicable to the source category unless the owner demonstrates that this emission rate is infeasible. Where such demonstrations are approved by the board, an alternative emission rate shall be established in consultation with the owner;

2. For sources seeking credit after October 11, 1983, for increases in existing stack heights up to the heights established under subdivision 2 of the GEP definition, either (i) a maximum ground-level concentration due in whole or part to downwash, wakes or eddy effects as provided in subdivision 1 of this definition, except that the emission rate specified by any applicable implementation plan (or, in the absence of such a limit, the actual emission rate) shall be used, or (ii) the actual presence of a local nuisance caused by the existing stack, as determined by the board; and

3. For sources seeking credit after January 12, 1979, for a stack height determined under subdivision 2 of the GEP definition where the board requires the use of a field study

or fluid model to verify GEP stack height, for sources seeking stack height credit after November 9, 1984, based on the aerodynamic influence of cooling towers, and for sources seeking stack height credit after December 31, 1970, based on the aerodynamic influence of structures not adequately represented by the equations in subdivision 2 of the GEP definition, a maximum ground-level concentration due in whole or part to downwash, wakes or eddy effects that is at least 40% in excess of the maximum concentration experienced in the absence of such downwash, wakes, or eddy effects.

"Existing source" means any stationary source other than a new source or modified source.

"Facility" means something that is built, installed or established to serve a particular purpose; includes, but is not limited to, buildings, installations, public works, businesses, commercial and industrial plants, shops and stores, heating and power plants, apparatus, processes, operations, structures, and equipment of all types.

"Federal Clean Air Act" means 42 USC § 7401 et seq., 91 Stat 685.

"Federally enforceable" means all limitations and conditions which are enforceable by the administrator and citizens under the federal Clean Air Act or that are enforceable under other statutes administered by the administrator. Federally enforceable limitations and conditions include, but are not limited to, the following:

1. Emission standards, alternative emission standards, alternative emission limitations, and equivalent emission limitations established pursuant to § 112 of the federal Clean Air Act as amended in 1990.
2. New source performance standards established pursuant to § 111 of the federal Clean Air Act, and emission standards established pursuant to § 112 of the federal Clean Air Act before it was amended in 1990.
3. All terms and conditions in a federal operating permit, including any provisions that limit a source's potential to emit, unless expressly designated as not federally enforceable.
4. Limitations and conditions that are part of an implementation plan.
5. Limitations and conditions that are part of a section 111(d) or section 111(d)/129 plan.
6. Limitations and conditions that are part of a federal construction permit issued under 40 CFR 52.21 or any construction permit issued under regulations approved by EPA in accordance with 40 CFR Part 51.
7. Limitations and conditions that are part of an operating permit issued pursuant to a program approved by EPA into an implementation plan as meeting EPA's minimum criteria for federal enforceability, including adequate notice and opportunity for EPA and public comment prior to issuance of the final permit and practicable enforceability.
8. Limitations and conditions in a Virginia regulation or program that has been approved by EPA under subpart E of

40 CFR Part 63 for the purposes of implementing and enforcing § 112 of the federal Clean Air Act.

9. Individual consent agreements issued pursuant to the legal authority of EPA.

"Good engineering practice" or "GEP," with reference to the height of the stack, means the greater of:

1. 65 meters, measured from the ground-level elevation at the base of the stack;

2. a. For stacks in existence on January 12, 1979, and for which the owner had obtained all applicable permits or approvals required under 9 VAC 5 Chapter 80,

$$Hg = 2.5H,$$

provided the owner produces evidence that this equation was actually relied on in establishing an emission limitation;

b. For all other stacks,

$$Hg = H + 1.5L,$$

where:

Hg = good engineering practice stack height, measured from the ground-level elevation at the base of the stack,

H = height of nearby structure(s) measured from the ground-level elevation at the base of the stack,

L = lesser dimension, height or projected width, of nearby structure(s) provided that the board may require the use of a field study or fluid model to verify GEP stack height for the source; or

3. The height demonstrated by a fluid model or a field study approved by the board, which ensures that the emissions from a stack do not result in excessive concentrations of any air pollutant as a result of atmospheric downwash, wakes, or eddy effects created by the source itself, nearby structures or nearby terrain features.

"Hazardous air pollutant" means an air pollutant to which no ambient air quality standard is applicable and which in the judgment of the administrator causes, or contributes to, air pollution which may reasonably be anticipated to result in an increase in mortality or an increase in serious irreversible, or incapacitating reversible, illness.

"Implementation plan" means the portion or portions of the state implementation plan, or the most recent revision thereof, which has been approved under § 110 of the federal Clean Air Act, or promulgated under § 110(c) of the federal Clean Air Act, or promulgated or approved pursuant to regulations promulgated under § 301(d) of the federal Clean Air Act and which implements the relevant requirements of the federal Clean Air Act.

"Initial emission test" means the test required by any regulation, permit issued pursuant to 9 VAC 5 Chapter 80, control program, compliance schedule or other enforceable mechanism for determining compliance with new or more stringent emission standards or permit limitations or other emission limitations requiring the installation or modification of

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air pollution control equipment or implementation of a control method. Initial emission tests shall be conducted in accordance with 9 VAC 5-40-30.

"Initial performance test" means the test required by (i) 40 CFR Part 60 for determining compliance with standards of performance, or (ii) a permit issued pursuant to 9 VAC 5 Chapter 80 for determining initial compliance with permit limitations. Initial performance tests shall be conducted in accordance with 9 VAC 5-50-30 and 9 VAC 5-60-30.

"Isokinetic sampling" means sampling in which the linear velocity of the gas entering the sampling nozzle is equal to that of the undisturbed gas stream at the sample point.

"Locality" means a city, town, county or other public body created by or pursuant to state law.

"Maintenance area" means any geographic region of the United States previously designated as a nonattainment area and subsequently redesignated to attainment subject to the requirement to develop a maintenance plan and designated as such in 9 VAC 5-20-203.

"Malfunction" means any sudden failure of air pollution control equipment, of process equipment, or of a process to operate in a normal or usual manner, which failure is not due to intentional misconduct or negligent conduct on the part of the owner or other person. Failures that are caused in part by poor maintenance or careless operation are not malfunctions.

"Metropolitan statistical area" means any area designated as such in 9 VAC 5-20-202.

"Monitoring device" means the total equipment used to measure and record (if applicable) process parameters.

"Nearby" as used in the definition of good engineering practice (GEP) is defined for a specific structure or terrain feature and:

1. For purposes of applying the formulae provided in subdivision 2 of the GEP definition means that distance up to five times the lesser of the height or the width dimension of a structure, but not greater than 0.8 km (1/2 mile); and
2. For conducting demonstrations under subdivision 3 of the GEP definition means not greater than 0.8 km (1/2 mile), except that the portion of a terrain feature may be considered to be nearby which falls within a distance of up to 10 times the maximum height (Ht) of the feature, not to exceed two miles if such feature achieves a height (Ht) 0.8 km from the stack that is at least 40% of the GEP stack height determined by the formulae provided in subdivision 2 b of the GEP definition or 26 meters, whichever is greater, as measured from the ground-level elevation at the base of the stack. The height of the structure or terrain feature is measured from the ground-level elevation at the base of the stack.

"Nitrogen oxides" means all oxides of nitrogen except nitrous oxide, as measured by test methods set forth in 40 CFR Part 60.

"Nonattainment area" means any area which is shown by air quality monitoring data or, where such data are not available, which is calculated by air quality modeling (or other methods determined by the board to be reliable) to exceed the levels

allowed by the ambient air quality standard for a given pollutant including, but not limited to, areas designated as such in 9 VAC 5-20-204.

"One hour" means any period of 60 consecutive minutes.

"One-hour period" means any period of 60 consecutive minutes commencing on the hour.

"Organic compound" means any chemical compound of carbon excluding carbon monoxide, carbon dioxide, carbonic disulfide, carbonic acid, metallic carbides, metallic carbonates and ammonium carbonate.

"Owner" means any person, including bodies politic and corporate, associations, partnerships, personal representatives, trustees and committees, as well as individuals, who owns, leases, operates, controls or supervises a source.

"Particulate matter" means any airborne finely divided solid or liquid material with an aerodynamic diameter smaller than 100 micrometers.

"Particulate matter emissions" means all finely divided solid or liquid material, other than uncombined water, emitted to the ambient air as measured by the applicable reference method, or an equivalent or alternative method.

"PM₁₀" means particulate matter with an aerodynamic diameter less than or equal to a nominal 10 micrometers as measured by the applicable reference method or an equivalent method.

"PM₁₀ emissions" means finely divided solid or liquid material, with an aerodynamic diameter less than or equal to a nominal 10 micrometers emitted to the ambient air as measured by the applicable reference method, or an equivalent or alternative method.

"Performance test" means a test for determining emissions from new or modified sources.

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

"Pollutant" means any substance the presence of which in the outdoor atmosphere is or may be harmful or injurious to human health, welfare or safety, to animal or plant life, or to property, or which unreasonably interferes with the enjoyment by the people of life or property.

"Potential to emit" means the maximum capacity of a stationary source to emit a pollutant under its physical and operational design. Any physical or operational limitation on the capacity of the source to emit a pollutant, including air pollution control equipment, and restrictions on hours of operation or on the type or amount of material combusted, stored, or processed, shall be treated as part of its design only if the limitation or its effect on emissions is state and federally enforceable.

"Prevention of significant deterioration area" means any area not designated as a nonattainment area in 9 VAC 5-20-204 for a particular pollutant and designated as such in 9 VAC 5-20-205.

"Proportional sampling" means sampling at a rate that produces a constant ratio of sampling rate to stack gas flow rate.

"Public hearing" means, unless indicated otherwise, an informal proceeding, similar to that provided for in § 2.2-4007 of the Administrative Process Act, held to afford persons an opportunity to submit views and data relative to a matter on which a decision of the board is pending.

"Reference method" means any method of sampling and analyzing for an air pollutant as described in the following EPA regulations:

1. For ambient air quality standards in 9 VAC 5 Chapter 30: The applicable appendix of 40 CFR Part 50 or any method that has been designated as a reference method in accordance with 40 CFR Part 53, except that it does not include a method for which a reference designation has been canceled in accordance with 40 CFR 53.11 or 40 CFR 53.16.
2. For emission standards in 9 VAC 5 Chapter 40 and 9 VAC 5 Chapter 50: Appendix M of 40 CFR Part 51 or Appendix A of 40 CFR Part 60.
3. For emission standards in 9 VAC 5 Chapter 60: Appendix B of 40 CFR Part 61 or Appendix A of 40 CFR Part 63.

"Regional director" means the regional director of an administrative region of the Department of Environmental Quality or a designated representative.

"Regulation of the board" means any regulation adopted by the State Air Pollution Control Board under any provision of the Code of Virginia.

"Regulations for the Control and Abatement of Air Pollution" means 9 VAC 5 Chapters 10 through 80.

"Reid vapor pressure" means the absolute vapor pressure of volatile crude oil and volatile nonviscous petroleum liquids except liquefied petroleum gases as determined by American Society for Testing and Materials publication, "Test Method for Vapor Pressure of Petroleum Products (Reid Method)" (see 9 VAC 5-20-21).

"Run" means the net period of time during which an emission sampling is collected. Unless otherwise specified, a run may be either intermittent or continuous within the limits of good engineering practice.

"Section 111(d) plan" means the portion or portions of the plan, or the most recent revision thereof, which has been approved under 40 CFR 60.27(b) in accordance with § 111(d)(1) of the federal Clean Air Act, or promulgated under 40 CFR 60.27(d) in accordance with § 111 (d)(2) of the federal Clean Air Act, and which implements the relevant requirements of the federal Clean Air Act.

"Section 111(d)/129 plan" means the portion or portions of the plan, or the most recent revision thereof, which has been approved under 40 CFR 60.27(b) in accordance with §§ 111(d)(1) and 129(b)(2) of the federal Clean Air Act, or promulgated under 40 CFR 60.27(d) in accordance with §§ 111(d)(2) and 129(b)(3) of the federal Clean Air Act, and

which implements the relevant requirements of the federal Clean Air Act.

"Shutdown" means the cessation of operation of an affected facility for any purpose.

"Source" means any one or combination of the following: buildings, structures, facilities, installations, articles, machines, equipment, landcraft, watercraft, aircraft or other contrivances which contribute, or may contribute, either directly or indirectly to air pollution. Any activity by any person that contributes, or may contribute, either directly or indirectly to air pollution, including, but not limited to, open burning, generation of fugitive dust or emissions, and cleaning with abrasives or chemicals.

"Stack" means any point in a source designed to emit solids, liquids or gases into the air, including a pipe or duct, but not including flares.

"Stack in existence" means that the owner had:

1. Begun, or caused to begin, a continuous program of physical on site construction of the stack; or
2. Entered into binding agreements or contractual obligations, which could not be canceled or modified without substantial loss to the owner, to undertake a program of construction of the stack to be completed in a reasonable time.

"Standard conditions" means a temperature of 20°C (68°F) and a pressure of 760 mm of Hg (29.92 inches of Hg).

"Standard of performance" means any provision of 9 VAC 5 Chapter 50 which prescribes an emission limitation or other requirements that control air pollution emissions.

"Startup" means the setting in operation of an affected facility for any purpose.

"State enforceable" means all limitations and conditions which are enforceable by the board or department, including, but not limited to, those requirements developed pursuant to 9 VAC 5-20-110; requirements within any applicable regulation, order, consent agreement or variance; and any permit requirements established pursuant to 9 VAC 5 Chapter 80.

"State Implementation Plan" means the plan, including the most recent revision thereof, which has been approved or promulgated by the administrator, U.S. Environmental Protection Agency, under § 110 of the federal Clean Air Act, and which implements the requirements of § 110.

"Stationary source" means any building, structure, facility or installation which emits or may emit any air pollutant. A stationary source shall include all of the pollutant-emitting activities which belong to the same industrial grouping, are located on one or more contiguous or adjacent properties, and are under the control of the same person (or persons under common control) except the activities of any vessel. Pollutant-emitting activities shall be considered as part of the same industrial grouping if they belong to the same "Major Group" (i.e., which have the same two-digit code) as described in the Standard Industrial Classification Manual (see 9 VAC 5-20-21).

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"These regulations" means 9 VAC 5 Chapters 10 through 80.

"Total suspended particulate (TSP)" means particulate matter as measured by the reference method described in Appendix B of 40 CFR Part 50.

"True vapor pressure" means the equilibrium partial pressure exerted by a petroleum liquid as determined in accordance with methods described in American Petroleum Institute (API) publication, "Evaporative Loss from External Floating-Roof Tanks" (see 9 VAC 5-20-21). The API procedure may not be applicable to some high viscosity or high pour crudes. Available estimates of true vapor pressure may be used in special cases such as these.

"Urban area" means any area consisting of a core city with a population of 50,000 or more plus any surrounding localities with a population density of 80 persons per square mile and designated as such in 9 VAC 5-20-201.

"Vapor pressure," except where specific test methods are specified, means true vapor pressure, whether measured directly, or determined from Reid vapor pressure by use of the applicable nomograph in American Petroleum Institute publication, "Evaporative Loss from External Floating-Roof Tanks" (see 9 VAC 5-20-21).

"Virginia Air Pollution Control Law" means Chapter 13 (§ 10.1-1300 et seq.) of Title 10.1 of the Code of Virginia.

"Volatile organic compound" means any compound of carbon, excluding carbon monoxide, carbon dioxide, carbonic acid, metallic carbides or carbonates, and ammonium carbonate, which participates in atmospheric photochemical reactions.

1. This includes any such organic compounds which have been determined to have negligible photochemical reactivity other than the following:

- a. Methane;
- b. Ethane;
- c. Methylene chloride (dichloromethane);
- d. 1,1,1-trichloroethane (methyl chloroform);
- e. 1,1,2-trichloro-1,2,2-trifluoroethane (CFC-113);
- f. Trichlorofluoromethane (CFC-11);
- g. Dichlorodifluoromethane (CFC-12);
- h. Chlorodifluoromethane (H CFC-22);
- i. Trifluoromethane (H FC-23);
- j. 1,2-dichloro 1,1,2,2,-tetrafluoroethane (CFC-114);
- k. Chloropentafluoroethane (CFC-115);
- l. 1,1,1-trifluoro 2,2-dichloroethane (HCFC-123);
- m. 1,1,1,2-tetrafluoroethane (HFC-134a);
- n. 1,1-dichloro 1-fluoroethane (HCFC-141b);
- o. 1-chloro 1,1-difluoroethane (HCFC-142b);
- p. 2-chloro-1,1,1,2-tetrafluoroethane (HCFC-124);
- q. Pentafluoroethane (HFC-125);

- r. 1,1,2,2-tetrafluoroethane (HFC-134);
- s. 1,1,1-trifluoroethane (HFC-143a);
- t. 1,1-difluoroethane (HFC-152a);
- u. Parachlorobenzotrifluoride (PCBTf);
- v. Cyclic, branched, or linear completely methylated siloxanes;
- w. Acetone;
- x. Perchloroethylene (tetrachloroethylene);
- y. 3,3-dichloro-1,1,1,2,2-pentafluoropropane (HCFC-225ca);
- z. 1,3-dichloro-1,1,2,2,3-pentafluoropropane (HCFC-225cb);
- aa. 1,1,1,2,3,4,4,5,5,5-decafluoropentane (HFC 43-10mee);
- bb. Difluoromethane (HFC-32);
- cc. Ethylfluoride (HFC-161);
- dd. 1,1,1,3,3,3-hexafluoropropane (HFC-236fa);
- ee. 1,1,2,2,3-pentafluoropropane (HFC-245ca);
- ff. 1,1,2,3,3-pentafluoropropane (HFC-245ea);
- gg. 1,1,1,2,3-pentafluoropropane (HFC-245eb);
- hh. 1,1,1,3,3-pentafluoropropane (HFC-245fa);
- ii. 1,1,1,2,3,3-hexafluoropropane (HFC-236ea);
- jj. 1,1,1,3,3-pentafluorobutane (HFC-365mfc);
- kk. Chlorofluoromethane (HCFC-31);
- ll. 1 chloro-1-fluoroethane (HCFC-151a);
- mm. 1,2-dichloro-1,1,2-trifluoroethane (HCFC-123a);
- nn. 1,1,1,2,2,3,3,4,4-nonafluoro-4-methoxy-butane (C₄F₉OCH₃ or HFE-7100);
- oo. 2-(difluoromethoxymethyl)-1,1,1,2,3,3,3-heptafluoropropane ((CF₃)₂CF₂OCH₃);
- pp. 1-ethoxy-1,1,2,2,3,3,4,4,4-nonafluorobutane (C₄F₉OC₂H₅ or HFE-7200);
- qq. 2-(ethoxydifluoromethyl)-1,1,1,2,3,3,3-heptafluoropropane ((CF₃)₂CF₂OC₂H₅);
- rr. Methyl acetate; ~~and~~
- ss. 1,1,1,2,2,3,3-heptafluoro-3-methoxy-propane (n-C₃F₇OCH₃) (HFE-7000);
- tt. 3-ethoxy-1,1,1,2,3,4,4,5,5,6,6,6-dodecafluoro-2-(trifluoromethyl) hexane (HFE-7500);
- uu. 1,1,1,2,3,3,3-heptafluoropropane (HFC 227ea);
- vv. methyl formate (HCOOCH₃); and
- ~~ss-~~ ww. Perfluorocarbon compounds which fall into these classes:

- (1) Cyclic, branched, or linear, completely fluorinated alkanes;
- (2) Cyclic, branched, or linear, completely fluorinated ethers with no unsaturations;
- (3) Cyclic, branched, or linear, completely fluorinated tertiary amines with no unsaturations; and
- (4) Sulfur containing perfluorocarbons with no unsaturations and with sulfur bonds only to carbon and fluorine.

2. For purposes of determining compliance with emissions standards, volatile organic compounds shall be measured by the appropriate reference method in accordance with the provisions of 9 VAC 5-40-30 or 9 VAC 5-50-30, as applicable. Where such a method also measures compounds with negligible photochemical reactivity, these negligibly-reactive compounds may be excluded as a volatile organic compound if the amount of such compounds is accurately quantified, and such exclusion is approved by the board.

3. As a precondition to excluding these compounds as volatile organic compounds or at any time thereafter, the board may require an owner to provide monitoring or testing methods and results demonstrating, to the satisfaction of the board, the amount of negligibly-reactive compounds in the emissions of the source.

4. Exclusion of the above compounds in this definition in effect exempts such compounds from the provisions of emission standards for volatile organic compounds. The compounds are exempted on the basis of being so inactive that they will not contribute significantly to the formation of ozone in the troposphere. However, this exemption does not extend to other properties of the exempted compounds which, at some future date, may require regulation and limitation of their use in accordance with requirements of the federal Clean Air Act.

5. *The following compound is a VOC for purposes of all recordkeeping, emissions reporting, photochemical dispersion modeling and inventory requirements that apply to VOCs and shall be uniquely identified in emission reports, but is not a VOC for purposes of VOC emission standards, VOC emission limitations, or VOC content requirements: t-butyl acetate.*

"Welfare" means that language referring to effects on welfare includes, but is not limited to, effects on soils, water, crops, vegetation, man-made materials, animals, wildlife, weather, visibility and climate, damage to and deterioration of property, and hazards to transportation, as well as effects on economic values and on personal comfort and well-being.

VA.R. Doc. No. R05-148; Filed March 4, 2005, 8:13 a.m.

REGISTRAR'S NOTICE: The following regulatory action is exempt from the Administrative Process Act in accordance with § 2.2-4006 A 4 c of the Code of Virginia, which excludes regulations that are necessary to meet the requirements of federal law or regulations provided such regulations do not differ materially from those required by federal law or regulation. The State Air Pollution Control Board will receive, consider and respond to petitions by any interested person at any time with respect to reconsideration or revision.

Title of Regulation: 9 VAC 5-20. General Provisions (Rev. D05) (amending 9 VAC 5-20-204).

Statutory Authority: § 10.1-1308 of the Code of Virginia; §§ 110 and 182 of the federal Clean Air Act; 40 CFR Part 51.

Effective Date: May 4, 2005.

Agency Contact: Karen G. Sabasteanski, Policy Analyst, Department of Environmental Quality, P.O. Box 10009, Richmond, VA 23240, telephone (804) 698-4426, FAX (804) 698-4510 or e-mail kgsabastea@deq.virginia.gov.

Summary:

A new PM_{2.5} nonattainment area has been established in 9 VAC 5-20-204 A 3. The Northern Virginia PM_{2.5} Nonattainment Area consists of Arlington County, Fairfax County, Loudoun County, Prince William County, Alexandria City, Fairfax City, Falls Church City, Manassas City, and Manassas Park City.

9 VAC 5-20-204. Nonattainment areas.

A. Nonattainment areas are geographically defined below by locality for the criteria pollutants indicated. Following the name of each ozone nonattainment area, in parentheses, is the classification assigned pursuant to § 181(a) of the federal Clean Air Act (42 USC § 7511(a)) and 40 CFR 51.903(a).

1. Ozone (1-hour).

Northern Virginia Ozone Nonattainment Area (severe).

Arlington County	Alexandria City
Fairfax County	Fairfax City
Loudoun County	Falls Church City
Prince William County	Manassas City
Stafford County	Manassas Park City

2. Ozone (8-hour).

Fredericksburg Ozone Nonattainment Area (moderate).

Spotsylvania County	Fredericksburg City
Stafford County	

Northern Virginia Ozone Nonattainment Area (moderate).

Arlington County	Alexandria City
Fairfax County	Fairfax City
Loudoun County	Falls Church City
Prince William County	Manassas City
	Manassas Park City

Hampton Roads Ozone Nonattainment Area (marginal).

Gloucester County	Poquoson City
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Isle of Wight County
James City County
York County
Chesapeake City
Hampton City
Newport News City

Portsmouth City
Norfolk City
Suffolk City
Virginia Beach City
Williamsburg City

Richmond Ozone Nonattainment Area (marginal).

Charles City County
Chesterfield County
Hanover County
Henrico County
Prince George County

Colonial Heights City
Hopewell City
Petersburg City
Richmond City

Shenandoah National Park Ozone Nonattainment Area (basic).

Madison County (portions located in Shenandoah National Park)

Page County (portions located in Shenandoah National Park)

3. $PM_{2.5}$ (particles with an aerodynamic diameter less than or equal to a nominal 2.5 micrometers).

Northern Virginia $PM_{2.5}$ Nonattainment Area.

Arlington County
Fairfax County
Loudoun County
Prince William County

Alexandria City
Fairfax City
Falls Church City
Manassas City
Manassas Park City

4. All other pollutants. None.

B. Subdivision A 1 of this section shall not be effective after June 15, 2005.

VA.R. Doc. No. R05-149; Filed March 14, 2005, 8:13 a.m.

REGISTRAR'S NOTICE: The State Air Pollution Control Board is claiming an exemption from the Administrative Process Act in accordance with § 2.2-4006 A 3, which excludes regulations that consist only of changes in style or form or corrections of technical errors. The State Air Pollution Control Board will receive, consider and respond to petitions by any interested person at any time with respect to reconsideration or revision.

Title of Regulation: 9 VAC 5-40. Existing Stationary Sources (Rev. C05) (amending 9 VAC 5-40-6620).

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

Effective Date: May 4, 2005.

Agency Contact: Karen G. Sabasteanski, Policy Analyst, Department of Environmental Quality, P.O. Box 10009, Richmond, VA 23240, telephone (804) 698-4426, FAX (804) 698-4510 or e-mail kgsabastea@deq.virginia.gov.

Summary:

9 VAC 5-40-6620 has been revised in order to indicate that the standards for NO_x apply only to Class I small municipal waste combustors.

9 VAC 5-40-6620. Standard for nitrogen oxides.

No owner or other person shall cause or permit to be discharged into the atmosphere from any ~~small municipal waste combustor~~ Class I unit any nitrogen oxide emissions in excess of the following:

1. For mass burn waterwall units: 200 parts per million by dry volume, measured at 7.0% oxygen, 24-hour daily block arithmetic average concentration.
2. For mass burn rotary waterwall units: 170 parts per million by dry volume measured at 7.0% oxygen, 24-hour daily block arithmetic average concentration.
3. For refuse-derived fuel units: 250 parts per million by dry volume, measured at 7.0% oxygen, 24-hour daily block arithmetic average concentration.
4. For fluidized bed units: 220 parts per million by dry volume, measured at 7.0% oxygen, 24-hour daily block arithmetic average concentration.
5. For mass burn refractory units: 350 parts per million by dry volume, measured at 7.0% oxygen, 24-hour daily block arithmetic average concentration.
6. For modular excess air units: 190 parts per million by dry volume, measured at 7.0% oxygen, 24-hour daily block arithmetic average concentration.
7. For modular starved air units: 380 parts per million by dry volume, measured at 7.0% oxygen, 24-hour daily block arithmetic average concentration.

VA.R. Doc. No. R05-150; Filed March 4, 2005, 8:14 a.m.

TITLE 12. HEALTH

DEPARTMENT OF MEDICAL ASSISTANCE SERVICES

REGISTRAR'S NOTICE: The Department of Medical Assistance Services is claiming an exclusion 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: 12 VAC 30-80. Methods and Standards for Establishing Payment Rates; Other Types of Care (amending 12 VAC 30-80-40).

Statutory Authority: §§ 32.1-324 and 32.1-325 of the Code of Virginia.

Effective Date: July 1, 2005.

Agency Contact: Katina Goodwyn, Department of Medical Assistance Services, 600 East Broad Street, Richmond, VA 23219, telephone (804) 371-0428, FAX (804) 786-1680 or e-mail katina.goodwyn@dmas.virginia.gov.

Summary:

As required by Item 326 MMM of Chapter 4 of the 2004 Special Session I Acts of Assembly, the amendments increase the dispensing fee paid by Medicaid for the dispensing of generic drug products by pharmacy providers from \$3.75 to \$4.00.

12 VAC 30-80-40. Fee-for-service providers: pharmacy.

Payment for pharmacy services shall be the lowest of items 1 through 5 (except that items 1 and 2 will not apply when prescriptions are certified as brand necessary by the prescribing physician in accordance with the procedures set forth in 42 CFR 447.331 (c) if the brand cost is greater than the Centers for Medicare and Medicaid Services (CMS) upper limit of VMAC cost) subject to the conditions, where applicable, set forth in subdivisions 6 and 7 of this section:

1. The upper limit established by the CMS for multiple source drugs pursuant to 42 CFR 447.331 and 447.332, as determined by the CMS Upper Limit List plus a dispensing fee. If the agency provides payment for any drugs on the HCFA Upper Limit List, the payment shall be subject to the aggregate upper limit payment test.

2. The Virginia Maximum Allowable Cost (VMAC) established by the Virginia Department of Medical Assistance Services to be inclusive of appropriate multiple source and specific high cost drugs plus a dispensing fee. The VMAC methodology shall be defined as the 75th percentile cost level, or the 60th percentile cost level for unit dose drugs, of the aggregate for each generic manufacturer's drug for each Generic Code Number (GCN). Manufacturers' costs are supplied by the most current First Data Bank file. Multiple source drugs may include but are not limited to Food and Drug Administration-rated products such as drugs established by a Virginia Voluntary Formulary (VVF) drugs, Federal Upper Limit Drugs and any other state or federally approved listing. "Multisource drugs" means covered outpatient drugs for which there are two or more drug products that:

- a. Are included in the Centers for Medicare and Medicaid Services' state drug rebate program;
- b. Have been approved by the Federal Food and Drug Administration (FDA);
- c. Are included in the Approved Products with Therapeutic Equivalence Evaluations as generically equivalent; and
- d. Are sold or marketed in Virginia.

3. The provider's usual and customary charge to the public, as identified by the claim charge.

4. The Estimated Acquisition Cost (EAC), which shall be based on the published Average Wholesale Price (AWP)

minus a percentage discount established by the General Assembly (as set forth in subdivision 8 of this section) or, in the absence thereof, by the following methodology set out in subdivisions a through c below.

- a. Percentage discount shall be determined by a statewide survey of providers' acquisition cost.
- b. The survey shall reflect statistical analysis of actual provider purchase invoices.
- c. The agency will conduct surveys at intervals deemed necessary by DMAS.

5. Payment for pharmacy services will be as described above; however, payment for legend drugs will include the allowed cost of the drug plus only one dispensing fee per month for each specific drug. Exceptions to the monthly dispensing fees shall be allowed for drugs determined by the department to have unique dispensing requirements. The dispensing fee of \$3.75 (effective July 1, 2003) for brand name drugs shall remain in effect. *The dispensing fee for generic drugs is \$4.00.*

6. The Program pays additional reimbursement for unit dose dispensing systems of dispensing drugs. DMAS defines its unit dose dispensing system coverage consistent with that of the Board of Pharmacy of the Department of Health Professions (18 VAC 110-20-420). This service is paid only for patients residing in nursing facilities. Reimbursements are based on the allowed payments described above plus the unit dose per capita fee to be calculated by DMAS' fiscal agent based on monthly per nursing home resident service per pharmacy provider. Only one service fee per month may be paid to the pharmacy for each patient receiving unit dose dispensing services. The maximum allowed drug cost for specific multiple source drugs will be the lesser of subdivisions 1 through 4 of this section as applicable. All other drugs will be reimbursed at drug costs not to exceed the estimated acquisition cost determined by the state agency. The original per capita fee shall be determined by a DMAS analysis of costs related to such dispensing, and shall be reevaluated at periodic intervals for appropriate adjustment. The unit dose dispensing fee is \$5.00 per recipient per month per pharmacy provider.

7. Determination of EAC was the result of a report by the Office of the Inspector General that focused on appropriate Medicaid marketplace pricing of pharmaceuticals based on the documented costs to the pharmacy. An EAC of AWP minus 10.25% shall become effective July 1, 2002.

The dispensing fee for generic drugs of \$4.00 and the dispensing fee for brand name drugs of \$3.75 (effective July 1, 2003) shall remain in effect, creating a payment methodology based on the previous algorithm (least of 1 through 5 of this subsection above) plus a dispensing fee where applicable.

8. Home infusion therapy.

- a. The following therapy categories shall have a pharmacy service day rate payment allowable: hydration therapy, chemotherapy, pain management therapy, drug therapy, total parenteral nutrition (TPN). The service day rate payment for the pharmacy component shall apply to

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the basic components and services intrinsic to the therapy category. Submission of claims for the per diem rate shall be accomplished by use of the CMS 1500 claim form.

b. The cost of the active ingredient or ingredients for chemotherapy, pain management and drug therapies shall be submitted as a separate claim through the pharmacy program, using standard pharmacy format. Payment for this component shall be consistent with the current reimbursement for pharmacy services. Multiple applications of the same therapy shall be reimbursed one service day rate for the pharmacy services. Multiple applications of different therapies shall be reimbursed at 100% of standard pharmacy reimbursement for each active ingredient.

9. Supplemental rebate agreement. Based on the requirements in § 1927 of the Social Security Act, the Commonwealth of Virginia has the following policies for the supplemental drug rebate program for Medicaid recipients:

a. The model supplemental rebate agreement between the Commonwealth and pharmaceutical manufacturers for legend drugs provided to Medicaid recipients, submitted to CMS on February 5, 2004, and entitled Virginia Supplemental Drug Rebate Agreement Contract A and Amendment #2 to Contract A has been authorized by CMS.

b. The model supplemental rebate agreement between the Commonwealth and pharmaceutical manufacturers for drugs provided to Medicaid recipients, submitted to CMS on February 5, 2004, and entitled Virginia Supplemental Drug Rebate Agreement Contract B and Amendment #2 to Contract B has been authorized by CMS.

c. The model supplemental rebate agreement between the Commonwealth and pharmaceutical manufacturers for drugs provided to Medicaid recipients, submitted to CMS on February 5, 2004, and entitled Virginia Supplemental Drug Rebate Agreement Contract C, and Amendments #1 and #2 to Contract C has been authorized by CMS.

d. Supplemental drug rebates received by the state in excess of those required under the national drug rebate agreement will be shared with the federal government on the same percentage basis as applied under the national drug rebate agreement.

e. Prior authorization requirements found in § 1927(d)(5) of the Social Security Act have been met.

f. Nonpreferred drugs are those that were reviewed by the Pharmacy and Therapeutics Committee and not included on the preferred drug list. Nonpreferred drugs will be made available to Medicaid beneficiaries through prior authorization.

g. Payment of supplemental rebates may result in a product's inclusion on the PDL.

VA.R. Doc. No. R05-151; Filed March 4, 2005, 2:36 p.m.

TITLE 18. PROFESSIONAL AND OCCUPATIONAL LICENSING

BOARD OF PHARMACY

Title of Regulation: 18 VAC 110-20. Regulations Governing the Practice of Pharmacy (adding 18 VAC 110-20-15).

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

Effective Date: May 4, 2005

Agency Contact: Elizabeth Scott Russell, RPh, Executive Director, Board of Pharmacy, 6603 West Broad Street, 5th Floor, Richmond, VA 23230-1712, telephone (804) 662-9911, FAX (804) 662-9313, or e-mail elizabeth.russell@dhp.virginia.gov.

Summary:

The regulation establishes the criteria for delegation of informal fact-finding proceedings to an agency subordinate, including the decision to delegate at the time of a probable cause determination, the types of cases that cannot be delegated, and the individuals who may be designated as agency subordinates.

18 VAC 110-20-15. Criteria for delegation of informal fact-finding proceedings to an agency subordinate.

A. Decision to delegate. In accordance with § 54.1-2400 (10) of the Code of Virginia, the board may delegate an informal fact-finding proceeding to an agency subordinate upon determination that probable cause exists that a practitioner may be subject to a disciplinary action.

B. Criteria for delegation. Cases that may not be delegated to an agency subordinate, except as may be approved by a committee of the board, include those that involve:

- 1. Intentional or negligent conduct that causes or is likely to cause injury to a patient;*
- 2. Drug diversion;*
- 3. Impairment with an inability to practice with skill and safety;*
- 4. Indiscriminate dispensing; and*
- 5. Medication error in administration or dispensing.*

C. Criteria for an agency subordinate.

1. An agency subordinate authorized by the board to conduct an informal fact-finding proceeding may include board members and professional staff or other persons deemed knowledgeable by virtue of their training and experience in administrative proceedings involving the regulation and discipline of health professionals.

2. The executive director shall maintain a list of appropriately qualified persons to whom an informal fact-finding proceeding may be delegated.

3. The board may delegate to the executive director the selection of the agency subordinate who is deemed appropriately qualified to conduct a proceeding based on the qualifications of the subordinate and the type of case being heard.

VA.R. Doc. No. R04-252; Filed March 16, 2005, 10:56 a.m.

TITLE 24. TRANSPORTATION

COMMONWEALTH TRANSPORTATION BOARD

REGISTRAR'S NOTICE: The Commonwealth Transportation Board is claiming an exemption from the Administrative Process Act in accordance with § 2.2-4006 A 1, which excludes agency orders or regulations fixing rates or prices and § 2.2-4006 A 2, which excludes regulations that establish or prescribe agency organization, internal practice or procedures, including delegations of authority. The Commonwealth Transportation Board will receive, consider and respond to petitions by any interested person at any time with respect to reconsideration or revision.

Title of Regulation: 24 VAC 30-620. Rules, Regulations and Rates Concerning Toll and Bridge Facilities (amending 24 VAC 30-620-10 and 24 VAC 30-620-30).

Statutory Authority: §§ 2.2-604, 33.1-8, 33.1-12 and 33.1-252 of the Code of Virginia.

Effective Date: May 22, 2005.

Agency Contact: Deborah E. Brown, Division Administrator, Innovative Finance and Revenue Operations Division, Department of Transportation, Washington Building, 1100 Bank Street, Richmond, VA 23219, telephone (804) 786-9847 or e-mail Deborah.Brown@vdot.virginia.gov.

Summary:

The Metrorail system is being expanded into the Dulles Corridor. The financing plan calls for the Commonwealth of Virginia's share of the project to be financed through a loan from the federal government and the issuance of revenue bonds. The loan and bonds will be secured by excess toll revenue generated by the Dulles Toll Road. The toll rate schedule is being increased to provide a level of tolls to adequately cover the debt service on the loan and bonds. The average trip will increase in 2005 from \$.75 to \$1.25.

Changes related to the renaming of the Suffolk District to the Hampton Roads District, as well as to the conversion of the FasToll electronic toll collection system to that of the Smart Tag/E-ZPass system are being made. The toll facilities administrative directors, in consultation with district administrators, are being delegated authority to suspend toll collection operations on toll roads.

24 VAC 30-620-10. Applicability and effective dates.

This chapter applies to the following facilities: the Dulles Toll Road, administered by located in the Northern Virginia District; the Powhite Parkway Extension Toll Road, administered by located in the Richmond District; and the George P. Coleman

Bridge, administered by located in the Suffolk Hampton Roads District, all administered by the Innovative Finance and Revenue Operations Division. Provisions of this chapter will become effective as provided for by § 9-6.14:9.3 of the Administrative Process Act, or as otherwise stated in 24 VAC 30-620-30.

24 VAC 30-620-30. Rates and delegation of authority to suspend toll collection.

A. The Commonwealth Transportation Commissioner delegates the authority to suspend toll collection operations on the Dulles Toll Road to the Dulles Toll Road's Toll Facilities Administrative Director, subject to consultation with the Northern Virginia District Administrator, subject to and to the conditions and criteria outlined in 24 VAC 30-620-20 A and B. At his discretion, the Northern Virginia District Administrator Dulles Toll Road's Toll Facilities Administrative Director may delegate this authority to others within the district toll facility's organization. This delegation of authority includes establishing policies and procedures specific to the toll facility governing the investigation and decision-making processes associated with the possible suspension of toll collections. These policies and procedures shall become part of the toll facility's operating plan.

B. The following are the toll rate schedules for the Dulles Toll Road.

DULLES TOLL ROAD RATE STRUCTURE			
VEHICLE CLASS	MAIN PLAZA	SULLY ROAD	OTHER RAMPS
Two axles ¹	\$0.50	\$0.35	\$0.25
Three axles ²	\$0.75	\$0.60	\$0.50
Four axles	\$1.00	\$0.85	\$0.75
Five axles	\$1.25	\$1.10	\$1.00
Six axles or more	\$1.50	\$1.35	\$1.25

DULLES TOLL ROAD RATE STRUCTURE		
VEHICLE CLASS	MAIN PLAZA	ALL RAMPS
Two axles ¹	\$0.75	\$0.50
Three axles ²	\$1.00	\$0.75
Four axles	\$1.25	\$1.00
Five axles	\$1.50	\$1.25
Six axles or more	\$1.75	\$1.50

¹Includes passenger cars, motorcycles, motorcycles equipped with a sidecar, towing a trailer or equipped with a sidecar and towing a trailer, and 2-axle trucks (4 and 6 tires).

²Includes trucks, buses, and passenger cars with trailers.

C. The Commonwealth Transportation Commissioner delegates the authority to suspend toll collection operations on the Powhite Parkway Extension Toll Road to the Richmond Toll Facilities' Toll Facilities Administrative Director, subject to consultation with the Richmond District Administrator, subject to and to the conditions and criteria outlined in 24 VAC 30-620-20 A and B. At his discretion, the Richmond District

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Administrator Richmond Toll Facilities' Toll Facilities Administrative Director may delegate this authority to others within the district toll facility's organization. This delegation of authority includes establishing policies and procedures specific to the toll facility governing the investigation and decision-making processes associated with the possible suspension of toll collections. These policies and procedures shall become part of the toll facility's operating plan.

D. The following are the toll rate schedules for the Powhite Parkway Extension Toll Road.

POWHITE PARKWAY EXTENSION TOLL ROAD MAXIMUM RATE STRUCTURE				
VEHICLE CLASS	MAIN LINE PLAZA	MAIN LINE PLAZA - EAST & WEST RAMP	RAMP - ROUTE 60	RAMP - COURTHOUSE ROAD
Two axle vehicles ¹	\$0.75	\$0.25	\$0.25	\$0.50
Three axle vehicles	\$1.00	\$0.35	\$0.35	\$0.60
Four axle vehicles	\$1.25	\$0.45	\$0.45	\$0.70
Five axle vehicles	\$1.50	\$0.55	\$0.55	\$0.80
Six axle vehicles	\$1.50	\$0.55	\$0.55	\$0.80

¹Includes passenger cars, motorcycles, motorcycles equipped with a sidecar, towing a trailer or equipped with a sidecar and towing a trailer, and 2-axle trucks (4 and 6 tires).

E. The Commonwealth Transportation Commissioner delegates the authority to suspend toll collection operations on the George P. Coleman Bridge to the Suffolk George P. Coleman Bridge Facility's Toll Facilities Administrative Director, subject to and to the conditions and criteria outlined in 24 VAC 30-620-20 A and B. At his discretion, the Suffolk District Administrator George P. Coleman Bridge Facility's Toll Facilities Administrative Director may delegate this authority to others within the district toll facility's organization. This delegation of authority includes establishing policies and procedures specific to the toll facility governing the investigation and decision-making processes associated with the possible suspension of toll collections. These policies and procedures shall become part of the toll facility's operating plan.

F. The following are the toll rate schedules for the George P. Coleman Bridge.

GEORGE P. COLEMAN BRIDGE TOLL RATE STRUCTURE	
VEHICLE CLASS ¹	ONE- WAY RATE
Motorcycles ²	\$0.50
Commuter cars, vans, pick-ups	\$0.50
Commuter commercial vans/ trucks	\$0.50
Cars, vans, pick-ups	\$2.00
Two axle, six-tire trucks and buses	\$2.00
Three axle vehicles and buses	\$3.00
Four or more axle vehicles	\$4.00

¹Commuter toll rates will be available only via the FasTrak Smart Tag/E-ZPass system to two axle vehicles making three round-trip crossings within a ninety-day 90-day period on the George P. Coleman Bridge.

²Includes motorcycles equipped with a sidecar, towing a trailer, or equipped with a sidecar and towing a trailer. Motorcyclists requesting this rate must use the manual toll collection lanes because the AVI system cannot accommodate the \$0.50 rate.

VA.R. Doc. No. R05-153; Filed March 15, 2005, 12:25 p.m.



FAST-TRACK REGULATIONS

Section 2.2-4012.1 of the Code of Virginia provides an exemption from certain provisions of the Administrative Process Act for agency regulations deemed by the Governor to be noncontroversial. To use this process, Governor's concurrence is required and advance notice must be provided to certain legislative committees. Fast-track regulations will become effective on the date noted in the regulatory action if no objections to using the process are filed in accordance with § 2.2-4012.1.

TITLE 12. HEALTH

DEPARTMENT OF MEDICAL ASSISTANCE SERVICES

Title of Regulation: 12 VAC 30-40. Eligibility Conditions and Requirements (amending 12 VAC 30-40-290 and 12 VAC 30-40-300).

Statutory Authority: §§ 32.1-324 and 32.1-325 of the Code of Virginia.

Public Hearing Date: N/A -- Public comments may be submitted until June 3, 2005.

(See Calendar of Events section for additional information)

Effective Date: June 20, 2005.

Agency Contact: Patricia Sykes, Policy and Research Division, Department of Medical Assistance Services, 600 East Broad Street, Suite 1300, Richmond, VA 23219, telephone (804) 786-7958, FAX (804) 786-1680, or e-mail patricia.sykes@dmas.virginia.gov.

Basis: Section 32.1-325 of the Code of Virginia grants to the Board of Medical Assistance Services the authority to administer and amend the Plan for Medical Assistance. Section 32.1-324 of the Code of Virginia authorizes the Director of DMAS to administer and amend the Plan for Medical Assistance according to the board's requirements. The Medicaid authority as established by § 1902(a) of the Social Security Act (42 USC § 1396a) provides governing authority for payments for services.

Sections 1917(c) and (d) of the Social Security Act permit policies regulating the use of annuities as vehicles used to shelter assets that could otherwise be available to individuals for their own purchase of long-term care services.

Purpose: This regulatory action is not expected to have a direct effect on the health, safety, and welfare of either Medicaid recipients or the citizens of the Commonwealth. It will, however, have an indirect effect by preventing individuals who could afford to purchase their own long-term care services, from using public funds thereby releasing the use of such funds for the truly impoverished.

This regulatory action is proposed to reduce the sheltering of assets through purchases of annuities by individuals as a means to impoverish themselves to enable their qualification for Medicaid eligibility. Such Medicaid eligibility permits these individuals who could afford to pay for their own long-term care services to obtain such services with public funds while passing along their protected assets to their heirs. This proposed action will establish rules to eliminate the loophole that currently exists.

Annuities are usually purchased in order to provide a source of income for retirement. However, they are also sometimes

used to shelter assets so that the purchaser of the annuity or the purchaser's spouse can qualify for Medicaid. This regulatory package will eliminate the abusive sheltering of assets through the purchase of annuities in order to achieve Medicaid eligibility when those individuals who purchase annuities have the ability to pay for such care themselves.

Rationale for Using Fast-Track Process: DMAS is proposing this fast-track action as the most expedient way to close up the existing loophole in its current policies that permit wealthy individuals to protect their estates for the benefit of their heirs while using scarce Medicaid public funds to pay for their long-term care services. DMAS does not definitively expect objections to this proposed action but may receive them from wealthy individuals and their attorneys who benefit financially from the establishment of the annuities discussed herein.

Substance: Federal Medicaid law defines "assets" as all moneys received and everything owned.

Federal Medicaid law defines "resources" as cash and any other personal or real property that an individual (or spouse, if any) owns; has the right, authority, or power to convert to cash (if not already cash); and is not legally restricted from using for his/her support and maintenance.

Federal Medicaid law defines "patient pay" as that portion of the individual's costs of long-term care (usually nursing facility care) that the individual pays. Such patient pay amounts reduce the amount that Medicaid must contribute to the nursing facility for the cost of care for the individual.

Historically, Medicaid programs across the nation have increasingly observed individuals transferring their financial resources in order to deliberately impoverish themselves. Such resource transfers permits these individuals to secure the needed long-term care services, typically nursing facility care, while protecting their estates for their heirs. Such actions violate both the intent and spirit of Medicaid law that was originally designed to provide health care services for poor persons. These actions have come to be more prevalent as life expectancies have increased and as the costs of long-term care have steadily increased.

One consequence of these nationwide trends was the passage by Congress, in 1993, of the Omnibus Budget Reconciliation Act (OBRA 1993). One important provision of OBRA 1993 were restrictions on the transferring of resources that were codified at Title XIX, § 1917 (c) and (d).

As permitted by federal law, Medicaid currently disregards as a countable resource the value of an annuity, if the expected return on the annuity is actuarially sound, or is commensurate with a reasonable estimate of the life expectancy of the beneficiary. So long as the return on the annuity is commensurate with the annuitant's statistical life expectancy, the transfer is deemed a fair market value transaction and the payments from the annuity, no matter how large, are viewed as income and not as assets. If the amount of money transferred into an annuity is large, the Commonwealth will be

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paying for the long-term care of an individual who has the ability to pay for such care himself. As long as an annuity pays out its full principal plus interest during an individual's life expectancy, the annuity is actuarially sound. If the individual lives to his full statistical life expectancy, the state and federal governments are not harmed because the income from the annuity will become part of the patient pay amount and accordingly reduce medical assistance payments to the long-term care provider. However, only a certain percentage of individuals will live as long as or longer than their statistical life expectancy. The remainder of individuals will die before reaching their statistical life expectancy. In these cases, the Commonwealth does not receive in income the full value of the purchase price of the annuity under the current regulations. Thus, the Commonwealth loses that part of the purchase price. The effect is the same as if the lost portion were to be given away without a transfer of asset penalty.

In recent years, the department has seen an increasing incidence of the purchase of annuities by applicants for Medicaid long-term care services. Many of the annuities are from an insurance company or bank; however, others are classified as "private annuities" or agreements between two individuals where assets other than cash are involved. Many of these annuities are actuarially sound based on life expectancy tables; however, they do not generate equal monthly payments based on the principal and oftentimes are set up wherein the beneficiary receives small annual payments of interest only and a final large balloon payment at the annuity's maturity date.

DMAS proposes to define, for Medicaid eligibility purposes, an annuity to be a contract reflecting payment to an insurance company, bank, or other registered or licensed entity by which one receives fixed, nonvariable payments, with no balloon-end-point payments, on an investment for a lifetime or a specified number of years. In addition to defining an annuity, these regulations address how an annuity will be evaluated as an asset/resource for Medicaid purposes. The regulations provide that:

1. An annuity containing a balloon payment will be considered an available resource.
2. A commercial (nonemployment-related) annuity purchased by or for an individual using that individual's assets will be considered an available resource unless it meets all of the following criteria. The annuity (i) is irrevocable; (ii) pays out principal and interest in equal monthly installments (no balloon payment) to the individual over the total number of months that equals the actuarial life expectancy of the annuitant; (iii) names the Commonwealth of Virginia as the residual beneficiary of funds remaining in the annuity, not to exceed the amount of any Medicaid funds expended for the individual during his lifetime for Medicaid-covered services; and (iv) is issued by an insurance company, bank, or other registered or licensed entity approved to do business in the Commonwealth of Virginia, or, if issued in a jurisdiction other than the Commonwealth, is licensed to do business in the jurisdiction in which the annuity is established. Payments from the annuity to the Commonwealth cannot exceed the total

amount of funds for long-term care services expended on behalf of the Medicaid recipient.

3. Annuities issued prior to the effective date of these regulations that do not provide for pay out of principal and interest in equal monthly installments and for which documentation is received from the issuing company that the "pay out" arrangements cannot be changed, will be considered to meet these new requirements once amended to name the Commonwealth of Virginia as the residual beneficiary of funds remaining in the annuity, not to exceed the amount of any Medicaid funds expended on the individual during his lifetime.

Under these proposed regulations, annuities that contain a balloon payment will be counted as an available asset/resource. Annuities that feature a balloon payment have increased in popularity as a means to sheltering assets because such annuities pay out small amounts initially. This allows the owner to qualify for Medicaid since annuitized payments are considered income, not assets, under Medicaid rules. At the end of the contract period, the owner is due the remainder of the guaranteed payout of the annuity, which can be a large lump sum. If the owner remains alive at the contract's end, he could purchase another balloon annuity, effectively sheltering his assets again.

If an annuity is revocable, it can be redeemed or sold by the individual and its market value counted as a resource in determining the individual's Medicaid eligibility. These funds are available to the individual and the individual's assets should be utilized to pay for the individual's long-term care costs prior to the expenditure of public funds that are intended to provide services to the truly needy.

Compelling individuals to name the Commonwealth as a remainder beneficiary to their annuities narrows the loophole that currently exists. Under the proposed regulation, an individual will remain able to utilize annuities as a tool to turn his assets into an income stream for the care of himself or his community spouse; however, the individual will not be able to hide excess assets or remove them from the reach of the Commonwealth by placing them in an annuity. In essence, the Commonwealth is seeking to treat remaining annuity payments as excess assets belonging to the individual and asking for remaining funds to revert to the Commonwealth when they are no longer of use to the individual or his spouse.

The fair market value of annuities with the Commonwealth as a named remainder beneficiary will continue to depend on actuarial soundness. The expected return on the annuity must be commensurate with a reasonable estimate of life expectancy of the annuitant. Annuities with the Commonwealth as a beneficiary that are not actuarially sound will be deemed transfers for less than fair market value. Such annuities may cause ineligibility for the Medicaid payment of long-term care services.

Issues: The primary advantage to the Commonwealth of these suggested regulatory changes is to close a current loophole that results in Virginia Medicaid currently covering the cost of nursing home care for individuals who have the ability to pay for their own care but who have transferred their assets into annuities. Findings indicate that annuities are a

major source of asset-sheltering activities to help persons qualify for Medicaid coverage of their long-term care expenses and these regulations are an effort to address this growing problem.

There are no disadvantages to the general public in the implementation of these suggested changes, and the department projects no negative issues in implementing these proposed changes. There are disadvantages to the public and the Commonwealth of not making these changes: wealthy persons will continue to shelter their assets and rely on the public funding of their long-term care services. These changes will assist the Commonwealth in its efforts to ensure that public funds appropriated for medical care are expended in the manner for which they were intended - to provide a wide range of high-quality medical services to the truly needy.

For those public persons who wish to shelter their assets for the benefit of their heirs, and their elder care attorneys who provide them with legal advice, such individuals are not expected to agree with this suggested change. These persons are expected to object, as they want the public funds of Medicaid to pay for their long-term care services while their heirs reap the benefits of their estates. Attorneys who specialize their practices in elder care and estate planning are expected to object because these changes would be likely to reduce the numbers of persons for whom they could create such annuities and therefore reduce their billing fees.

Department of Planning and Budget's Economic Impact Analysis: The Department of Planning and Budget (DPB) has analyzed the economic impact of this proposed regulation in accordance with § 2.2-4007 H of the Administrative Process Act and Executive Order Number 21 (02). Section 2.2-4007 H 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 no longer allow the sheltering of assets using annuities with a balloon payment when determining Medicaid eligibility.

Estimated economic impact. In order to qualify for Medicaid benefits, an applicant's income and resources must be below certain thresholds. The federal Medicaid rules allow disregarding of annuities as a resource provided that the annuity is a fair market transaction. An annuity is a financial instrument that provides a stream of payments or a one-time payment sometime in the future in exchange for a down payment today. Currently, an annuity is deemed a fair market transaction if the expected return on the annuity is actuarially sound, or is commensurate with the statistical life expectancy of the beneficiary. Thus, so long as the return on the annuity over the life expectancy of the beneficiary is actuarially reasonable, applicants can disregard any resources by sheltering them through an annuity transaction.

To illustrate, consider an individual who arranges for an annuity transaction with his heirs and exchanges a \$1 million house for a 15-year annuity that pays \$1 a year, (or does not pay anything at all) for the next 14 years with an end-point value of \$1.5 million (a balloon payment) on the 15th year. Under the current rules, this annuity would be considered actuarially sound provided that the statistical life expectancy of this individual is truly 15 years and the current interest rate is 3%. Because he will receive only \$1 per year (or receive nothing) for the next 14 years, he will meet the Medicaid income threshold (unless he has other sources of income). Because the annuity transaction is actuarially sound and he can disregard the value of the annuity, he will also meet the Medicaid resource eligibility criteria (unless he has other resources). As a result, this individual will qualify for Medicaid benefits for the next 14 years, at which time he may enter into another annuity transaction to maintain his eligibility longer. This loophole that exist under the current regulations defies the purpose of the Medicaid program, which is to provide health benefits to those who cannot afford them.

The Department of Medical Assistance Services (the department) has noticed a growing number of applicants, consistent with national trends¹, taking advantage of the current loophole especially with the intent of qualifying for Medicaid long-term care services. The eligibility workers reported about 15 cases in the last year with questionable annuity transactions, but nonetheless had to approve eligibility under current regulatory language. There were probably many other cases not reported to the department as these types of transactions are allowed under the current rules. Even though a precise estimate of the number of cases with questionable annuity transactions is not available, the fiscal burden that each case puts on the Commonwealth is significant. For example, it costs about \$72,000 per year to provide nursing home care to a recipient and another \$4,695 to provide other Medicaid services. If the average length of time spent in a nursing home is about two to three years, the total cost per case becomes about \$153,390 to \$230,085. Then, for the 15 cases the department was notified about last year the total cost could be about \$2.3 million to \$3.4 million. Because the 15 cases are probably a gross underestimate, the actual costs of the loophole could be much higher.

The proposed regulations will prevent individuals from impoverishing themselves in order to qualify for Medicaid benefits using annuity transactions. The proposed regulations will consider an annuity an available resource and allow disregarding of annuities from the resource test under certain conditions. One of the conditions is that the annuity provide equal monthly installments. This will effectively prevent annuities with a balloon payment from being used to qualify for Medicaid because the equal payments will be subject to income criteria. Another condition is that the annuity names the Commonwealth as the beneficiary of the funds remaining in the annuity, not to exceed the Medicaid expenses. This provision will enable the Commonwealth to recover its expenses before heirs get their share of the inheritance in the event the individual dies. The third condition is that the

¹ National Association of State Medicaid Directors, October 2003, "The Role of Annuities in Medicaid Financial Planning: A Survey of State Medicaid Agencies."

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annuity be irrevocable. The intent of this condition is to prohibit the individual changing the terms of the annuity so that the beneficiary status of the Commonwealth cannot be removed later. Finally, the annuity must be issued by an insurance company, bank, or other licensed business in order to avoid questionable annuity transactions among the family members, neighbors, or friends. Because of the basic principals of the administrative law that it cannot be retroactive, all cases with questionable annuity transactions that have been and will be approved before these regulations become effective will be grandfathered.

The main benefit of the proposed changes is to restrict the sheltering of assets through purchases of annuities by individuals as a means to impoverish themselves and enable them to qualify for Medicaid. The Commonwealth will realize cost savings, as public funds will not be expended on individuals who can afford to purchase their own long-term care. The Commonwealth will realize approximately one half of the cost savings and the federal government will realize the other half. The actual benefits of these changes will depend on how the expected savings are reallocated. They could be used to provide a myriad of other public services or goods, or alternately they could be used to reduce the tax burden. There is no available information as to what will eventually be done with these savings. However, there is no question that the proposed changes will provide the Commonwealth with net economic benefits as the moneys are directed to needed services, goods, or used to reduce tax burden. The main costs of this proposal will accrue to those individuals planning to use questionable annuity transactions and take advantage of the existing loophole in the current regulations in order to qualify for Medicaid assistance.

Businesses and entities affected. The proposed regulations will primarily affect the individuals entering into questionable annuity transactions to qualify for free public health care. The department is aware of 15 approved cases in the last year. However, as these transactions are legal under the current language, it is likely that eligibility workers approved many other transactions without notifying the department. Therefore, the actual number of cases is probably much greater than the 15 known cases.

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

Projected impact on employment. The proposed regulations' impact on employment depends on many factors that are impossible to predict. For example, the individuals becoming no longer eligible for Medicaid may continue to receive the health care services from their own resources or could stop receiving them. Also, the expected savings may be used to purchase other goods and services or not spent. Thus, the impact on employment could be positive, negative, or insignificant depending on how individuals and state respond to the proposed changes.

Effects on the use and value of private property. Similarly, the impact on the use and value of private property cannot be estimated with any reasonable degree of accuracy as it depends on responses of individuals and the state to this regulatory change.

Agency's Response to the Department of Planning and Budget's Economic Impact Analysis: The agency has reviewed the economic impact analysis prepared by the Department of Planning and Budget regarding the regulations concerning Eligibility Conditions and Requirements: Treatment of Annuities in Medicaid Eligibility Determination (12 VAC 30-40-290 and 12 VAC 30-40-300). The agency concurs with the economic impact analysis prepared by the Department of Planning and Budget regarding this regulation.

Summary:

The proposed amendments eliminate the sheltering of assets through the purchase of annuities in order to achieve Medicaid eligibility when those individuals who purchase annuities have the ability to pay for such care themselves.

12 VAC 30-40-290. More liberal methods of treating resources under § 1902(r)(2) of the Act: § 1902(f) states.

A. Resources to meet burial expenses. Resources set aside to meet the burial expenses of an applicant/recipient or that individual's spouse are excluded from countable assets. In determining eligibility for benefits for individuals, disregarded from countable resources is an amount not in excess of \$3,500 for the individual and an amount not in excess of \$3,500 for his spouse when such resources have been set aside to meet the burial expenses of the individual or his spouse. The amount disregarded shall be reduced by:

1. The face value of life insurance on the life of an individual owned by the individual or his spouse if the cash surrender value of such policies has been excluded from countable resources; and
2. The amount of any other revocable or irrevocable trust, contract, or other arrangement specifically designated for the purpose of meeting the individual's or his spouse's burial expenses.

B. Cemetery plots. Cemetery plots are not counted as resources regardless of the number owned.

C. Life rights. Life rights to real property are not counted as a resource.

D. Reasonable effort to sell.

1. For purposes of this section, "current market value" is defined as the current tax assessed value. If the property is listed by a realtor, then the realtor may list it at an amount higher than the tax assessed value. In no event, however, shall the realtor's list price exceed 150% of the assessed value.

2. A reasonable effort to sell is considered to have been made:

a. As of the date the property becomes subject to a realtor's listing agreement if:

- (1) It is listed at a price at current market value; and
- (2) The listing realtor verifies that it is unlikely to sell within 90 days of listing given the particular circumstances involved (e.g., owner's fractional interest; zoning restrictions; poor topography; absence of road frontage or access; absence of improvements;

clouds on title, right of way or easement; local market conditions); or

b. When at least two realtors refuse to list the property. The reason for refusal must be that the property is unsaleable at current market value. Other reasons for refusal are not sufficient; or

c. When the applicant has personally advertised his property at or below current market value for 90 days by use of a "Sale By Owner" sign located on the property and by other reasonable efforts, such as newspaper advertisements, or reasonable inquiries with all adjoining landowners or other potential interested purchasers.

3. Notwithstanding the fact that the recipient made a reasonable effort to sell the property and failed to sell it, and although the recipient has become eligible, the recipient must make a continuing reasonable effort to sell by:

a. Repeatedly renewing any initial listing agreement until the property is sold. If the list price was initially higher than the tax-assessed value, the listed sales price must be reduced after 12 months to no more than 100% of the tax-assessed value.

b. In the case where at least two realtors have refused to list the property, the recipient must personally try to sell the property by efforts described in subdivision 2 c of this subsection for 12 months.

c. In the case of a recipient who has personally advertised his property for a year without success (the newspaper advertisements and "for sale" sign do not have to be continuous; these efforts must be done for at least 90 days within a 12-month period), the recipient must then:

(1) Subject his property to a realtor's listing agreement at price or below current market value; or

(2) Meet the requirements of subdivision 2 b of this subsection which are that the recipient must try to list the property and at least two realtors refuse to list it because it is unsaleable at current market value; other reasons for refusal to list are not sufficient.

4. If the recipient has made a continuing effort to sell the property for 12 months, then the recipient may sell the property between 75% and 100% of its tax assessed value and such sale shall not result in disqualification under the transfer of property rules. If the recipient requests to sell his property at less than 75% of assessed value, he must submit documentation from the listing realtor, or knowledgeable source if the property is not listed with a realtor, that the requested sale price is the best price the recipient can expect to receive for the property at this time. Sale at such a documented price shall not result in disqualification under the transfer of property rules. The proceeds of the sale will be counted as a resource in determining continuing eligibility.

5. Once the applicant has demonstrated that his property is unsaleable by following the procedures in subdivision 2 of this subsection, the property is disregarded in determining eligibility starting the first day of the month in which the most

recent application was filed, or up to three months prior to this month of application if retroactive coverage is requested and the applicant met all other eligibility requirements in the period. A recipient must continue his reasonable efforts to sell the property as required in subdivision 3 of this subsection.

E. Automobiles. Ownership of one motor vehicle does not affect eligibility. If more than one vehicle is owned, the individual's equity in the least valuable vehicle or vehicles must be counted. The value of the vehicles is the wholesale value listed in the National Automobile Dealers Official Used Car Guide (NADA) Book, Eastern Edition (update monthly). In the event the vehicle is not listed, the value assessed by the locality for tax purposes may be used. The value of the additional motor vehicles is to be counted in relation to the amount of assets that could be liquidated that may be retained.

F. Life, retirement, and other related types of insurance policies. Life, retirement, and other related types of insurance policies with face values totaling \$1,500 or less on any one person 21 years old and over are not considered resources. When the face values of such policies of any one person exceeds \$1,500, the cash surrender value of the policies is counted as a resource.

G. Resource exemption for Aid to Dependent Children categorically and medically needy (the Act §§ 1902(a)(10)(A)(i)(III), (IV), (VI), (VII); §§ 1902(a)(10)(A)(ii)(VIII), (IX); § 1902(a)(10)(C)(i)(III)). For ADC-related cases, both categorically and medically needy, any individual or family applying for or receiving assistance may have or establish one interest-bearing savings or investment account per assistance unit not to exceed \$5,000 if the applicant, applicants, recipient or recipients designate that the account is reserved for purposes related to self-sufficiency. Any funds deposited in the account shall be exempt when determining eligibility for medical assistance for so long as the funds and interest remain on deposit in the account. Any amounts withdrawn and used for purposes related to self-sufficiency shall be exempt. For purposes of this section, purposes related to self-sufficiency shall include, but are not limited to, (i) paying for tuition, books, and incidental expenses at any elementary, secondary, or vocational school, or any college or university; (ii) for making down payment on a primary residence; or (iii) for establishment of a commercial operation that is owned by a member of the medical assistance unit.

H. Disregard of resources. The Commonwealth of Virginia will disregard all resources for qualified children covered under §§ 1902(a)(10)(A)(i)(I), 1902(a)(10)(A)(i)(III), 1902(a)(10)(A)(ii)(VIII), and 1905(n) of the Social Security Act.

I. Household goods and personal effects. The Commonwealth of Virginia will disregard the value of household goods and personal effects. Household goods are items of personal property customarily found in the home and used in connection with the maintenance, use and occupancy of the premises as a home. Examples of household goods are furniture, appliances, televisions, carpets, cooking and eating utensils and dishes. Personal effects are items of personal property that are worn or carried by an individual or

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that have an intimate relation to the individual. Examples of personal property include clothing, jewelry, personal care items, prosthetic devices and educational or recreational items such as books, musical instruments, or hobby materials.

J. Determining eligibility based on resources. When determining Medicaid eligibility, an individual shall be eligible in a month if his countable resources were at or below the resource standard on any day of such month.

K. *Annuities. For annuities meeting the criteria contained in 12 VAC 30-40-300 E 3 h, the amount of funds in the annuity account are disregarded as countable resources in determining eligibility.*

12 VAC 30-40-300. Transfer of resources.

The agency provides for the denial of eligibility by reason of disposal of resources for less than fair market value. This section includes procedures applicable to all transfers of resources.

A. Except as noted below, the criteria for determining the period of ineligibility are the same as criteria specified in § 1613(c) of the Social Security Act (Act): Transfer of resources other than the home of an individual who is an inpatient in a medical institution.

1. The agency uses a procedure which provides for a total period of ineligibility greater than 24 months for individuals who have transferred resources for less than fair market value when the uncompensated value of disposed of resources exceeds \$12,000.00. This period bears a reasonable relationship to the uncompensated value of the transfer. The computation of the period and the reasonable relationship of this period to the uncompensated value is described as follows:

This transfer of resources rule includes the transfer of the former residence of an inpatient in a medical institution.

2. The agency has provisions for waiver of denial of eligibility in any instance where the State determines that a denial would work an undue hardship.

B. Other than those procedures specified elsewhere in this section, the procedures for implementing denial of eligibility by reason of disposal of resources for less than fair market value are as follows:

1. If the uncompensated value of the transfer is \$12,000 or less: the individual is ineligible for two years from the date of the transfer.

2. If the uncompensated value of the transfer is more than \$12,000: the individual is ineligible two years, plus an additional 2 months for every \$1,000 or part thereof of uncompensated value over \$12,000, from the date of transfer.

C. Property Transfer - An applicant for or recipient of Medicaid is ineligible for Medicaid if he transferred or otherwise disposed of his legal equitable interest in real or personal property for less than fair market value. Transfer of property precludes eligibility for two years from the date of the transfer if the uncompensated value of the property was \$12,000 or less. If the uncompensated value was over \$12,000 an

additional two months of ineligibility will be added for each \$1,000 of additional uncompensated value (see following Table). "Uncompensated value" means the current market value of the property, or equity in the property, at the time it was transferred, less the amount of compensation (money, goods, service, et cetera) received for the property.

Exceptions to this provision are:

1. When the transfer was not made with the intent of establishing or retaining eligibility for Medicaid or SSI. Any transfer shall be presumed to have been for the purposes of establishing or retaining eligibility for Medicaid or SSI unless the applicant/recipient furnishes convincing evidence to establish that the transfer was exclusively for some other purpose.

a. The applicant/recipient has the burden of establishing, by objective evidence of facts rather than statement of subjective intent, that the transfer was exclusively for another purpose.

b. Such evidence shall include evidence that adequate resources were available at the time of the transfer for the applicant/recipient's support and medical care including nursing home care, considering his or her age, state of health, and life expectancy.

c. The declaration of another purpose shall not be sufficient to overcome this presumption of intent.

d. The establishment of the fact that the applicant/recipient did not have specific knowledge of Medicaid or SSI eligibility policy is not sufficient to overcome the presumption of intent.

2. Retention of the property would have no effect on eligibility unless the property is a residence of an individual in a nursing home for a temporary period.

3. When transfer of the property resulted in compensation (in money, goods, or services) to the applicant/recipient which approximated the equity value of the property.

4. When the receiver of the property has made payment on the cost of the applicant/recipient's medical care which approximates the equity value of the property.

5. When the property owner has been a victim of another person's actions, except those of a legal guardian, committee, or power-of-attorney, who obtained or disposed of the property without the applicant/recipient's full understanding of the action.

6. When prior to October 1, 1982, the Medicaid applicant transferred a prepaid burial account (plan) which was valued at less than \$1,500.00 for the purpose of retaining eligibility for SSI, and was found ineligible for Medicaid solely for that reason. The applicant, after reapplying, may be eligible regardless of the earlier transfer of a prepaid burial account if the applicant currently meets all other eligibility criteria.

7. When the property is transferred into an irrevocable trust designated solely for the burial of the transferor or his spouse. The amount transferred into the irrevocable burial trust, together with the face value of life insurance and any

other irrevocable funeral arrangements, shall not exceed \$2,000 prior to July 1, 1988, and shall not exceed \$2,500 after July 1, 1988.

**PERIOD OF INELIGIBILITY DUE TO
TRANSFER OF PROPERTY
TABLE**

Uncompensated	Value of property	Period of ineligibility
0	\$12,000	24 months
12,000.01	\$13,000	26 months
13,000.01	\$14,000	28 months
14,000.01	\$15,000	30 months
15,000.01	\$16,000	32 months

For each additional \$1,000 add two months of ineligibility.

D. The preceding policy applies to eligibility determinations on and before June 30, 1988. The following policy applies to eligibility determinations on and after July 1, 1988.

1. The State plan provides for a period of ineligibility for nursing facility services, equivalent services in a medical institution, and home and community-based services in the case of an institutionalized individual (as defined in paragraph (3) of § 1917(c) who, disposed of resources for less than fair market value, at any time during or after the 30-month period immediately before the date the individual becomes an institutionalized individual (if the individual is entitled to medical assistance under the State plan on that date) or, if the individual is not entitled on the date of institutionalization, the date the individual applies for assistance while an institutionalized individual.

a. 30 months, or

b. The total uncompensated value of the resources so transferred, divided by the average cost, to a private patient at the time of application, of nursing facility services in the State.

2. An individual shall not be ineligible for medical assistance by reason of paragraph 1. to the extent that -

a. The resources transferred were a home and title to the home was transferred to -

(1) The spouse of such individual;

(2) A child of such individual who is under age 21, or is blind or disabled as defined in § 1614 of the Social Security Act;

(3) A sibling of such individual who has an equity interest in such home and who was residing in such individual's home for a period of at least one year immediately before the date the individual becomes an institutionalized individual; or

(4) A son or daughter of such individual (other than a child described in clause (2)) who was residing in such individual's home for a period of at least two years immediately before the date the individual becomes an institutionalized individual; and who (as determined by the State) provided care to such individual which

permitted such individual to reside at home rather than in such an institution or facility;

b. The resources were transferred to (or to another for sole benefit of) the community spouse as defined in § 1924(h)(2) of the Social Security Act, or to the individual's child who is under age 21, or is blind or disabled as defined in § 1614 of the Social Security Act.

c. A satisfactory showing is made to the State (in accordance with any regulations promulgated by the Secretary of United States Department of Health and Human Services) that

(1) The individual intended to dispose of the resources either at fair market value, or for other valuable consideration. To show intent to receive adequate compensation, the individual must provide objective evidence that:

(a) For real property, the individual made an initial and continuing effort to sell the property according to the "reasonable effort to sell" provisions of the Virginia Medicaid State Plan;

(b) For real or personal property, the individual made a legally binding contract that provided for receipt of adequate compensation in a specified form (goods, services, money, etc.) in exchange for the transferred property;

(c) An irrevocable burial trust of \$2,500 or less was established on or after July 1, 1988 as compensation for the transferred money;

(d) An irrevocable burial trust over \$2500 was established on or after July 1, 1988, and the individual provides objective evidence to show that all funds in the trust are for identifiable funeral services; or

(2) The resources were transferred exclusively for a purpose other than to qualify for medical assistance; the individual must provide objective evidence that the transfer was exclusively for another purpose and the reason for the transfer did not include possible or future Medicaid eligibility; or

(3) Consistent with 1917(c)(2)(D), an institutionalized spouse who (or whose spouse) transferred resources for less than fair market value shall not be found ineligible for nursing facility service, for a level of care in a medical institution equivalent to that of nursing facility services, or for home and community-based services where the state determines that denial of eligibility would work an undue hardship under the provision of § 1917(c)(2)(D) of the Social Security Act.

3. In this section, the term "institutionalized individual" means an individual who is an inpatient in a nursing facility, or who is an inpatient in a medical institution and with respect to whom payment is made based on a level of care provided in a nursing facility, or who is described in section 1902 (a)(10)(A)(ii)(VI).

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4. In this section, the individual's home is defined as the house and lot used as the principal residence and all contiguous property up to \$5,000.00.

E. Transfers And Trusts After August 10, 1993. The following policy applies to medical assistance provided for services furnished on or after October 1, 1993, with respect to assets disposed of after August 10, 1993, and with respect to trusts established after August 10, 1993.

1. Definitions.

"Assets" means, with respect to an individual, all income and resources of the individual and of the individual's spouse, including any income or resources which the individual or the individual's spouse is entitled to but does not receive because of action:

- a. By the individual or the individual's spouse,
- b. By a person, including a court or administrative body, with legal authority to act in place of or on behalf of the individual or the individual's spouse, or
- c. By any person, including any court or administrative body, acting at the direction or upon the request of the individual or the individual's spouse.

"Income" has the meaning given such term in section 1612 of the Social Security Act.

"Institutionalized individual" means an individual who is an inpatient in a nursing facility, who is an inpatient in a medical institution and with respect to whom payment is made based on a level of care provided in a nursing facility or who is described in section 1902(a)(10)(A)(ii)(VI) of the Social Security Act.

"Resources" has the meaning given such term in section 1613 of the Social Security Act, without regard (in the case of an institutionalized individual) to the exclusion described in subsection (a)(1) of such section.

2. Transfer of Assets Rule. An institutionalized individual who disposes of, or whose spouse disposes of, assets for less than fair market value on or after the look-back date specified in subdivision 2.b. shall be ineligible for nursing facility services, a level of care in any institution equivalent to that of nursing facility services and for home or community-based services furnished under a waiver granted under subsection (c) of § 1915 of the Social Security Act.

a. Period of Ineligibility. The ineligibility period shall begin on the first day of the first month during or after which assets have been transferred for less than fair market value and which does not occur in any other period of ineligibility under this section. The ineligibility period shall be equal to but shall not exceed the number of months derived by dividing:

- (1) The total, cumulative uncompensated value of all assets transferred as defined in E.1. on or after the look-back date specified in E.2.b by

- (2) The average monthly cost to a private patient of nursing facility services in the Commonwealth at the time of application for medical assistance.

b. Look-Back Date. The look-back date is a date that is 36 months (or, 60 months in the case of payments from a trust or portions of a trust that are treated as assets disposed of by the individual pursuant to this section or Section 3,) before the first date as of which the individual both is an institutionalized individual and has applied for medical assistance under the State Plan for Medical Assistance.

c. Exceptions. An individual shall not be ineligible for medical assistance by reason of this section to the extent that:

- (1) The assets transferred were a home and title to the home was transferred to:

- (a) The spouse of the individual;
- (b) A child of the individual who is under age 21, or is blind or disabled as defined in section 1614 of the Social Security Act,
- (c) A sibling of the individual who has an equity interest in the home and who was residing in the individual's home for a period of a least one year immediately before the date the individual becomes an institutionalized individual, or
- (d) A son or daughter of the individual (other than a child described in clause (b)) who was residing in the individual's home for a period of at least two years immediately before the date the individual becomes an institutionalized individual, and who provided care to the individual which permitted the individual to reside at home rather than in an institution or facility.

- (2) The assets:

- (a) Were transferred to the individual's spouse or to another person for the sole benefit of the individual's spouse,
- (b) Were transferred from the individual's spouse to another for the sole benefit of the individual's spouse,
- (c) Were transferred to the individual's child who is under age 21 or who is disabled as defined in § 1614 of the Social Security Act, or to a trust (including a trust described in 3.g.) established solely for the benefit of such child, or
- (d) Were transferred to a trust (including a trust described in 3.g.) established solely for the benefit of an individual under age 65 years of age who is disabled as defined in section 1614(a)(3) of the Social Security Act.

- (3) A satisfactory showing is made that:

- (a) The individual intended to dispose of the assets either at fair market value, or for other valuable consideration, or

(b) The assets were transferred exclusively for a purpose other than to qualify for medical assistance, or

(c) All assets transferred for less than fair market value have been returned to the individual, or

(d) The Commonwealth determines that the denial of eligibility would work an undue hardship.

d. **Assets Held In Common With Another Person.** In the case of an asset held by an individual in common with another person or persons in a joint tenancy, tenancy in common, or other arrangement recognized under State law, the asset (or the affected portion of such asset) shall be considered to be transferred by such individual when any action is taken, either by such individual or by any other person, that reduces or eliminates such individual's ownership or control of such asset.

e. **Transfers by Both Spouses.** In the case of a transfer by the spouse of an individual which results in a period of ineligibility for medical assistance, the Commonwealth shall apportion the period of ineligibility (or any portion of the period) among the individual and the individual's spouse if the spouse otherwise becomes eligible for medical assistance under the State Plan.

3. **For Trust(s) Created After August 10, 1993.** For purposes of determining an individual's eligibility for, or amount of, medical assistance benefits, subject to 3.g., these rules shall apply.

a. **Trust(s) Defined.** The term "trust" includes any legal instrument or device that is similar to a trust but includes an annuity only to such extent and in such manner as the United States Secretary of Health and Human Services specifies for purposes of administration of § 1917(c) or (d) of the Social Security Act.

b. **Creation of Trust(s) Defined.** For purposes of this subsection, an individual shall be considered to have established a trust(s) if assets of the individual were used to form all or part of the corpus of the trust(s) and if any of the following individuals established the trust(s) other than by will:

(1) The individual,

(2) The individual's spouse,

(3) A person, including a court or administrative body, with legal authority to act in place of or on behalf of the individual or the individual's spouse,

(4) A person, including any court or administrative body, acting at the direction or upon the request of the individual or the individual's spouse.

c. **Proportional Interest In Trust(s).** In the case of a trust(s) the corpus of which includes assets of an individual (as determined under 3.b.) and assets of any other person or persons, the provision of this section shall apply to the portion of the trust(s) attributable to the assets of the individual.

d. **Trust(s) Affected.** Subject to 3.g., this section shall apply without regard to:

(1) The purposes for which a trust(s) is established,

(2) Whether the trustee(s) has or exercises any discretion under the trust(s),

(3) Any restrictions on when or whether distributions may be made from the trust(s), or

(4) Any restrictions on the use of distributions from the trust(s).

e. **Revocable Trust(s).** In the case of a revocable trust(s),

(1) The corpus of the trust(s) shall be considered resources available to the individual,

(2) Payments from the trust(s) to or for the benefit of the individual shall be considered income of the individual, and

(3) Any other payments from the trust(s) shall be considered assets disposed of by the individual for the purposes of E.2.

f. **Irrevocable Trust(s).** In the case of irrevocable trust(s),

(1) If there are any circumstances under which payment from the trust(s) could be made to or for the benefit of the individual, the portion of the corpus from which, or the income on the corpus from which, payment to the individual could be made shall be considered resources available to the individual, and payments from that portion of the corpus or income:

(a) To or for the benefit of the individual, shall be considered income of the individual, and

(b) For any other purpose, shall be considered a transfer of assets by the individual subject to E.2., and

(2) Any portion of the trust(s) from which, or any income on the corpus from which, no payment could under any circumstances be made to the individual shall be considered, as of the date of establishment of the trust(s) (or, if later, the date on which payment to the individual was foreclosed) to be assets disposed of by the individual for purposes of E.2., and the value of the trust(s) shall be determined for purposes of such section by including the amount of any payments made from such portion of the trust(s) after such date.

g. **Exceptions.** This section shall not apply to any of the following trust(s):

(1) A trust(s) containing the assets of an individual under age 65 who is disabled (as defined in section 1614(a)(3) of the Social Security Act) and which is established for the benefit of such individual by a parent, grandparent, legal guardian of the individual or a court if the Commonwealth will receive all amounts remaining in the trust(s) upon the death of the individual up to an amount equal to the total medical assistance paid on behalf of the individual under this State Plan.

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(2) A trust containing the assets of an individual who is disabled (as defined in section 1614(a)(3) of the Social Security Act) that meets all of the following conditions:

(a) The trust(s) is established and managed by a non-profit association,

(b) A separate account is maintained for each beneficiary of the trust(s), but, for purposes of investment and management of funds, the trust(s) pools these accounts.

(c) Accounts in the trust(s) are established solely for the benefit of individuals who are disabled (as defined in section 1614(a)(3) of the Social Security Act) by the parent, grandparent, or legal guardian of such individuals, by such individuals, or by a court.

(d) To the extent that amounts remaining in the beneficiary's account upon the death of the beneficiary are not retained by the trust(s), the trust(s) pays to the Commonwealth from such remaining amounts in the account an amount equal to the total amount of medical assistance paid on behalf of the beneficiary under this State Plan.

h. Annuities. The following shall govern annuities:

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

"Annuity" means a contract or agreement by which one receives fixed, nonvariable payments on an investment for a lifetime or a specified number of years.

(1) Criteria for an annuity. An annuity containing a balloon payment will be considered an available resource. A commercial (nonemployment related) annuity purchased by or for an individual using that individual's assets will be considered an available resource unless it meets all of the following criteria. The annuity must:

(a) Be irrevocable;

(b) Pay out principal and interest in equal monthly installments (no balloon payment) to the individual over the total number of months that is equal to or less than the actuarial life expectancy of the annuitant;

(c) Name the Commonwealth as the residual beneficiary of funds remaining in the annuity, not to exceed any Medicaid funds expended on the individual during his lifetime; and

(d) Be issued by an insurance company, bank or other registered or licensed entity approved to do business in and authorized to sell annuities in the Commonwealth, or, if issued in a jurisdiction other than the Commonwealth, is issued by an insurer licensed to do business in the jurisdiction in which the annuity is established. Payments from the annuity to the Commonwealth cannot exceed the total amount of funds for long-term care services expended on behalf of the Medicaid recipient.

(2) Annuities issued prior to June 20, 2005, that do not provide for pay out of principal and interest in equal monthly installments and for which documentation is received from the issuing company that the pay out arrangements cannot be changed will be considered to meet the new requirements once amended to name the Commonwealth as the residual beneficiary of funds remaining in the annuity, not to exceed any Medicaid funds expended on the individual during his lifetime. This provision applies only to new applications received on or after June 20, 2005.

VA.R. Doc. No. R05-155; Filed March 16, 2005, 11:57 a.m.

Title of Regulation: 12 VAC 30-90. Methods and Standards for Establishing Payment Rates for Long-Term Care (amending 12 VAC 30-90-41).

Statutory Authority: §§ 32.1-324 and 32.1-325 of the Code of Virginia; Item 326 YY of Chapter 4 of the 2004 Special Session I Acts of Assembly.

Public Hearing Date: N/A -- Public comments may be submitted until June 3, 2005.

(See Calendar of Events section for additional information)

Effective Date: July 1, 2005.

Agency Contact: Brian M. McCormick, Regulatory Coordinator, Department of Medical Assistance Services, 600 East Broad Street, Suite 1300, Richmond, VA 23219, telephone (804) 371-8856, FAX (804) 786-1680, or e-mail brian.mccormick@dmas.virginia.gov.

Basis: Section 32.1-325 of the Code of Virginia grants to the Board of Medical Assistance Services the authority to administer and amend the Plan for Medical Assistance. Section 32.1-324 of the Code of Virginia authorizes the Director of DMAS to administer and amend the Plan for Medical Assistance according to the board's requirements. The Medicaid authority as established by § 1902 (a) of the Social Security Act (42 USC § 1396a) provides governing authority for payments for services.

Purpose: The purpose of this action is to increase nursing facility payments made on behalf of Medicaid recipients to nursing facilities. This regulatory action is not expected to have a direct impact on the health, safety, or welfare of citizens.

Rationale for Using Fast-Track Process: DMAS expects this rulemaking action to be noncontroversial because it would increase reimbursement to nursing facilities. The nursing home industry supported the budget and has worked with the agency to develop this regulation. The 2004 Appropriation Act specified in detail the parameters of this regulation and the cost of implementing this regulation was included in the appropriations.

Substance: Nursing facilities are reimbursed for providing services to Medicaid recipients on a per diem basis. Medicaid per diem rates are calculated prospectively, based upon cost settled nursing facility direct and indirect care Medicaid-

allowable costs that are submitted to DMAS within 150 days of each provider's fiscal year end. The direct and indirect portions of the prospective per diem rates are subject to ceilings, and nursing facilities are paid the lower of their cost or the ceiling. Ceilings are rebased every two years, using the most recent cost settled nursing facility data available on September 1, prior to the start of the state fiscal year in which rebased rates go into effect.

Nursing facility data used to rebase the ceilings may be two to three years old, and data to set prospective per diem rates may be one to two years old, due to the lag between the end of the provider fiscal year, the date of submission to DMAS, and the time to complete the cost settlement process. Therefore, nursing facility rates are inflated annually to the prospective payment period using projected inflation factors calculated by Global Insight, Inc., which are based upon Virginia-specific nursing facility costs. As a budget savings measure, the General Assembly reduced the amount of inflation applied to nursing facility rates in state fiscal years 2003 and 2004.

Effective July 1, 2005, through June 30, 2006, the total payment to each nursing facility shall be increased by \$3 per day per recipient. Effective July 1, 2006, an increase of \$3 per day per recipient, adjusted for one year of inflation, shall be allocated between the direct and indirect care ceilings until the time that ceilings are rebased using cost report data from provider fiscal years ending in 2006 or later. The per recipient amount of \$1.68 adjusted for inflation shall be allocated to the direct ceiling, and \$1.32 adjusted for inflation shall be allocated to the indirect ceiling.

In addition, effective July 1, 2006, when cost data that include time periods before July 1, 2005, are used to set facility specific rates, the per diem amounts identified above shall be added to direct and indirect costs per day for the percent of the provider cost report's patient days occurring before July 1, 2005, prior to comparison to the ceilings.

Issues: The primary advantage to the public of the regulatory change is that it may contribute to slowing the growth of cost inflation for nursing facility care provided to individuals who do not have insurance but do not qualify for Medicaid and for individuals with commercial insurance. Medicaid recipients comprise, on average, approximately 60% of the residents of nursing facilities that accept Medicaid, but Medicaid payment rates tend to be lower than rates paid by Medicare and commercial insurers. Low Medicaid payment rates to nursing facilities may act as a disincentive to nursing facilities serving Medicaid recipients and may have a negative impact on providers' ability to deliver high-quality care. In addition, low Medicaid reimbursement rates may encourage nursing facilities to charge higher rates to commercial payers and uninsured residents, in order to cross-subsidize, or shift, the cost of providing care to Medicaid recipients.

The advantage to nursing facility providers is that their rates of reimbursement will be increased. There are no advantages or disadvantages directly to Medicaid recipients or their families.

There are no disadvantages to the public in the implementation of these suggested changes and the

Department projects no negative issues in implementing these proposed changes.

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 H of the Administrative Process Act and Executive Order Number 21 (02). Section 2.2-4007 H 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. Pursuant to Item 326 YYY of the 2004 Acts of the Assembly, the proposed regulations increase Medicaid per diem payments to nursing homes by \$3 per recipient per day for fiscal year (FY) 2006. To make this increase permanent, the Department of Medical Assistance Services (DMAS) will add \$3 to costs when it rebases ceilings for FY 2007.

Estimated economic impact. The proposed changes increase Medicaid per diem payments to nursing homes by \$3 per recipient per day for the period from July 2005 to June 2006. The estimated fiscal impact of this change is a \$19.4 million increase in total Medicaid nursing home payments in FY 2006. In the event that ceilings are not rebased for FY 2007, the 2004 Acts of Assembly also mandates an increase in ceilings for direct and indirect care starting from July 2006 until the rates are rebased using cost data reflecting the proposed \$3 increase, thus making the increases permanent. However, DMAS will likely rebase ceilings for FY 2007 as planned and simply add \$3 to nursing home costs while calculating the ceiling. Ceilings are rebased every two years using the most recent audited cost data available. Generally, a year's ceilings are set based on the cost data from four years ago adjusted for inflation. Because the actual nursing home cost inflation could diverge over time from the inflation-adjusted ceilings, ceilings are rebased every two years.

The fiscal impact of the proposed change in FY 2006 is straightforward. Each nursing home will receive an additional \$3 per Medicaid patient per day. As mentioned above, the estimated total fiscal impact for FY 2006 is \$19.4 million. The Commonwealth will finance approximately one half of this amount and the other half will be financed by federal matching dollars.

When DMAS rebases ceilings for FY 2007, it will be using cost report data representing periods prior to July 1, 2005, when the \$3 increase goes into effect. Thus, DMAS will add an inflation-adjusted \$3 to the costs used in rebasing, thus making the increase permanent. The direct care ceiling will be increased by an inflation-adjusted \$1.68 and the indirect care ceiling will be increased by an inflation-adjusted \$1.32. However, the increases in ceilings may not provide an increase in per diem rates for all nursing homes. DMAS sets prospective rates for nursing facilities based on the lower of

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the two, their prior year costs, or the ceilings. A nursing home would receive the \$3 increase in payments resulting from ceiling increase only if its actual prior year costs are above the ceiling. Based on most current data, 72 nursing homes have both their direct and indirect operating costs below the ceilings, 82 nursing homes have both their direct and indirect operating costs above the ceilings, and the remaining 120 nursing homes have either direct or indirect costs above the ceiling.

Nursing homes with costs below the ceiling will receive additional payments only to the extent they have increased their allowable costs by \$3 for all patient days, not just Medicaid patient days. This would require nursing homes to spend \$3 from their own resources for non-Medicaid patients per day. If nursing homes below the ceiling do not spend \$3 per day for non-Medicaid patients, their costs per patient across all patients, Medicaid and non-Medicaid, would increase by less than \$3. Based on the average Medicaid occupancy rate of 65 percent, that would mean that they would increase their costs by about \$2 per patient day rather than \$3 per patient day. Given that some Medicaid nursing homes are likely to increase charges to non-Medicaid patients, the average increase for all nursing homes below the ceiling is likely to be between \$2 and \$3 in FY 2007.

When DMAS rebases ceilings for FY 2009 using 2005 cost data, the fiscal effect could differ from the previous fiscal years. The 2005 cost data will partially reflect the \$3 increase as many facilities have fiscal years ending in December 2005. However, the full effect of the \$3 increase will not be fully captured until the ceilings are rebased in FY 2011 using 2007 cost data. In addition, the fiscal effect beyond FY 2008 is uncertain because we do not know whether the inflation-adjusted ceilings rebasing will be higher or lower than the ceilings calculated from actual costs and because we do not know how the nursing facilities will spend the \$3 increase. There is no information available to predict the direction of the likely effect beyond FY 2008 at this time.

In short, the fiscal effect of the proposed nursing home per diem increase is likely to be approximately \$19.4 million in FY 2006. One half of this amount will be financed from the federal government. The fiscal impact will likely be less in FY 2007 and FY 2008 because some of the 192 facilities with direct and/or indirect costs below the ceilings will have increased payments by less than the \$3 increase in FY 2006 and because they are likely to spread the \$3 increase over all patients and not just over Medicaid patients. While the potential fiscal effect in FY 2009 and forward is uncertain, it should not significantly differ from the effect in FY 2008 as long as inflation adjustments closely mirror the actual nursing home cost increases.

The impact on nursing homes will be a net increase in their revenues. Increased revenues may or may not improve services as this depends on how the monies are spent. This reimbursement increase could also benefit private payers if nursing homes use the additional revenues to subsidize them. Nursing homes can shift costs between private payers and Medicaid under the current institutional structure. While this rate increase may help maintain current level of access to services, the department does not believe that any nursing

home would have quit serving Medicaid patients if they had not been awarded the \$3 increase.

The net impact on Virginia's economy is likely to be positive because of the federal match. While one half of the funds will come from state resources, the other half will come from the federal government. Thus, the federal match will be a net injection into the state's economy as it does not have a corresponding offset elsewhere and will have a net positive impact on state output.

Businesses and entities affected. The proposed regulations will increase the per diem rates for nursing homes serving Medicaid recipients. Currently, there are 274 nursing homes in Virginia.

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

Projected impact on employment. The proposed nursing home rate increase will likely have an expansionary effect on the state economy. To the extent increased funding, particularly the federal portion of the increase, is directed toward purchase of goods and services within the state, there could be a positive effect on demand for labor.

Effects on the use and value of private property. The proposed regulations are likely to improve revenues and the future profit streams of nursing homes. An increase in profits would, in turn, increase their asset values.

Agency's Response to the Department of Planning and Budget's Economic Impact Analysis: The agency has reviewed the Economic Impact Analysis prepared by the Department of Planning and Budget regarding the regulations concerning Methods and Standards for Establishing Payment Rates for Long Term Care (12 VAC 30-90-41). The Agency concurs with the Economic Impact Analysis prepared by the Department of Planning and Budget regarding this regulation.

Summary:

Item 326 YY of Chapter 4 of the 2004 Special Session I Acts of Assembly mandated that the Department of Medical Assistance Services (DMAS) increase the total per diem payment to each nursing home by \$3 per recipient per day, effective July 1, 2005, through June 30, 2006. Effective July 1, 2006, the increase of \$3 per recipient per day will be adjusted for one year's inflation and shall be allocated between the direct care and indirect care ceilings for nursing facilities until ceilings are rebased using cost report data from fiscal years ending in calendar year 2006 or later.

12 VAC 30-90-41. Nursing facility reimbursement formula.

A. Effective on and after July 1, 2002, all NFs subject to the prospective payment system shall be reimbursed under "The Resource Utilization Group-III (RUG-III) System as defined in Appendix IV (12 VAC 30-90-305 through 12 VAC 30-90-307)." RUG-III is a resident classification system that groups NF residents according to resource utilization. Case-mix indices (CMIs) are assigned to RUG-III groups and are used to adjust the NF's per diem rates to reflect the intensity of services required by a NF's resident mix. See 12 VAC 30-90-305 through 12 VAC 30-90-307 for details on the Resource Utilization Groups.

1. Any NF receiving Medicaid payments on or after October 1, 1990, shall satisfy all the requirements of § 1919(b) through (d) of the Social Security Act as they relate to provision of services, residents' rights and administration and other matters.

2. Direct and indirect group ceilings and rates.

a. In accordance with 12 VAC 30-90-20 C, direct patient care operating cost peer groups shall be established for the Virginia portion of the Washington DC-MD-VA MSA, the Richmond-Petersburg MSA and the rest of the state. Direct patient care operating costs shall be as defined in 12 VAC 30-90-271.

b. Indirect patient care operating cost peer groups shall be established for the Virginia portion of the Washington DC-MD-VA MSA, for the rest of the state for facilities with less than 61 licensed beds, and for the rest of the state for facilities with more than 60 licensed beds.

3. Each facility's average case-mix index shall be calculated based upon data reported by that nursing facility to the Centers for Medicare and Medicaid Services (CMS) (formerly HCFA) Minimum Data Set (MDS) System. See 12 VAC 30-90-306 for the case-mix index calculations.

4. The normalized facility average Medicaid CMI shall be used to calculate the direct patient care operating cost prospective ceilings and direct patient care operating cost prospective rates for each semiannual period of a NFs subsequent fiscal year. See 12 VAC 30-90-306 D 2 for the calculation of the normalized facility average Medicaid CMI.

a. A NFs direct patient care operating cost prospective ceiling shall be the product of the NFs peer group direct patient care ceiling and the NFs normalized facility average Medicaid CMI. A NFs direct patient care operating cost prospective ceiling will be calculated semiannually.

b. A CMI rate adjustment for each semiannual period of a nursing facility's prospective fiscal year shall be applied by multiplying the nursing facility's normalized facility average Medicaid CMI applicable to each prospective semiannual period by the nursing facility's case-mix neutralized direct patient care operating cost base rate for the preceding cost reporting period (see 12 VAC 30-90-307).

c. See 12 VAC 30-90-307 for the applicability of case-mix indices.

5. Effective for services on and after July 1, 2002, the following changes shall be made to the direct and indirect payment methods.

a. The direct patient care operating ceiling shall be set at 112% of the respective peer group day-weighted median of the facilities' case-mix neutralized direct care operating costs per day. The calculation of the medians shall be based on cost reports from freestanding nursing homes for provider fiscal years ending in the most recent base year. The medians used to set the peer group direct patient care operating ceilings shall be revised and case-mix neutralized every two years using the most recent

reliable calendar year cost settled cost reports for freestanding nursing facilities that have been completed as of September 1.

b. The indirect patient care operating ceiling shall be set at 103.9% of the respective peer group day-weighted median of the facility's specific indirect operating cost per day. The calculation of the peer group medians shall be based on cost reports from freestanding nursing homes for provider fiscal years ending in the most recent base year. The medians used to set the peer group indirect operating ceilings shall be revised every two years using the most recent reliable calendar year cost settled cost reports for freestanding nursing facilities that have been completed as of September 1.

B. Adjustment of ceilings and costs for inflation. Effective for provider fiscal years starting on and after July 1, 2002, ceilings and rates shall be adjusted for inflation each year using the moving average of the percentage change of the Virginia-Specific Nursing Home Input Price Index, updated quarterly, published by Standard & Poor's DRI. For state fiscal year 2003, peer group ceilings and rates for indirect costs will not be adjusted for inflation.

1. For provider years beginning in each calendar year, the percentage used shall be the moving average for the second quarter of the year, taken from the table published for the fourth quarter of the previous year. For example, in setting prospective rates for all provider years beginning in January through December 2002, ceilings and costs would be inflated using the moving average for the second quarter of 2002, taken from the table published for the fourth quarter of 2001.

2. Provider specific costs shall be adjusted for inflation each year from the cost reporting period to the prospective rate period using the moving average as specified in subdivision 1 of this subsection. If the cost reporting period or the prospective rate period is less than 12 months long, a fraction of the moving average shall be used that is equal to the fraction of a year from the midpoint of the cost reporting period to the midpoint of the prospective rate period.

3. Ceilings shall be adjusted from the common point established in the most recent rebasing calculation. Base period costs shall be adjusted to this common point using moving averages from the DRI tables corresponding to the provider fiscal period, as specified in subdivision 1 of this subsection. Ceilings shall then be adjusted from the common point to the prospective rate period using the moving average(s) for each applicable second quarter, taken from the DRI table published for the fourth quarter of the year immediately preceding the calendar year in which the prospective rate years begin. Rebased ceilings shall be effective on July 1 of each rebasing year, so in their first application they shall be adjusted to the midpoint of the provider fiscal year then in progress or then beginning. Subsequently, they shall be adjusted each year from the common point established in rebasing to the midpoint of the appropriate provider fiscal year. For example, suppose the base year is made up of cost reports from years ending in calendar year 2000, the rebasing year is SFY2003, and the rebasing calculation establishes ceilings that are inflated to

Fast-Track Regulations

the common point of July 1, 2002. Providers with years in progress on July 1, 2002, would receive a ceiling effective July 1, 2002, that would be adjusted to the midpoint of the provider year then in progress. In some cases this would mean the ceiling would be reduced from the July 1, 2002, ceiling level. The following table shows the application of these provisions for different provider fiscal periods.

Table I
Application of Inflation to Different Provider Fiscal Periods

Provider FYE	Effective Date of New Ceiling	First PFYE After Rebasing Date	Inflation Time Span from Ceiling Date to Midpoint of First PFY	Second PFYE After Rebasing Date	Inflation Time Span from Ceiling Date to Midpoint of Second PFY
3/31	7/1/02	3/31/03	+ 1/4 year	3/31/04	+1-1/4 years
6/30	7/1/02	6/30/03	+ 1/2 year	6/30/04	+1-1/2 years
9/30	7/1/02	9/30/02	- 1/4 year	9/30/03	+3/4 year
12/31	7/1/02	12/31/02	-0-	12/31/03	+ 1 year

The following table shows the DRI tables that would provide the moving averages for adjusting ceilings for different prospective rate years.

Table II
Source Tables for DRI Moving Average Values

Provider FYE	Effective Date of New Ceiling	First PFYE After Rebasing Date	Source DRI Table for First PFY Ceiling Inflation	Second PFYE After Rebasing Date	Source DRI Table for Second PFY Ceiling Inflation
3/31	7/1/02	3/31/03	Fourth Quarter 2001	3/31/04	Fourth Quarter 2002
6/30	7/1/02	6/30/03	Fourth Quarter 2001	6/30/04	Fourth Quarter 2002
9/30	7/1/02	9/30/02	Fourth Quarter 2000	9/30/03	Fourth Quarter 2001
12/31	7/1/02	12/31/02	Fourth Quarter 2000	12/31/03	Fourth Quarter 2001

In this example, when ceilings are inflated for the second PFY after the rebasing date, the ceilings will be inflated from July 1, 2002, using moving averages from the DRI table specified for the second PFY. That is, the ceiling for years ending June 30, 2004, will be the June 30, 2002, base period ceiling, adjusted by 1/2 of the moving average for the second quarter of 2002, compounded with the moving average for the second quarter of 2003. Both these moving averages will be taken from the fourth quarter 2002 DRI table.

C. The RUG-III Nursing Home Payment System shall require comparison of the prospective operating cost rates to the

prospective operating ceilings. The provider shall be reimbursed the lower of the prospective operating cost rate or prospective operating ceiling.

D. Nonoperating costs. Plant or capital, as appropriate, costs shall be reimbursed in accordance with Articles 1, 2, and 3 of this subpart. Plant costs shall not include the component of cost related to making or producing a supply or service.

NATCEPs cost shall be reimbursed in accordance with 12 VAC 30-90-170.

E. The prospective rate for each NF shall be based upon operating cost and plant/capital cost components or charges, whichever is lower, plus NATCEPs costs. The disallowance of nonreimbursable operating costs in any current fiscal year shall be reflected in a subsequent year's prospective rate determination. Disallowances of nonreimbursable plant or capital, as appropriate, costs and NATCEPs costs shall be reflected in the year in which the nonreimbursable costs are included.

F. Effective July 1, 2001, for those NFs whose indirect operating cost rates are below the ceilings, an incentive plan shall be established whereby a NF shall be paid, on a sliding scale, up to 25% of the difference between its allowable indirect operating cost rates and the indirect peer group ceilings.

1. The following table presents four incentive examples:

Peer Group Ceilings	Allowable Cost Per Day	Difference	% of Ceiling	Sliding Scale	Scale % Difference
\$30.00	\$27.00	\$3.00	10%	\$0.30	10%
30.00	22.50	7.50	25%	1.88	25%
30.00	20.00	10.00	33%	2.50	25%
30.00	30.00	0	0		

2. Efficiency incentives shall be calculated only for the indirect patient care operating ceilings and costs. Effective July 1, 2001, a direct care efficiency incentive shall no longer be paid.

G. Quality of care requirement. A cost efficiency incentive shall not be paid for the number of days for which a facility is out of substantial compliance according to the Virginia Department of Health survey findings as based on federal regulations.

H. Sale of facility. In the event of the sale of a NF, the prospective base operating cost rates for the new owner's first fiscal period shall be the seller's prospective base operating cost rates before the sale.

I. Public notice. To comply with the requirements of § 1902(a)(28)(c) of the Social Security Act, DMAS shall make available to the public the data and methodology used in establishing Medicaid payment rates for nursing facilities. Copies may be obtained by request under the existing procedures of the Virginia Freedom of Information Act.

J. Effective July 1, 2005, the total per diem payment to each nursing home shall be increased by \$3.00 per day. This increase in the total per diem payment shall cease effective July 1, 2006, at which time an increase of \$3.00 per day, adjusted for one year's inflation, shall be allocated between

the direct care and indirect care ceilings for nursing facilities. The amount of \$1.68 plus one year of inflation shall be allocated to the direct ceiling, and \$1.32 plus one year of inflation to the indirect ceiling. This increase in the ceilings shall continue until ceilings are rebased using cost report data from fiscal years ending in the calendar year 2006 or later. In addition, effective July 1, 2006, when cost data that include time periods before July 1, 2005, are used to set facility specific rates, a portion of the per day amounts identified above, based on the percentage of patient days in the provider's cost reporting period that fall before July 1, 2005, adjusted for appropriate inflation, shall be allocated between the facility specific direct and indirect cost per day prior to comparison to the peer group ceilings.

VA.R. Doc. No. R05-156; Filed March 16, 2005, 11:54 a.m.

GENERAL NOTICES/ERRATA

DEPARTMENT OF ENVIRONMENTAL QUALITY

Notice Seeking Individuals to Serve on the State Advisory Board on Air Pollution

At their meeting on March 2, 2005, the State Air Pollution Control Board (SAPCB) approved a new charter for the State Advisory Board on Air Pollution (SABAP). The approved charter is available on the web at www.deq.virginia.gov.

The Department of Environmental Quality (DEQ) is seeking individuals who are willing to serve as members of the SABAP. It is anticipated that the SAPCB will approve membership on the advisory board at their meeting around the middle of June. At the same time the board expects that the potential topics for the advisory board will also be selected.

DEQ is seeking membership from environmental and health organizations, academia, the legal profession, industry or trade associations that have a background in air quality technology, policies or programs to serve on the advisory board. If you are interested, please submit your name and a brief resume of your qualifications to John M. Daniel, Jr., Director, Air Division, Department of Environmental Quality, P.O. Box 10009, Richmond, VA 23240, telephone (804) 698-4311, FAX (804) 698-4510 or e-mail jmdaniel@deq.virginia.gov. Submissions are due by close of business on April 29, 2005.

Total Maximum Daily Loads (TMDLs) for Pamunkey River, South Anna River, Totopotomoy Creek, Taylor's Creek, Black's Creek, Monquin Creek, and Web 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 Total Maximum Daily Loads (TMDLs) to address water quality impairments of specific stream segments in the following seven watersheds: Pamunkey River, South Anna River, Totopotomoy Creek, Taylor's Creek, Black's Creek, Monquin Creek, and Web Creek. The subject stream segments, all in the Pamunkey River Basin, are identified in Virginia's 2004, 305(b)/303(d) Report on Impaired Waters as impaired due to exceedances of the state's water quality criterion for fecal coliform bacteria.

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) list.

The impaired stream segments are located in Hanover, King William, Louisa, New Kent, and Orange, counties, as set forth in the table below.

Pamunkey River Basin TMDLs			
Stream	County/City	Length (mi.)	Impairment
Pamunkey River	Hanover	18.85	Bacteria
Pamunkey River	King William, New Kent	0.84 square miles	Bacteria
South Anna River	Orange, Louisa	7.0	Bacteria
South Anna River	Hanover	22.22	Bacteria
South Anna River	Hanover	4.63	Bacteria
Totopotomoy Creek	Hanover	9.6	Bacteria
Taylor's Creek	Louisa	16.26	Bacteria
Black's Creek	New Kent	2.61	Bacteria
Monquin Creek, Web Creek	King William	11.83	Bacteria

The first public meetings on the development of the Pamunkey Basin TMDLs will be held Wednesday, April 13 at 7 p.m. at the Louisa County Government Center, Extension Room; 1 Woolfolk Avenue, Louisa, Virginia; and on Wednesday, April 20 at 7 p.m. at the King William High School, Rte. 30 (80 Cavalier Drive), King William, Virginia.

The public comment period for this first phase of the TMDL study will begin on April 13, 2005, and end on May 13, 2005. Fact Sheets on the development of the TMDLs for the impairments referenced above are available upon request or at <http://www.deq.virginia.gov/tmdl/>. Questions or information requests should be addressed to Chris French for Hanover, King William and New Kent counties; or Kimberly Davis for questions relating to Orange and Louisa counties. Written comments should include the name, address, and telephone number of the person submitting the comments and should be sent to Mr. Chris French, VDEQ-PRO, 4949-A Cox Road, Glen Allen, VA 23060, telephone (804) 527-5124, or e-mail rcfrench@deq.virginia.gov or Ms. Kimberly Davis, VDEQ-NRO, 13901 Crown Court, Woodbridge, VA 22193, telephone (703) 583-3937, or e-mail kvdavis@deq.virginia.gov.

Total Maximum Daily Loads (TMDLs) for Spring Branch

The Department of Environmental Quality (DEQ) seeks written and oral comments from interested persons on the development of Total Maximum Daily Loads (TMDLs) for Spring Branch, located outside of Waverly, in Sussex County. The subject stream segment (3.52 miles) is identified in Virginia's Water Quality Assessment Report for 1994, the VA 1996 303(d) TMDL Priority List, 1998 303(d) TMDL Priority List and Report, the Virginia 2002, 303(d) Report on Impaired Waters, and the 2004 VA Water Quality Assessment 305(b)/303(d) Integrated Report as impaired due to violations of Virginia's water quality standards for benthics.

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 first public meeting on the development of the Spring Branch TMDL will be held on Monday, April 18, 2005, at 7 p.m. at the Beaverdam Sportsman's Club in Waverly, Virginia. The Beaverdam Sportsman's Club is located on Beaverdam Road (Rt. 606) approximately 2.5 miles south of the Rt. 606 & Rt. 460 intersection in Waverly. Further directions are available by contacting Chris French at (804) 527-5021 or rcfrench@deq.virginia.gov.

The public comment period for this phase of the TMDL development will end on May 18, 2004. Information pertaining to TMDL development is available upon request or can be found on the DEQ's web site at <http://www.deq.virginia.gov/tmdl>. Written comments should include the name, address, and telephone number of the person submitting the comments. Questions or information requests should be addressed to Chris French, Department of Environmental Quality, 4949-A Cox Rd., Glen Allen, VA 23060, telephone (804) 527-5021, FAX (804) 527-5106, or e-mail rcfrench@deq.virginia.gov.

STATE LOTTERY DEPARTMENT

Director's Orders

The following Director's Orders of the State Lottery Department were filed with the Virginia Registrar of Regulations on March 9, 2005. 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 Ten (05)

Virginia's Instant Game Lottery 653; "Blazing Red Hot Numbers" (effective 3/2/05)

Director's Order Number Eleven (05)

Virginia's Instant Game Lottery 279; "Hot Numbers" (effective 3/2/05)

Director's Order Number Thirteen (05)

Virginia's Instant Game Lottery 643; "Red Hot Numbers" (effective 3/2/05)

Director's Order Number Fourteen (05)

Virginia's Instant Game Lottery 649; "Super Red Hot Numbers" (effective 3/2/05)

Director's Order Number Sixteen (05)

Virginia's Instant Game Lottery 284; "Crazy Hearts" (effective 3/2/05)

BOARD OF NURSING

Notice of Periodic Review of Regulations

The Board of Nursing within the Department of Health Professions is conducting a periodic review of its regulations for the practice of nursing and for the certification of nurse aides.

The board is receiving comment on whether there is a need for amendments to requirements for nursing education and other provisions of 18 VAC 90-20, Regulations Governing the Practice of Nursing and requirements of nurse aide education and practice in 18 VAC 90-25, Regulations for the Certification of Nurse Aides.

If any member of the public would like to comment on these regulations, please send comments by May 4, 2005, to Elaine J. Yeatts, Agency Regulatory Coordinator, Department of Health Professions, 6603 West Broad Street, Richmond, VA 23230-1712. Comments may also be e-mailed to elaine.yeatts@dhp.virginia.gov or faxed to (804) 662-9114. Regulations for the practice of nursing and for the certification of nurse aides may be viewed on-line at www.townhall.virginia.gov or www.dhp.virginia.gov or copies will be sent upon request.

STATE WATER CONTROL BOARD

Consent Order for Montvale Library and Community Center WWTP

The Virginia Department of Environmental Quality, State Water Control Board and the County of Bedford have agreed to a Consent Order under the State Water Control Law, regarding the Montvale Library and Community Center WWTP in Bedford County, Virginia. The department will consider written comments relating to this for 30 days after the date of publication of this notice. Comments must include name, address, and phone number of the person submitting the comments and can be e-mailed to jrford@deq.virginia.gov or mailed to Mr. Jerry R. Ford, Jr., Department of Environmental Quality, West Central Regional Office, 3019 Peters Creek Road, Roanoke, VA 24019.

The orders are available at www.deq.virginia.gov and at the above office during regular business hours. Copies may be requested from Jerry R. Ford, Jr., at the address above or by calling him at (540) 562-6817.

VIRGINIA CODE COMMISSION

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://register.state.va.us>.

General Notices/Errata

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
RESPONSE TO PETITION FOR RULEMAKING-RR13
FAST-TRACK RULEMAKING ACTION-RR14

CALENDAR OF EVENTS

Symbol Key

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

† April 8, 2005 - Noon -- Open Meeting

Department of Professional and Occupational Regulation, 3600 West Broad Street, Suite 378, Richmond, Virginia.♿ (Interpreter for the deaf provided upon request)

A teleconference meeting of the Education/Examination Committee to discuss general issues related to education and examination matters. The teleconference meeting will be held at three locations: the board office in Richmond, in Charlottesville and in Newport News. Persons who wish to attend the meeting may contact the board office by email or telephone for specific directions to the locations in Charlottesville and Newport News.

Contact: Nancy T. Feldman, Executive Director, Board of Accountancy, 3600 W. Broad St., Suite 378, Richmond, Virginia 23230, telephone (804) 367-8505, FAX (804) 367-2174, (804) 367-9753/TTY☎, e-mail boa@boa.virginia.gov.

† April 11, 2005 - 9:30 a.m. -- Open Meeting

Department of Professional Occupational Regulation, 3600 West Broad Street, Suite 378, Richmond, Virginia.♿ (Interpreter for the deaf provided upon request)

A meeting of the Enforcement Committee to discuss open complaint cases. A public comment period will be held at the beginning of the meeting. The meeting is subject to cancellation. The time of the meeting is subject to change. Any person desiring to attend the meeting and requiring special accommodations or interpretative services should contact the department at least 10 days prior to the meeting so suitable arrangements can be made. This meeting is being held by teleconference with two locations: the board office address and McLean, Virginia address. Persons who wish to attend the meeting may contact the board office by email or telephone for specific directions to the locations in Richmond and McLean, Virginia.

Contact: Nancy Taylor Feldman, Executive Director, Board of Accountancy, 3600 W. Broad St., Suite 378, Richmond VA 23230, telephone (804) 367-8505, FAX (804) 367-2174, (804) 367-9753/TTY☎, e-mail boa@boa.virginia.gov.

April 22, 2005 - 9 a.m. -- Public Hearing

Department of Professional and Occupational Regulation, 3600 West Broad Street, Room 395, Richmond, Virginia.

May 8, 2005 - 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 Accountancy intends to amend regulations entitled **18 VAC 5-21, Board of Accountancy Regulations**. The purpose of the proposed action is to revise and clarify (i) qualifications for licensure including new language about the current computer based CPA exam and (ii) continuing professional education (CPE) requirements for initial applicants and regulants in ethics.

Statutory Authority: §§ 54.1-4402 and 54.1-4410 of the Code of Virginia.

Contact: Nancy Taylor Feldman, Executive Director, Board of Accountancy, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-8505, FAX (804) 367-2174 or e-mail boa@boa.virginia.gov.

April 22, 2005 - 10 a.m. -- Open Meeting

† June 29, 2005 - 10 a.m. -- Open Meeting
Department of Professional and Occupational Regulation, 3600 West Broad Street, Room 395, Richmond, Virginia.♿ (Interpreter for the deaf provided upon request)

A meeting to discuss general business matters. A public comment period will be held at the beginning of the meeting. All meetings are subject to cancellation. The time of the meeting is subject to change. Any person desiring to attend the meeting and requiring special accommodations or interpreter services should contact the board at least 10 days prior to the meeting so suitable arrangements can be

Calendar of Events

made. The board fully complies with the Americans with Disabilities Act.

Contact: Nancy Taylor Feldman, Executive Director, Board of Accountancy, 3600 W. Broad St., Suite 378, Richmond, VA 23230, telephone (804) 367-8505, FAX (804) 367-2174, (804) 367-9753/TTY ☎, e-mail boa@boa.virginia.gov.

COMMONWEALTH COUNCIL ON AGING

May 19, 2005 - 10 a.m. -- Open Meeting
Department for the Aging, 1610 Forest Avenue, Suite 100, Richmond, Virginia. ♿ (Interpreter for the deaf provided upon request)

A regular business meeting. Public comments are welcome.

Contact: Marsha Mucha, Department for the Aging, 1610 Forest Ave., Suite 100, Richmond, VA 23229, telephone (804) 662-9312.

DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES

Virginia Horse Industry Board

April 5, 2005 - 9:30 a.m. -- Open Meeting
Department of Forestry, 900 Natural Resources Drive, 2nd Floor Meeting Room, Charlottesville, Virginia. ♿

A meeting to (i) review the minutes of the last meeting; (ii) review the current budget; (iii) review ongoing and potential marketing projects; and (iv) review grant proposals submitted for FY 2005-2006. 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 Andrea S. Heid at least five days before the meeting date so that suitable arrangements can be made.

Contact: Andrea S. Heid, Equine Marketing Specialist/Program Manager, Department of Agriculture and Consumer Services, 1100 Bank St., 9th Floor, Richmond, VA 23219, telephone (804) 786-5842, FAX (804) 786-3122, e-mail Andrea.Heid@vdacs.virginia.gov.

Virginia Marine Products Board

April 20, 2005 - 6 p.m. -- Open Meeting
Bill's Seafood House, Corner of Denbigh Boulevard and Route 17, Grafton, Virginia. ♿

A meeting to (i) read and approve the minutes of the previous board meeting; (ii) report on finance, trade shows, festivals, industry tours, and calendar sales; and (iii) discuss cooperative programs with the Virginia Department of Agriculture and Consumer Services and croaker exports. 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 Shirley Estes at least five days before the meeting date so that suitable arrangements can be made.

Contact: Shirley Estes, Executive Director, Department of Agriculture and Consumer Services, 554 Denbigh Blvd., Suite B, Newport News, VA 23608, telephone (757) 874-3474, FAX (757) 886-0671, e-mail Shirley.Estes@vdacs.virginia.gov.

STATE AIR POLLUTION CONTROL BOARD

† **April 11, 2005 - 1 p.m.** -- Open Meeting
† **April 12, 2005 - Time to be determined** -- Open Meeting
Virginia Military Institute, Lexington, Virginia. ♿

Representatives of the State Air Pollution Control, State Water Control and Virginia Waste Management Boards will attend the 16th Environment Virginia Conference. Information on the conference program is available at www.environmentva.org. During the afternoon on April 11, 2005, the members of the boards will be attending the session entitled "Making Community and Public Involvement Effective." At the end of that session there will be a joint meeting of the boards where the public will be given an opportunity to address the boards.

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 cmberndt@deq.virginia.gov.

April 20, 2005 - 6:30 p.m. -- Public Hearing
Paul D. Camp Community College, Regional Workforce Development Center, 100 North College Drive, Franklin, Virginia.

May 5, 2005 - 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 adopt regulations entitled **9 VAC 5-230, Variance for International Paper Franklin Paper Mill**. The purpose of the proposed action is to provide relief for the IP Franklin Paper Mill from the state regulations governing new source review and to establish sitewide emission caps for particulate matter (PM and PM₁₀), sulfur dioxide, oxides of nitrogen, carbon monoxide, volatile organic compounds, total reduced sulfur, lead, sulfuric acid mists and fluorides. The sitewide emission caps would be used as alternative means of compliance with state regulations governing new source reviews (Article 4 of Chapter 50, and Articles 6, 8 and 9 of Chapter 80).

Statutory Authority: § 10.1-1307 of the Code of Virginia.

Contact: Robert Mann, Director of Air Regulatory Development, Department of Environmental Quality, P.O. Box 10009, Richmond, VA 23240, telephone (804) 698-4419, FAX (804) 698-4510, toll-free 1-800-592-5482 or e-mail ramann@deq.virginia.gov.

† **April 20, 2005 - 7 p.m.** -- Public Hearing
Fredericksburg City Hall, 715 Princess Anne Street, City Council Chambers, Fredericksburg, Virginia. ♿

A public hearing on a proposed revision to the Commonwealth of Virginia State Implementation Plan. The hearing will be held to accept testimony concerning the proposed revision. The proposed revision consists of (i) an ozone air quality maintenance plan to reduce and maintain volatile organic compound (VOC) and nitrogen oxide (NO_x) emissions in the Fredericksburg Ozone Nonattainment Area (Stafford County, Spotsylvania County, and the City of Fredericksburg) through the year 2015 such that they do not exceed the 2004 attainment year level; and (ii) the mobile emissions budget established by the plan for the year 2015 and beyond. The purpose of the maintenance plan is to ensure that emissions of VOC and NO_x remain at or below levels that will enable the area to continue to meet the national air quality standard for ozone. The purpose of the mobile source budget is to provide for projected growth in mobile emissions beyond 2015 for transportation conformity purposes.

Contact: Doris A. McLeod, State Air Pollution Control Board, P.O. Box 10009, Richmond, VA 23240, telephone (804) 698-4197, FAX (804) 698-4510, e-mail damcleod@deq.virginia.gov.

ALCOHOLIC BEVERAGE CONTROL BOARD

April 11, 2005 - 9 a.m. -- Open Meeting

April 25, 2005 - 9 a.m. -- Open Meeting

May 9, 2005 - 9 a.m. -- Open Meeting


May 23, 2005 - 9 a.m. -- Open Meeting

June 6, 2005 - 9 a.m. -- Open Meeting

June 20, 2005 - 9 a.m. -- Open Meeting


Department of Alcoholic Beverage Control, 2901 Hermitage Road, Richmond, Virginia. 

A meeting to receive and discuss reports and activities from staff members and to discuss other matters not yet determined.


Contact: W. Curtis Coleburn, III, Secretary to the Board, Department of Alcoholic Beverage Control, 2901 Hermitage Rd., Richmond, VA 23220, telephone (804) 213-4409, FAX (804) 213-4411, (804) 213-4687/TTY , e-mail wccolen@abc.state.va.us.

ALZHEIMER'S DISEASE AND RELATED DISORDERS COMMISSION

June 7, 2005 - 10 a.m. -- Open Meeting


Department for the Aging, 1610 Forest Avenue, Suite 100, Richmond, Virginia. 

A quarterly meeting.


Contact: Janet L. Honeycutt, Director of Grant Operations, Department for the Aging, 1610 Forest Ave., Suite 100, Richmond, VA 23229, telephone (804) 662-9333, FAX (804) 662-9354, toll-free (800) 552-3402, (804) 662-9333/TTY , e-mail janet.honeycutt@vda.virginia.gov.

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


May 4, 2005 - 9 a.m. -- Open Meeting

Department of Professional and Occupational Regulation, 3600 West Broad Street, Richmond, Virginia. 


A meeting of the Architects Section to conduct board business. The meeting is open to the public; however, a portion of the board's business may be discussed in closed session. Persons desiring to participate in the meeting and requiring special accommodations or interpreter services should contact the department at least 10 days prior to the meeting so that suitable arrangements can be made. The department fully complies with the Americans with Disabilities Act.

Contact: Mark N. Courtney, Executive Director, Board for Architects, Professional Engineers, Land Surveyors, Certified Interior Designers and Landscape Architects, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-8514, FAX (804) 367-2475, (804) 367-9753/TTY , e-mail APELSCIDLA@dpor.virginia.gov.


May 10, 2005 - 9 a.m. -- Open Meeting

Department of Professional and Occupational Regulation, 3600 West Broad Street, Richmond, Virginia. 

A meeting of the Professional Engineers Section to conduct board business. The meeting is open to the public; however, a portion of the board's business may be discussed in closed session. Persons desiring to participate in the meeting and requiring special accommodations or interpreter services should contact the department at least 10 days prior to the meeting so that suitable arrangements can be made. The department fully complies with the Americans with Disabilities Act.

Contact: Mark N. Courtney, Executive Director, Board for Architects, Professional Engineers, Land Surveyors, Certified Interior Designers and Landscape Architects, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-8514, FAX (804) 367-2475, (804) 367-9753/TTY , e-mail APELSCIDLA@dpor.virginia.gov.

May 12, 2005 - 9 a.m. -- Open Meeting

Department of Professional and Occupational Regulation, 3600 West Broad Street, Richmond, Virginia. 

A meeting of the Landscape Architects Section to conduct board business. The meeting is open to the public; however, a portion of the board's business may be discussed in closed session. Persons desiring to participate in the meeting and requiring special accommodations or interpreter services should contact the department at least 10 days prior to the meeting so that suitable arrangements can be made. The department fully complies with the Americans with Disabilities Act.

Contact: Mark N. Courtney, Executive Director, Board for Architects, Professional Engineers, Land Surveyors, Certified Interior Designers and Landscape Architects, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-8514, FAX

Calendar of Events

(804) 367-2475, (804) 367-9753/TTY ☎, e-mail APELSCIDLA@dpor.virginia.gov.

May 17, 2005 - 9 a.m. -- Open Meeting

Department of Professional and Occupational Regulation, 3600 West Broad Street, Richmond, Virginia. ♿

A meeting of the Land Surveyors Section to conduct board business. The meeting is open to the public; however, a portion of the board's business may be discussed in closed session. Persons desiring to participate in the meeting and requiring special accommodations or interpreter services should contact the department at least 10 days prior to the meeting so that suitable arrangements can be made. The department fully complies with the Americans with Disabilities Act.

Contact: Mark N. Courtney, Executive Director, Board for Architects, Professional Engineers, Land Surveyors, Certified Interior Designers and Landscape Architects, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-8514, FAX (804) 367-2475, (804) 367-9753/TTY ☎, e-mail APELSCIDLA@dpor.virginia.gov.

May 19, 2005 - 9 a.m. -- Open Meeting

Department of Professional and Occupational Regulation, 3600 West Broad Street, Richmond, Virginia. ♿

A meeting of the Certified Interior Designers Section to conduct board business. The meeting is open to the public; however, a portion of the board's business may be discussed in closed session. Persons desiring to participate in the meeting and requiring special accommodations or interpreter services should contact the department at least 10 days prior to the meeting so that suitable arrangements can be made. The department fully complies with the Americans with Disabilities Act.

Contact: Mark N. Courtney, Executive Director, Board for Architects, Professional Engineers, Land Surveyors, Certified Interior Designers and Landscape Architects, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-8514, FAX (804) 367-2475, (804) 367-9753/TTY ☎, e-mail APELSCIDLA@dpor.virginia.gov.

June 16, 2005 - 9 a.m. -- Open Meeting

Department of Professional and Occupational Regulation, 3600 West Broad Street, Richmond, Virginia. ♿

A meeting of the full board to conduct board business. The meeting is open to the public; however, a portion of the board's business may be discussed in closed session. Persons desiring to participate in the meeting and requiring special accommodations or interpreter services should contact the department at least 10 days prior to the meeting so that suitable arrangements can be made. The department fully complies with the Americans with Disabilities Act.

Contact: Mark N. Courtney, Executive Director, Board for Architects, Professional Engineers, Land Surveyors, Certified Interior Designers and Landscape Architects, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-8514, FAX (804) 367-2475, (804) 367-9753/TTY ☎, e-mail APELSCIDLA@dpor.virginia.gov.

ART AND ARCHITECTURAL REVIEW BOARD

May 6, 2005 - 10 a.m. -- Open Meeting

June 3, 2005 - 10 a.m. -- Open Meeting

Science Museum of Virginia, 2500 West Broad Street, Richmond, Virginia. ♿

A monthly meeting to review projects submitted by state agencies. Art and Architectural Review Board submittal forms and submittal instructions can be downloaded by visiting the DGS Forms Center at www.dgs.state.va.us. Request form #DGS-30-905 or submittal instructions #DGS-30-906. The deadline for submitting project datasheets and other required information is two weeks prior to the meeting date.

Contact: Richard L. Ford, AIA Chairman, Art and Architectural Review Board, 101 Shockoe Slip, 3rd Floor, Richmond, VA 23219, telephone (804) 648-5040, FAX (804) 225-0329, (804) 786-6152/TTY ☎, or e-mail rford@comarchs.com.

VIRGINIA COMMISSION FOR THE ARTS

† **April 12, 2005 - 10 a.m.** -- Open Meeting

University of Virginia at Wise, One College Avenue, Wise, Virginia. ♿

A meeting of the Area 1 Panel to review grant applications and recommend funding to arts organizations in Area 1 of Virginia for the 2005-2006 fiscal year. The meeting is scheduled to last until 5 p.m. as needed.

Contact: Peggy Baggett, Executive Director, Virginia Commission for the Arts, 223 Governor St., Richmond, VA 23219, telephone (804) 225-3132, FAX (804) 225-4327, (804) 225-3132/TTY ☎, e-mail peggy.baggett@arts.virginia.gov.

† **April 13, 2005 - 10 a.m.** -- Open Meeting

Virginia Transportation Museum, 303 Norfolk Avenue, Roanoke, Virginia. ♿

A meeting of the Area 3 Panel to review grant applications and recommend funding to arts organizations in Area 3 of Virginia for the 2005-2006 fiscal year. The meeting is scheduled to last until 5 p.m. as needed.

Contact: Peggy Baggett, Executive Director, Virginia Commission for the Arts, 223 Governor St., Richmond, VA 23219, telephone (804) 225-3132, FAX (804) 225-4327, (804) 225-3132/TTY ☎, e-mail peggy.baggett@arts.virginia.gov.

† **April 19, 2005 - 10 a.m.** -- Open Meeting

The Prizery, 700 Bruce Street, South Boston, Virginia. ♿

A meeting of the Area 2 Panel to review grant applications and recommend funding to arts organizations in Area 2 of Virginia for the 2005-2006 fiscal year. The meeting is scheduled to last until 5 p.m. as needed.

Contact: Peggy Baggett, Executive Director, Virginia Commission for the Arts, 223 Governor St., Richmond, VA 23219, telephone (804) 225-3132, FAX (804) 225-4327, (804) 225-3132/TTY ☎, e-mail peggy.baggett@arts.virginia.gov.

† **April 21, 2005 - 10 a.m.** -- Open Meeting
Depot Conference Facility, 109 South Conference Street,
Culpeper, Virginia. ♿

A meeting of the Area 4B Panel to review grant applications and recommend funding to arts organizations in Area 4B of Virginia for the 2005-2006 fiscal year. The meeting is scheduled to last until 5 p.m. as needed.

Contact: Peggy Baggett, Executive Director, Virginia Commission for the Arts, 223 Governor St., Richmond, VA 23219, telephone (804) 225-3132, FAX (804) 225-4327, (804) 225-3132/TTY ♿, e-mail peggy.baggett@arts.virginia.gov.

† **April 26, 2005 - 10 a.m.** -- Open Meeting
Arts Council of Fairfax, 4022 Hummer Road, Annandale,
Virginia. ♿

A meeting of the Area 4A Panel to review grant applications and recommend funding to arts organizations in Area 4A of Virginia for the 2005-2006 fiscal year. The meeting is scheduled to last until 5 p.m. as needed.

Contact: Peggy Baggett, Executive Director, Virginia Commission for the Arts, 223 Governor St., Richmond, VA 23219, telephone (804) 225-3132, FAX (804) 225-4327, (804) 225-3132/TTY ♿, e-mail peggy.baggett@arts.virginia.gov.

† **April 28, 2005 - 10 a.m.** -- Open Meeting
C3, 1801 East Cary Street, Richmond, Virginia. ♿

A meeting of the Area 5 Panel to review grant applications and recommend funding to arts organizations in Area 5 of Virginia for the 2005-2006 fiscal year. The meeting is scheduled to last until 5 p.m. as needed.

Contact: Peggy Baggett, Executive Director, Virginia Commission for the Arts, 223 Governor St., Richmond, VA 23219, telephone (804) 225-3132, FAX (804) 225-4327, (804) 225-3132/TTY ♿, e-mail peggy.baggett@arts.virginia.gov.

† **May 3, 2005 - 10 a.m.** -- Open Meeting
Charles Taylor Fine Arts Center, 4205 Victoria Boulevard,
Hampton, Virginia. ♿

A meeting of the Area 6 Panel to review grant applications and recommend funding to arts organizations in Area 6 of Virginia for the 2005-2006 fiscal year. The meeting is scheduled to last until 5 p.m. as needed.

Contact: Peggy Baggett, Executive Director, Virginia Commission for the Arts, 223 Governor St., Richmond, VA 23219, telephone (804) 225-3132, FAX (804) 225-4327, (804) 225-3132/TTY ♿, e-mail peggy.baggett@arts.virginia.gov.

† **May 5, 2005 - 10 a.m.** -- Open Meeting
Barksdale Theater, Willow Lawn Shopping Center, 1601
Willow Lawn Drive, Richmond, Virginia. ♿

A meeting of the Major Arts Organizations Panel to review applications and recommend funding to major arts organizations in Virginia for the 2005-2006 fiscal year. The meeting is scheduled to last until 5 p.m. as needed.

Contact: Peggy Baggett, Executive Director, Virginia Commission for the Arts, 223 Governor St., Richmond, VA

23219, telephone (804) 225-3132, FAX (804) 225-4327, (804) 225-3132/TTY ♿, e-mail peggy.baggett@arts.virginia.gov.

† **May 10, 2005 - 10 a.m.** -- Open Meeting
Library of Virginia, 800 East Broad Street, Conference Room
C, Richmond, Virginia. ♿

A meeting of the Touring Panel to review applications from Virginia performing artists for inclusion in the 2006-2007 tour directory. The meeting is scheduled to continue until May 11 as needed.

Contact: Peggy Baggett, Executive Director, Virginia Commission for the Arts, 223 Governor St., Richmond, VA 23219, telephone (804) 225-3132, FAX (804) 225-4327, (804) 225-3132/TTY ♿, e-mail peggy.baggett@arts.virginia.gov.

† **May 12, 2005 - 10 a.m.** -- Open Meeting
Barksdale Theater, Willow Lawn Shopping Center, 1601
Willow Lawn Drive, Richmond, Virginia. ♿

A meeting of the Arts in Education Panel to review grant applications from Virginia elementary and secondary schools in the categories of Arts Curriculum Development Grants and Artist Residency Grants. The meeting is scheduled to last until 5 p.m. as needed.

Contact: Peggy Baggett, Executive Director, Virginia Commission for the Arts, 223 Governor St., Richmond, VA 23219, telephone (804) 225-3132, FAX (804) 225-4327, (804) 225-3132/TTY ♿, e-mail peggy.baggett@arts.virginia.gov.

† **June 7, 2005 - 9 a.m.** -- Open Meeting

† **June 8, 2005 -** -- Open Meeting
Libertytown Arts Workshop, 916 Liberty Street,
Fredericksburg, Virginia. ♿

The final meeting of the fiscal year.

Contact: Peggy Baggett, Executive Director, Virginia Commission for the Arts, 223 Governor St., Richmond, VA 23219, telephone (804) 225-3132, FAX (804) 225-4327, (804) 225-3132/TTY ♿, e-mail peggy.baggett@arts.virginia.gov.

COMPREHENSIVE SERVICES FOR AT-RISK YOUTH AND FAMILIES

State Executive Council


† **June 15, 2005 - 9 a.m.** -- Open Meeting
Location to be announced.

A regular meeting of the State Executive Council. The meeting will adjourn by noon.


Contact: Kim McGaughey, Executive Director, Comprehensive Services for At-Risk Youth and Families, 1604 Santa Rosa Rd., Richmond, VA 23229, telephone (804) 662-9830, FAX (804) 662-9831.

Calendar of Events


VIRGINIA BOARD FOR ASBESTOS, LEAD, AND HOME INSPECTORS

May 18, 2005 - 9 a.m. -- Open Meeting
Department of Professional and Occupational Regulation,
3600 West Broad Street, Richmond, Virginia. 


A meeting to conduct board business.

Contact: David E. Dick, Executive Director, Virginia Board for Asbestos, Lead, and Home Inspectors, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-8507, FAX (804) 367-6128, (804) 367-9753/TTY , e-mail alhi@dpor.virginia.gov.


AUCTIONEERS BOARD

April 14, 2005 - 10 a.m. -- Open Meeting
Department of Professional and Occupational Regulation,
3600 West Broad Street, Richmond, Virginia. 


A meeting to conduct board business. The meeting is open to the public; however, a portion of the board's business may be discussed in closed session. Persons desiring to participate in the meeting and requiring special accommodations or interpreter services should contact the department at least 10 days prior to the meeting so that suitable arrangements can be made. The department fully complies with the Americans with Disabilities Act.

Contact: Marian H. Brooks, Regulatory Board Administrator, Auctioneers Board, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-8514, FAX (804) 367-2475, (804) 367-9753/TTY , e-mail Auctioneers@dpor.virginia.gov.

BOARD OF AUDIOLOGY AND SPEECH-LANGUAGE PATHOLOGY


† April 4, 2005 - 11 a.m. -- Open Meeting
Department of Health Professions, 6603 West Broad Street,
Richmond, Virginia. 

An informal conference to hear possible violations of the laws and regulations governing the practice of audiology and speech-language pathology.


Contact: Elizabeth Young, Executive Director, Board of Audiology and Speech-Language Pathology, 6603 W. Broad St., 5th Floor, Richmond, VA 23230-1712, telephone (804) 662-9907, FAX (804) 662-9523, (804) 662-7197/TTY , e-mail elizabeth.young@dhp.virginia.gov.

May 19, 2005 - 9:30 a.m. -- Open Meeting
Department of Health Professions, 6603 West Broad Street,
5th Floor, Richmond, Virginia. 

A meeting to discuss issues and matters related to board business.

Contact: Elizabeth Young, Executive Director, Board of Audiology and Speech-Language Pathology, Alcoa Building, 6603 W. Broad St., 5th Floor, Richmond, VA 23230-1712, telephone (804) 662-9907, FAX (804) 662-9523, (804) 662-7197/TTY , e-mail elizabeth.young@dhp.virginia.gov.


VIRGINIA AVIATION BOARD

† April 19, 2005 - 3 p.m. -- Open Meeting
† April 20, 2005 - 9 a.m. -- Open Meeting
Holiday Inn Select Lynchburg, 601 Main Street, Lynchburg,
Virginia. 


A regular bimonthly meeting. Applications for state funding will be presented to the board and other matters of interest to the Virginia community will be discussed. Individuals with disabilities should contact Carolyn Toth 10 days prior to the meeting if assistance is needed.


Contact: Carolyn Toth, Administrative Assistant, Virginia Aviation Board, 5702 Gulfstream Rd., Richmond, VA 23250, telephone (804) 236-3626, FAX (804) 236-3635, e-mail carolyn.toth@doav.virginia.gov.

BOARD FOR BARBERS AND COSMETOLOGY


April 4, 2005 - 9 a.m. -- Open Meeting
Department of Professional and Occupational Regulation,
3600 West Broad Street, 4th Floor, Conference Room 4W,
Richmond, Virginia. 

A general business meeting to consider regulatory issues as may be presented on the agenda. The meeting is open to the public; however, a portion of the board's business may be discussed in closed session. Public comment will be heard at the beginning of the meeting. Persons desiring to participate in the meeting and requiring special accommodations or interpreter services should contact the department at least 10 days prior to the meeting so that suitable arrangements can be made. The department fully complies with the Americans with Disabilities Act.


Contact: William H. Ferguson, II, Executive Director, Board for Barbers and Cosmetology, 3600 W. Broad St., Richmond, VA 23230-4917, telephone (804) 367-8590, FAX (804) 367-6295, (804) 367-9753/TTY , e-mail barbercosmo@dpor.virginia.gov.

April 21, 2005 - 9 a.m. -- Open Meeting
Department of Professional and Occupational Regulation,
3600 West Broad Street, 4th Floor, Room 453, Richmond,
Virginia. 

An informal fact-finding conference.

Contact: William H. Ferguson, II, Assistant Director, Board for Barbers and Cosmetology, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-8575, FAX (804) 367-2474, (804) 367-9753/TTY , e-mail barbercosmo@dpor.virginia.gov.

BOARD FOR THE BLIND AND VISION IMPAIRED

April 12, 2005 - 1 p.m. -- Open Meeting
Department for the Blind and Vision Impaired, Administrative
Headquarters, 397 Azalea Avenue, Richmond, Virginia. 
(Interpreter for the deaf provided upon request)

A quarterly meeting to receive information regarding department activities and operations, review expenditures

from the board's endowment fund, and discuss other issues raised before the board.

Contact: Katherine C. Proffitt, Administrative Assistant, Department for the Blind and Vision Impaired, 397 Azalea Ave., Richmond, VA 23227, telephone (804) 371-3145, FAX (804) 371-3157, toll-free (800) 622-2155, (804) 371-3140/TTY ☎, e-mail kathy.proffitt@dbvi.virginia.gov.

BOARD FOR BRANCH PILOTS

† **April 6, 2005 - 10 a.m.** -- Open Meeting
Virginia Port Authority, 600 World Trade Center, Norfolk, Virginia ♿

An informal fact-finding conference.

Contact: Mark N. Courtney, Executive Director, Board for Branch Pilots, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-8514, FAX (804) 367-2475, (804) 367-9753/TTY ☎, e-mail branchpilots@dpor.virginia.gov.

May 2, 2005 - 10 a.m. -- Open Meeting
Department of Professional and Occupational Regulation, 3600 West Broad Street, Richmond, Virginia ♿

A meeting to conduct board business. The meeting is open to the public; however, a portion of the board's business may be discussed in closed session. Persons desiring to participate in the meeting and requiring special accommodations or interpreter services should contact the department at least 10 days prior to the meeting so that suitable arrangements can be made. The department fully complies with the Americans with Disabilities Act.

Contact: Mark N. Courtney, Executive Director, Board for Branch Pilots, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-8514, FAX (804) 367-2475, (804) 367-9753/TTY ☎, e-mail branchpilots@dpor.virginia.gov.

DEPARTMENT OF BUSINESS ASSISTANCE

Small Business Advisory Board

† **April 18, 2005 - 10 a.m.** -- Open Meeting
Department of Business Assistance, 707 East Main Street, 3rd Floor Board Room, Richmond, Virginia ♿

A general business meeting.

Contact: Barbara E. Anderson, Administrative/Public Relations Assistant, Department of Business Assistance, 707 E. Main St., Suite 300, Richmond, VA 23219, telephone (804) 371-8215, FAX (804) 371-8111, toll-free (866) 248-8814, e-mail barbara.anderson@dba.virginia.gov.

CEMETERY BOARD

June 8, 2005 - 9 a.m. -- Open Meeting
Department of Professional and Occupational Regulation, 3600 West Broad Street, 4 West Conference Room, Richmond, Virginia ♿

A meeting to discuss board business.

Contact: Karen W. O'Neal, Regulatory Programs Coordinator, Cemetery Board, 3600 West Broad Street, Richmond, VA 23230, telephone (804) 367-8537, FAX (804) 367-2475, (804) 367-9753/TTY ☎, e-mail karen.oneal@dpor.virginia.gov.

CHARITABLE GAMING BOARD

† **June 3, 2005** - 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 Charitable Gaming Board intends to amend regulations entitled **11 VAC 15-22, Charitable Gaming Rules and Regulations**. The purpose of the proposed action is to simplify and clarify the gaming regulations while also making them consistent with current gaming statutes.

Statutory Authority: §§ 2.2-2456 and 18.2-340.19 of the Code of Virginia.

Public comments may be submitted to Bill Watt, Webmaster and Communications Specialist, Department of Charitable Gaming, James Monroe Building, 101 North 14th Street, 17th Floor, Richmond, Virginia, email bill.watt@dpg.virginia.gov.

Contact: Clyde E. Cristman, Director, Department of Charitable Gaming, James Monroe Bldg., 101 N. 14th St., 17th Floor, Richmond, VA 23219, telephone (804) 786-1681, FAX (804) 786-1079, e-mail clyde.cristman@dpg.virginia.gov.

† **June 3, 2005** - 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 Charitable Gaming Board intends to amend regulations entitled **11 VAC 15-31, Supplier Regulations**. The purpose of the proposed action is to simplify and clarify the gaming regulations while also making them consistent with current gaming statutes.

Statutory Authority: §§ 2.2-2456, 18.2-340.19 and 18.2-340.34 of the Code of Virginia.

Public comments may be submitted to Bill Watt, Webmaster and Communications Specialist, Department of Charitable Gaming, James Monroe Building, 101 North 14th Street, 17th Floor, Richmond, Virginia, email bill.watt@dpg.virginia.gov.

Contact: Clyde E. Cristman, Director, Department of Charitable Gaming, James Monroe Bldg., 101 N. 14th St., 17th Floor, Richmond, VA 23219, telephone (804) 786-1681, FAX (804) 786-1079, e-mail clyde.cristman@dpg.virginia.gov.

June 7, 2005 - 10 a.m. -- Open Meeting
Science Museum of Virginia, 2500 West Broad Street, Discovery Room, Richmond, Virginia ♿


A regular quarterly meeting.

Contact: Clyde E. Cristman, Director, Department of Charitable Gaming, James Monroe Bldg., 101 N. 14th St.,

Calendar of Events

17th Floor, Richmond, VA 23219, telephone (804) 786-1681, FAX (804) 786-1079, e-mail clyde.cristman@dca.virginia.gov.


STATE CHILD FATALITY REVIEW TEAM

May 13, 2005 - 10 a.m. -- Open Meeting
Office of the Chief Medical Examiner, 400 East Jackson Street, Richmond, Virginia. 


The business portion of the meeting is open to the public. At the conclusion of the open meeting, the team will go into closed session for confidential case review.


Contact: Angela Myrick, Coordinator, Department of Health, 400 E. Jackson St., Richmond, VA 23219, telephone (804) 786-1047, FAX (804) 371-8595, toll-free (800) 447-1708, e-mail angela.myrick@vdh.virginia.gov.

STATE BOARD FOR COMMUNITY COLLEGES


May 18, 2005 - 1:30 p.m. -- Open Meeting
Virginia Community College System, James Monroe Building, 101 North 14th Street, Richmond, Virginia.  (Interpreter for the deaf provided upon request)

Meetings of the Academic Committee, Student Affairs and Workforce Development Committee, and Budget and Finance Committee begins at 1:30 p.m. The Facilities Committee and the Audit Committee will meet at 3 p.m. The Personnel Committee will meet at 3:30 p.m. The Executive Committee will meet at 5 p.m.


Contact: D. Susan Hayden, Director of Public Affairs, Virginia Community College System, 101 N. 14th St., Richmond, VA 23219, telephone (804) 819-4961, FAX (804) 819-4768, (804) 371-8504/TTY 

May 19, 2005 - 9 a.m. -- Open Meeting
James Monroe Building, 101 North 14th Street, Godwin-Hamel Board Room, 15th Floor, Richmond, Virginia.  (Interpreter for the deaf provided upon request)

A meeting of the full board. Public comment may be received at the beginning of the meeting upon notification at least five working days prior to the meeting.


Contact: D. Susan Hayden, Director of Public Affairs, Virginia Community College System, 15th Floor, 101 N. 14th St., Richmond, VA 23219, telephone (804) 819-4961, FAX (804) 819-4768, (804) 371-8504/TTY 

COMPENSATION BOARD

† April 8, 2005 - 11 a.m. -- Public Hearing
Augusta County Government Center, Dick Huff Lane, Board of Supervisors Meeting Room, Verona, Virginia. 

FY 06 budget hearing for constitutional officers.


Contact: Cindy P. Waddell, Administrative Staff Assistant, Compensation Board, P.O. Box 710, Richmond, VA 23218, telephone (804) 786-0786, FAX (804) 371-0235, e-mail cindy.waddell@scb.virginia.gov.

† April 27, 2005 - 11 a.m. -- Open Meeting
Ninth Street Office Building, 202 North 9th Street, 10th Floor, Richmond, Virginia. 


A monthly board meeting.

Contact: Cindy P. Waddell, Administrative Staff Assistant, Compensation Board, P.O. Box 710, Richmond, VA 23218, telephone (804) 786-0786, FAX (804) 371-0235, e-mail cindy.waddell@scb.virginia.gov.

BOARD FOR CONTRACTORS


April 5, 2005 - 9 a.m. -- Open Meeting
April 7, 2005 - 9 a.m. -- Open Meeting
† April 12, 2005 - 9 a.m. -- Open Meeting
April 14, 2005 - 9 a.m. -- Open Meeting
April 21, 2005 - 9 a.m. -- Open Meeting
† May 5, 2005 - 9 a.m. -- Open Meeting
Department of Professional and Occupational Regulation, 3600 West Broad Street, 4th Floor, Richmond, Virginia. 


Informal fact-finding conferences.

Contact: Eric L. Olson, Executive Director, Board for Contractors, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-2785, FAX (804) 367-2474, (804) 367-9753/TTY , e-mail contractors@dpor.virginia.gov.


April 19, 2005 - 9 a.m. -- Open Meeting
June 7, 2005 - 9 a.m. -- Open Meeting
Department of Professional and Occupational Regulation, 3600 West Broad Street, Richmond, Virginia.

A regular meeting to address policy and procedural issues and review and render decisions on matured complaints against licensees. The meeting is open to the public; however, a portion of the board's business may be conducted in closed session. Persons desiring to participate in the meeting and requiring special accommodations or interpretive services should contact the department at (804) 367-2785 at least 10 days prior to this meeting so that suitable arrangements can be made for an appropriate accommodation. The department fully complies with the Americans with Disabilities Act.


Contact: Eric L. Olson, Executive Director, Board for Contractors, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-2785, FAX (804) 367-2474, (804) 367-9753/TTY , e-mail contractors@dpor.virginia.gov.

May 25, 2005 - 10 a.m. -- Open Meeting
Department of Professional and Occupational Regulation, 3600 West Broad Street, Richmond, Virginia. 

A meeting of the Tradesman and Education Committee to conduct committee business. The department fully complies with the Americans with Disabilities Act.


Contact: Eric L. Olson, Executive Director, Board for Contractors, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-2785, FAX (804) 367-2474, (804) 367-9753/TTY , e-mail contractors@dpor.virginia.gov.

BOARD OF CORRECTIONS

May 17, 2005 - 10 a.m. - Open Meeting
Department of Corrections, 6900 Atmore Drive, 3rd Floor Board Room, Richmond, Virginia. 


A meeting of the Liaison Committee to discuss correctional matters of interest to the board.

Contact: Barbara Woodhouse, Administrative Staff Assistant, Department of Corrections, 6900 Atmore Dr., Richmond, VA 23225, telephone (804) 674-3124, FAX (804) 674-3236, e-mail woodhousebl@vadoc.state.va.us.

May 17, 2005 - 1 p.m. -- Open Meeting
Department of Corrections, 6900 Atmore Drive, 3rd Floor, Room 3054, Richmond, Virginia. 


A meeting of the Correctional Services/Policy and Regulations Committee to discuss correctional services and policy/regulation matters to be considered by the board.

Contact: Barbara Woodhouse, Administrative Staff Assistant, Department of Corrections, 6900 Atmore Dr., Richmond, VA 23225, telephone (804) 674-3124, FAX (804) 674-3236, e-mail woodhousebl@vadoc.state.va.us.

May 18, 2005 - 9:30 a.m. -- Open Meeting
Department of Corrections, 6900 Atmore Drive, 3rd Floor Board Room, Richmond, Virginia. 

A meeting of the Administration Committee to discuss administrative matters to be considered by the board.

Contact: Barbara Woodhouse, Administrative Staff Assistant, Department of Corrections, 6900 Atmore Dr., Richmond, VA 23225, telephone (804) 674-3124, FAX (804) 674-3236, e-mail woodhousebl@vadoc.state.va.us.

May 18, 2005 - 10 a.m. -- Open Meeting
Department of Corrections, 6900 Atmore Drive, 3rd Floor Board Room, Richmond, Virginia. 


A regular meeting to discuss matters to be considered by the board.

Contact: Barbara Woodhouse, Administrative Staff Assistant, Department of Corrections, 6900 Atmore Dr., Richmond, VA 23225, telephone (804) 674-3124, FAX (804) 674-3236, e-mail woodhousebl@vadoc.state.va.us.

BOARD OF COUNSELING


June 2, 2005 - 9 a.m. -- Open Meeting
Department of Health Professions, 6603 West Broad Street, 5th Floor, Conference Room 3, Richmond, Virginia.

A meeting of the Credentials Review Committee to review files of licensee applicants.

Contact: Evelyn B. Brown, Executive Director, Board of Counseling, Alcoa Bldg., 6603 W. Broad St., 5th Floor, Richmond, VA 23230-1712, telephone (804) 662-9912, FAX (804) 662-9943, (804) 662-7197/TTY , e-mail evelyn.brown@dhp.virginia.gov.

June 3, 2005 - 10 a.m. -- Open Meeting
Department of Health Professions, 6603 West Broad Street, 5th Floor, Conference Room 3, Richmond, Virginia.

A quarterly meeting to conduct board business.

Contact: Evelyn B. Brown, Executive Director, Board of Counseling, Alcoa Bldg., 6603 W. Broad St., 5th Floor, Richmond, VA 23230-1712, telephone (804) 662-9912, FAX (804) 662-9943, (804) 662-7197/TTY , e-mail evelyn.brown@dhp.virginia.gov.

CRIMINAL JUSTICE SERVICES BOARD

May 12, 2005 - 11 a.m. -- Open Meeting
June 9, 2005 - 11 a.m. -- Open Meeting
General Assembly Building, 9th and Broad Streets, House Room D, Richmond, Virginia.

A general business meeting.


Contact: Leon D. Baker, Jr., Division Director, Department of Criminal Justice Services, Eighth Street Office Bldg., 805 E. Broad St., 10th Floor, Richmond, VA 23219, telephone (804) 225-4086, FAX (804) 786-0588, e-mail lbaker@dcjs.state.va.us.

NOTE: CHANGE IN MEETING DATE
June 9, 2005 - 9 a.m. -- Open Meeting
General Assembly Building, 9th and Broad Streets, House Room D, Richmond, Virginia.


A meeting of the Committee on Training.

Contact: Leon D. Baker, Jr., Division Director, Department of Criminal Justice Services, Eighth Street Office Bldg., 805 E. Broad St., 10th Floor, Richmond, VA 23219, telephone (804) 225-4086, FAX (804) 786-0588, e-mail lbaker@dcjs.state.va.us.

DEPARTMENT FOR THE DEAF AND HARD-OF-HEARING

NOTE: CHANGE IN MEETING DATE
† May 11, 2005 - 10 a.m. -- Open Meeting
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.

Contact: Leslie Hutcheson Prince, Policy and Planning Manager, Department for the Deaf and Hard-of-Hearing, 1602 Rolling Hills Dr., Suite 203, Richmond, VA 23235, telephone (804) 662-9703, toll-free (800) 552-7917, (804) 662-9703/TTY , e-mail leslie.prince@vddhh.virginia.gov.

Calendar of Events

BOARD OF DENTISTRY


April 8, 2005 - 9 a.m. -- Open Meeting

May 13, 2005 - 9 a.m. -- Open Meeting

May 20, 2005 - 9 a.m. -- Open Meeting

Department of Health Professions, 6603 West Broad Street, 5th Floor, Richmond, Virginia. 


A Special Conference Committee will hold informal conferences. There will not be a public comment period.

Contact: Cheri Emma-Leigh, Operations Manager, Department of Health Professions, 6603 W. Broad St., 5th Floor, Richmond, VA 23230, telephone (804) 662-9906, FAX (804) 662-7246, (804) 662-7197/TTY , e-mail cheri.emma-leigh@dhp.virginia.gov.

April 13, 2005 - 6:30 p.m. -- Open Meeting

Department of Health Professions, 6603 West Broad Street, 5th Floor, Richmond, Virginia. 

A meeting of the Regulatory/Legislative Committee to discuss regulatory/legislative issues. There will be a public comment period at the beginning of the meeting.


Contact: Sandra Reen, Executive Director, Board of Dentistry, Alcoa Bldg., 6603 W. Broad St., 5th Floor, Richmond, VA 23230-1712, telephone (804) 662-9906, FAX (804) 662-9943, (804) 662-7197/TTY , e-mail sandra.reen@dhp.virginia.gov.

April 14, 2005 - 9 a.m. -- Open Meeting


April 15, 2005 - 1:30 p.m. -- Open Meeting

Department of Health Professions, 6603 West Broad Street, 5th Floor, Richmond, Virginia. 


A formal hearing. There will not be a public comment period.

Contact: Cheri Emma-Leigh, Operations Manager, Board of Dentistry, 6603 W. Broad St., 5th Floor, Richmond, VA 23230, telephone (804) 662-9906, FAX (804) 662-7246, (804) 662-7197/TTY , e-mail cheri.emma-leigh@dhp.virginia.gov.

April 15, 2005 - 9 a.m. -- Open Meeting

Department of Health Professions, 6603 West Broad Street, 5th Floor, Richmond, Virginia. 

A regular business meeting. There will be a public comment period at the beginning of the meeting.


Contact: Sandra Reen, Executive Director, Board of Dentistry, Alcoa Building, 6603 West Broad Street, 5th Floor, Richmond, VA 23230-1712, telephone (804) 662-9906, FAX (804) 662-9943, (804) 662-7197/TTY , or e-mail sandra.reen@dhp.virginia.gov.

DESIGN-BUILD/CONSTRUCTION MANAGEMENT REVIEW BOARD


April 21, 2005 - 11 a.m. -- Open Meeting

May 19, 2005 - 11 a.m. -- Open Meeting

June 16, 2005 - 11 a.m. -- Open Meeting

Department of General Services, Eighth Street Office Building, 805 East Broad Street, 3rd Floor, 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. Contact the Division of Engineering and Building to confirm the meeting.

Contact: Rhonda M. Bishton, Administrative Assistant, Department of General Services, 805 E. Broad Street, Room 101, Richmond, VA 23219, telephone (804) 786-3263, FAX (804) 371-7934, (804) 786-6152/TTY , or e-mail rhonda.bishton@dgs.virginia.gov.


BOARD OF EDUCATION

April 20, 2005 - 9 a.m. -- Open Meeting

April 21, 2005 - 9 a.m. -- Open Meeting

May 25, 2005 - 9 a.m. -- Open Meeting

† June 22, 2005 - 9 a.m. -- Open Meeting

James Monroe Building, 101 North 14th Street, Main Lobby Level, Conference Rooms C and D, Richmond, Virginia. 

A regular business meeting of the board. The public is urged to confirm arrangements prior to each meeting by viewing the Department of Education's public meeting calendar at <http://www.pen.k12.va.us/VDOE/meetings.html>. This site will contain the latest information on the meeting arrangements and will note any last-minute changes in time or location. Persons who wish to speak or who require the services of an interpreter for the deaf should contact the agency at least 72 hours in advance.

Contact: Dr. Margaret N. Roberts, Office of Policy and Public Affairs, Department 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 margaret.roberts@doe.virginia.gov.

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April 22, 2005 - 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 Education intends to adopt regulations entitled **8 VAC 20-680, Regulations Governing the General Achievement Diploma**. The regulation establishes an individual's eligibility and the course/credit/assessment requirements for the diploma. It replaces emergency regulations effective from November 4, 2003, through November 4, 2004, with very minor changes except in format.

Statutory Authority: §§ 22.1-253.13.4 and 22.1-254.2 of the Code of Virginia.

Contact: Dr. Margaret N. Roberts, Office of Policy and Public Affairs, Department 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 margaret.roberts@doe.virginia.gov.

Advisory Board on Teacher Education and Licensure

April 18, 2005 - 8:45 a.m. -- Open Meeting
Location to be announced.

A regular meeting. The public is urged to confirm arrangements prior to each meeting by viewing the Department of Education's public meeting calendar at <http://www.pen.k12.va.us/VDOE/meetings.html>. This site will contain the latest information on the meeting arrangements and will note any last-minute changes in time or location. Please note that persons requesting the services of an interpreter for the deaf are asked to do so at least 72 hours in advance so that the appropriate arrangements may be made.

Contact: Dr. Margaret N. Roberts, Office of Policy and Public Affairs, Department 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 margaret.roberts@doe.virginia.gov.

DEPARTMENT OF EDUCATION

April 14, 2005 - 8:45 a.m. -- Open Meeting
Tidewater region; location to be announced.

A meeting of the State Special Education Advisory Committee. Agenda to be determined.

Contact: Dr. Margaret N. Roberts, Office of Policy and Public Affairs, Department of Education, P.O. Box 2120, 101 N. 14th St., 25th Floor, Richmond, VA 23219, telephone (804) 225-2540, FAX (804) 225-2524, e-mail margaret.roberts@doe.virginia.gov.

May 17, 2005 - 1 p.m. -- Open Meeting
Department of Education, James Monroe Building, PDS Room #2, Richmond, Virginia. (Interpreter for the deaf provided upon request)

A meeting of the State Special Education Advisory Committee to review State Operated Programs' Annual Plans. The public is urged to confirm arrangements prior to each meeting by viewing the Department of Education's public meeting calendar at <http://www.pen.k12.va.us/VDOE/meetings.html>. This site will contain the latest information on the meeting arrangements and will note any last-minute changes in time or location. Please note that persons requesting the services of an interpreter for the deaf are asked to do so at least 72 hours in advance so that the appropriate arrangements may be made.

Contact: Dr. Margaret N. Roberts, Office of Policy and Communications, Board of Education, P.O. Box 2120, 101 N. 14th St., 25th Floor, Richmond, VA 23219, telephone (804) 225-2540, FAX (804) 225-2524, e-mail Margaret.Roberts@doe.virginia.gov.

STATE EMERGENCY MEDICAL SERVICES ADVISORY BOARD

† April 7, 2005 - 9 a.m. -- Open Meeting
Embassy Suites Hotel, 2925 Emerywood Parkway, Richmond, Virginia.

A planning retreat for the EMS Advisory Board members and other interested constituents in the EMS system.

Contact: Gary R. Brown, Director, Department of Health, 109 Governor St., Suite UB-55, Richmond, VA 23219, telephone (804) 864-7600, FAX (804) 864-7580, toll-free (800) 523-6019, e-mail gary.brown@vdh.virginia.gov.

DEPARTMENT OF ENVIRONMENTAL QUALITY

April 8, 2005 - 10 a.m. -- Open Meeting
April 28, 2005 - 10 a.m. -- Open Meeting
May 24, 2005 - 10 a.m. -- Open Meeting
Department of Environmental Quality, Piedmont Regional Office, 4949-A Cox Road, Glen Allen, Virginia.

Meetings of the stream mitigation workgroup will be held to discuss and advise the DEQ in the development of guidance for assessing stream impacts and compensation requirements related to impacts permitted under the Virginia Water Protection Permit Program. Workgroup members have already been selected and invited. The public is welcome to attend and is requested to RSVP so that space is available.

Contact: Catherine M. Harold, Department of Environmental Quality, P.O. Box 10009, Richmond, VA 23240, telephone (804) 698-4047, FAX (804) 698-4032, e-mail cmharold@deq.virginia.gov.

April 12, 2005 - 7 p.m. -- Open Meeting
Warrenton Community Center, 430 East Shirley Avenue, Warrenton, Virginia.

The first public meeting on the development of the implementation plan for the bacteria TMDLs for Carter, Deep, Great and Thumb Runs located in Fauquier County and Stafford County (Deep Run). The public comment period closes on May 12, 2005. The public notice appears in the March 21, 2005, issue of the Virginia Register of Regulations.

Contact: Kimberly Davis, Department of Environmental Quality, 13901 Crown Court, Woodbridge, VA 22193, telephone (703) 583-3937, FAX (703) 583-3841, e-mail kvdavis@deq.virginia.gov.

† April 18, 2005 - 7 p.m. -- Public Hearing
Campbell County Board of Supervisors Room, Haberer Building, Courthouse Lane, Rustburg, Virginia.

A public hearing on a draft permit amendment for the Campbell County Landfill Phase II area located five miles south of Lynchburg in Campbell County to receive comments on the technical aspects of the facility's proposed corrective action plan. The public comment period closes on May 3, 2005.

Calendar of Events

Contact: Larry Syverson, Department of Environmental Quality, P.O. Box 10009, Richmond, VA 23240, telephone (804) 698-4271, FAX (804) 698-4327, e-mail lwsyverson@deq.virginia.gov.

† **May 5, 2005 - 8 a.m.** -- Open Meeting
Department of Environmental Quality, Piedmont Regional Office, 4949-A Cox Road, Glen Allen, Virginia. ♿

The permit program peer review teams will meet to review waste-specific process maps, the information from interviews and the survey, and priority opportunities to improve permitting and compliance programs.

Contact: Kathy R. Frahm, Department of Environmental Quality, P.O. Box 10009, Richmond, VA 23240, telephone (804) 698-4376, FAX (804) 698-4346, e-mail krfracm@deq.virginia.gov.

† **May 6, 2005 - 9 a.m.** -- Open Meeting
Department of Environmental Quality, Piedmont Regional Office, 4949-A Cox Road, Glen Allen, Virginia. ♿

The permit program peer review teams will meet to review air, VPDES, and hazardous waste process maps; the information from interviews and the survey; and priority opportunities to improve permitting and compliance programs.

Contact: Kathy R. Frahm, Department of Environmental Quality, P.O. Box 10009, Richmond, VA 23240, telephone (804) 698-4376, FAX (804) 698-4346, e-mail krfracm@deq.virginia.gov.

BOARD OF FORESTRY

NOTE: CHANGE IN MEETING TIME

April 11, 2005 - 2 p.m. -- Open Meeting
Virginia Military Institute, Moody Hall, Lexington, Virginia. ♿
(Interpreter for the deaf provided upon request)

A business meeting.

Contact: Donna S. Hoy, Administrative Staff Specialist, Department of Forestry, 900 Natural Resources Dr., Suite 800, Charlottesville, VA 22903, telephone (434) 977-6555, FAX (434) 977-7749, e-mail donna.hoy@dof.virginia.gov.

BOARD OF FUNERAL DIRECTORS AND EMBALMERS

April 12, 2005 - 9 a.m. -- Open Meeting
May 10, 2005 - 9 a.m. -- Open Meeting
Department of Health Professions, 6603 West Broad Street, 5th Floor, Richmond, Virginia. ♿

A meeting of the Legislative/Regulatory Committee to review and amend any of the regulations of the board.

Contact: Elizabeth Young, Executive Director, Board of Funeral Directors and Embalmers, Alcoa Building, 6603 West Broad St., 5th Floor, Richmond, VA 23230-1712, telephone (804) 662-9907, FAX (804) 662-9523, (804) 662-7197/TTY ♿, e-mail elizabeth.young@dhp.virginia.gov.

May 3, 2005 - 9 a.m. -- Open Meeting
Department of Health Professions, 6603 West Broad Street, 5th Floor, Richmond, Virginia. ♿

A meeting of the Continuing Education Committee to discuss issues related to continuing education requirements.

Contact: Elizabeth Young, Executive Director, Board of Funeral Directors and Embalmers, Alcoa Building, 6603 W. Broad St., 5th Floor, Richmond, VA 23230-1712, telephone (804) 662-9111, FAX (804) 662-9523, (804) 662-7197/TTY ♿, e-mail elizabeth.young@dhp.virginia.gov.

June 7, 2005 - 9 a.m. -- Open Meeting
Department of Health Professions, 6603 West Broad Street, 5th Floor, Richmond, Virginia. ♿

A meeting to discuss issues and matters as they relate to the board.

Contact: Elizabeth Young, Executive Director, Board of Funeral Directors and Embalmers, Alcoa Building, 6603 W. Broad St., 5th Floor, Richmond, VA 23230-1712, telephone (804) 662-9907, FAX (804) 662-9523, (804) 662-7197/TTY ♿, e-mail elizabeth.young@dhp.virginia.gov.

BOARD FOR GEOLOGY

April 20, 2005 - 9 a.m. -- Open Meeting
Department of Professional and Occupational Regulation, 3600 West Broad Street, Richmond, Virginia. ♿

A meeting to conduct board business.

Contact: David E. Dick, Executive Director, Board for Geology, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-8507, FAX (804) 367-6128, (804) 367-9753/TTY ♿, e-mail geology@dpor.virginia.gov.

STATE BOARD OF HEALTH

† **April 4, 2005 - 9 a.m.** -- Open Meeting
The Hotel Roanoke and Conference Center Roanoke, 110 Shenandoah Avenue, Pocahontas Room, Roanoke, Virginia ♿

A regular meeting.

Contact: Treina M. Anderson, Senior Secretary, Department of Health, 109 Governor St., Richmond, VA 23219, telephone (804) 864-7001, FAX (804) 864-7022, e-mail treina.anderson@vdh.virginia.gov.

April 12, 2005 - 10 a.m. -- Public Hearing
3600 Centre, 3600 West Broad Street, 3rd Floor, Conference Room, Richmond, Virginia.

April 22, 2005 - 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 **repeal** regulations entitled **12 VAC 5-380, Regulations for**

the Licensure of Home Health Agencies, and adopt regulations entitled 12 VAC 5-381, Regulations for the Licensure of Home Care Organizations. The purpose of the proposed action is to update criteria and standards for the licensure of home care organizations to reflect current national and health care industry standards and to remove archaic language and ambiguities.

Statutory Authority: §§ 32.1-12 and 32.1-162.12 of the Code of Virginia.

Contact: Carrie Eddy, Senior Policy Analyst, Department of Health, Center for Quality Health Care Services and Consumer Protection, 3600 West Broad Street, Suite 216, Richmond, VA 23230, telephone (804) 367-2157, FAX (804) 367-2149 or e-mail carrie.eddy@vdh.virginia.gov.


April 22, 2005 - 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 5-410, Regulations for the Licensure of Hospitals in Virginia.** The purpose of the proposed action is to prevent federal classification of rural areas as metropolitan statistical areas from affecting hospitals reimbursement.

Statutory Authority: §§ 32.1-12 and 32.1-127 of the Code of Virginia.


Contact: Rene Cabral Daniels, Director, Division of General Environmental Services, Department of Health, 109 Governor St., Richmond, VA 23219, telephone (804) 864-7425 or e-mail rene.cabraldaniels@vdh.virginia.gov.

DEPARTMENT OF HEALTH

† **April 7, 2005 - 8:30 a.m.** -- Open Meeting
Comfort Inn Conference Center, 3200 West Broad Street, Richmond, Virginia. 

A planning meeting of the Virginia HIV Prevention Community Planning Committee.


Contact: Elaine Martin, Department of Health, 109 Governor St., Richmond, VA 23219, telephone (804) 864-7962, e-mail elaine.martin@vdh.virginia.gov.

† **April 14, 2005 - 9:30 a.m.** -- Open Meeting
Natural Resources Building, 900 Natural Resources Drive, Charlottesville, Virginia. 


A meeting of the Biosolids Use Information Committee immediately followed by a meeting of the Biosolids Use Regulation Advisory Committee to discuss issues related to implementation of the Biosolids Use Regulations (12 VAC 5-585) involving land application of biosolids.

Contact: Cal Sawyer, Director, Division of Wastewater Engineer, Department of Health, 109 Governor St., 5th Floor, Richmond, VA 23219, telephone (804) 864-7463, FAX (804) 864-7475, e-mail cal.sawyer@vdh.virginia.gov.


NOTE: CHANGE IN MEETING TIME

June 10, 2005 - 10 a.m. -- Open Meeting
Virginia Hospital and Healthcare Association, 4200 Innslake Drive, Glen Allen, Virginia. 


A meeting of the Advisory Committee on the Virginia Early Hearing Detection and Intervention Program. The advisory committee will meet four times a year.


Contact: Pat T. Dewey, Program Manager, Department of Health, 109 Governor St., 8th Floor, Richmond, VA 23219, telephone (804) 864-7713, FAX (804) 864-7721, toll-free (866) 493-1090, (804) 828-1120/TTY , e-mail pat.dewey@vdh.virginia.gov.

BOARD OF HEALTH PROFESSIONS


† **April 13, 2005 - 11 a.m.** -- Open Meeting
Alcoa Building, 6603 West Broad Street, 5th Floor, Room 1, Richmond, Virginia. 

A meeting of the Education Committee to discuss topics for the board's fall issues forum. The committee will also discuss consumer-oriented brochures pertaining to process and protocol for disciplinary informal conferences and licensure application FAQ's. Public comment will be received at the beginning of the meeting.


Contact: Elizabeth A. Carter, Ph.D., Executive Director, Board of Health Professions, Alcoa Bldg., 6603 W. Broad St., 5th Floor, Room 1, Richmond, VA 23230-1712, telephone (804) 662-7691, FAX (804) 662-7098, (804) 662-7197/TTY , e-mail elizabeth.carter@dhp.virginia.gov.

† **April 13, 2005 - 1 p.m.** -- Open Meeting
Alcoa Building, 6603 West Broad Street, 5th Floor, Room 1, Richmond, Virginia. 

A meeting of the board to receive an update on the Sanctions Reference Study and review: the relevant legislation passed during the 2005 General Assembly, a workplan for a study into the need to regulate naturopaths, a workplan for an updated report on the status of telehealth, and the agency performance measures related to discipline. Public comment will be received at the beginning of the meeting.

Contact: Elizabeth A. Carter, Ph.D., Executive Director, Board of Health Professions, Alcoa Bldg., 6603 W. Broad St., 5th Floor, Room 1, Richmond, VA 23230-1712, telephone (804) 662-7691, FAX (804) 662-7098, (804) 662-7197/TTY , e-mail elizabeth.carter@dhp.virginia.gov.

DEPARTMENT OF HEALTH PROFESSIONS

June 17, 2005 - 9 a.m. -- Open Meeting
Department of Health Professions, 6603 West Broad Street, Board Room 3, Richmond, Virginia. 

A meeting of the Health Practitioners' Intervention Program Committee.

Contact: Peggy W. Call, Intervention Program Manager, Department of Health Professions, 6603 W. Broad St., 5th

Calendar of Events

Floor, Richmond, VA 23230, telephone (804) 662-9424, FAX (804) 662-7358, e-mail peggy.call@dhp.virginia.gov.

BOARD OF HOUSING AND COMMUNITY DEVELOPMENT

April 11, 2005 - 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 Housing and Community Development intends to amend regulations entitled **13 VAC 5-21, Virginia Certification Standards**. The purpose of the proposed action is to update regulations to the 2003 ICC model codes.

Statutory Authority: § 36-137 of the Code of Virginia.

Contact: Steve Calhoun, Regulatory Coordinator, Department of Housing and Community Development, 501 N. 2nd St., Richmond, VA 23219, telephone (804) 371-7015, FAX (804) 371-7090 or e-mail steve.calhoun@dhcd.virginia.gov.

April 11, 2005 - 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 Housing and Community Development intends to amend regulations entitled **13 VAC 5-31, Virginia Amusement Device Regulations**. The purpose of the proposed action is to update regulations to the 2003 ICC model codes.

Statutory Authority: § 36-98.3 of the Code of Virginia.

Contact: Steve Calhoun, Regulatory Coordinator, Department of Housing and Community Development, 501 N. 2nd St., Richmond, VA 23219, telephone (804) 371-7015, FAX (804) 371-7090 or e-mail steve.calhoun@dhcd.virginia.gov.

April 11, 2005 - 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 Housing and Community Development intends to amend regulations entitled **13 VAC 5-51, Virginia Statewide Fire Prevention Code**. The purpose of the proposed action is to update regulations to the 2003 ICC model codes.

Statutory Authority: § 27-97 of the Code of Virginia.

Contact: Steve Calhoun, Regulatory Coordinator, Department of Housing and Community Development, 501 N. 2nd St., Richmond, VA 23219, telephone (804) 371-7015, FAX (804) 371-7090 or e-mail steve.calhoun@dhcd.virginia.gov.

April 11, 2005 - 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 Housing and Community Development intends to repeal regulations entitled **13 VAC 5-62, Virginia Uniform Statewide Building Code (USBC)** and adopt regulations entitled **13 VAC 5-63, Virginia Uniform Statewide Building Code**. The purpose of the proposed action is to repeal 13 VAC 5-62 and adopt 13 VAC 5-63 to update regulations to the 2003 ICC model codes.

Statutory Authority: § 36-98 of the Code of Virginia.

Contact: Steve Calhoun, Regulatory Coordinator, Department of Housing and Community Development, 501 N. 2nd St., Richmond, VA 23219, telephone (804) 371-7015, FAX (804) 371-7090 or e-mail steve.calhoun@dhcd.virginia.gov.

April 11, 2005 - 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 Housing and Community Development intends to amend regulations entitled **13 VAC 5-91, Virginia Industrialized Building Safety Regulations**. The purpose of the proposed action is to update regulations to the 2003 ICC model codes.

Statutory Authority: § 36-73 of the Code of Virginia.

Contact: Steve Calhoun, Regulatory Coordinator, Department of Housing and Community Development, 501 N. 2nd St., Richmond, VA 23219, telephone (804) 371-7015, FAX (804) 371-7090 or e-mail steve.calhoun@dhcd.virginia.gov.

STATEWIDE INDEPENDENT LIVING COUNCIL

† **April 13, 2005 - 7:30 a.m.** -- Open Meeting
Sheraton Richmond West Restaurant, 6624 West Broad Street, Richmond, Virginia.

A meeting of the Executive Council of the Statewide Independent Living Council. Directions to the meeting sites may be obtained by visiting the council's website or calling the council office. If interpreter services or other accommodations are required, please notify the SILC office. The Statewide Independent Living Council respects individuals with chemical sensitivity by requesting that all attendees refrain from using scented products during all meetings.

Contact: Lisa Grubb, Executive Director, Department of Rehabilitative Services, 8004 Franklin Farms Dr., Richmond, VA 23288-0300, telephone (804) 897-7228, FAX (804) 897-1080, e-mail virginiasilc@comcast.net.


† **April 13, 2005 - 9:30 a.m.** -- Open Meeting
Virginia Housing Development Authority, 601 South Belvidere Street, Conference Room 1, Richmond, Virginia. ☎

A regular meeting. Public comment is welcome and will be received at approximately 12:30 p.m. Directions to the meeting sites may be obtained by visiting the council's website or calling the council office. If interpreter services or

other accommodations are required, please notify the SILC office. The Statewide Independent Living Council respects individuals with chemical sensitivity by requesting that all attendees refrain from using scented products during all meetings.

Contact: Lisa Grubb, Executive Director, Department of Rehabilitative Services, 8004 Franklin Farms Dr., Richmond, VA 23288-0300, telephone (804) 897-7228, FAX (804) 897-1080, e-mail virginiasilc@comcast.net.


VIRGINIA INFORMATION TECHNOLOGIES AGENCY

† **April 11, 2005 - 1 p.m.** -- Open Meeting
VITA Operations Center, 110 South 7th Street, 3rd Floor Executive Conference Room, Richmond, Virginia. 

A meeting of the Information Technology Investment Board Finance and Audit Committee. Public comment will be heard at the conclusion of the meeting.

Contact: Roz Witherspoon, Executive Director, Virginia Information Technologies Agency, 411 E. Franklin St., Richmond, VA 23219, telephone (804) 343-9057, FAX (804) 343-9015, e-mail roz.witherspoon@vita.virginia.gov.

† **April 12, 2005 - 1 p.m.** -- Open Meeting

† **April 13, 2005 - 9:30 a.m.** -- Open Meeting
VITA Operations Center, 110 South 7th Street, 3rd Floor Training Room, Richmond, Virginia. 

A meeting of the IT Project Review Committee for secretariat briefings.

Contact: Roz Witherspoon, Executive Director, Virginia Information Technologies Agency, 411 East Franklin St., Richmond, VA 23219, telephone (804) 343-9057, FAX (804) 343-9015, e-mail roz.witherspoon@vita.virginia.gov.

E-911 Wireless Board Subcommittee

† **May 11, 2005 - 9 a.m.** -- Open Meeting
110 South 7th Street, 1st Floor, Telecommunications Conference Room, Suite 100, Richmond, Virginia.

A request will be made to hold the meeting in closed session.

Contact: Steve Marzolf, Public Safety Communications Coordinator, Virginia Information Technologies Agency, 110 S. 7th St., 3rd Floor, Richmond, VA 23219, telephone (804) 371-0015, FAX (804) 371-2277, toll-free (866) 482-3911, e-mail steve.marzolf@vita.virginia.gov.


E-911 Wireless Service Board

† **May 11, 2005 - 10 a.m.** -- Open Meeting
110 S. 7th Street, 4th Floor Auditorium, Richmond, Virginia.

A regular board meeting.

Contact: Steve Marzolf, Public Safety Communications Coordinator, Virginia Information Technologies Agency, 110 S. 7th St., 3rd Floor, Richmond, VA 23219, telephone (804) 371-0015, FAX (804) 371-2277, toll-free (866) 482-3911, e-mail steve.marzolf@vita.virginia.gov.

Virginia Geographic Information Network Advisory Board


† **May 12, 2005 - 1 p.m.** -- Open Meeting
110 South 7th Street, 3rd Floor, Richmond, Virginia. 

A meeting to discuss projects and operations of the Virginia Geographic Information Network.


Contact: Bill Shinar, Coordinator, VGIN, Virginia Information Technologies Agency, 110 S. 7th St., Suite 135, Richmond, VA 23219, telephone (804) 786-8175, FAX (804) 371-2795, e-mail bill.shinar@vgin.virginia.gov.

JAMESTOWN-YORKTOWN FOUNDATION


May 4, 2005 - 2 p.m. -- Open Meeting

June 8, 2005 - Noon -- Open Meeting
Richmond, Virginia.  (Interpreter for the deaf provided upon request)


A regular meeting of the Executive Committee of the Jamestown 2007 Steering Committee. Call contact below for specific meeting location.

Contact: Judith Leonard, Administrative Office Manager, Jamestown-Yorktown Foundation, 410 W. Francis St., Williamsburg, VA 23185, telephone (757) 253-4253, FAX (757) 253-4950, (757) 253-5110/TTY , e-mail judith.leonard@jyf.virginia.gov.

May 19, 2005 - 10 a.m. -- Open Meeting

May 20, 2005 - 8 a.m. -- Open Meeting
Williamsburg Hospitality House, 415 Richmond Road, Williamsburg, Virginia.  (Interpreter for the deaf provided upon request)

A semiannual two-day meeting of the Board of Trustees and the board's standing committees. The time listed above is approximate as a detailed schedule is yet to be determined. An opportunity for public comment will be included on the May 20 business meeting agenda.

Contact: Laura W. Bailey, Executive Assistant to the Board, Jamestown-Yorktown Foundation, P.O. Box 1607, Williamsburg, VA 23187, telephone (757) 253-7285, FAX (757) 253-5299, toll-free (888) 593-4682, (757) 253-5110/TTY , e-mail laura.bailey@jyf.virginia.gov.

DEPARTMENT OF LABOR AND INDUSTRY

Virginia Apprenticeship Council


June 16, 2005 - 10 a.m. -- Open Meeting
Location to be announced.  (Interpreter for the deaf provided upon request)

A meeting to conduct general business.

Contact: Beverley Donati, Program Director, 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.virginia.gov.

Calendar of Events

STATE LIBRARY BOARD


June 13, 2005 - 8:15 a.m. -- Open Meeting
The Library of Virginia, 800 East Broad Street, Richmond, Virginia. 

Meetings of the board to discuss matters pertaining to the Library of Virginia and the board. Committees of the board will meet as follows:

8:15 a.m. - Public Library Development Committee, Orientation Room
Publications and Educational Services Committee, Conference Room B
Records Management Committee, Conference Room C

9:30 a.m. - Archival and Information Services Committee, Orientation Room
Collection Management Services Committee, Conference Room B
Legislative and Finance Committee, Conference Room C


10:30 a.m. - Library Board, Conference Room, 2M

Contact: Jean H. Taylor, Executive Secretary to the Librarian, The Library of Virginia, 800 E. Broad St., Richmond, VA 23219-8000, telephone (804) 692-3535, FAX (804) 692-3594, (804) 692-3976/TTY , e-mail jtaylor@lva.lib.va.us.


COMMISSION ON LOCAL GOVERNMENT

† **May 9, 2005 - 10 a.m.** -- Open Meeting
The Jackson Center, 501 North 2nd Street, 1st Floor Board Room, Richmond, Virginia. 


A regular meeting to consider matters that may be presented.

Contact: Ted McCormack, Associate Director, Commission on Local Government, 501 N. 2nd St., Richmond, VA 23219, telephone (804) 786-6508, FAX (804) 371-7090, (804) 828-1120/TTY , e-mail ted.mccormack@dhcd.virginia.gov.


VIRGINIA MANUFACTURED HOUSING BOARD

April 21, 2005 - 10 a.m. -- Open Meeting
The Jackson Center, 501 North Second Street, Richmond, Virginia.  (Interpreter for the deaf provided upon request)


A regular meeting to address complaints and claims against licensees and carry out administrative functions under the Virginia Manufactured Housing Licensing and Transaction Recovery Fund Regulations.

Contact: Curtis L. Mclver, State Building Code Administrator, Virginia Manufactured Housing Board, State Building Code Administrative Office, 501 N. 2nd St., Richmond, VA 23219, telephone (804) 371-7160, FAX (804) 371-7092, (804) 371-7089/TTY , e-mail Curtis.Mclver@dhcd.virginia.gov.


MARINE RESOURCES COMMISSION

April 26, 2005 - 9:30 a.m. -- Open Meeting
May 24, 2005 - 9:30 a.m. -- Open Meeting
† **June 28, 2005 - 9:30 a.m.** -- Open Meeting
Marine Resources Commission, 2600 Washington Avenue, 4th Floor, Newport News, Virginia.  (Interpreter for the deaf provided upon request)


A monthly meeting.

Contact: Jane McCroskey, Commission Secretary, Marine Resources Commission, 2600 Washington Ave., 3rd Floor, Newport News, VA 23607, telephone (757) 247-2215, FAX (757) 247-8101, toll-free (800) 541-4646, (757) 247-2292/TTY , e-mail jane.mccroskey@mrc.virginia.gov.

BOARD OF MEDICAL ASSISTANCE SERVICES

June 14, 2005 - 10 a.m. -- Open Meeting
Department of Medical Assistance Services, 600 East Broad Street, 13th Floor Conference Room, Richmond, Virginia. 

A quarterly meeting.

Contact: Nancy Malczewski, Board Liaison, Department of Medical Assistance Services, 600 E. Broad St., Suite 1300, Richmond, VA 23219, telephone (804) 786-8096, FAX (804) 371-4981, (800) 343-0634/TTY , e-mail nancy.malczewski@dmas.virginia.gov.


DEPARTMENT OF MEDICAL ASSISTANCE SERVICES

April 22, 2005 - 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 Department of Medical Assistance Services intends to amend regulations entitled **12 VAC 30-70, Methods and Standards for Establishing Payment Rates Inpatient Hospital Services**. The purpose of the proposed action is to eliminate a separate DSH payment calculation for Medicaid-recognized NICU programs and to modify indirect medical education payments. This action also proposes to exclude freestanding psychiatric hospitals from the standard rebasing action conducted for other types of hospitals' reimbursement.

Statutory Authority: §§ 32.1-324 and 32.1-325 of the Code of Virginia; Items 326 (OO) and 326 (NN) of Chapter 4 of the 2004 Acts of Assembly, Special Session I.

Contact: Steve Ford, Provider Reimbursement Division, Department of Medical Assistance Services, 600 E. Broad St., Suite 1300, Richmond, VA 23219, telephone (804) 786-7355, FAX (804) 786-1680 or e-mail Steve.Ford@dmas.virginia.gov.

April 22, 2005 - 11 a.m. -- Open Meeting
Department of Medical Assistance Services, 600 East Broad Street, 13th Floor, Board Room, Richmond, Virginia. 

A meeting of the Dental Advisory Committee to streamline administrative processes and procedures that are impediments to dental provider participation in Medicaid.

Contact: Stephen Riggs, DDS, Dental Consultant, Department of Medical Assistance Services, 600 E. Broad St., Richmond, VA 23219, telephone (804) 786-6635, FAX (804) 786-0414, (800) 343-0634/TTY ☎, e-mail va.smiles@dmas.virginia.gov.

May 18, 2005 - 1 p.m. -- Open Meeting
Department of Medical Assistance Services, 600 East Broad Street, 13th Floor, Board Room, Richmond, Virginia.

A meeting of the Medicaid Transportation Advisory Committee to discuss issues and concerns about Medicaid transportation issues with the committee and the community.

Contact: Peter Lubinskas, Transportation Manager, Department of Medical Assistance Services, 600 E. Broad St., Suite 1300, Richmond, VA 23219, telephone (804) 786-8855, FAX (804) 371-6035, (800) 343-0634/TTY ☎, e-mail peter.lubinskas@dmas.virginia.gov.

May 20, 2005 - 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 Department of Medical Assistance Services intends to amend regulations entitled **12 VAC 30-70, Methods and Standards for Establishing Payment Rates Inpatient Hospital Care**. The purpose of the proposed action is to permit DMAS to make DSH payments of up to 175% of uncompensated costs in FY 2005 as permitted under federal law.

Statutory Authority: §§ 32.1-324 and 32.1-325 of the Code of Virginia.

Contact: William Lessard, Provider Reimbursement Division, Department of Medical Assistance Services, 600 E. Broad St., Suite 1300, Richmond, VA 23219, telephone (804) 225-4593, FAX (804) 786-1680 or e-mail william.lessard@dmas.virginia.gov.

† **June 3, 2005** - 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 Department of Medical Assistance Services intends to amend regulations entitled **12 VAC 30-40, Eligibility Conditions and Requirements**. The purpose of the proposed action is to reduce the sheltering of assets through purchases of annuities by individuals as a means to impoverish themselves to enable their qualification for Medicaid eligibility.

Statutory Authority: §§ 32.1-324 and 32.1-325 of the Code of Virginia.

Contact: Patricia Sykes, Policy and Research Division, Department of Medical Assistance Services, 600 E. Broad St., Suite 1300, Richmond, VA 23219, telephone (804) 786-7958, FAX (804) 786-1680 or e-mail patricia.sykes@dmas.virginia.gov.

† **June 3, 2005** - 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 Department of Medical Assistance Services intends to amend regulations entitled **12 VAC 30-80, Methods and Standards for Establishing Payment Rates; Other Types of Care**. The purpose of the proposed action is to conform to the legislative mandate to increase the reimbursement for certain emergency room procedures and increase reimbursement for certain obstetric/gynecological procedures in order to help address the growing problem with access to this care across the Commonwealth.

Statutory Authority: §§ 32.1-324 and 32.1-325 of the Code of Virginia.

Public comments may be submitted until June 3, 2005, to Steve Ford, Provider Reimbursement Division, Department of Medical Assistance Services, 600 E. Broad St., Suite 1300, Richmond, Virginia.

Contact: Brian M. McCormick, Regulatory Coordinators, Department of Medical Assistance Services, 600 E. Broad St., Suite 1300, Richmond, VA 23219, telephone (804) 786-7959, FAX (804) 786-1680 or e-mail brian.mccormick@dmas.virginia.gov.

† **June 3, 2005** - 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 Department of Medical Assistance Services intends to amend regulations entitled **12 VAC 30-90, Methods and Standards for Establishing Payment Rates for Long-Term Care**. The purpose of the proposed action is to increase the per patient, per diem rate for nursing facilities by \$3.00.

Statutory Authority: §§ 32.1-324 and 32.1-325 of the Code of Virginia; Item 326 YY of Chapter 4 of the 2004 Special Session I Acts of Assembly.

Contact: William Lessard, Provider Reimbursement Division, Department of Medical Assistance Services, 600 E. Broad St., Suite 1300, Richmond, VA 23219, telephone (804) 225-4593, FAX (804) 786-1680 or e-mail William.Lessard@dmas.virginia.gov.

BOARD OF MEDICINE

April 6, 2005 - 8:30 a.m. -- Open Meeting
Department of Health Professions, 6603 West Broad Street, 5th Floor, Richmond, Virginia.

April 12, 2005 - 8:45 a.m. -- Open Meeting
Holiday Inn Select, 2801 Plank Road, Fredericksburg, Virginia. ☎

Calendar of Events

April 20, 2005 - 8:45 a.m. -- Open Meeting
Williamsburg Marriott, 50 Kingsmill Road, Williamsburg, Virginia ☎

A Special Conference Committee of the board will convene informal conferences to inquire into allegations that certain practitioners may have violated certain laws and regulations governing the practice of medicine and other healing arts. Further, the board may review cases with staff for case disposition including consideration of consent orders for settlement for matters pending before the board. The board will meet in open and closed sessions pursuant to the Code of Virginia. Public comment will not be received.

Contact: Renee S. Dixson, Discipline Case Manager, Board of Medicine, 6603 W. Broad St., 5th Floor, Richmond, Virginia, telephone (804) 662-7002, FAX (804) 662-9517, (804) 662-7197/TTY ☎, e-mail renee.dixson@dhp.virginia.gov.

April 22, 2005 - 8:30 a.m. -- Open Meeting
Department of Health Professions, 6603 West Broad Street, 5th Floor, Board Room 2, Richmond, Virginia.

A meeting of the Legislative Committee to consider regulatory matters as may be presented on the agenda. Public comment on agenda items will be received at the beginning of the meeting.

Contact: William L. Harp, M.D., Executive Director, Board of Medicine, Alcoa Bldg., 6603 W. Broad St., 5th Floor, Richmond, VA 23230-1712, telephone (804) 662-9908, FAX (804) 662-9943, (804) 662-7197/TTY ☎, e-mail william.harp@dhp.virginia.gov.

† **April 22, 2005 - 1 p.m.** -- Open Meeting
Department of Health Professions, 6603 West Broad Street, 5th Floor, Board Room 2, Richmond, Virginia.

A meeting of the Laser Hair Removal Committee to discuss the use of lasers in hair removal procedures. Public comment on agenda items will be received at the beginning of the meeting.

Contact: William L. Harp, M.D., Executive Director, Board of Medicine, Alcoa Bldg., 6603 W. Broad St., 5th Floor, Richmond, VA 23230-1712, telephone (804) 662-9908, FAX (804) 662-9943, (804) 662-7197/TTY ☎, e-mail william.harp@dhp.virginia.gov.

† **May 5, 2005 - 9 a.m.** -- Open Meeting
Department of Health Professions, 6603 West Broad Street, 5th Floor, Richmond, Virginia. ☎

A formal hearing to inquire into allegations that a certain practitioner may have violated certain laws and regulations governing the practice of medicine and other healing arts. This hearing is scheduled for three days beginning May 5, 2005. The board will meet in open and closed sessions pursuant to the Code of Virginia. Public comment will not be received.

Contact: Renee Dixson, Discipline Case Manager, Department of Health Professions, 6603 W. Broad St., 5th Floor, Richmond, VA 23230, telephone (804) 662-7009, FAX (804) 662-9517, (804) 662-7197/TTY ☎, e-mail renee.dixson@dhp.virginia.gov.

May 20, 2005 - 8 a.m. -- Open Meeting
Department of Health Professions, 6603 West Broad Street, 5th Floor, Board Room 2, Richmond, Virginia.

A meeting of the Executive Committee to consider 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: William L. Harp, M.D., Executive Director, Board of Medicine, Alcoa Bldg., 6603 W. Broad St., 5th Floor, Richmond, VA 23230-1712, telephone (804) 662-9908, FAX (804) 662-9943, (804) 662-7197/TTY ☎, e-mail william.harp@dhp.virginia.gov.

Advisory Board on Acupuncture

April 6, 2005 - 9 a.m. -- Open Meeting
Department of Health Professions, 6603 West Broad Street, 5th Floor, Board Room 4, Richmond, Virginia.

A meeting to consider issues related to the regulation of acupuncture. Public comment will be received at the beginning of the meeting.

Contact: William L. Harp, M.D., Executive Director, Board of Medicine, Alcoa Bldg., 6603 W. Broad St., 5th Floor, Richmond, VA 23230-1712, telephone (804) 662-9908, FAX (804) 662-9943, (804) 662-7197/TTY ☎, e-mail william.harp@dhp.virginia.gov.

Advisory Board on Athletic Training

April 7, 2005 - 9 a.m. -- Open Meeting
Department of Health Professions, 6603 West Broad Street, 5th Floor, Board Room 4, Richmond, Virginia.

A meeting to consider issues related to the regulation of athletic training. Public comment will be received at the beginning of the meeting.

Contact: William L. Harp, M.D., Executive Director, Board of Medicine, Alcoa Bldg., 6603 W. Broad St., 5th Floor, Richmond, VA 23230-1712, telephone (804) 662-9908, FAX (804) 662-9943, (804) 662-7197/TTY ☎, e-mail william.harp@dhp.virginia.gov.

Advisory Board of Occupational Therapy

April 5, 2005 - 9 a.m. -- Open Meeting
Department of Health Professions, 6603 West Broad Street, 5th Floor, Board Room 4, Richmond, Virginia.

A meeting to consider issues related to the regulation of occupational therapy. Public comment will be received at the beginning of the meeting.

Contact: William L. Harp, M.D., Executive Director, Board of Medicine, Alcoa Bldg., 6603 W. Broad St., 5th Floor, Richmond, VA 23230-1712, telephone (804) 662-9908, FAX (804) 662-9943, (804) 662-7197/TTY ☎, e-mail william.harp@dhp.virginia.gov.

Advisory Board on Physician Assistants

April 7, 2005 - 1 p.m. -- Open Meeting
Department of Health Professions, 6603 West Broad Street,
5th Floor, Board Room 4, Richmond, Virginia.

A meeting to consider issues related to the regulation of physician assistants. Public comment will be received at the beginning of the meeting.

Contact: William L. Harp, M.D., Executive Director, Board of Medicine, Alcoa Bldg., 6603 W. Broad St., 5th Floor, Richmond, VA 23230-1712, telephone (804) 662-9908, FAX (804) 662-9943, (804) 662-7197/TTY ☎, e-mail william.harp@dhp.virginia.gov.

Advisory Board on Radiologic Technology

April 6, 2005 - 1 p.m. -- Open Meeting
Department of Health Professions, 6603 West Broad Street,
5th Floor, Board Room 4, Richmond, Virginia.

A meeting to consider issues related to the regulation of radiologic technologists and radiologic technologists-limited. Public comment will be received at the beginning of the meeting.

Contact: William L. Harp, M.D., Executive Director, Board of Medicine, Alcoa Bldg., 6603 W. Broad St., 5th Floor, Richmond, VA 23230-1712, telephone (804) 662-9908, FAX (804) 662-9943, (804) 662-7197/TTY ☎, e-mail william.harp@dhp.virginia.gov.

Advisory Board on Respiratory Care

April 5, 2005 - 1 p.m. -- Open Meeting
Department of Health Professions, 6603 West Broad Street,
5th Floor, Board Room 4, Richmond, Virginia.

A meeting to consider issues related to the regulation of respiratory care. Public comment will be received at the beginning of the meeting.

Contact: William L. Harp, M.D., Executive Director, Board of Medicine, Alcoa Bldg., 6603 W. Broad St., 5th Floor, Richmond, VA 23230-1712, telephone (804) 662-9908, FAX (804) 662-9943, (804) 662-7197/TTY ☎, e-mail william.harp@dhp.virginia.gov.

STATE MENTAL HEALTH, MENTAL RETARDATION AND SUBSTANCE ABUSE SERVICES BOARD

April 13, 2005 - 2:30 p.m. -- Open Meeting
Holiday Inn Central, 3207 North Boulevard, Richmond,
Virginia. ♿

A regular meeting.

Contact: Marlene A. Butler, Executive Secretary, Department of Mental Health, Mental Retardation and Substance Abuse Services, Jefferson Bldg., 1220 Bank St., 13th Floor, Richmond, VA 23219, telephone (804) 786-7945, FAX (804) 371-2308, e-mail marlene.butler@co.dmhmrzas.virginia.gov.

VIRGINIA COMMISSION ON MILITARY BASES

April 14, 2005 - 10 a.m. -- Open Meeting
University of Mary Washington, Jepson Alumni Executive Center, 1119 Hanover Street, Fredericksburg, Virginia. ♿

A quarterly meeting.

Contact: Valerie Hubbard, Communications Manager, Virginia Economic Development Partnership, P.O. Box 798, Richmond, VA 23218, telephone (804) 225-3743, FAX (804) 786-1121, e-mail vhubbard@yesvirginia.org.

STATE MILK COMMISSION

May 25, 2005 - 10:45 a.m. -- Open Meeting
Department of Forestry, 900 Natural Resources Drive, Room 2063, Charlottesville, Virginia. ♿

A regular meeting to consider industry distributor licensing, base transfers and reports from staff. The commission offers anyone in attendance an opportunity to speak at the conclusion of the agenda. Those persons requiring special accommodations should notify Edward C. Wilson, Jr., at least five working days prior to the meeting date so that suitable arrangements can be made.

Contact: Edward C. Wilson, Jr., Deputy Administrator, State Milk Commission, Washington Bldg., 1100 Bank St., Suite 1019, Richmond, VA 23218, telephone (804) 786-2013, FAX (804) 786-3779, e-mail Edward.Wilson@vdacs.virginia.gov.

DEPARTMENT OF MOTOR VEHICLES

Medical Advisory Board

April 13, 2005 - 8 a.m. -- Open Meeting
Department of Motor Vehicles, 2300 West Broad Street,
Richmond, Virginia. ♿ (Interpreter for the deaf provided upon request)

A general business meeting.

Contact: J.C. Branche, R.N., Division Manager, Department of Motor Vehicles, 2300 W. Broad St., Richmond VA 23220, telephone (804) 497-7188, FAX (804) 367-1604, toll-free (800) 435-5137, (804) 272-9268/TTY ☎, e-mail jacquelin.branche@dmv.virginia.gov.

VIRGINIA MUSEUM OF FINE ARTS

April 5, 2005 - 8 a.m. -- Open Meeting
May 3, 2005 - 8 a.m. -- Open Meeting
Virginia Museum of Fine Arts, Main Lobby Conference Room,
200 North Boulevard, Richmond, Virginia. ♿


A meeting for staff to update the Executive Committee. Public comment will not be received.

Contact: Suzanne Broyles, Secretary of the Museum, Virginia Museum of Fine Arts, 200 N. Boulevard, Richmond, VA 23220-4007, telephone (804) 340-1503, FAX (804) 340-1502, (804) 340-1401/TTY ☎, e-mail sbroyles@vmfa.state.va.us.


Calendar of Events

June 16, 2005 - 9 a.m. -- Open Meeting
Virginia Museum of Fine Arts, CEO Parlor, 200 North Boulevard, Richmond, Virginia. 


A joint meeting of the Executive and Financial Oversight Committees for staff to update the committees. Public comment will not be received.


Contact: Suzanne Broyles, Secretary of the Museum, Virginia Museum of Fine Arts, 200 N. Boulevard, Richmond, VA 23220-4007, telephone (804) 340-1503, FAX (804) 340-1502, (804) 340-1401/TTY , e-mail sbroyles@vmfa.state.va.us.

BOARD OF NURSING


April 5, 2005 - 9 a.m. -- Open Meeting
April 6, 2005 - 9 a.m. -- Open Meeting
April 11, 2005 - 9 a.m. -- Open Meeting
April 12, 2005 - 9 a.m. -- Open Meeting
April 19, 2005 - 9 a.m. -- Open Meeting
June 7, 2005 - 9 a.m. -- Open Meeting
June 8, 2005 - 9 a.m. -- Open Meeting
June 13, 2005 - 9 a.m. -- Open Meeting
June 14, 2005 - 9 a.m. -- Open Meeting
Department of Health Professions, 6603 West Broad Street, 5th Floor, Richmond, Virginia. 


A Special Conference Committee, comprised of two members of the Virginia Board of Nursing or agency subordinate, will conduct informal conferences with licensees and certificate holders. Public comment will not be received.

Contact: Jay P. Douglas, R.N., M.S.M., C.S.A.C., Executive Director, Board of Nursing, 6603 West Broad Street, 5th Floor, Richmond, VA 23230, telephone (804) 662-9909, FAX (804) 662-9512, (804) 662-7197/TTY , e-mail nursebd@dhp.virginia.gov.


May 16, 2005 - 9 a.m. -- Open Meeting
May 18, 2005 - 9 a.m. -- Open Meeting
May 19, 2005 - 9 a.m. -- Open Meeting
Department of Health Professions, 6603 West Broad Street, 5th Floor, Board Room 2, Richmond, Virginia. 

A panel of the board will conduct formal hearings with licensees and/or certificate holders. Public comment will not be received.


Contact: Jay P. Douglas, R.N., M.S.M., C.S.A.C., Executive Director, Board of Nursing, 6603 W. Broad St., 5th Floor, Richmond, VA 23230, telephone (804) 662-9909, FAX (804) 662-9512, (804) 662-7197/TTY , e-mail nursebd@dhp.virginia.gov.


May 17, 2005 - 9 a.m. -- Open Meeting
Department of Health Professions, 6603 West Broad Street, 5th Floor, Board Room 2, Richmond, Virginia. 

A general business meeting including committee reports, consideration of regulatory action and discipline case decisions as presented on the agenda. Public comment will be received at 11 a.m.


Contact: Jay P. Douglas, R.N., Executive Director, Board of Nursing, Alcoa Bldg., 6603 W. Broad St., 5th Floor, Richmond, VA 23230-1712, telephone (804) 662-9909, FAX (804) 662-9512, (804) 662-7197/TTY , e-mail jay.douglas@dhp.virginia.gov.

JOINT BOARDS OF NURSING AND MEDICINE

April 13, 2005 - 9 a.m. -- Open Meeting
Department of Health Professions, 6603 West Broad Street, 5th Floor, Board Room 4, Richmond, Virginia. 

† June 22, 2005 - 9 a.m. -- Open Meeting
Department of Health Professions, 6603 West Broad Street, 5th Floor, Board Room 1, Richmond, Virginia. 


A meeting of the Joint Boards of Nursing and Medicine.

Contact: Jay P. Douglas, RN, MSM, CSAC, Executive Director, Board of Nursing, 6603 W. Broad St., 5th Floor, Richmond, VA 23230, telephone (804) 662-9909, FAX (804) 662-9512, (804) 662-7197/TTY , e-mail nursebd@dhp.virginia.gov.

BOARD OF NURSING HOME ADMINISTRATORS


April 20, 2005 - 9 a.m. -- Open Meeting
Department of Health Professions, 6603 West Broad Street, 5th Floor, Richmond, Virginia. 

A meeting to discuss general board business. There will be a public comment period during the first 15 minutes of the meeting.

Contact: Sandra Reen, Executive Director, Board of Nursing Home Administrators, Alcoa Bldg., 6603 W. Broad St., 5th Floor, Richmond, VA 23230-1712, telephone (804) 662-7457, FAX (804) 662-9943, (804) 662-7197/TTY , e-mail sandra.reen@dhp.virginia.gov.


OLD DOMINION UNIVERSITY

NOTE: CHANGE IN MEETING DATE AND TIME

April 4, 2005 - 1:30 p.m. -- Open Meeting
June 14, 2005 - 1 p.m. -- Open Meeting
Old Dominion University, Webb University Center, Norfolk, Virginia. 

A quarterly meeting of the governing board of the institution to discuss business of the board and the institution as determined by the rector and the president. Public comment will not be received.

Contact: Donna Meeks, Executive Secretary to the Board of Visitors, Old Dominion University, 204 Koch Hall, Norfolk, VA 23529, telephone (757) 683-3072, FAX (757) 683-5679, e-mail dmeeks@odu.edu.


May 16, 2005 - 3 p.m. -- Open Meeting
Old Dominion University, Webb University Center, Norfolk, Virginia. 

A regular meeting of the Board of Visitors' Executive Committee to discuss business of the board and the


institution as determined by the rector and the president.
Public comment will not be received.

Contact: Donna Meeks, Executive Secretary to the Board of Visitors, Old Dominion University, 204 Koch Hall, Norfolk, VA 23529, telephone (757) 683-3072, FAX (757) 683-5679, e-mail dmeeks@odu.edu.

BOARD FOR OPTICIANS

April 15, 2005 - 9:30 a.m. -- Open Meeting
Department of Professional and Occupational Regulation,
3600 West Broad Street, 4th Floor, Richmond, Virginia 

A general business meeting to consider regulatory issues as may be presented on the agenda. The meeting is open to the public; however, a portion of the board's business may be discussed in closed session. Public comment will be heard at the beginning of the meeting. Person desiring to participate in the meeting and requiring special accommodations or interpretive services should contact the department at least 10 days prior to the meeting so that suitable arrangements can be made. The department fully complies with the Americans with Disabilities Act.

Contact: William H. Ferguson, II, Executive Director, Board for Opticians, 3600 W. Broad St., Richmond, VA 23230-4917, telephone (804) 367-8590, FAX (804) 367-6295, (804) 367-9753/TTY , e-mail opticians@dpor.virginia.gov.


VIRGINIA OUTDOORS FOUNDATION

April 7, 2005 - 10 a.m. -- Open Meeting
Department of Forestry, 900 Natural Resources Drive,
Charlottesville, Virginia.


A meeting to consider easement proposals and to discuss policy issues. The board will also receive a report from the executive director and public comment will be heard at 1 p.m.


Contact: Bob Lee, Executive Director, Virginia Outdoors Foundation, 203 Governor St., Suite 317, Richmond, VA 23219, telephone (804) 371-2724, FAX (804) 371-4810, e-mail tcleary@vofonline.org.

VIRGINIA BOARD FOR PEOPLE WITH DISABILITIES


June 13, 2005 - 10 a.m. -- Open Meeting
Holiday Inn, 6531 West Broad Street, Richmond, Virginia. 

A meeting of the Executive Committee.


Contact: Sandra Smalls, Executive Assistant, Virginia Board for People with Disabilities, 202 N. 9th St., 9th Floor, Richmond, VA 23219, telephone (804) 786-0016, FAX (804) 786-1118, toll-free (800) 846-4464, (800) 846-4464/TTY , e-mail sandra.smalls@vbpd.virginia.gov.

June 14, 2005 - 9 a.m. -- Open Meeting
Holiday Inn, 6531 West Broad Street, Richmond, Virginia. 
(Interpreter for the deaf provided upon request)

A quarterly board meeting.

Contact: Sandra Smalls, Executive Assistant, Virginia Board for People with Disabilities, 202 N. 9th St., 9th Floor, Richmond, VA 23219, telephone (804) 786-0016, FAX (804) 786-1118, toll-free (800) 846-4464, (800) 846-4464/TTY , e-mail sandra.smalls@vbpd.virginia.gov.


PESTICIDE CONTROL BOARD

April 21, 2005 - 9 a.m. -- Open Meeting
Department of Agriculture and Consumer Services,
Washington Building, 1100 Bank Street, 2nd Floor
Boardroom, Richmond, Virginia. 

A meeting to discuss general business matters requiring board action. However, portions of the meeting may be held in closed session, pursuant to § 2.2-3711 of the Code of Virginia. The board intends to consider final adoption of amendments to 2 VAC 20-40, Rules and Regulations Governing Licensing of Pesticide Businesses Operating Under Authority of the Virginia Pesticide Control Act. 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 Dr. Wayne Surles at least five days before the meeting date so that suitable arrangements can be made.


Contact: Dr. Wayne Surles, Program Manager, Department of Agriculture and Consumer Services, Washington Bldg., 1100 Bank St., 4th Floor, Richmond, VA 23219, telephone (804) 371-6558, FAX (804) 371-8598, toll-free (800) 552-9963, e-mail Wayne.Surles@vdacs.virginia.gov.

BOARD OF PHARMACY


† **April 14, 2005 - 9 a.m.** -- Open Meeting
† **April 21, 2005 - 9 a.m.** -- Open Meeting
Department of Health Professions, 6603 West Broad Street,
5th Floor, Conference Room 4, Richmond, Virginia. 

A Special Conference Committee will discuss disciplinary matters. Public comments will not be received.

Contact: Elizabeth Scott Russell, Executive Director, Board of Pharmacy, 6603 W. Broad St., 5th Floor, Richmond, VA 23230-1712, telephone (804) 662-9911, FAX (804) 662-9313, e-mail scotti.russell@dhp.virginia.gov.


June 7, 2005 - 9 a.m. -- Open Meeting
Department of Health Professions, 6603 West Broad Street,
5th Floor, Conference Room 2, Richmond, Virginia. 

A board meeting to consider such regulatory and disciplinary matters as may be presented on the agenda. Public comment will be received at the beginning of the meeting.

Contact: Elizabeth Scott Russell, Executive Director, Board of Pharmacy, Alcoa Bldg., 6603 W. Broad St., 5th Floor, Richmond, VA 23230-1712, telephone (804) 662-9911, FAX (804) 662-9313, (804) 662-7197/TTY , e-mail scotti.russell@dhp.virginia.gov.

Calendar of Events

NOTE: EXTENSION OF PUBLIC COMMENT PERIOD

† **April 25, 2005 - 10 a.m.** -- Public Hearing
Department of Health Professions, 6603 West Broad Street,
5th Floor, Board Room 3, Richmond, Virginia. 

May 18, 2005 - 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 purpose of the proposed regulation is to set requirements that must be met for a dispensing pharmacy to outsource prescription order processing to a remote or centralized pharmacy.

Statutory Authority: §§ 54.1-2400 and 54.1-3307 of the Code of Virginia.


Public comments may be submitted until May 18, 2005, to Elizabeth Scott Russell, Executive Director, Board of Pharmacy, 6603 West Broad Street, Richmond, VA 23230-1712.

Contact: Elaine J. Yeatts, Agency Regulatory Coordinator, Department of Health Professions, 6603 W. Broad St., Richmond, VA 23230-1712, telephone (804) 662-9918, FAX (804) 662-9114 or e-mail elaine.yeatts@dhp.virginia.gov.

BOARD OF PHYSICAL THERAPY


April 22, 2005 - 9 a.m. -- Open Meeting
Department of Health Professions, 6603 West Broad Street,
5th Floor, Richmond, Virginia. 

A meeting to discuss board issues and board business.


Contact: Elizabeth Young, Executive Director, Board of Physical Therapy, Alcoa Bldg., 6603 West Broad St., 5th Floor, Richmond, VA 23230-1712, telephone (804) 662-9924, FAX (804) 662-9523, (804) 662-7197/TTY , e-mail elizabeth.young@dhp.virginia.gov.

April 22, 2005 - 9 a.m. -- Open Meeting
Department of Health Professions, 6603 West Broad Street,
5th Floor, Richmond, Virginia. 


A meeting of the Legislative/Regulatory Committee to discuss legislative and regulatory changes to the regulations.

Contact: Elizabeth Young, Executive Director, Board of Physical Therapy, Alcoa Bldg., 6603 West Broad St., 5th Floor, Richmond, VA 23230-1712, telephone (804) 662-9924, FAX (804) 662-9523, (804) 662-7197/TTY , e-mail elizabeth.young@dhp.virginia.gov.


POLYGRAPH EXAMINERS ADVISORY BOARD

June 2, 2005 - 10 a.m. -- Open Meeting
Department of Professional and Occupational Regulation,
3600 West Broad Street, Richmond, Virginia. 


A meeting to conduct board business. The meeting is open to the public; however, a portion of the board's business may be discussed in closed session. Persons desiring to participate in the meeting and requiring special accommodations or interpretive services should contact the department at least 10 days prior to the meeting so that suitable arrangements can be made. The department fully complies with the Americans with Disabilities Act.

Contact: Kevin Hoeft, Regulatory Boards Administrator, Department of Professional and Occupational Regulation, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-2785, FAX (804) 367-2474, (804) 367-9753/TTY , e-mail kevin.hoeft@dpor.virginia.gov.


BOARD FOR PROFESSIONAL AND OCCUPATIONAL REGULATION

† **June 6, 2005 - 10 a.m.** -- Open Meeting
Department of Professional and Occupational Regulation,
3600 West Broad Street, Richmond, Virginia. 


A quarterly board meeting.

Contact: Judith A. Spiller, Executive Director, 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 judy.spiller@dpor.virginia.gov.


BOARD OF PSYCHOLOGY

April 12, 2005 - 9:30 a.m. -- Open Meeting
Department of Health Professions, 6603 West Broad Street,
5th Floor, Richmond, Virginia. 


A business meeting to discuss reports from standing committees and any regulatory and disciplinary matters 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 Psychology, Alcoa Bldg., 6603 W. Broad St., 5th Floor, Richmond, VA 23230-1712, telephone (804) 662-9913, FAX (804) 662-9943, (804) 662-7197/TTY , e-mail evelyn.brown@dhp.virginia.gov.


REAL ESTATE APPRAISER BOARD

April 14, 2005 - 9 a.m. -- Open Meeting
April 20, 2005 - 10 a.m. -- Open Meeting
Department of Professional and Occupational Regulation,
3600 West Broad Street, 4th Floor, Room 453, Richmond,
Virginia. 


An informal fact-finding conference.

Contact: Christine Martine, Executive Director, Real Estate Board, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-8552, FAX (804) 367-2475, (804) 367-9753/TTY , e-mail REBoard@dpor.virginia.gov.

May 3, 2005 - 10 a.m. -- Open Meeting


Department of Professional and Occupational Regulation,
3600 West Broad Street, 4 West Conference Room,
Richmond, Virginia. 

A meeting to discuss board business.


Contact: Karen W. O'Neal, Regulatory Programs
Coordinator, Department of Professional and Occupational
Regulation, 3600 W. Broad St., Richmond, VA 23230,
telephone (804) 367-8537, FAX (804) 367-2475, (804) 367-
9753/TTY , e-mail karen.oneal@dpor.virginia.gov.

REAL ESTATE BOARD


April 6, 2005 - 9 a.m. -- Open Meeting**April 7, 2005 - 9 a.m.** -- Open Meeting**April 14, 2005 - 9 a.m.** -- Open Meeting**April 21, 2005 - 9 a.m.** -- Open Meeting

Department of Professional and Occupational Regulation,
3600 West Broad Street, 4th Floor, Room 453, Richmond,
Virginia. 


An informal fact-finding conference.

Contact: Christine Martine, Executive Director, Real Estate
Board, 3600 W. Broad St., Richmond, VA 23230, telephone
(804) 367-8552, FAX (804) 367-2475, (804) 367-9753/TTY ,
e-mail REBoard@dpor.virginia.gov.


May 18, 2005 - 3 p.m. -- Open Meeting

Department of Professional and Occupational Regulation,
3600 West Broad Street, Richmond, Virginia. 


A meeting of the Education Committee to review education
applications.

Contact: Karen W. O'Neal, Regulatory Programs
Coordinator, Department of Professional and Occupational
Regulation, 3600 W. Broad St., Richmond, VA 23230,
telephone (804) 367-8537, FAX (804) 367-2475, (804) 367-
9753/TTY , e-mail karen.oneal@dpor.virginia.gov.


May 19, 2005 - 8:30 a.m. -- Open Meeting

Department of Professional and Occupational Regulation,
3600 West Broad Street, Richmond, Virginia. 

A meeting of the Fair Housing Committee to review fair
housing cases.

Contact: Karen W. O'Neal, Regulatory Programs
Coordinator, Department of Professional and Occupational
Regulation, 3600 W. Broad St., Richmond, VA 23230,
telephone (804) 367-8537, FAX (804) 367-2475, (804) 367-
9753/TTY , e-mail karen.oneal@dpor.virginia.gov.

May 19, 2005 - 9 a.m. -- Open Meeting

Department of Professional and Occupational Regulation,
3600 West Broad Street, Conference Room 4-West,
Richmond, Virginia. 

A meeting to discuss board business.

Contact: Karen W. O'Neal, Regulatory Programs
Coordinator, Department of Professional and Occupational
Regulation, 3600 W. Broad St., Richmond, VA 23230,

telephone (804) 367-8537, FAX (804) 367-2475, (804) 367-
9753/TTY , e-mail karen.oneal@dpor.virginia.gov.

VIRGINIA RESEARCH AND TECHNOLOGY ADVISORY COMMISSION

May 17, 2005 - 1 p.m. -- Open Meeting


James Madison University, 800 North Main Street,
Harrisonburg, Virginia.

Tour at 10 a.m.; meeting 1 p.m. to 5 p.m. (lunch provided).
A reception and dinner in honor of the commission will be
cohosted by JMU and CIT and will be held in the Board of
Visitors Dining Room of the College Center, JMU.
Reception refreshments and dinner will be provided to
commission members and invited guests. Reception 5:45
p.m. Dinner 6:30 p.m.

Contact: Nancy Vorona, VP Research Investment, CIT,
Virginia Research and Technology Advisory Commission,
2214 Rock Hill Rd., Suite 600, Herndon, VA 20170, telephone
(703) 689-3043, FAX (703) 464-1720, e-mail nvorona@cit.org.

VIRGINIA RESOURCES AUTHORITY

April 12, 2005 - 9 a.m. -- Open Meeting

Eighth and Main Building, 707 East Main Street, 2nd Floor,
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: Bonnie R. C. McRae, Executive Assistant, Virginia
Resources Authority, 707 E. Main St., Richmond, VA 23219,
telephone (804) 644-3100, FAX (804) 644-3109, e-mail
bmcrac@vra.state.va.us.

SEWAGE HANDLING AND DISPOSAL APPEAL REVIEW BOARD

April 6, 2005 - 10 a.m. -- Open Meeting**May 18, 2005 - 10 a.m.** -- Open Meeting

Henrico County Government Center, 8600 Dixon Powers
Drive, Human Resource Board Room, Richmond, Virginia.

Calendar of Events

A meeting to hear appeals of health department denials of septic tank permits and/or Indemnification Fund Claim requests.

Contact: Susan Sherertz, Secretary to the Board, Department of Health, 109 Governor St., 5th Floor, Richmond, VA 23219, telephone (804) 864-7464, FAX (804) 864-7475, e-mail susan.sherertz@vdh.virginia.gov.

VIRGINIA SMALL BUSINESS FINANCING AUTHORITY

† **April 27, 2005 - Noon** -- Open Meeting
Department of Business Assistance, 707 East Main Street,
3rd Floor Board Room, Richmond, Virginia. ♿

A meeting to review applications for loans submitted to the authority for approval and general business of the board. The meeting time is subject to change depending upon the board's agenda.

Contact: Scott E. Parsons, Executive Director, Department of Business Assistance, P.O. Box 446, Richmond, VA 23218-0446, telephone (804) 371-8256, FAX (804) 225-3384, toll-free (866) 248-8814, e-mail scott.parsons@dba.virginia.gov.

STATE BOARD OF SOCIAL SERVICES

April 20, 2005 - 9 a.m. -- Open Meeting
April 21, 2005 - 9 a.m. -- Open Meeting
The Law Enforcement and Judicial Complex, 245 South 4th
Street, Wytheville, Virginia.

A regular meeting.

Contact: Pat Rengnerth, State Board Liaison, State Board of Social Services, Office of Legislative and Regulatory Affairs, 7 N. 8th St., Room 5214, Richmond, VA 23219, telephone (804) 726-7905, FAX (804) 726-7906, (800) 828-1120/TTY ♿, e-mail patricia.rengnerth@dss.virginia.gov.

BOARD FOR PROFESSIONAL SOIL SCIENTISTS AND WETLAND PROFESSIONALS

April 20, 2005 - 10 a.m. -- Open Meeting
Department of Professional and Occupational Regulation,
3600 West Broad Street, Richmond, Virginia. ♿

A meeting to conduct board business. The meeting is open to the public; however, a portion of the board's business may be discussed in closed session. Persons desiring to participate in the meeting and requiring special accommodations or interpretive services should contact the department at least 10 days prior to the meeting so that suitable arrangements can be made. The department fully complies with the Americans with Disabilities Act.

Contact: Mark N. Courtney, Executive Director, Board for Professional Soil Scientists and Wetland Professionals, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-8514, FAX (804) 367-2475, (804) 367-9753/TTY ♿, e-mail soilscientist@dpor.virginia.gov.

COUNCIL ON TECHNOLOGY SERVICES

† **May 11, 2005 - 2 p.m.** -- Open Meeting
† **June 23, 2005 - 2 p.m.** -- Open Meeting
Department of Transportation, 1221 East Broad Street,
Auditorium, Richmond, Virginia. ♿

A regular meeting of the advisory council to the chief information officer of the Commonwealth on matters related to information technology in the Commonwealth.

Contact: Jennifer W. Hunter, Special Assistant for Communications/COTS Executive Director, Council on Technology Services, 411 E. Franklin St., Suite 500, Richmond, VA 23219, telephone (804) 343-9012, FAX (804) 343-9015, e-mail jenny.hunter@vita.virginia.gov.

COMMONWEALTH TRANSPORTATION BOARD

April 20, 2005 - 2 p.m. -- Open Meeting
Department of Transportation, 1221 East Broad Street,
Auditorium, Richmond, Virginia. ♿

A work session of the Commonwealth Transportation Board and transportation staff.

Contact: Carol A. Mathis, Administrative Staff Assistant, Virginia Department of Transportation 1401 E. Broad St., Richmond, VA 23219, telephone (804) 786-2701, FAX (804) 786-2940, e-mail carol.mathis@VDOT.virginia.gov.

April 21, 2005 - 9 a.m. -- Open Meeting
Department of Transportation, 1221 East Broad Street,
Auditorium, Richmond, Virginia. ♿

A meeting to transact board business, such as permits, additions/deletions to the highway system, and other matters requiring board approval. Public comment will be received at the outset of the meeting on items on the agenda for which the opportunity for public comment has not been afforded the public in another forum. Remarks will be limited to five minutes. Large groups are asked to select one individual to speak for the group. The board reserves the right to amend these conditions. Separate committee meetings may be held on call of the chairman. Contact VDOT Public Affairs at (804) 786-2715 for schedule.

Contact: Carol A. Mathis, Administrative Staff Assistant, Virginia Department of Transportation, 1401 E. Broad St., Richmond, VA 23219, telephone (804) 786-2701, FAX (804) 786-2940, e-mail carol.mathis@VDOT.Virginia.gov.


TREASURY BOARD

† **April 20, 2005 - 9 a.m.** -- Open Meeting
James Monroe Building, 101 North 14th Street, 3rd Floor,
Treasury Board Room, Richmond, Virginia. ♿

A regular meeting.

Contact: Melissa Mayes, Secretary, Department of the Treasury, 101 N. 14th St., 3rd Floor, Richmond, VA 23219, telephone (804) 371-6011, FAX (804) 786-0833, e-mail melissa.mayes@trs.virginia.gov.

Virginia College Building Authority


† **April 14, 2005 - 10:30 a.m.** -- Open Meeting
James Monroe Building, 101 North 14th Street, 3rd Floor,
Richmond, Virginia. 

A meeting to consider the issuance of Educational Facilities Revenue Bonds (21st Century College and Equipment Programs).

Contact: Janet Aylor, Public Finance Manager, Department of the Treasury, 101 N. 14th St., 3rd Floor, Richmond, Virginia 23218-1879, telephone (804) 786-2082, FAX (804) 225-3187, e-mail janet.aylor@trs.virginia.gov.

DEPARTMENT OF VETERANS SERVICES


Joint Leadership Council of Veterans Service Organizations

May 11, 2005 - 11 a.m. -- Open Meeting
Hampton Roads/Tidewater Area. Location to be determined. 

A regular meeting.

Contact: Steven Combs, Assistant to the Commissioner, Department of Veterans Services, 900 E. Main St., Richmond, VA 23219, telephone (804) 786-0294, e-mail steven.combs@dvs.virginia.gov.


Veterans Services Foundation

† **June 8, 2005 - 11 a.m.** -- Open Meeting
Location to be determined 


A regular meeting. Public comment will be received at approximately 12:50 p.m.

Contact: Steven Combs, Assistant to the Commissioner, Department of Veterans Services, 900 E. Main St., Richmond, VA 23219, telephone (804) 786-0294, e-mail steven.combs@dvs.virginia.gov.


BOARD OF VETERINARY MEDICINE

† **April 7, 2005 - 8:30 a.m.** -- Open Meeting
Department of Health Professions, 6603 West Broad Street, 5th Floor, Conference Room 3, Richmond, Virginia. 

A formal hearing will begin at 8:30 a.m. Informal conferences will begin at 1 p.m.

Contact: Terri H. Behr, Administrative Assistant, Department of Health Professions, 6603 W. Broad St., 5th Floor, Richmond, VA, telephone (804) 662-9915, FAX (804) 662-7098, (804) 662-7197/TTY , e-mail terri.behr@dhp.virginia.gov.


VIRGINIA WASTE MANAGEMENT BOARD

† **April 11, 2005 - 1 p.m.** -- Open Meeting
† **April 12, 2005 - Time to be announced** -- Open Meeting
Virginia Military Institute, Lexington, Virginia. 

Representatives of the State Air Pollution Control, State Water Control and Virginia Waste Management Boards will be attending the 16th Environment Virginia Conference. Information on the conference program is available at www.environmentva.org. During the afternoon on April 11, 2005, the members of the boards will be attending the session entitled "Making Community and Public Involvement Effective." At the end of that session there will be a joint meeting of the boards where the public will be given an opportunity to address the boards.


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 cumberland@deq.virginia.gov.

STATE WATER CONTROL BOARD

† **April 4, 2005 - 9:30 a.m.** -- Open Meeting
Richmond Regional Planning District Commission, Interstate Center Office Park, 2104 West Laburnum Avenue, Suite 101, Richmond, Virginia. 

A meeting of the advisory committee assisting the department in the development of amendments to the Virginia Water Protection Permit regulation.


Contact: Scott W. Kudlas, State Water Control Board, P.O.Box 10009, Richmond, VA 23240, telephone (804) 698-4456, FAX (804) 698-4347, e-mail swkudlas@deq.virginia.gov.

April 5, 2005 - 1:30 p.m. -- Open Meeting
Department of Environmental Quality, West Central Regional Office, 3019 Peters Creek Road, Roanoke, Virginia. 

April 7, 2005 - 1:30 p.m. -- Open Meeting
Department of Environmental Quality, Northern Regional Office, 13901 Crown Court, Woodbridge, Virginia

A public meeting to receive comments on the State Water Control Board's notice of intent to amend the water quality standards regulation to address nutrient criteria for lakes. The NOIRA will appear in the Virginia Register on February 21, 2005, and the comment period runs from February 21 through April 8, 2005.

Contact: Jean W. Gregory, Department of Environmental Quality, P.O. Box 10009, Richmond, VA 23240, telephone (804) 698-4113, FAX (804) 698-4116, e-mail jwggregory@deq.virginia.gov.

† **April 11, 2005 - 1 p.m.** -- Open Meeting
† **April 12, 2005 - Time to be announced** -- Open Meeting
Virginia Military Institute, Lexington, Virginia. 

Representatives of the State Air Pollution Control, State Water Control and Virginia Waste Management Boards will be attending the 16th Environment Virginia Conference. Information on the conference program is available at

Calendar of Events

www.environmentva.org. During the afternoon on April 11, 2005, the members of the boards will be attending the session entitled "Making Community and Public Involvement Effective." At the end of that session there will be a joint meeting of the boards where the public will be given an opportunity to address the boards.

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 cumberland@deq.virginia.gov.

April 27, 2005 - 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 assisting in the development of regulatory language for the reissuance/amendment of the general VPDES permit for car wash facilities.

Contact: George Cosby, State Water Control Board, P.O. Box 10009, Richmond, VA 23240, telephone (804) 698-4067, FAX (804) 698-4032, e-mail gecosby@deq.virginia.gov.

April 25, 2005 - 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 25-40, Regulation for Nutrient Enriched Waters and Dischargers Within the Chesapeake Bay Watershed, and 9 VAC 25-720, Water Quality Management Planning Regulation**. The purpose of the proposed action is to establish numerical limitations for the discharge of total nitrogen, and the possible revision of numerical limitations for the discharge of total phosphorous, for certain dischargers located within the Chesapeake Bay Watershed.

Statutory Authority: §§ 62.1-44.15 of the Code of Virginia and § 303 of the federal Clean Water Act.

Contact: John Kennedy, Department of Environmental Quality, P.O. Box 10009, Richmond, VA 23240, telephone (804) 698-4312, FAX (804) 698-4116, or e-mail: jmkennedy@deq.virginia.gov.

† May 4, 2005 - 2 p.m. -- Public Hearing
Department of Environmental Quality, Southwest Regional Office, 355 Deadmore Street, Abingdon, Virginia.

† May 5, 2005 - 2 p.m. -- Public Hearing
Department of Environmental Quality, West Central Regional Office, 3019 Peters Creek Road, Roanoke, Virginia.

† May 9, 2005 - 2 p.m. -- Public Hearing
Department of Environmental Quality, Valley Regional Office, 4111 Early Road, Harrisonburg, Virginia.

† May 10, 2005 - 7 p.m. -- Public Hearing
Lake Country Advanced Knowledge Center, 118 East Danville Street, South Hill, Virginia.

† May 11, 2005 - 2 p.m. -- Public Hearing
Department of Environmental Quality, South Central Regional Office, 7705 Timberlake Road, Lynchburg, Virginia.

† May 12, 2005 - 4 p.m. -- Public Hearing
Department of Environmental Quality, Piedmont Regional Office, 4949-A Cox Road, Glen Allen, Virginia.

† May 16, 2005 - 7 p.m. -- Public Hearing
Department of Environmental Quality, Northern Regional Office, 13901 Crown Court, Woodbridge, Virginia.

† May 17, 2005 - 7 p.m. -- Public Hearing
Department of Environmental Quality, Tidewater Regional Office, 5636 Southern Boulevard, Virginia Beach, Virginia.

† June 3, 2005 - 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 adopt regulations entitled **9 VAC 25-780, Local and Regional Water Supply Planning**. The purpose of the proposed action is to establish a basic set of criteria that each local or regional water supply plan must contain so that the entity can plan for and provide adequate water to its citizens.

Statutory Authority: § 62.1-44.38:1 of the Code of Virginia.

Contact: Scott W. Kudlas, State Water Control Board, P.O. Box 10009, Richmond, VA 23240, telephone (804) 698-4456, FAX (804) 698-4347, e-mail swkudlas@deq.virginia.gov.

BOARD FOR WATERWORKS AND WASTEWATER WORKS OPERATORS

† June 22, 2005 - 8:30 a.m. -- Open Meeting
Department of Professional and Occupational Regulation, 3600 West Broad Street, Richmond, Virginia. ☎

A meeting to conduct board business.

Contact: David E. Dick, Executive Director, Board for Waterworks and Wastewater Works Operators, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-8507, FAX (804) 367-6128, (804) 367-9753/TTY ☎, e-mail waterwasteoper@dpor.virginia.gov.

INDEPENDENT

STATE LOTTERY BOARD


April 6, 2005 - 9:30 a.m. -- Open Meeting
State Lottery Department, 900 East Main Street, 13th Floor, Richmond, Virginia. ☎

A regular meeting to conduct routine business. There will be an opportunity for public comment shortly after the meeting is convened.


Contact: Frank S. Ferguson, Director, Legislative and Regulatory Affairs, State Lottery Department, 900 E. Main St., Richmond, VA 23219, telephone (804) 692-7901, FAX (804) 692-7905, e-mail fferguson@valottery.state.va.us.


VIRGINIA OFFICE FOR PROTECTION AND ADVOCACY

Board for Protection and Advocacy


April 25, 2005 - 2 p.m. -- Open Meeting
Ramada Plaza Resort; 5700 Atlantic Avenue, Virginia Beach, Virginia.  (Interpreter for the deaf provided upon request)

A meeting of the board Policy Committee. Public comment will be received at the beginning of the meeting. Public comment will also be accepted by telephone. If you wish to provide public comment via telephone, you must call Lisa Shehi, Administrative Assistant at 1-800-552-3962 (Voice/TTY) or via e-mail at lisa.shehi@vopa.virginia.gov no later than Monday, April 11, 2005. Ms. Shehi will take your name and phone number and you will be telephoned during the public comment period. If interpreter services or other accommodations are required, please contact Ms. Shehi, no later than Monday, April 11, 2005.


Contact: Lisa Shehi, Administrative Assistant, Virginia Office for Protection and Advocacy, 1910 Byrd Ave., Suite 5, Richmond, VA 23230, telephone (804) 225-2042, FAX (804) 662-7431, toll-free (800) 552-3962, (804) 225-2042/TTY , e-mail general.vopa@vopa.virginia.gov.

April 26, 2005 - 9 a.m. -- Open Meeting
Ramada Plaza Resort; 5700 Atlantic Avenue, Virginia Beach, Virginia.  (Interpreter for the deaf provided upon request)


A meeting of the governing board. Public comment will be received at the beginning of the meeting. Public comment will also be accepted by telephone. If you wish to provide public comment via telephone, you must call Lisa Shehi, Administrative Assistant at 1-800-552-3962 (Voice/TTY) or via e-mail at lisa.shehi@vopa.virginia.gov no later than Tuesday, April 12, 2005. Ms. Shehi will take your name and phone number and you will be telephoned during the public comment period. Directions to the meeting site can be found on the VOPA website at www.vopa.state.va.us. If interpreter services or other accommodations are required, please contact Ms. Shehi no later than Tuesday, April 12, 2005.

Contact: Lisa Shehi, Administrative Assistant, Virginia Office for Protection and Advocacy, 1910 Byrd Ave., Suite 5, Richmond, VA 23230, telephone (804) 225-2042, FAX (804) 662-7431, toll-free (800) 552-3962, (804) 225-2042/TTY , e-mail general.vopa@vopa.virginia.gov.

Disabilities Advisory Council

April 28, 2005 - 10 a.m. -- Open Meeting
Virginia Office for Protection and Advocacy, 1910 Byrd Avenue, Suite 5, Richmond, Virginia.  (Interpreter for the deaf provided upon request)


A regular meeting. Public comment is welcome and will be received at the beginning of the meeting. For those needing interpreter services or other accommodations, please contact Delicia (Dee) Vance by April 14, 2005.


Contact: Delicia (Dee) Vance, Outreach Advocate, Virginia Office for Protection and Advocacy, 1910 Byrd Avenue, Suite 5, Richmond, Virginia 23230, telephone (804) 662-7099, FAX (804) 662-7057, toll-free (800) 552-3962, (804) 225-2042/TTY , e-mail delicia.vance@vopa.virginia.gov.

VIRGINIA RETIREMENT SYSTEM


May 17, 2005 - Noon -- Open Meeting
Virginia Retirement System Headquarters Building, 1200 East Main Street, Richmond, Virginia. 


A regular meeting of the Optional Retirement Plan Advisory Committee. No public comment will be received at the meeting.

Contact: LaShaunda B. King, Executive Assistant, Virginia Retirement System, 1200 E. Main Street, Richmond, VA 23219, telephone (804) 649-8059, FAX (804) 786-1541, toll-free (888) 827-3847, (804) 344-3190/TTY , or e-mail lking@vrs.state.va.us.

May 18, 2005 - 11 a.m. -- Open Meeting
Bank of America, 1111 East Main Street, Virginia Retirement System Investment Department, Pavilion, 4th Floor, Richmond, Virginia. 

A regular meeting of the Investment Advisory Committee. No public comment will be received at the meeting.


Contact: Phyllis Henderson, Executive Assistant, Virginia Retirement System, 1200 E. Main St., Richmond, VA 23219, telephone (804) 697-6675, FAX (804) 786-1541, toll-free (888) 827-3847, (804) 344-3190/TTY , e-mail phenderson@vrs.state.va.us.


May 18, 2005 - 2:30 p.m. -- Open Meeting
Virginia Retirement System Headquarters Building, 1200 East Main Street, Richmond, Virginia. 

A regular meeting of the following committees:

- 2:30 p.m. - Benefits and Actuarial Committee
- 4 p.m. - Audit and Compliance Committee
- 4 p.m. - Administration and Personnel Committee

No public comment will be received at the meetings.

Contact: LaShaunda B. King, Executive Assistant, Virginia Retirement System, 1200 E. Main Street, Richmond, VA 23219, telephone (804) 649-8059, FAX (804) 786-1541, toll-free (888) 827-3847, (804) 344-3190/TTY , or e-mail lking@vrs.state.va.us.

May 19, 2005 - 9 a.m. -- Open Meeting
Virginia Retirement System Headquarters Building, 1200 East Main Street, Richmond, Virginia. 

A regular meeting of the Board of Trustees. No public comment will be received at the meeting.

Calendar of Events

Contact: LaShaunda B. King, Executive Assistant, Virginia Retirement System, 1200 E. Main Street, Richmond, VA 23219, telephone (804) 649-8059, FAX (804) 786-1541, toll-free (888) 827-3847, (804) 344-3190/TTY ☎, or e-mail lking@vrs.state.va.us.

June 1, 2005 - 8 a.m. -- Open Meeting
Location to be determined at a later date. ♿

Board of Trustees annual retreat.

Contact: LaShaunda B. King, Executive Assistant, Virginia Retirement System, 1200 E. Main St., Richmond, VA 23219, telephone (804) 649-8059, FAX (804) 786-1541, toll-free (888) 827-3847, (804) 344-3190/TTY ☎, e-mail lking@vrs.state.va.us.

LEGISLATIVE

VIRGINIA CODE COMMISSION

† **April 20, 2005 - 9 a.m.** -- Open Meeting
Charlottesville Courtyard by Marriott at University of Virginia, 1201 West Main Street, Charlottesville, Virginia.

A meeting to discuss the Commission's 2005 Workplan and begin working on the 2007 Code of Virginia publication project.

Contact: Jane Chaffin, Registrar of Regulations, Virginia Code Commission, General Assembly Building, 2nd Floor, 910 Capitol Street, Richmond, VA 23219, telephone (804) 786-3591, FAX (804) 692-0625 or e-mail jchaffin@leg.state.va.us.

JOINT SUBCOMMITTEE ON MANUFACTURING NEEDS AND THE FUTURE OF MANUFACTURING IN VIRGINIA

† **April 5, 2005 - 1 p.m.** -- Open Meeting
Wyeth Pharmaceutical Complex, Richmond, Virginia.

A general meeting. For questions regarding the meeting agenda, contact Frank Munyan, Division of Legislative Services, at (804) 786-3591.

Contact: Hobie Lehman, Senate Committee Operations, General Assembly Bldg., 910 Capitol St., Richmond, VA 23219, telephone (804) 698-7450.

JOINT SUBCOMMITTEE STUDYING THE PUBLIC RECORDS ACT

† **April 7, 2005 - 2 p.m.** -- Open Meeting
General Assembly Building, 9th and Broad Streets, House Room C, Richmond, Virginia. ♿

A regular meeting. There may be a tour of the State Records Center at 12:30 p.m. More details will be provided after the tour is confirmed. For questions regarding the meeting agenda, contact Lisa Wallmeyer, Division of Legislative Services, telephone (804) 786-3591.

Contact: Lori Maynard, House Committee Operations, General Assembly Building, 910 Capitol St., Richmond, VA 23219, telephone (804) 698-1540.

SENATE COMMITTEE ON RULES

April 5, 2005 - 1 p.m. -- Open Meeting
General Assembly Building, 9th and Broad Streets, Senate Room A, Richmond, Virginia. ♿

A meeting to make appointments to various commissions and boards. For questions regarding the meeting agenda, contact Ginny Edwards, Division of Legislative Services, telephone (804) 786-3591.

Contact: Patty Lung, Senate Committee Operations, General Assembly Bldg., 910 Capitol St., Richmond, VA 23219, telephone (804) 698-7450.

SMALL BUSINESS COMMISSION

April 6, 2005 - 10 a.m. -- Open Meeting
General Assembly Building, 9th and Broad Streets, Senate Room A, Richmond, Virginia. ♿

A general meeting. For questions regarding the meeting agenda, contact Frank Munyan, Division of Legislative Services, at (804) 786-3591.

Contact: Patty Lung, Senate Committee Operations, General Assembly Bldg., 910 Capitol St., Richmond, VA 23219, telephone (804) 698-7450.

CHRONOLOGICAL LIST

OPEN MEETINGS

April 4

- † Audiology and Speech-Language Pathology, Board of Barbers and Cosmetology, Board for
- † Health, State Board of
- Old Dominion University
- † Water Control Board, State

April 5

- Agriculture and Consumer Services, Department of
 - Virginia Horse Industry Board
- Contractors, Board for
- † Manufacturing Needs and the Future of Manufacturing in Virginia, Joint Subcommittee on
- Medicine, Board of
 - Advisory Board of Occupational Therapy
 - Advisory Board on Respiratory Care
- Museum of Fine Arts, Virginia
- Nursing, Board of
- Rules, Senate Committee on
- Water Control Board, State

April 6

- † Branch Pilots, Board for
- Lottery Board, State
- Medicine, Board of
 - Advisory Board on Acupuncture

- Advisory Board on Radiologic Technology
Nursing, Board of
Real Estate Board
Sewage Handling and Disposal Appeal Review Board
Small Business Commission

April 7

Contractors, Board for
† Health, Department of
- State Emergency Medical Services Advisory Board
Medicine, Board of
- Advisory Board on Athletic Training
- Advisory Board on Physician Assistants
Outdoors Foundation, Virginia
Real Estate Board
† Studying the Public Records Act, Joint Subcommittee on
† Veterinary Medicine, Board of
Water Control Board, State

April 8

† Accountancy, Board of
† Compensation Board
Dentistry, Board of
Environmental Quality, Department of

April 11

† Accountancy, Board of
† Air Pollution Control Board, State
Alcoholic Beverage Control Board
Forestry, Board of
† Information Technologies Agency, Virginia
- Information Technology Investment Board
Nursing, Board of
† Waste Management Board, Virginia
† Water Control Board, State

April 12

† Arts, Virginia Commission for the
Blind and Vision Impaired, Board for the
† Contractors, Board for
Environmental Quality, Department of
Funeral Directors and Embalmers, Board of
† Information Technologies Agency, Virginia
Medicine, Board of
Nursing, Board of
Psychology, Board of
Resources Authority, Virginia
† Waste Management Board, Virginia
† Water Control Board, State

April 13

† Arts, Virginia Commission for the
Dentistry, Board of
† Health Professions, Board of
† Information Technologies Agency, Virginia
Mental Health, Mental Retardation and Substance Abuse
Services Board, State
Motor Vehicles, Department of
- Medical Advisory Board
Nursing and Medicine, Joint Boards of
† Rehabilitative Services, Department of
- Virginia Statewide Independent Living Council

April 14

Auctioneers Board
Contractors, Board for
Dentistry, Board of
Education, Department of

- State Special Education Advisory Committee
† Health, Department of
Military Bases, Virginia Commission on
† Pharmacy, Board of
Real Estate Appraiser Board
Real Estate Board
† Treasury, Department of the
- Virginia College Building Authority

April 15

Dentistry, Board of
Opticians, Board for

April 18

† Business Assistance, Department of
- Small Business Advisory Board
Education, Department of
- Advisory Board on Teacher Education and Licensure
† Environmental Quality, Department of

April 19

† Arts, Virginia Commission for the
† Aviation Board, Virginia
Contractors, Board for
Nursing, Board of

April 20

Agriculture and Consumer Services, Department of
- Virginia Marine Products Board
† Aviation Board, Virginia
† Code Commission, Virginia
Education, Board of
Geology, Board for
Medicine, Board of
Nursing Home Administrators, Board of
Real Estate Appraiser Board
Social Services, State Board of
Soil Scientists and Wetland Professionals, Board for
Professional
Transportation Board, Commonwealth
† Treasury, Department of
- Treasury, Board

April 21

† Arts, Virginia Commission for the
Barbers and Cosmetology, Board for
Contractors, Board for
Design-Build/Construction Management Review Team
Education, Board of
Manufactured Housing Board, Virginia
Pesticide Control Board
† Pharmacy, Board of
Real Estate Board
Social Services, State Board of
Transportation Board, Commonwealth

April 22

Accountancy, Board of
Medical Assistance Services, Department of
† Medicine, Board of
Physical Therapy, Board of

April 25

Alcoholic Beverage Control Board
Protection and Advocacy, Board for

April 26

† Arts, Virginia Commission for the
Marine Resources Commission
Protection and Advocacy, Board for

Calendar of Events

April 27

† Compensation Board
† Small Business Financing Authority, Virginia
Water Control Board, State

April 28

† Arts, Virginia Commission for the
Environmental Quality, Department of
Protection and Advocacy, Virginia Office for
- Disabilities Advisory Council

May 2

Branch Pilots, Board for

May 3

† Arts, Virginia Commission for the
Funeral Directors and Embalmers, Board of
Museum of Fine Arts, Virginia
Real Estate Appraiser Board

May 4

Architects, Professional Engineers, Land Surveyors,
Certified Interior Designers and Landscape Architects,
Board for
Jamestown-Yorktown Foundation

May 5

† Arts, Virginia Commission for the
† Contractors, Board for
† Environmental Quality, Department of
† Medicine, Board of

May 6

Art and Architectural Review Board
† Environmental Quality, Department of

May 9

Alcoholic Beverage Control Board
† Local Government, Commission on

May 10

Architects, Professional Engineers, Land Surveyors,
Certified Interior Designers and Landscape Architects,
Board for
† Arts, Virginia Commission for the
Funeral Directors and Embalmers, Board of

May 11

† Deaf and Hard-of-Hearing, Department for the
† Information Technologies, Virginia
- E-911 Wireless Service Board
† Technology Services, Council on
Veterans Services, Department of
- Joint Leadership Council of Veterans Service
Organizations

May 12

Architects, Professional Engineers, Land Surveyors,
Certified Interior Designers and Landscape Architects,
Board for
† Arts, Virginia Commission for the
Criminal Justice Services Board
† Information Technologies Agency, Virginia
- Virginia Geographic Information Network Advisory Board

May 13

Child Fatality Review Team, State
Dentistry, Board of

May 16

Nursing, Board of
Old Dominion University

May 17

Architects, Professional Engineers, Land Surveyors,
Certified Interior Designers and Landscape Architects,
Board for
Corrections, Board of
Education, Board of
- State Special Education Advisory Committee
Nursing, Board of
Research and Technology Advisory Commission, Virginia
Retirement System, Virginia

May 18

Asbestos, Lead, and Home Inspectors, Virginia Board for
Community Colleges, State Board for
Corrections, Board of
Medical Assistance Services, Department of
Nursing, Board of
Real Estate Board
Retirement System, Virginia
Sewage Handling and Disposal Appeal Review Board

May 19

Aging, Commonwealth Council on
Architects, Professional Engineers, Land Surveyors,
Certified Interior Designers and Landscape Architects,
Board for
Audiology and Speech-Language Pathology, Board of
Community Colleges, State Board for
Design-Build/Construction Management Review Board
Jamestown-Yorktown Foundation
Nursing, Board of
Real Estate Board
Retirement System, Virginia

May 20

Dentistry, Board of
Jamestown-Yorktown Foundation
Medicine, Board of

May 23

Alcoholic Beverage Control Board

May 24

Environmental Quality, Department of
Marine Resources Commission

May 25

Contractors, Board for
Education, Board of
Milk Commission, State

June 1

Retirement System, Virginia

June 2

Counseling, Board of
Polygraph Examiners Advisory Board

June 3

Art and Architectural Review Board
Counseling, Board of

June 6

Alcoholic Beverage Control Board
† Professional and Occupational Regulation, Board for

June 7

Alzheimer's Disease and Related Disorders Commission
† Arts, Virginia Commission for the
Charitable Gaming Board
Contractors, Board for
Funeral and Directors and Embalmers, Board of
Nursing, Board of

Pharmacy, Board of

June 8

† Arts, Virginia Commission for the
Cemetery Board
Jamestown-Yorktown Foundation
Nursing, Board of
† Veterans Services, Department of

June 9

Criminal Justice Services Board

June 10

Health, Department of

June 13

Library Board, State
Nursing, Board of
People with Disabilities, Virginia Board for

June 14

Medical Assistance Services, Board of
Nursing, Board of
Old Dominion University
People with Disabilities, Virginia Board for

June 15

† At-Risk Youth and Families, Comprehensive Services for

June 16

Architects, Professional Engineers, Land Surveyors,
Certified Interior Designers and Landscape Architects,
Board for
Design-Build/Construction Management Review Board
Labor and Industry, Department of
- Virginia Apprenticeship Council
Museum of Fine Arts, Virginia

June 17

Health Professions, Department of
- Health Practitioners' Intervention Program Committee

June 20

Alcoholic Beverage Control Board

June 22

† Education, Board of
† Nursing and Medicine, Joint Boards of
† Waterworks and Wastewater Works Operators, Board for

June 23

† Technology Services, Council on

June 28

† Marine Resources Commission

June 29

† Accountancy, Board of

May 9

† Water Control Board, State

May 10

† Water Control Board, State

May 11

† Water Control Board, State

May 12

† Water Control Board, State

May 16

† Water Control Board, State

May 17

† Water Control Board, State

PUBLIC HEARINGS

April 12

Health, State Board of

April 18

† Environmental Quality, Department of

April 20

Air Pollution Control Board, State

April 22

Accountancy, Board of

April 25

† Pharmacy, Board of

May 4

† Water Control Board, State

May 5

† Water Control Board, State

Calendar of Events
