
TABLE OF CONTENTS

CUMULATIVE TABLE OF VIRGINIA ADMINISTRATIVE CODE SECTIONS ADOPTED, AMENDED, OR REPEALED

Cumulative Table.....3975

PETITIONS FOR RULEMAKING

TITLE 18. PROFESSIONAL AND OCCUPATIONAL LICENSING

Board of Counseling3987

Board of Psychology.....3987

NOTICES OF INTENDED REGULATORY ACTION

TITLE 1. ADMINISTRATION

Department of Human Resource Management3988

TITLE 8. EDUCATION

State Board of Education.....3988

TITLE 12. HEALTH

State Board of Health3988

Department of Medical Assistance Services3989

TITLE 16. LABOR AND EMPLOYMENT

Safety and Health Codes Board3989

TITLE 18. PROFESSIONAL AND OCCUPATIONAL LICENSING

Board of Accountancy3990

Board of Audiology And Speech-Language Pathology.....3990

Board of Dentistry.....3990

Board of Medicine.....3990

Board of Medicine.....3991

Board of Nursing.....3991

TITLE 22. SOCIAL SERVICES

State Board of Social Services3992

PROPOSED REGULATIONS

TITLE 4. CONSERVATION AND NATURAL RESOURCES

DEPARTMENT OF MINES, MINERALS AND ENERGY

Coal Surface Mining Reclamation Regulations. (amending

4 VAC 25-130-700.12, 4 VAC 25-130-773.21, 4 VAC 25-130-775.11, 4 VAC 25-130-775.13, 4 VAC 25-130-784.20, 4 VAC 25-130-800.51, 4 VAC 25-130-816.105, 4 VAC 25-130-817.11, 4 VAC 25-130-817.64, 4 VAC 25-130-817.121, 4 VAC 25-130-842.15, 4 VAC 25-130-843.12, 4 VAC 25-130-843.13, 4 VAC 25-130-843.15, 4 VAC 25-130-843.16, 4 VAC 25-130-845.13, 4 VAC 25-130-845.15, 4 VAC 25-130-845.18, 4 VAC 25-130-845.19, 4 VAC 25-130-846.14)..... 3993

TITLE 12. HEALTH

STATE BOARD OF HEALTH

Virginia Emergency Medical Services Regulations (adding 12 VAC 5-31-2300 through 12 VAC 5-31-2970). 4007

Regulations Governing Financial Assistance for Emergency Medical Services (repealing 12 VAC 5-40-10 through 12 VAC 5-40-190). 4007

Biosolids Use Regulations (adding 12 VAC 5-585-760 through 12 VAC 5-585-830). 4018

TITLE 13. HOUSING

VIRGINIA HOUSING DEVELOPMENT AUTHORITY

Rules and Regulations for Home Rehabilitation Loans. (repealing 13 VAC 10-50-10 through 13 VAC 10-50-100). 4023

Rules and Regulations for REACH Virginia (amending 13 VAC 10-120-10 through 13 VAC 10-120-80)..... 4024

TITLE 18. PROFESSIONAL AND OCCUPATIONAL LICENSING

AUCTIONEERS BOARD

Regulations of the Virginia Auctioneers Board (amending 18 VAC 25-21-80, 18 VAC 25-21-90, 18 VAC 25-21-180; adding 18 VAC 25-21-230 through 18 VAC 25-21-280)... 4026

CEMETERY BOARD

Cemetery Board Rules and Regulations (amending 18 VAC 47-20-10; adding 18 VAC 47-20-35, 18 VAC 47-20-250, 18 VAC 47-20-260, 18 VAC 47-20-270; repealing 18 VAC 47-20-240). 4030

DEPARTMENT OF PROFESSIONAL AND OCCUPATIONAL REGULATION

Virginia Professional Boxing and Wrestling Events Regulations (amending 18 VAC 120-40-10, 18 VAC 120-40-20, 18 VAC 120-40-80 through 18 VAC 120-40-360, 18 VAC 120-40-390, 18 VAC 120-40-410, 18 VAC 120-40-420, 18 VAC 120-40-430; adding 18 VAC 120-40-15, 18 VAC 120-40-221, 18 VAC 120-40-222, 18 VAC 120-40-295, 18 VAC 120-40-342, 18 VAC 120-40-385, 18 VAC 120-40-411, 18 VAC 120-40-411.1 through 18 VAC 120-40-411.21, 18 VAC 120-40-415, 18 VAC 120-40-415.1, 18 VAC 120-40-415.2, 18 VAC 120-40-415.3; repealing 18 VAC 120-40-370,

Table of Contents

18 VAC 120-40-380, 18 VAC 120-40-400).....4035

TITLE 22. SOCIAL SERVICES

STATE BOARD OF SOCIAL SERVICES

Food Stamp Program - Income Conversion Method (repealing 22 VAC 40-20-10).4062

Allowance of Telephone Costs in the Food Stamp Program (repealing 22 VAC 40-540-10).....4062

Food Stamp Program Administrative Disqualification Hearings (repealing 22 VAC 40-600-10 through 22 VAC 40-600-240).4062

Food Stamp Program (adding 22 VAC 40-601-10 through 22 VAC 40-601-40).4062

Auxiliary Grants Program (amending 22 VAC 40-25-10 through 22 VAC 40-25-70; adding 22 VAC 40-25-45).4065

Neighborhood Assistance Tax Credit Program (amending 22 VAC 40-41-10 through 22 VAC 40-41-50, 22 VAC 40-41-55 and 22 VAC 40-41-60).....4074

Child Support Enforcement Program (amending 22 VAC 40-880-200, 22 VAC 40-880-250, 22 VAC 40-880-270, 22 VAC 40-880-350 and 22 VAC 40-880-620).4079

FINAL REGULATIONS

TITLE 1. ADMINISTRATION

COMMISSION ON LOCAL GOVERNMENT

Public Participation Guidelines (adding 1 VAC 50-10-60 through 1 VAC 50-10-150; repealing 1 VAC 50-10-10 through 1 VAC 50-10-50).4083

Organization and Regulations of Procedure (amending 1 VAC 50-20-10, 1 VAC 50-20-40, 1 VAC 50-20-50, 1 VAC 50-20-100, 1 VAC 50-20-110, 1 VAC 50-20-140 through 1 VAC 50-20-180, 1 VAC 50-20-230, 1 VAC 50-20-270, 1 VAC 50-20-310, 1 VAC 50-20-350, 1 VAC 50-20-390, 1 VAC 50-20-540 through 1 VAC 50-20-670; adding 1 VAC 50-20-1, 1 VAC 50-20-5, 1 VAC 50-20-142, 1 VAC 50-20-382, 1 VAC 50-20-384, 1 VAC 50-20-601, 1 VAC 50-20-605, 1 VAC 50-20-612, 1 VAC 50-20-614, 1 VAC 50-20-616; repealing 1 VAC 50-20-20, 1 VAC 50-20-30, 1 VAC 50-20-60 through 1 VAC 50-20-90, 1 VAC 50-20-120, 1 VAC 50-20-130, 1 VAC 50-20-190 through 1 VAC 50-20-220, 1 VAC 50-20-240, 1 VAC 50-20-250, 1 VAC 50-20-260, 1 VAC 50-20-280, 1 VAC 50-20-290, 1 VAC 50-20-300, 1 VAC 50-20-320, 1 VAC 50-20-330, 1 VAC 50-20-340, 1 VAC 50-20-360, 1 VAC 50-20-370, 1 VAC 50-20-380, 1 VAC 50-20-400 through 1 VAC 50-20-530, 1 VAC 50-20-680, 1 VAC 50-20-690, 1 VAC 50-20-700.)4085

TITLE 2. AGRICULTURE

PESTICIDE CONTROL BOARD

Rules and Regulations Governing Licensing of Pesticide Businesses by the Department of Agriculture and Consumer Services Operating Under Authority of the Virginia Pesticide Control Act (amending 2 VAC 20-40-10, 2 VAC 20-40-20, 2 VAC 20-40-40, 2 VAC 20-40-60 through 2 VAC 20-40-110; adding 2 VAC 20-40-65; repealing 2 VAC 20-40-120). 4105

TITLE 8. EDUCATION

STATE BOARD OF EDUCATION

Regulations Governing Reduction of State Aid When Length of School Term Below 180 Teaching Days or 990 Teaching Hours (amending 8 VAC 20-521-30). 4109

TITLE 9. ENVIRONMENT

STATE AIR POLLUTION CONTROL BOARD

General Provisions (Rev. D04) (amending 9 VAC 5-20-21, and 9 VAC 5-20-206). 4110

Existing Stationary Sources (Rev. D04) (amending 9 VAC 5-40-300, 9 VAC 5-40-5060, 9 VAC 5-40-5200, 9 VAC 5-40-5700, 9 VAC 5-40-5720, 9 VAC 5-40-5750, 9 VAC 5-40-6970, 9 VAC 5-40-7050, 9 VAC 5-40-7120, 9 VAC 5-40-7130, 9 VAC 5-40-7140, 9 VAC 5-40-7210, 9 VAC 5-40-7240, 9 VAC 5-40-7250, 9 VAC 5-40-7260, 9 VAC 5-40-7270, 9 VAC 5-40-7300, 9 VAC 5-40-7330, 9 VAC 5-40-7360, 9 VAC 5-40-7800, and 9 VAC 5-40-7880). 4110

STATE WATER CONTROL BOARD

Water Quality Standards (amending 9 VAC 25-260-30). .. 4141

TITLE 11. RACING

VIRGINIA RACING COMMISSION

Stewards (amending 11 VAC 10-70-20, 11 VAC 10-70-30, 11 VAC 10-70-40, 11 VAC 10-70-60, 11 VAC 10-70-70, 11 VAC 10-70-80, 11 VAC 10-70-90 and 11 VAC 10-70-170; repealing 11 VAC 10-70-50). 4143

Appeals to the Commission (amending 11 VAC 10-90-10, 11 VAC 10-90-30, and 11 VAC 10-90-50). 4143

TITLE 12. HEALTH

DEPARTMENT OF MEDICAL ASSISTANCE SERVICES

Family Access to Medical Insurance Security Plan (amending 12 VAC 30-141-10, 12 VAC 30-141-40, 12 VAC 30-141-100, 12 VAC 30-141-160, and 12 VAC 30-141-200; adding 12 VAC 30-141-175; repealing 12 VAC 30-141-170). 4147

TITLE 18. PROFESSIONAL AND OCCUPATIONAL LICENSING

AUCTIONEERS BOARD

Rules and Regulations of the Virginia Auctioneers Board (amending 18 VAC 25-21-70).....4155

BOARD FOR GEOLOGY

Rules and Regulations for the Virginia Board for Geology (amending 18 VAC 70-20-30 and 18 VAC 70-20-50).4156

BOARD OF MEDICINE

Regulations Governing the Practice of Medicine, Osteopathic Medicine, Podiatry, and Chiropractic (amending 18 VAC 85-20-122).4156

BOARD OF LONG-TERM CARE ADMINISTRATORS

Regulations Governing the Practice of Nursing Home Administrators (amending 18 VAC 95-20-220, 18 VAC 95-20-310, 18 VAC 95-20-330, 18 VAC 95-20-340, 18 VAC 95-20-380, 18 VAC 95-20-390; adding 18 VAC 95-20-221).4157

BOARD OF OPTOMETRY

Regulations Governing the Practice of Optometry (amending 18 VAC 105-20-20).....4159

BOARD FOR WASTE MANAGEMENT FACILITY OPERATORS

Waste Management Facility Operators Regulations (amending 18 VAC 155-20-10, 18 VAC 155-20-110, 18 VAC 155-20-120, 18 VAC 155-20-160, 18 VAC 155-20-220 and 18 VAC 155-20-280).4160

FAST-TRACK REGULATIONS

TITLE 12. HEALTH

DEPARTMENT OF MEDICAL ASSISTANCE SERVICES

Eligibility and Appeals (amending 12 VAC 30-110-90 and 12 VAC 30-110-370).....4167

Waivered Services (amending 12 VAC 30-120-280, 12 VAC 30-120-290, 12 VAC 30-120-310 and 12 VAC 30-120-320).4169

TITLE 18. PROFESSIONAL AND OCCUPATIONAL LICENSING

BOARD OF DENTISTRY

Regulations Governing the Practice of Dentistry and Dental Hygiene (amending 18 VAC 60-20-108).....4173

BOARD OF NURSING

Regulations Governing the Licensure of Nurse Practitioners (amending 18 VAC 90-30-80).....4175

BOARD FOR WATERWORKS AND WASTEWATER WORKS OPERATORS

Board for Waterworks and Wastewater Works Operators (amending 18 VAC 160-20-76 and 18 VAC 160-20-90)... 4177

EMERGENCY REGULATIONS

TITLE 12. HEALTH

DEPARTMENT OF MEDICAL ASSISTANCE SERVICES

Methods and Standards for Establishing Payment Rates - Inpatient Hospital Services (amending 12 VAC 30-70-221). 4183

TITLE 18. PROFESSIONAL AND OCCUPATIONAL LICENSING

BOARD OF AUDIOLOGY AND SPEECH-LANGUAGE PATHOLOGY

Regulations Governing the Practice of Audiology and Speech-Language Pathology (amending 18 VAC 30-20-80 and 18 VAC 30-20-170; adding 18 VAC 30-20-171)..... 4185

BOARD OF MEDICINE

Regulations Governing the Practice of Medicine, Osteopathic Medicine, Podiatry, and Chiropractic (amending 18 VAC 85-20-22; adding 18 VAC 85-20-226). 4187

Regulations Governing the Practice of Respiratory Care Practitioners (amending 18 VAC 85-40-35; adding 18 VAC 85-40-67). 4187

Regulations Governing the Practice of Physician Assistants (amending 18 VAC 85-50-35; adding 18 VAC 85-50-61). 4187

Regulations Governing the Licensure of Occupational Therapists (amending 18 VAC 85-80-26; adding 18 VAC 85-80-73). 4187

Regulations Governing the Licensure of Radiologic Technologists and Radiologic Technologists-Limited (amending 18 VAC 85-101-25; adding 18 VAC 85-101-153). 4187

Regulations Governing the Practice of Licensed Acupuncturists (amending 18 VAC 85-110-35; adding 18 VAC 85-110-161). 4187

BOARD OF NURSING

Regulations Governing the Licensure of Nurse Practitioners (amending 18 VAC 90-30-10 and 18 VAC 90-30-120; adding 18 VAC 90-30-121). 4194

TITLE 22. SOCIAL SERVICES

STATE BOARD OF SOCIAL SERVICES

Virginia Independence Program (22 VAC 40-35-10, 22 VAC 40-35-80, 22 VAC 40-35-90 and 22 VAC 40-35-100). 4196

Table of Contents

FORMS

TITLE 4. CONSERVATION AND NATURAL RESOURCES

Department Of Mines, Minerals And Energy4201

GENERAL NOTICES/ERRATA

STATE CORPORATION COMMISSION

Matter of considering § 1254 of the Energy Policy Act of 2005
.....4203

DEPARTMENT OF ENVIRONMENTAL QUALITY

Jackson River Watershed.....4204

Laurel Fork4204

Warwick River, James River, Skiffes Creek, Baptist Run and
Deep Creek4205

DEPARTMENT OF HEALTH

Drinking Water State Revolving Fund Program - Intended Use
Plan for FY 20074205

STATE LOTTERY DEPARTMENT

Director's Orders4205

VIRGINIA WASTE MANAGEMENT BOARD

Proposed Consent Special Order - Chemetrics, Inc.4206

STATE WATER CONTROL BOARD

Proposed Consent Special Order - Dickenson County Public
Service Authority4206

Proposed Consent Special Order - Newton Mobile Home
Court, Incorporated4206

Proposed Consent Special Order - Town of Fincastle.....4207

VIRGINIA CODE COMMISSION

Notice to State Agencies4207

Forms for Filing Material for Publication in the Virginia
Register of Regulations4207

ERRATA

STATE BOARD OF SOCIAL SERVICES

Standards for Licensed Assisted Living Facilities (22 VAC 40-
72-10 through 22 VAC 40-72-1160).4207

CALENDAR OF EVENTS

EXECUTIVE

Open Meetings and Public Hearings 4208

INDEPENDENT

Open Meetings and Public Hearings4242

LEGISLATIVE

Open Meetings and Public Hearings4244

CHRONOLOGICAL LIST

Open Meetings4246

Public Hearings.....4249

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 Spring 2006 VAC Supplement includes final regulations published through *Virginia Register* Volume 22, Issue 6, dated January 9, 2006). 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 2. Agriculture			
2 VAC 5-20-10 through 2 VAC 5-20-40	Amended	22:11 VA.R. 1761-1764	3/10/06
2 VAC 5-20-30	Erratum	22:13 VA.R. 2153	--
2 VAC 5-195-10 through 2 VAC 5-195-180	Added	22:25 VA.R. 3872-3876	8/21/06
2 VAC 5-210-10	Amended	22:24 VA.R. 3579	7/19/06
2 VAC 5-210-20	Amended	22:24 VA.R. 3579	7/19/06
2 VAC 5-210-30	Amended	22:24 VA.R. 3579	7/19/06
2 VAC 5-210-41	Added	22:24 VA.R. 3580	7/19/06
2 VAC 5-210-40	Repealed	22:24 VA.R. 3580	7/19/06
2 VAC 5-210-50	Repealed	22:24 VA.R. 3580	7/19/06
2 VAC 5-210-60	Amended	22:24 VA.R. 3581	7/19/06
2 VAC 5-330-30	Amended	22:24 VA.R. 3587	9/7/06
2 VAC 5-390-180	Amended	22:14 VA.R. 2201	2/27/06
Title 4. Conservation and Natural Resources			
4 VAC 5-36-50	Erratum	22:14 VA.R. 2216	--
4 VAC 5-40-10 through 4 VAC 5-40-350	Repealed	22:21 VA.R. 2801-2804	7/26/06
4 VAC 5-60-10 through 4 VAC 5-60-170	Repealed	22:21 VA.R. 2805-2807	7/26/06
4 VAC 10-30-10 through 4 VAC 10-30-350	Added	22:21 VA.R. 2801-2804	7/26/06
4 VAC 10-40-10 through 4 VAC 10-40-170	Added	22:21 VA.R. 2805-2807	7/26/06
4 VAC 15-20-65	Added	22:22 VA.R. 3089	7/1/06
4 VAC 15-20-130	Amended	22:19 VA.R. 2599	7/1/06
4 VAC 15-20-160	Amended	22:19 VA.R. 2600	7/1/06
4 VAC 15-40-30	Amended	22:19 VA.R. 2601	7/1/06
4 VAC 15-40-200	Amended	22:19 VA.R. 2601	7/1/06
4 VAC 15-40-285	Added	22:19 VA.R. 2601	7/1/06
4 VAC 15-50-71	Amended	22:19 VA.R. 2601	7/1/06
4 VAC 15-50-110	Amended	22:19 VA.R. 2602	7/1/06
4 VAC 15-50-120	Amended	22:19 VA.R. 2602	7/1/06
4 VAC 15-70-10	Amended	22:19 VA.R. 2602	7/1/06
4 VAC 15-70-60	Added	22:19 VA.R. 2602	7/1/06
4 VAC 15-90-22	Added	22:19 VA.R. 2603	7/1/06
4 VAC 15-90-70	Amended	22:19 VA.R. 2603	7/1/06
4 VAC 15-90-80	Amended	22:19 VA.R. 2604	7/1/06
4 VAC 15-90-80	Amended	22:22 VA.R. 3091	7/1/06
4 VAC 15-90-90	Amended	22:19 VA.R. 2605	7/1/06
4 VAC 15-90-91	Added	22:19 VA.R. 2605	7/1/06
4 VAC 15-90-100 through 4 VAC 15-90-121	Repealed	22:19 VA.R. 2608-2609	7/1/06
4 VAC 15-90-141	Repealed	22:19 VA.R. 2609	7/1/06
4 VAC 15-90-160	Repealed	22:19 VA.R. 2609	7/1/06
4 VAC 15-90-170	Repealed	22:19 VA.R. 2609	7/1/06
4 VAC 15-90-190 through 4 VAC 15-90-220	Repealed	22:19 VA.R. 2609-2610	7/1/06
4 VAC 15-90-291	Added	22:19 VA.R. 2610	7/1/06
4 VAC 15-90-292	Added	22:19 VA.R. 2610	7/1/06
4 VAC 15-110-20	Amended	22:19 VA.R. 2613	7/1/06
4 VAC 15-120-10	Amended	22:19 VA.R. 2614	7/1/06

Cumulative Table of VAC Sections Adopted, Amended, or Repealed

SECTION NUMBER	ACTION	CITE	EFFECTIVE DATE
4 VAC 15-170-21	Added	22:19 VA.R. 2614	7/1/06
4 VAC 15-190-10	Amended	22:19 VA.R. 2614	7/1/06
4 VAC 15-200-10	Amended	22:19 VA.R. 2614	7/1/06
4 VAC 15-210-10 and 4 VAC 15-210-20	Amended	22:19 VA.R. 2615	7/1/06
4 VAC 15-230-21	Added	22:19 VA.R. 2615	7/1/06
4 VAC 15-230-40	Repealed	22:19 VA.R. 2615	7/1/06
4 VAC 15-230-61	Added	22:19 VA.R. 2616	7/1/06
4 VAC 15-240-10	Amended	22:19 VA.R. 2616	7/1/06
4 VAC 15-240-20	Amended	22:19 VA.R. 2616	7/1/06
4 VAC 15-240-31	Amended	22:19 VA.R. 2616	7/1/06
4 VAC 15-320-25	Amended	22:19 VA.R. 2617	7/1/06
4 VAC 15-320-100	Amended	22:16 VA.R. 2370	5/17/06
4 VAC 15-330-50	Amended	22:19 VA.R. 2623	7/1/06
4 VAC 15-330-140	Amended	22:19 VA.R. 2623	7/1/06
4 VAC 15-330-160	Amended	22:19 VA.R. 2623	7/1/06
4 VAC 15-340-10	Amended	22:19 VA.R. 2624	7/1/06
4 VAC 15-340-30	Amended	22:19 VA.R. 2624	7/1/06
4 VAC 15-340-40	Amended	22:19 VA.R. 2624	7/1/06
4 VAC 15-360-10	Amended	22:19 VA.R. 2625	7/1/06
4 VAC 15-360-30	Amended	22:19 VA.R. 2626	7/1/06
4 VAC 15-360-70	Added	22:19 VA.R. 2626	7/1/06
4 VAC 20-20-20	Amended	22:10 VA.R. 1551	12/22/05
4 VAC 20-20-50	Amended	22:10 VA.R. 1551	12/22/05
4 VAC 20-20-50 emer	Amended	22:10 VA.R. 1682	12/28/05-1/27/06
4 VAC 20-20-50	Amended	22:12 VA.R. 2033	1/27/06
4 VAC 20-150-10 emer	Amended	22:20 VA.R. 2716	5/29/06-6/28/06
4 VAC 20-150-70 emer	Amended	22:20 VA.R. 2716	5/29/06-6/28/06
4 VAC 20-150-70	Amended	22:23 VA.R. 3277	6/28/06
4 VAC 20-252-30	Amended	22:23 VA.R. 3277	7/1/06
4 VAC 20-252-50	Amended	22:23 VA.R. 3278	7/1/06
4 VAC 20-252-55	Amended	22:15 VA.R. 2280	3/2/06
4 VAC 20-252-115	Added	22:23 VA.R. 3278	7/1/06
4 VAC 20-252-150	Amended	22:15 VA.R. 2280	3/2/06
4 VAC 20-450-30	Amended	22:20 VA.R. 2704	5/26/06
4 VAC 20-530-10	Amended	22:12 VA.R. 2034	1/27/06
4 VAC 20-530-20	Amended	22:12 VA.R. 2034	1/27/06
4 VAC 20-530-20 emer	Amended	22:14 VA.R. 2208	3/2/06-3/31/06
4 VAC 20-530-20	Amended	22:16 VA.R. 2371	3/31/06
4 VAC 20-530-23	Repealed	22:12 VA.R. 2034	1/27/06
4 VAC 20-530-26	Repealed	22:12 VA.R. 2034	1/27/06
4 VAC 20-530-29	Repealed	22:12 VA.R. 2034	1/27/06
4 VAC 20-530-30	Amended	22:12 VA.R. 2034	1/27/06
4 VAC 20-530-30 emer	Amended	22:14 VA.R. 2208	3/2/06-3/31/06
4 VAC 20-530-30	Amended	22:16 VA.R. 2371	3/31/06
4 VAC 20-530-31	Added	22:12 VA.R. 2035	1/27/06
4 VAC 20-530-31 emer	Amended	22:14 VA.R. 2208	3/2/06-3/31/06
4 VAC 20-530-31	Amended	22:16 VA.R. 2371	3/31/06
4 VAC 20-530-32 emer	Added	22:14 VA.R. 2209	3/2/06-3/31/06
4 VAC 20-530-32	Added	22:16 VA.R. 2371	3/31/06
4 VAC 20-530-35	Repealed	22:12 VA.R. 2035	1/27/06
4 VAC 20-560-20 emer	Amended	22:16 VA.R. 2387	3/30/06-4/28/06
4 VAC 20-560-20	Amended	22:19 VA.R. 2626	4/28/06
4 VAC 20-560-40 emer	Amended	22:16 VA.R. 2388	3/30/06-4/28/06
4 VAC 20-560-40	Amended	22:19 VA.R. 2627	4/28/06
4 VAC 20-560-50 emer	Amended	22:16 VA.R. 2388	3/30/06-4/28/06
4 VAC 20-560-50	Amended	22:19 VA.R. 2628	4/28/06

Cumulative Table of VAC Sections Adopted, Amended, or Repealed

SECTION NUMBER	ACTION	CITE	EFFECTIVE DATE
4 VAC 20-566-30	Amended	22:25 VA.R. 3877	8/1/06
4 VAC 20-720-40	Amended	22:10 VA.R. 1552	1/1/06
4 VAC 20-720-40 emer	Amended	22:12 VA.R. 2043	2/1/06-2/28/06
4 VAC 20-720-50	Amended	22:10 VA.R. 1552	1/1/06
4 VAC 20-720-50 emer	Amended	22:12 VA.R. 2043	2/1/06-2/28/06
4 VAC 20-720-70	Amended	22:10 VA.R. 1553	1/1/06
4 VAC 20-720-75	Amended	22:10 VA.R. 1553	1/1/06
4 VAC 20-900-10 through 4 VAC 20-900-30	Amended	22:23 VA.R. 3279-3280	7/1/06
4 VAC 20-900-25	Amended	22:10 VA.R. 1553	12/22/05
4 VAC 20-900-30	Amended	22:10 VA.R. 1554	12/22/05
4 VAC 20-910-45	Amended	22:10 VA.R. 1555	12/30/05
4 VAC 20-950-47 emer	Amended	22:10 VA.R. 1682	1/1/06-1/30/06
4 VAC 20-950-47	Amended	22:12 VA.R. 2035	2/1/06
4 VAC 20-950-48 emer	Amended	22:10 VA.R. 1683	1/1/06-1/30/06
4 VAC 20-950-48	Amended	22:12 VA.R. 2035	2/1/06
4 VAC 20-1040-20	Amended	22:10 VA.R. 1555	1/1/06
4 VAC 20-1100-10 through 4 VAC 20-1100-30	Added	22:19 VA.R. 2628	7/1/06
4 VAC 25-31 (Forms)	Amended	22:16 VA.R. 2389	--
4 VAC 25-35 (Forms)	Amended	22:16 VA.R. 2389	--
4 VAC 25-40 (Forms)	Amended	22:16 VA.R. 2389	--
4 VAC 25-130 (Forms)	Amended	22:16 VA.R. 2390	--
4 VAC 25-130-816.11	Amended	22:24 VA.R. 3587	9/6/06
4 VAC 25-130-816.64	Amended	22:24 VA.R. 3588	9/6/06
Title 6. Criminal Justice and Corrections			
6 VAC 20-120-80	Amended	22:20 VA.R. 2704	7/12/06
6 VAC 20-190-10 through 6 VAC 20-190-200	Repealed	22:10 VA.R. 1556-1559	2/22/06
6 VAC 20-210-10 through 6 VAC 20-210-110	Repealed	22:10 VA.R. 1561-1562	2/22/06
6 VAC 20-220-20 through 6 VAC 20-220-80	Repealed	22:10 VA.R. 1559-1560	2/22/06
6 VAC 20-240-10 through 6 VAC 20-240-120	Added	22:11 VA.R. 1764-1768	3/8/06
6 VAC 20-260-10 through 6 VAC 20-260-360 emer	Added	22:12 VA.R. 2044-2053	2/20/06-2/19/07
6 VAC 40-10-10 through 6 VAC 40-10-90	Added	22:24 VA.R. 3746-3747	10/25/06
6 VAC 40-20-10 through 6 VAC 40-20-200	Added	22:10 VA.R. 1556-1559	2/22/06
6 VAC 40-20 (Forms)	Added	22:16 VA.R. 2392	--
6 VAC 40-30-10 through 6 VAC 40-30-80	Added	22:10 VA.R. 1559-1560	2/22/06
6 VAC 40-30-10	Amended	22:21 VA.R. 2807	7/26/06
6 VAC 40-30-20	Amended	22:21 VA.R. 2807	7/26/06
6 VAC 40-30-50	Amended	22:21 VA.R. 2807	7/26/06
6 VAC 40-40-10 through 6 VAC 40-40-110	Added	22:10 VA.R. 1561-1562	2/22/06
6 VAC 40-50-10 through 6 VAC 40-50-80 emer	Added	22:23 VA.R. 3406-3407	7/1/06-6/30/07
Title 8. Education			
8 VAC 20-131-5	Added	22:24 VA.R. 3589	9/7/06
8 VAC 20-131-10	Amended	22:24 VA.R. 3590	9/7/06
8 VAC 20-131-20	Amended	22:24 VA.R. 3591	9/7/06
8 VAC 20-131-30	Amended	22:24 VA.R. 3591	9/7/06
8 VAC 20-131-40	Repealed	22:24 VA.R. 3592	9/7/06
8 VAC 20-131-50 through 8 VAC 20-131-110	Amended	22:24 VA.R. 3592-3598	9/7/06
8 VAC 20-131-140	Amended	22:24 VA.R. 3598	9/7/06
8 VAC 20-131-150	Amended	22:24 VA.R. 3598	9/7/06
8 VAC 20-131-160	Repealed	22:24 VA.R. 3599	9/7/06
8 VAC 20-131-170 through 8 VAC 20-131-210	Amended	22:24 VA.R. 3599-3600	9/7/06
8 VAC 20-131-240	Amended	22:24 VA.R. 3600	9/7/06
8 VAC 20-131-260 through 8 VAC 20-131-310	Amended	22:24 VA.R. 3601-3607	9/7/06
8 VAC 20-131-315	Added	22:24 VA.R. 3607	9/7/06
8 VAC 20-131-320	Repealed	22:24 VA.R. 3608	9/7/06
8 VAC 20-131-325	Amended	22:24 VA.R. 3608	9/7/06
8 VAC 20-131-330	Repealed	22:24 VA.R. 3608	9/7/06

Cumulative Table of VAC Sections Adopted, Amended, or Repealed

SECTION NUMBER	ACTION	CITE	EFFECTIVE DATE
8 VAC 20-131-340	Amended	22:24 VA.R. 3608	9/7/06
8 VAC 20-131-350	Added	22:24 VA.R. 3609	9/7/06
8 VAC 20-131-360	Added	22:24 VA.R. 3609	9/7/06
8 VAC 20-131, Appendix I	Repealed	22:24 VA.R. 3609	9/7/06
8 VAC 20-520-10	Repealed	22:21 VA.R. 2922	9/15/06
8 VAC 20-521-10 through 8 VAC 20-521-60	Added	22:21 VA.R. 2922-2924	9/15/06
8 VAC 20-660-10 through 8 VAC 20-660-40	Added	22:22 VA.R. 3092-3094	8/23/06
8 VAC 40-30	Repealed	22:23 VA.R. 3281	8/24/06
8 VAC 40-31-10 through 8 VAC 40-31-320	Added	22:23 VA.R. 3281-3298	8/24/06
Title 9. Environment			
9 VAC 5-20-203	Amended	22:23 VA.R. 3299	9/1/06
9 VAC 5-20-204	Amended	22:23 VA.R. 3299	9/1/06
9 VAC 5-50-250	Amended	22:23 VA.R. 3301	9/1/06
9 VAC 5-50-270	Amended	22:23 VA.R. 3302	9/1/06
9 VAC 5-50-280	Amended	22:23 VA.R. 3302	9/1/06
9 VAC 5-80-1100	Amended	22:23 VA.R. 3302	9/1/06
9 VAC 5-80-1110	Amended	22:23 VA.R. 3303	9/1/06
9 VAC 5-80-1310	Repealed	22:23 VA.R. 3308	9/1/06
9 VAC 5-80-1605	Added	22:23 VA.R. 3309	9/1/06
9 VAC 5-80-1615	Added	22:23 VA.R. 3310	9/1/06
9 VAC 5-80-1625	Added	22:23 VA.R. 3321	9/1/06
9 VAC 5-80-1635	Added	22:23 VA.R. 3321	9/1/06
9 VAC 5-80-1645	Added	22:23 VA.R. 3322	9/1/06
9 VAC 5-80-1655	Added	22:23 VA.R. 3322	9/1/06
9 VAC 5-80-1665	Added	22:23 VA.R. 3322	9/1/06
9 VAC 5-80-1675	Added	22:23 VA.R. 3322	9/1/06
9 VAC 5-80-1685	Added	22:23 VA.R. 3322	9/1/06
9 VAC 5-80-1695	Added	22:23 VA.R. 3323	9/1/06
9 VAC 5-80-1700	Repealed	22:23 VA.R. 3324	9/1/06
9 VAC 5-80-1705	Added	22:23 VA.R. 3324	9/1/06
9 VAC 5-80-1710	Repealed	22:23 VA.R. 3324	9/1/06
9 VAC 5-80-1715	Added	22:23 VA.R. 3324	9/1/06
9 VAC 5-80-1720	Repealed	22:23 VA.R. 3324	9/1/06
9 VAC 5-80-1725	Added	22:23 VA.R. 3324	9/1/06
9 VAC 5-80-1730	Repealed	22:23 VA.R. 3324	9/1/06
9 VAC 5-80-1735	Added	22:23 VA.R. 3324	9/1/06
9 VAC 5-80-1740	Repealed	22:23 VA.R. 3325	9/1/06
9 VAC 5-80-1745	Added	22:23 VA.R. 3325	9/1/06
9 VAC 5-80-1750	Repealed	22:23 VA.R. 3325	9/1/06
9 VAC 5-80-1755	Added	22:23 VA.R. 3325	9/1/06
9 VAC 5-80-1760	Repealed	22:23 VA.R. 3325	9/1/06
9 VAC 5-80-1765	Added	22:23 VA.R. 3325	9/1/06
9 VAC 5-80-1770	Repealed	22:23 VA.R. 3327	9/1/06
9 VAC 5-80-1775	Added	22:23 VA.R. 3327	9/1/06
9 VAC 5-80-1780	Repealed	22:23 VA.R. 3328	9/1/06
9 VAC 5-80-1785	Added	22:23 VA.R. 3328	9/1/06
9 VAC 5-80-1790	Repealed	22:23 VA.R. 3329	9/1/06
9 VAC 5-80-1795	Added	22:23 VA.R. 3329	9/1/06
9 VAC 5-80-1800	Repealed	22:23 VA.R. 3329	9/1/06
9 VAC 5-80-1805	Added	22:23 VA.R. 3329	9/1/06
9 VAC 5-80-1810	Repealed	22:23 VA.R. 3329	9/1/06
9 VAC 5-80-1815	Added	22:23 VA.R. 3329	9/1/06
9 VAC 5-80-1820	Repealed	22:23 VA.R. 3329	9/1/06
9 VAC 5-80-1825	Added	22:23 VA.R. 3329	9/1/06
9 VAC 5-80-1830	Repealed	22:23 VA.R. 3330	9/1/06
9 VAC 5-80-1835	Added	22:23 VA.R. 3330	9/1/06

Cumulative Table of VAC Sections Adopted, Amended, or Repealed

SECTION NUMBER	ACTION	CITE	EFFECTIVE DATE
9 VAC 5-80-1840	Repealed	22:23 VA.R. 3332	9/1/06
9 VAC 5-80-1845	Added	22:23 VA.R. 3332	9/1/06
9 VAC 5-80-1850	Repealed	22:23 VA.R. 3334	9/1/06
9 VAC 5-80-1855	Added	22:23 VA.R. 3334	9/1/06
9 VAC 5-80-1860	Repealed	22:23 VA.R. 3335	9/1/06
9 VAC 5-80-1865	Added	22:23 VA.R. 3335	9/1/06
9 VAC 5-80-1870 through 9 VAC 5-80-1920	Repealed	22:23 VA.R. 3340	9/1/06
9 VAC 5-80-1925	Added	22:23 VA.R. 3340	9/1/06
9 VAC 5-80-1930	Repealed	22:23 VA.R. 3341	9/1/06
9 VAC 5-80-1935	Added	22:23 VA.R. 3341	9/1/06
9 VAC 5-80-1940	Repealed	22:23 VA.R. 3341	9/1/06
9 VAC 5-80-1945	Added	22:23 VA.R. 3341	9/1/06
9 VAC 5-80-1950	Repealed	22:23 VA.R. 3342	9/1/06
9 VAC 5-80-1955	Added	22:23 VA.R. 3342	9/1/06
9 VAC 5-80-1960	Repealed	22:23 VA.R. 3342	9/1/06
9 VAC 5-80-1965	Added	22:23 VA.R. 3342	9/1/06
9 VAC 5-80-1970	Repealed	22:23 VA.R. 3342	9/1/06
9 VAC 5-80-1975	Added	22:23 VA.R. 3342	9/1/06
9 VAC 5-80-1985	Added	22:23 VA.R. 3343	9/1/06
9 VAC 5-80-1995	Added	22:23 VA.R. 3343	9/1/06
9 VAC 5-80-2000 through 9 VAC 5-80-2020	Amended	22:23 VA.R. 3343-3355	9/1/06
9 VAC 5-80-2040 through 9 VAC 5-80-2070	Amended	22:23 VA.R. 3355-3358	9/1/06
9 VAC 5-80-2090	Amended	22:23 VA.R. 3358	9/1/06
9 VAC 5-80-2091	Added	22:23 VA.R. 3358	9/1/06
9 VAC 5-80-2110 through 9 VAC 5-80-2140	Amended	22:23 VA.R. 3359-3362	9/1/06
9 VAC 5-80-2141 through 9 VAC 5-80-2143	Added	22:23 VA.R. 3362-3366	9/1/06
9 VAC 5-80-2144	Added	22:23 VA.R. 3367	9/1/06
9 VAC 5-80-2180	Amended	22:23 VA.R. 3372	9/1/06
9 VAC 5-80-2200 through 9 VAC 5-80-2240	Amended	22:23 VA.R. 3373-3375	9/1/06
9 VAC 20-60-18	Amended	22:23 VA.R. 3375	8/23/06
9 VAC 20-170-70	Amended	22:21 VA.R. 2808	7/26/06
9 VAC 25-31-10	Amended	22:24 VA.R. 3610	9/6/06
9 VAC 25-31-30	Amended	22:24 VA.R. 3619	9/6/06
9 VAC 25-31-80	Amended	22:24 VA.R. 3620	9/6/06
9 VAC 25-31-100	Amended	22:24 VA.R. 3620	9/6/06
9 VAC 25-31-165	Added	22:24 VA.R. 3637	9/6/06
9 VAC 25-31-220	Amended	22:24 VA.R. 3651	9/6/06
9 VAC 25-31-290	Amended	22:24 VA.R. 3656	9/6/06
9 VAC 25-31-770	Amended	22:24 VA.R. 3657	9/6/06
9 VAC 25-31-780	Amended	22:24 VA.R. 3658	9/6/06
9 VAC 25-31-790	Amended	22:24 VA.R. 3662	9/6/06
9 VAC 25-31-800	Amended	22:24 VA.R. 3667	9/6/06
9 VAC 25-31-840	Amended	22:24 VA.R. 3670	9/6/06
9 VAC 25-31-870	Amended	22:24 VA.R. 3677	9/6/06
9 VAC 25-194-40	Amended	22:16 VA.R. 2372	5/17/06
9 VAC 25-194-70	Amended	22:16 VA.R. 2372	5/17/06
9 VAC 25-260-310	Amended	22:11 VA.R. 1768	1/12/06
9 VAC 25-260-410	Amended	22:11 VA.R. 1768	1/12/06
9 VAC 25-260-530	Amended	22:11 VA.R. 1768	1/12/06
9 VAC 25-660-10	Erratum	22:12 VA.R. 2063	--
9 VAC 25-660-10 through 9 VAC 25-660-100	Amended	22:21 VA.R. 2809-2824	8/1/06
9 VAC 25-660-60	Erratum	22:12 VA.R. 2063	--
9 VAC 25-660-70	Erratum	22:12 VA.R. 2063	--
9 VAC 25-660-90	Erratum	22:23 VA.R. 3424	--
9 VAC 25-660-95	Added	22:21 VA.R. 2817	8/1/06
9 VAC 25-670-10	Erratum	22:12 VA.R. 2063	--

Cumulative Table of VAC Sections Adopted, Amended, or Repealed

SECTION NUMBER	ACTION	CITE	EFFECTIVE DATE
9 VAC 25-670-10 through 9 VAC 25-670-100	Amended	22:21 VA.R. 2824-2845	8/1/06
9 VAC 25-670-70	Erratum	22:12 VA.R. 2063	--
9 VAC 25-670-95	Added	22:21 VA.R. 2833	8/1/06
9 VAC 25-670-100	Erratum	22:12 VA.R. 2063	--
9 VAC 25-680-10 through 9 VAC 25-680-100	Amended	22:21 VA.R. 2845-2866	8/1/06
9 VAC 25-680-70	Erratum	22:12 VA.R. 2063	--
9 VAC 25-680-70	Erratum	22:23 VA.R. 3424	--
9 VAC 25-680-80	Erratum	22:12 VA.R. 2063	--
9 VAC 25-680-90	Erratum	22:23 VA.R. 3424	--
9 VAC 25-680-95	Added	22:21 VA.R. 2854	8/1/06
9 VAC 25-680-100	Erratum	22:12 VA.R. 2063	--
9 VAC 25-690-10 through 9 VAC 25-690-100	Amended	22:21 VA.R. 2867-2889	8/1/06
9 VAC 25-690-30	Erratum	22:12 VA.R. 2063	--
9 VAC 25-690-50	Erratum	22:12 VA.R. 2063	--
9 VAC 25-690-70	Erratum	22:23 VA.R. 3424	--
9 VAC 25-690-95	Added	22:21 VA.R. 2876	8/1/06
9 VAC 25-690-100	Erratum	22:12 VA.R. 2063	--
9 VAC 25-720-60	Erratum	22:12 VA.R. 2064	--
9 VAC 25-720-110	Amended	22:16 VA.R. 2378	5/17/06
9 VAC 25-720-120	Erratum	22:12 VA.R. 2064	--
9 VAC 25-780-30	Amended	22:21 VA.R. 2889	7/26/06
Title 10. Finance and Financial Institutions			
10 VAC 5-160-10	Amended	22:18 VA.R. 2514	9/1/06
10 VAC 5-160-20	Amended	22:18 VA.R. 2514	9/1/06
10 VAC 5-160-30	Amended	22:18 VA.R. 2515	9/1/06
10 VAC 5-160-60	Added	22:18 VA.R. 2516	9/1/06
10 VAC 5-200-80	Amended	22:11 VA.R. 1769	3/1/06
Title 11. Gaming			
11 VAC 5-20-200	Amended	22:25 VA.R. 3907	11/6/06
11 VAC 5-20-210 through 11 VAC 5-20-520	Repealed	22:25 VA.R. 3907-3914	11/6/06
11 VAC 10-20-240	Amended	22:11 VA.R. 1771	3/8/06
11 VAC 10-20-260	Amended	22:15 VA.R. 2281	3/7/06
11 VAC 10-70-20	Amended	22:20 VA.R. 2705	5/19/06-9/4/06
11 VAC 10-70-20	Amended	22:25 VA.R. 3916	11/4/06
11 VAC 10-70-30	Amended	22:20 VA.R. 2706	5/19/06-9/4/06
11 VAC 10-70-30	Amended	22:25 VA.R. 3917	11/4/06
11 VAC 10-70-40	Amended	22:20 VA.R. 2706	5/19/06-9/4/06
11 VAC 10-70-40	Amended	22:25 VA.R. 3917	11/4/06
11 VAC 10-70-50	Repealed	22:20 VA.R. 2706	5/19/06-9/4/06
11 VAC 10-70-50	Repealed	22:25 VA.R. 3917	11/4/06
11 VAC 10-70-60	Amended	22:20 VA.R. 2706	5/19/06-9/4/06
11 VAC 10-70-60 through 11 VAC 10-70-90	Amended	22:25 VA.R. 3917-3918	11/4/06
11 VAC 10-70-70	Amended	22:20 VA.R. 2707	5/19/06-9/4/06
11 VAC 10-70-80	Amended	22:20 VA.R. 2707	5/19/06-9/4/06
11 VAC 10-70-90	Amended	22:20 VA.R. 2707	5/19/06-9/4/06
11 VAC 10-70-170	Amended	22:20 VA.R. 2708	5/19/06-9/4/06
11 VAC 10-70-170	Amended	22:25 VA.R. 3918	11/4/06
11 VAC 10-90-10	Amended	22:20 VA.R. 2708	5/19/06-9/4/06
11 VAC 10-90-10	Amended	22:25 VA.R. 3919	11/4/06
11 VAC 10-90-30	Amended	22:20 VA.R. 2708	5/19/06-9/4/06
11 VAC 10-90-30	Amended	22:25 VA.R. 3919	11/4/06
11 VAC 10-90-50	Amended	22:20 VA.R. 2708	5/19/06-9/4/06
11 VAC 10-90-50	Amended	22:25 VA.R. 3919	11/4/06
11 VAC 15-22-10 through 11 VAC 15-22-80	Amended	22:22 VA.R. 3095-3104	8/9/06
11 VAC 15-22-110	Amended	22:22 VA.R. 3104	8/9/06
11 VAC 15-22-120	Amended	22:22 VA.R. 3105	8/9/06

Cumulative Table of VAC Sections Adopted, Amended, or Repealed

SECTION NUMBER	ACTION	CITE	EFFECTIVE DATE
11 VAC 15-31-10 through 11 VAC 15-31-60	Amended	22:22 VA.R. 3106-3112	8/9/06
Title 12. Health			
12 VAC 5-480-10 through 12 VAC 5-480-8920	Repealed	22:25 VA.R. 3877	9/20/06
12 VAC 5-481-10 through 12 VAC 5-481-3670	Added	22:25 VA.R. 3877	9/20/06
12 VAC 5-590-10	Amended	22:24 VA.R. 3677	9/6/06
12 VAC 5-590-370	Amended	22:15 VA.R. 2282	5/3/06
12 VAC 5-590-370	Amended	22:24 VA.R. 3683	9/6/06
12 VAC 5-590-400	Amended	22:15 VA.R. 2306	5/3/06
12 VAC 5-590-410	Amended	22:15 VA.R. 2307	5/3/06
12 VAC 5-590-410	Amended	22:24 VA.R. 3708	9/6/06
12 VAC 5-590-440	Amended	22:15 VA.R. 2310	5/3/06
12 VAC 5-590-440	Amended	22:24 VA.R. 3711	9/6/06
12 VAC 5-590-530	Amended	22:21 VA.R. 2890	7/26/06
12 VAC 5-590, Appendix B	Amended	22:15 VA.R. 2313	5/3/06
12 VAC 5-590, Appendix N	Amended	22:15 VA.R. 2313	5/3/06
12 VAC 5-590, Appendix N	Amended	22:24 VA.R. 3717	9/6/06
12 VAC 5-590-540	Amended	22:15 VA.R. 2313	5/3/06
12 VAC 5-590-545	Amended	22:24 VA.R. 3712	9/6/06
12 VAC 5-590-820	Amended	22:24 VA.R. 3717	9/6/06
12 VAC 30-40-10	Amended	22:23 VA.R. 3376	8/23/06
12 VAC 30-40-290	Amended	22:23 VA.R. 3377	8/23/06
12 VAC 30-40-300	Amended	22:23 VA.R. 3379	8/23/06
12 VAC 30-40-360	Added	22:23 VA.R. 3385	8/23/06
12 VAC 30-50-10	Amended	22:16 VA.R. 2382	7/3/06
12 VAC 30-50-120	Amended	22:16 VA.R. 2383	7/3/06
12 VAC 30-50-140	Amended	22:16 VA.R. 2383	7/3/06
12 VAC 30-50-150	Amended	22:16 VA.R. 2385	7/3/06
12 VAC 30-50-190	Amended	22:23 VA.R. 3386	8/23/06
12 VAC 30-60-40	Amended	22:22 VA.R. 3112	8/9/06
12 VAC 30-60-350	Added	22:22 VA.R. 3112	8/9/06
12 VAC 30-70-291	Amended	22:23 VA.R. 3388	8/23/06
12 VAC 30-70-301	Amended	22:25 VA.R. 3921	11/6/06
12 VAC 30-70-425	Amended	22:23 VA.R. 3389	8/23/06
12 VAC 30-70-426	Repealed	22:23 VA.R. 3390	8/23/06
12 VAC 30-80-20	Amended	22:23 VA.R. 3390	8/23/06
12 VAC 30-80-30	Amended	22:23 VA.R. 3393	8/23/06
12 VAC 30-80-40	Amended	22:14 VA.R. 2202	5/1/06
12 VAC 30-80-190	Amended	22:14 VA.R. 2204	5/1/06
12 VAC 30-80-190 emer	Amended	22:14 VA.R. 2209	5/1/06-4/30/07
12 VAC 30-90-19	Amended	22:23 VA.R. 3395	8/23/06
12 VAC 30-90-41	Amended	22:22 VA.R. 3112	8/9/06
12 VAC 30-110-710	Amended	22:23 VA.R. 3385	8/23/06
12 VAC 30-110-960	Amended	22:23 VA.R. 3385	8/23/06
12 VAC 30-120-10 through 12 VAC 30-120-60	Repealed	22:10 VA.R. 1638	2/22/06
12 VAC 30-120-211	Amended	22:19 VA.R. 2629	6/28/06
12 VAC 30-120-213	Amended	22:19 VA.R. 2632	6/28/06
12 VAC 30-120-215	Amended	22:19 VA.R. 2633	6/28/06
12 VAC 30-120-215	Amended	22:24 VA.R. 3718	9/6/06
12 VAC 30-120-217	Amended	22:19 VA.R. 2637	6/28/06
12 VAC 30-120-219	Amended	22:19 VA.R. 2639	6/28/06
12 VAC 30-120-221	Amended	22:19 VA.R. 2640	6/28/06
12 VAC 30-120-223	Amended	22:19 VA.R. 2641	6/28/06
12 VAC 30-120-225	Amended	22:19 VA.R. 2643	6/28/06
12 VAC 30-120-227	Amended	22:19 VA.R. 2647	6/28/06
12 VAC 30-120-229	Amended	22:19 VA.R. 2648	6/28/06
12 VAC 30-120-231	Amended	22:19 VA.R. 2649	6/28/06

Cumulative Table of VAC Sections Adopted, Amended, or Repealed

SECTION NUMBER	ACTION	CITE	EFFECTIVE DATE
12 VAC 30-120-233	Amended	22:19 VA.R. 2650	6/28/06
12 VAC 30-120-237	Amended	22:19 VA.R. 2653	6/28/06
12 VAC 30-120-241	Amended	22:19 VA.R. 2654	6/28/06
12 VAC 30-120-243	Repealed	22:19 VA.R. 2656	6/28/06
12 VAC 30-120-245	Amended	22:19 VA.R. 2658	6/28/06
12 VAC 30-120-247	Amended	22:19 VA.R. 2658	6/28/06
12 VAC 30-120-249	Amended	22:19 VA.R. 2660	6/28/06
12 VAC 30-120-380	Amended	22:23 VA.R. 3386	8/23/06
12 VAC 30-120-490 through 12 VAC 30-120-550	Repealed	22:10 VA.R. 1638	2/22/06
12 VAC 30-120-720	Amended	22:24 VA.R. 3721	9/6/06
12 VAC 30-120-900 through 12 VAC 30-120-980	Added	22:10 VA.R. 1638-1661	2/22/06
12 VAC 30-120-920	Amended	22:24 VA.R. 3724	9/6/06
12 VAC 30-141-200	Amended	22:23 VA.R. 3387	8/23/06
12 VAC 30-141-500	Amended	22:16 VA.R. 2385	7/3/06
12 VAC 30-141-500	Amended	22:23 VA.R. 3387	8/23/06
12 VAC 30-150-40	Amended	22:25 VA.R. 3924	11/6/06
12 VAC 30-150-50	Amended	22:25 VA.R. 3925	11/6/06
12 VAC 30-150-70	Amended	22:25 VA.R. 3925	11/6/06
12 VAC 30-150-80	Amended	22:25 VA.R. 3926	11/6/06
12 VAC 30-150-90	Amended	22:25 VA.R. 3926	11/6/06
12 VAC 35-45-10	Amended	22:10 VA.R. 1684	12/30/05-12/29/06
12 VAC 35-45-70 emer	Amended	22:10 VA.R. 1685	12/30/05-12/29/06
12 VAC 35-45-80 emer	Amended	22:10 VA.R. 1685	12/30/05-12/29/06
12 VAC 35-45-210 emer	Added	22:10 VA.R. 1686	12/30/05-12/29/06
12 VAC 35-105-20 emer	Amended	22:10 VA.R. 1686	12/30/05-12/29/06
12 VAC 35-105-30 emer	Amended	22:10 VA.R. 1693	12/30/05-12/29/06
12 VAC 35-105-590 emer	Amended	22:10 VA.R. 1693	12/30/05-12/29/06
12 VAC 35-105-660 emer	Amended	22:10 VA.R. 1694	12/30/05-12/29/06
Title 13. Housing			
13 VAC 5-51-132	Amended	22:20 VA.R. 2709	7/12/06
13 VAC 5-63-40	Amended	22:20 VA.R. 2710	7/12/06
13 VAC 5-63-480	Amended	22:20 VA.R. 2712	7/12/06
13 VAC 6-20-10	Amended	22:10 VA.R. 1679	4/12/06
13 VAC 6-20-80	Amended	22:10 VA.R. 1680	4/12/06
13 VAC 6-20-120	Amended	22:10 VA.R. 1680	4/12/06
13 VAC 6-20-350	Amended	22:10 VA.R. 1680	4/12/06
Title 14. Insurance			
14 VAC 5-30-20	Erratum	22:24 VA.R. 3755	--
14 VAC 5-30-80	Erratum	22:24 VA.R. 3755	--
14 VAC 5-260 (Forms)	Amended	22:22 VA.R. 3140	--
14 VAC 5-260 (Forms)	Erratum	22:24 VA.R. 3756	--
Title 16. Labor and Employment			
16 VAC 25-60-10	Amended	22:25 VA.R. 3878	9/21/06
16 VAC 25-60-30	Amended	22:25 VA.R. 3879	9/21/06
16 VAC 25-60-40	Amended	22:25 VA.R. 3879	9/21/06
16 VAC 25-60-80	Amended	22:25 VA.R. 3879	9/21/06
16 VAC 25-60-90	Amended	22:25 VA.R. 3880	9/21/06
16 VAC 25-60-100	Amended	22:25 VA.R. 3881	9/21/06
16 VAC 25-60-120 through 16 VAC 25-60-150	Amended	22:25 VA.R. 3882-3883	9/21/06
16 VAC 25-60-190	Amended	22:25 VA.R. 3883	9/21/06
16 VAC 25-60-260	Amended	22:25 VA.R. 3884	9/21/06
16 VAC 25-60-300	Amended	22:25 VA.R. 3885	9/21/06
16 VAC 25-60-320	Amended	22:25 VA.R. 3885	9/21/06
16 VAC 25-60-340	Amended	22:25 VA.R. 3886	9/21/06
16 VAC 25-90-1910.6	Amended	22:18 VA.R. 2518	6/15/06

Cumulative Table of VAC Sections Adopted, Amended, or Repealed

SECTION NUMBER	ACTION	CITE	EFFECTIVE DATE
16 VAC 25-90-1910.95	Amended	22:23 VA.R. 3396	9/1/06
16 VAC 25-90-1910.106	Amended	22:18 VA.R. 2518	6/15/06
16 VAC 25-90-1910.134	Amended	22:23 VA.R. 3396	9/1/06
16 VAC 25-90-1910.142	Amended	22:18 VA.R. 2518	6/15/06
16 VAC 25-90-1910.178	Amended	22:18 VA.R. 2517	6/15/06
16 VAC 25-90-1910.178	Amended	22:23 VA.R. 3396	9/1/06
16 VAC 25-90-1910.243	Amended	22:18 VA.R. 2518	6/15/06
16 VAC 25-90-1910.254	Amended	22:18 VA.R. 2518	6/15/06
16 VAC 25-90-1910.265	Amended	22:18 VA.R. 2518	6/15/06
16 VAC 25-90-1910.266	Amended	22:23 VA.R. 3396	9/1/06
16 VAC 25-90-1910.441	Repealed	22:23 VA.R. 3396	9/1/06
16 VAC 25-90-1910.1000	Amended	22:18 VA.R. 2519	6/15/06
16 VAC 25-90-1910.1000	Amended	22:23 VA.R. 3396	9/1/06
16 VAC 25-90-1910.1001	Amended	22:23 VA.R. 3396	9/1/06
16 VAC 25-90-1910.1017	Amended	22:23 VA.R. 3396	9/1/06
16 VAC 25-90-1910.1018	Amended	22:23 VA.R. 3396	9/1/06
16 VAC 25-90-1910.1020	Amended	22:23 VA.R. 3396	9/1/06
16 VAC 25-90-1910.1025	Amended	22:23 VA.R. 3396	9/1/06
16 VAC 25-90-1910.1026	Added	22:18 VA.R. 2519	6/15/06
16 VAC 25-90-1910.1027	Amended	22:23 VA.R. 3396	9/1/06
16 VAC 25-90-1910.1028	Amended	22:23 VA.R. 3396	9/1/06
16 VAC 25-90-1910.1029	Amended	22:23 VA.R. 3396	9/1/06
16 VAC 25-90-1910.1030	Amended	22:23 VA.R. 3396	9/1/06
16 VAC 25-90-1910.1043	Amended	22:23 VA.R. 3396	9/1/06
16 VAC 25-90-1910.1045	Amended	22:23 VA.R. 3396	9/1/06
16 VAC 25-90-1910.1047	Amended	22:23 VA.R. 3396	9/1/06
16 VAC 25-90-1910.1048	Amended	22:23 VA.R. 3396	9/1/06
16 VAC 25-90-1910.1050	Amended	22:23 VA.R. 3396	9/1/06
16 VAC 25-90-1910.1051	Amended	22:23 VA.R. 3396	9/1/06
16 VAC 25-90-1910.1052	Amended	22:23 VA.R. 3396	9/1/06
16 VAC 25-90-1910.1450	Amended	22:23 VA.R. 3396	9/1/06
16 VAC 25-100-1915.1000	Amended	22:18 VA.R. 2519	6/15/06
16 VAC 25-100-1915.1001	Amended	22:23 VA.R. 3396	9/1/06
16 VAC 25-100-1915.1026	Added	22:18 VA.R. 2519	6/15/06
16 VAC 25-120-1917.1	Amended	22:18 VA.R. 2519	6/15/06
16 VAC 25-130-1918.1	Amended	22:18 VA.R. 2519	6/15/06
16 VAC 25-175-1926, Appendix B of Subpart R	Amended	22:18 VA.R. 2520	6/15/06
16 VAC 25-175-1926, Appendix A to Subpart W	Adding	22:18 VA.R. 2520	6/15/06
16 VAC 25-175-1926.55	Added	22:18 VA.R. 2519	6/15/06
16 VAC 25-175-1926.60	Amended	22:23 VA.R. 3396	9/1/06
16 VAC 25-175-1926.62	Amended	22:23 VA.R. 3396	9/1/06
16 VAC 25-175-1926.754	Amended	22:18 VA.R. 2520	6/15/06
16 VAC 25-175-1926.754	Amended	22:23 VA.R. 3396	9/1/06
16 VAC 25-175-1926.1002	Amended	22:18 VA.R. 2520	6/15/06
16 VAC 25-175-1926.1003	Amended	22:18 VA.R. 2520	6/15/06
16 VAC 25-175-1926.1092	Repealed	22:23 VA.R. 3396	9/1/06
16 VAC 25-175-1926.1101	Amended	22:23 VA.R. 3396	9/1/06
16 VAC 25-175-1926.1126	Added	22:18 VA.R. 2519	6/15/06
16 VAC 25-175-1926.1127	Amended	22:23 VA.R. 3396	9/1/06
16 VAC 25-190-1928, Appendix B to Subpart C	Added	22:18 VA.R. 2520	6/15/06
16 VAC 25-190-1928.51	Amended	22:18 VA.R. 2520	6/15/06
16 VAC 25-190-1928.52	Added	22:18 VA.R. 2520	6/15/06
16 VAC 25-190-1928.53, Appendix B to Subpart C	Added	22:18 VA.R. 2520	6/15/06
Title 17. Libraries and Cultural Resources			
17 VAC 10-30-10 through 17 VAC 10-30-160	Added	22:13 VA.R. 2132-2140	4/5/06

Cumulative Table of VAC Sections Adopted, Amended, or Repealed

SECTION NUMBER	ACTION	CITE	EFFECTIVE DATE
Title 18. Professional and Occupational Licensing			
18 VAC 5-21-10 through 18 VAC 5-21-40	Amended	22:22 VA.R. 3113-3118	8/9/06
18 VAC 5-21-20	Amended	22:22 VA.R. 3136	9/23/06
18 VAC 5-21-170	Amended	22:22 VA.R. 3118	8/9/06
18 VAC 30-20-80	Amended	22:14 VA.R. 2205	4/19/06
18 VAC 41-50-10 through 18 VAC 41-50-420	Added	22:25 VA.R. 3887-3900	10/1/06
18 VAC 60-20-10	Amended	22:23 VA.R. 3397	8/23/06
18 VAC 60-20-20	Amended	22:23 VA.R. 3398	8/23/06
18 VAC 60-20-30	Amended	22:15 VA.R. 2320	5/3/06
18 VAC 60-20-71	Added	22:23 VA.R. 3399	8/23/06
18 VAC 60-20-100	Amended	22:24 VA.R. 3749	10/23/06
18 VAC 60-20-105	Amended	22:23 VA.R. 3399	8/23/06
18 VAC 60-20-106	Amended	22:23 VA.R. 3399	8/23/06
18 VAC 60-20-210	Amended	22:23 VA.R. 3400	8/23/06
18 VAC 60-20-230	Amended	22:23 VA.R. 3400	8/23/06
18 VAC 65-20-60	Amended	22:21 VA.R. 2897	7/26/06
18 VAC 65-20-110	Amended	22:12 VA.R. 2036	3/22/06
18 VAC 65-20-500	Amended	22:21 VA.R. 2897	7/26/06
18 VAC 65-20-580	Amended	22:21 VA.R. 2898	7/26/06
18 VAC 65-40-10	Amended	22:21 VA.R. 2898	7/26/06
18 VAC 65-40 (Forms)	Amended	22:21 VA.R. 2900	--
18 VAC 65-40-40	Amended	22:12 VA.R. 2036	3/22/06
18 VAC 65-40-40	Amended	22:21 VA.R. 2898	7/26/06
18 VAC 65-40-90	Amended	22:21 VA.R. 2898	7/26/06
18 VAC 65-40-110	Amended	22:21 VA.R. 2898	7/26/06
18 VAC 65-40-130	Amended	22:21 VA.R. 2899	7/26/06
18 VAC 65-40-160	Amended	22:21 VA.R. 2899	7/26/06
18 VAC 65-40-180	Amended	22:21 VA.R. 2899	7/26/06
18 VAC 65-40-201	Amended	22:21 VA.R. 2899	7/26/06
18 VAC 65-40-220	Amended	22:21 VA.R. 2899	7/26/06
18 VAC 65-40-280	Amended	22:21 VA.R. 2899	7/26/06
18 VAC 65-40-300	Amended	22:21 VA.R. 2899	7/26/06
18 VAC 65-40-320	Amended	22:21 VA.R. 2899	7/26/06
18 VAC 65-40-330	Amended	22:21 VA.R. 2899	7/26/06
18 VAC 65-40-340	Amended	22:21 VA.R. 2899	7/26/06
18 VAC 70-20 (Forms)	Amended	22:21 VA.R. 2911	--
18 VAC 70-20-10	Amended	22:21 VA.R. 2908	8/1/06
18 VAC 70-20-20	Repealed	22:21 VA.R. 2908	8/1/06
18 VAC 70-20-30	Amended	22:21 VA.R. 2908	8/1/06
18 VAC 70-20-50 through 18 VAC 70-20-90	Amended	22:21 VA.R. 2908-2910	8/1/06
18 VAC 70-20-105	Added	22:21 VA.R. 2911	8/1/06
18 VAC 70-20-110	Amended	22:21 VA.R. 2911	8/1/06
18 VAC 70-20-140	Amended	22:21 VA.R. 2911	8/1/06
18 VAC 70-20-150	Amended	22:21 VA.R. 2911	8/1/06
18 VAC 76-10-20	Amended	22:22 VA.R. 3120	6/19/06
18 VAC 76-10-65	Amended	22:22 VA.R. 3120	6/19/06
18 VAC 76-20-10	Amended	22:23 VA.R. 3402	8/23/06
18 VAC 76-20-20	Amended	22:23 VA.R. 3402	8/23/06
18 VAC 76-20-30	Amended	22:23 VA.R. 3402	8/23/06
18 VAC 76-20-50	Amended	22:23 VA.R. 3402	8/23/06
18 VAC 76-20-60	Amended	22:23 VA.R. 3402	8/23/06
18 VAC 76-20-70	Added	22:23 VA.R. 3403	8/23/06
18 VAC 85-10-10 through 18 VAC 85-10-110	Erratum	22:15 VA.R. 2324	--
18 VAC 85-20-330	Amended	22:25 VA.R. 3901	9/20/06
18 VAC 85-20-400 emer	Added	22:10 VA.R. 1695	12/21/05-12/20/06
18 VAC 85-20-410 emer	Added	22:10 VA.R. 1696	12/21/05-12/20/06

Cumulative Table of VAC Sections Adopted, Amended, or Repealed

SECTION NUMBER	ACTION	CITE	EFFECTIVE DATE
18 VAC 85-20-420 emer	Added	22:10 VA.R. 1696	12/21/05-12/20/06
18 VAC 85-130-10 through 18 VAC 85-130-170 emer	Added	22:10 VA.R. 1696-1700	12/21/05-12/20/06
18 VAC 90-20-30	Amended	22:12 VA.R. 2037	3/22/06
18 VAC 90-20-120	Amended	22:21 VA.R. 2915	7/26/06
18 VAC 90-25-80	Amended	22:12 VA.R. 2037	3/22/06
18 VAC 90-30-50	Amended	22:12 VA.R. 2038	3/22/06
18 VAC 90-40-70	Amended	22:12 VA.R. 2038	3/22/06
18 VAC 90-50-30	Amended	22:12 VA.R. 2038	3/22/06
18 VAC 95-20-130	Amended	22:13 VA.R. 2141	4/5/06
18 VAC 105-20-5	Amended	22:20 VA.R. 2714	7/12/06
18 VAC 105-20-10	Amended	22:20 VA.R. 2714	7/12/06
18 VAC 105-20-15	Amended	22:20 VA.R. 2714	7/12/06
18 VAC 105-20-16	Amended	22:20 VA.R. 2715	7/12/06
18 VAC 105-20-20	Amended	22:13 VA.R. 2141	4/5/06
18 VAC 110-20-20	Amended	22:15 VA.R. 2321	5/3/06
18 VAC 110-20-20	Erratum	22:16 VA.R. 2399	--
18 VAC 110-20-20	Amended	22:24 VA.R. 3726	9/6/06
18 VAC 110-20-20	Erratum	22:25 VA.R. 3935	--
18 VAC 110-20-70	Amended	22:24 VA.R. 3751	10/23/06
18 VAC 110-20-275	Amended	22:21 VA.R. 2926	9/10/06
18 VAC 110-20-630	Amended	22:24 VA.R. 3728	9/6/06
18 VAC 110-20-640	Repealed	22:24 VA.R. 3728	9/6/06
18 VAC 110-20-660	Repealed	22:24 VA.R. 3728	9/6/06
18 VAC 110-20-670	Repealed	22:24 VA.R. 3728	9/6/06
18 VAC 110-20-710	Amended	22:21 VA.R. 2927	9/10/06
18 VAC 110-30-10	Amended	22:10 VA.R. 1662	2/22/06
18 VAC 110-30-15	Amended	22:10 VA.R. 1662	2/22/06
18 VAC 110-30-15	Amended	22:15 VA.R. 2322	5/3/06
18 VAC 110-30-15	Erratum	22:16 VA.R. 2399	--
18 VAC 110-30-20	Amended	22:10 VA.R. 1662	2/22/06
18 VAC 110-30-30	Amended	22:10 VA.R. 1662	2/22/06
18 VAC 110-30-35	Repealed	22:10 VA.R. 1662	2/22/06
18 VAC 110-30-40	Amended	22:10 VA.R. 1662	2/22/06
18 VAC 110-30-50	Amended	22:10 VA.R. 1662	2/22/06
18 VAC 110-30-80	Amended	22:10 VA.R. 1662	2/22/06
18 VAC 110-30-110	Amended	22:10 VA.R. 1662	2/22/06
18 VAC 110-30-130	Amended	22:10 VA.R. 1662	2/22/06
18 VAC 110-30-150	Amended	22:10 VA.R. 1662	2/22/06
18 VAC 110-30-170 through 18 VAC 110-30-220	Amended	22:10 VA.R. 1662	2/22/06
18 VAC 110-30-240	Amended	22:10 VA.R. 1662	2/22/06
18 VAC 110-30-260	Amended	22:10 VA.R. 1662	2/22/06
18 VAC 110-30-270	Amended	22:10 VA.R. 1662	2/22/06
18 VAC 110-50-10 through 18 VAC 110-50-150	Added	22:24 VA.R. 3729-3735	9/6/06
18 VAC 112-20-50	Amended	22:23 VA.R. 3404	8/23/06
18 VAC 112-20-65	Amended	22:23 VA.R. 3404	8/23/06
18 VAC 112-20-130	Amended	22:13 VA.R. 2141	4/5/06
18 VAC 112-20-150	Amended	22:13 VA.R. 2142	4/5/06
18 VAC 115-20-20	Amended	22:14 VA.R. 2206	4/19/06
18 VAC 115-20-106	Amended	22:12 VA.R. 2039	3/22/06
18 VAC 115-30-30	Amended	22:14 VA.R. 2206	4/19/06
18 VAC 115-40-20	Amended	22:14 VA.R. 2207	4/19/06
18 VAC 115-50-20	Amended	22:14 VA.R. 2207	4/19/06
18 VAC 115-50-96	Amended	22:12 VA.R. 2040	3/22/06
18 VAC 115-60-20	Amended	22:14 VA.R. 2207	4/19/06
18 VAC 115-60-116	Amended	22:12 VA.R. 2041	3/22/06
18 VAC 120-40-40	Amended	22:11 VA.R. 1779	4/23/06

Cumulative Table of VAC Sections Adopted, Amended, or Repealed

SECTION NUMBER	ACTION	CITE	EFFECTIVE DATE
18 VAC 120-40-50	Amended	22:11 VA.R. 1779	4/23/06
18 VAC 125-20-30	Amended	22:11 VA.R. 1772	3/8/06
18 VAC 125-30-20	Amended	22:11 VA.R. 1773	3/8/06
18 VAC 150-20-100	Amended	22:21 VA.R. 2916	7/26/06
Title 19. Public Safety			
19 VAC 30-20-40	Amended	22:10 VA.R. 1663	3/1/06
19 VAC 30-20-80	Amended	22:10 VA.R. 1663	3/1/06
19 VAC 30-20-205	Added	22:10 VA.R. 1663	3/1/06
19 VAC 30-20-220	Amended	22:10 VA.R. 1663	3/1/06
19 VAC 30-20-250	Amended	22:10 VA.R. 1663	3/1/06
Title 20. Public Utilities and Telecommunications			
20 VAC 5-313-10 through 20 VAC 5-313-40	Added	22:11 VA.R. 1775-1777	1/5/06
Title 22. Social Services			
22 VAC 40-90-10 through 22 VAC 40-90-40	Amended	22:22 VA.R. 3121-3122	9/1/06
22 VAC 40-141-20	Amended	22:10 VA.R. 1664	2/22/06
22 VAC 40-141-30	Amended	22:10 VA.R. 1664	2/22/06
22 VAC 40-141-80 through 22 VAC 40-141-90	Amended	22:10 VA.R. 1664-1666	2/22/06
22 VAC 40-141-110 through 22 VAC 40-141-210	Amended	22:10 VA.R. 1666-1672	2/22/06
22 VAC 40-191-10	Amended	22:22 VA.R. 3123	9/1/06
22 VAC 40-191-20	Amended	22:22 VA.R. 3125	9/1/06
22 VAC 40-191-40 through 22 VAC 40-191-70	Amended	22:22 VA.R. 3126-3131	9/1/06
22 VAC 40-191-90	Amended	22:22 VA.R. 3131	9/1/06
22 VAC 40-191-100	Amended	22:22 VA.R. 3132	9/1/06
22 VAC 40-191-120	Amended	22:22 VA.R. 3132	9/1/06
22 VAC 40-191-130	Amended	22:22 VA.R. 3132	9/1/06
22 VAC 40-191-150	Amended	22:22 VA.R. 3132	9/1/06
22 VAC 40-325-10	Amended	22:25 VA.R. 3901	10/1/06
22 VAC 40-325-20	Amended	22:25 VA.R. 3902	10/1/06
22 VAC 40-330-10 through 22 VAC 40-330-30	Repealed	22:22 VA.R. 3136-3138	9/23/06
22 VAC 40-340-10	Repealed	22:22 VA.R. 3138	9/23/06
22 VAC 40-340-20	Repealed	22:22 VA.R. 3138	9/23/06
22 VAC 40-901-10	Amended	22:25 VA.R. 3903	10/1/06
22 VAC 40-901-40 through 22 VAC 40-901-90	Added	22:25 VA.R. 3903-3905	10/1/06
Title 24. Transportation and Motor Vehicles			
24 VAC 30-41 (Forms)	Amended	22:21 VA.R. 2921	--
24 VAC 30-41-220	Amended	22:21 VA.R. 2917	7/26/06
24 VAC 30-41-230	Amended	22:21 VA.R. 2917	7/26/06
24 VAC 30-41-290	Amended	22:21 VA.R. 2917	7/26/06
24 VAC 30-41-300	Amended	22:21 VA.R. 2918	7/26/06
24 VAC 30-41-310	Amended	22:21 VA.R. 2918	7/26/06
24 VAC 30-41-320	Amended	22:21 VA.R. 2918	7/26/06
24 VAC 30-41-430	Amended	22:21 VA.R. 2919	7/26/06
24 VAC 30-41-520	Amended	22:21 VA.R. 2920	7/26/06
24 VAC 30-41-650	Amended	22:21 VA.R. 2920	7/26/06
24 VAC 30-121-10 through 24 VAC 30-121-40	Added	22:10 VA.R. 1672-1676	2/22/06
24 VAC 30-400-10 through 24 VAC 30-400-40	Repealed	22:13 VA.R. 2142	2/14/06
24 VAC 30-401-10 through 24 VAC 30-401-40	Added	22:13 VA.R. 2142-2143	2/14/06
24 VAC 30-550	Repealed	22:24 VA.R. 3736	9/6/06
24 VAC 30-551-10 through 24 VAC 30-551-100	Added	22:24 VA.R. 3736-3744	9/6/06
24 VAC 30-600	Repealed	22:24 VA.R. 3736	9/6/06

PETITIONS FOR RULEMAKING

TITLE 18. PROFESSIONAL AND OCCUPATIONAL LICENSING

23230-1717, telephone (804) 662-9913, FAX (804) 662-7250, or e-mail evelyn.brown@dhp.virginia.gov.

VA.R. Doc. No. R06-318; Filed August 10, 2006, 3:57 p.m.

BOARD OF COUNSELING

Initial Agency Notice

Title of Regulation: 18 VAC 115-50. Regulations Governing the Practice of Marriage and Family Therapy.

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

Name of Petitioner: Arnold Woodruff, M.S., for the Virginia Association for Marriage and Family Therapy.

Nature of Petitioner's Request: To amend regulations to (i) require that at least 1/2 of the required 100 hours of supervision be provided by a licensed marriage and family therapist (MFT) qualified as a supervisor; and (ii) eliminate the provision that allows a licensed professional counselor to become a MFT without taking the national examination.

Agency's Plan for Disposition of Request: At its meeting on Friday, November 3, 2006, the board will consider whether to recommend amendments to the requirements for supervision and licensure of marriage and family therapists.

Public comments may be submitted until October 4, 2006.

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. R06-319; Filed August 10, 2006, 3:57 p.m.

BOARD OF PSYCHOLOGY

Initial Agency Notice

Title of Regulation: 18 VAC 125-30. Regulations Governing the Certification of Sex Offender Treatment Providers.

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

Name of Petitioner: James Arndt, Psy.D.

Nature of Petitioner's Request: To amend regulations to ease the supervision requirement for licensed clinical psychologists attempting to become certified as sex offender treatment providers to allow some of the experience of an LCP to be used to satisfy supervised practice requirements.

Agency's Plan for Disposition of Request: The board will consider the petition at its meeting on October 10, 2006, at 6603 West Broad Street, Richmond, Virginia to consider whether to recommend amendments to the continuing education requirements.

Public comments may be submitted until October 4, 2006.

Agency Contact: Evelyn B. Brown, Executive Director, Board of Psychology, 6603 West Broad Street, Richmond, VA

NOTICES OF INTENDED REGULATORY ACTION

Symbol Key

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

TITLE 1. ADMINISTRATION

DEPARTMENT OF HUMAN RESOURCE MANAGEMENT

Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 2.2-4007 of the Code of Virginia that the Department of Human Resource Management intends to consider promulgating regulations entitled **1 VAC 55-30, Commonwealth of Virginia Long-Term Care Program**. The purpose of the proposed action is to establish regulations used by the Department of Human Resource Management in the administration of the long-term care plan for state employees, retirees, terminated vested participants of the Virginia System, and employees and retirees of local governments. The regulation will define which groups of employees, former employees and their dependents are eligible for the long-term care program sponsored by the Department of Human Resource Management. Additionally, the regulation will clarify the different insurance classifications and the processes that the eligible participants within each classification must go through in order to secure coverage.

The agency does not intend to hold a public hearing on the proposed action after publication in the *Virginia Register*.

Statutory Authority: §§ 2.2-1207 and 2.2-1208 of the Code of Virginia.

Public comments may be submitted until September 20, 2006.

Contact: Charles Reed, Department of Human Resource Management, 101 N. 14th St., Richmond, VA 23219, telephone (804) 786-3124, FAX (804) 371-0231 or e-mail charles.reed@dhrm.virginia.gov.

VA.R. Doc. No. R06-316; Filed August 9, 2006, 2:25 p.m.

TITLE 8. EDUCATION

STATE BOARD OF EDUCATION

† Withdrawal of Notice of Intended Regulatory Action

Notice is hereby given that the State Board of Education has WITHDRAWN the Notice of Intended Regulatory Action entitled **8 VAC 20-40, Regulations Governing Educational Services for Gifted Students**, which was published in 22:11 VA.R. 1754 February 6, 2006. The board is withdrawing the NOIRA because it does not intend to proceed with revising the

regulation at this time. A new NOIRA will be filed when the board is ready to proceed with the regulation.

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.

VA.R. Doc. No. R06-163; Filed August 7, 2006, 8:12 a.m.

TITLE 12. HEALTH

STATE BOARD OF HEALTH

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 Health intends to consider amending regulations entitled **12 VAC 5-585, Biosolids Use Regulations**. The purpose of the proposed action is to provide the Virginia Department of Health with the authority to collect fees from all applicants for a permit, permit modification, or permit reissuance, for the land application, distribution or marketing of treated sewage sludge (biosolids) in accordance with the regulations.

The agency does not intend to hold a public hearing on the proposed action after publication in the *Virginia Register*.

Statutory Authority: § 32.1-164.5 of the Code of Virginia.

Public comments may be submitted until September 8, 2006.

Contact: C. M. Sawyer, Division Director, Department of Health, 109 Governor St., 5th Floor, Richmond, VA 23219, telephone (804) 864-7463, FAX (804) 864-7475 or e-mail cal.sawyer@vdh.virginia.gov.

VA.R. Doc. No. R06-292; Filed July 14, 2006, 9:59 a.m.

† Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 2.2-4007 of the Code of Virginia that the State Board of Health intends to consider repealing regulations entitled **12 VAC 5-610, Sewage Handling and Disposal Regulations**, and adopting regulations entitled **12 VAC 5-611, Onsite Sewage Regulations**. The purpose of the proposed action is to promulgate regulations based on public meetings held between January and May 2006 and related issues as determined by the board, and to include provisions to address the previously proposed allowable rock content and footprint amendments.

Notices of Intended Regulatory Action

The agency does not intend to hold a public hearing on the proposed action after publication in the Virginia Register.

Statutory Authority: § 32.1-164 of the Code of Virginia.

Public comments may be submitted until November 3, 2006.

Contact: Don Alexander, Director, Division of Onsite Sewage and Water Services, Department of Health, 109 Governor St., 5th Floor, Richmond, VA 23219, telephone (804) 864-7452, FAX (804) 864-7476, or e-mail don.alexander@vdh.virginia.gov.

VA.R. Doc. No. R06-334; Filed August 16, 2006, 10:02 a.m.

DEPARTMENT OF MEDICAL ASSISTANCE SERVICES

† Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 2.2-4007 of the Code of Virginia that the Department of Medical Assistance Services intends to consider amending regulations entitled **12 VAC 30-70, Methods and Standards for Establishing Payment Rates; Inpatient Hospital Services**. The purpose of the proposed action is to clarify the definition of Medicaid utilization.

The agency does not intend to hold a public hearing on the proposed action after publication in the Virginia Register.

Statutory Authority: §§ 32.1-324 and 32.1-325 of the Code of Virginia.

Public comments may be submitted until October 4, 2006.

Contact: William Lessard, Project Manager, 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.

VA.R. Doc. No. R06-317; Filed August 7, 2006, 2:46 p.m.

† Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 2.2-4007 of the Code of Virginia that the Department of Medical Assistance Services intends to consider amending regulations entitled **12 VAC 30-120, Waivered Services**. The purpose of the proposed action is to update the Technology Assisted Waiver Program in order to accommodate changes in the industry and to provide greater clarity to the regulations.

The agency does not intend to hold a public hearing on the proposed action after publication in the Virginia Register.

Statutory Authority: §§ 32.1-324 and 32.1-325 of the Code of Virginia.

Public comments may be submitted until October 4, 2006.

Contact: Teja Stokes, Project Manager, Department of Medical Assistance Services, 600 E. Broad St., Suite 1300, Richmond, VA 23219, telephone (804) 786-0527, FAX (804) 786-1680 or e-mail teja.stokes@dmas.virginia.gov.

VA.R. Doc. No. R06-312; Filed August 7, 2006, 2:46 p.m.

TITLE 16. LABOR AND EMPLOYMENT

SAFETY AND HEALTH CODES BOARD

† Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 2.2-4007 of the Code of Virginia that the Safety and Health Codes Board intends to consider adopting regulations entitled:

16 VAC 25-96, Reverse Signal Procedures - Existing General Industry Standards - Off-Road Vehicles/Equipment.

16 VAC 25-97, Reverse Signal Procedures - General Industry - Vehicles and Equipment Not Covered by Existing Standards.

16 VAC 25-178, Reverse Signal Procedures - Existing Construction Industry Standards - Off-Road Vehicles and Equipment.

16 VAC 25-179, Reverse Signal Procedures - Construction Industry - Vehicles and Equipment Not Covered by Existing Standards.

The purpose of the proposed action is to provide more comprehensive protection to employees in construction and general industry work zones exposed to vehicular and equipment traffic covered by §§ 1910.269(p)(1)(ii), 1926.601(b), 1926.602(a)(9)(ii), and 1926.952(a)(3), and to provide the same degree of protection to employees in similar working conditions where vehicles and machinery with obstructed views to the rear are operating and are not otherwise covered by the existing Construction Industry Standards and the General Industry Standards.

The agency does not intend to hold a public hearing on the proposed action after publication in the Virginia Register.

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

Public comments may be submitted until 5 p.m. on October 4, 2006.

Contact: John Crisanti, Policy and Planning Manager, Department of Labor and Industry, Powers-Taylor Bldg., 13 S. 13th St., Richmond, VA 23219, telephone (804) 786-4300, FAX (804) 786-8418, or e-mail john.crisanti@doli.virginia.gov.

VA.R. Doc. No. R06-314; Filed August 8, 2006, 3:50 p.m.

Notices of Intended Regulatory Action

TITLE 18. PROFESSIONAL AND OCCUPATIONAL LICENSING

BOARD OF ACCOUNTANCY

Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 2.2-4007 of the Code of Virginia that the Board of Accountancy intends to consider amending regulations entitled **18 VAC 5-21, Board of Accountancy Regulations**. The purpose of the proposed action is to begin a comprehensive review of the board's regulations, seeking input from the board's regulants and the public in its deliberations, and seeking clarity and improvements that will be reasonable, prudent and will not impose an unnecessary burden on its regulants and the public.

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

Statutory Authority: § 54.1-4403 of the Code of Virginia.

Public comments may be submitted until September 20, 2006.

Contact: Nancy Taylor Feldman, Executive Director, Board of Accountancy, 3600 W. Broad St., Suite 378, Richmond, VA 23230-4916, telephone (804) 367-8505, FAX (804) 367-2174 or e-mail boa@boa.virginia.gov.

VA.R. Doc. No. R06-308; Filed August 2, 2006, 10:36 a.m.

BOARD OF DENTISTRY

Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 2.2-4007 of the Code of Virginia that the Board of Dentistry intends to consider amending regulations entitled **18 VAC 60-20, Regulations Governing the Practice of Dentistry and Dental Hygiene**. The purpose of the proposed action is to comply with a statutory mandate as set forth in Chapter 858 of the 2006 Acts of Assembly. In its proposed regulatory action, the board intends to establish the education and training required for a dental hygienist to demonstrate competency in the administration of local anesthesia and nitrous oxide under the direction of a licensed dentist.

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

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

Public comments may be submitted until 5 p.m. on September 6, 2006.

Contact: Sandra Reen, Executive Director, Board of Dentistry, 6603 W. Broad St., 5th Floor, Richmond, VA 23230-1712, telephone (804) 662-9906, FAX (804) 662-9943 or e mail sandra.reen@dhp.virginia.gov.

VA.R. Doc. No. R06-295; Filed July 18, 2006, 3:31 p.m.

BOARD OF AUDIOLOGY AND SPEECH-LANGUAGE PATHOLOGY

† Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 2.2-4007 of the Code of Virginia that the Board of Audiology and Speech-Language Pathology intends to consider amending regulations entitled **18 VAC 30-20, Regulations Governing the Practice of Audiology and Speech-Language Pathology**. The purpose of the proposed action is to establish requirements for the issuance of provisional licensure in audiology and the supervision of such licensees.

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

Statutory Authority: § 54.1-2400 and Chapter 26 (§ 54.1-2600 et seq.) of Title 54.1 of the Code of Virginia.

Public comments may be submitted until 5 p.m. on October 4, 2006.

Contact: Elizabeth Young, Executive Director, Board of Audiology and Speech-Language Pathology, 3600 W. Broad St., 5th Floor, Richmond, VA 23230-1712, telephone (804) 662-9111, FAX (804) 662-9523 or e-mail elizabeth.young@dhp.virginia.gov.

VA.R. Doc. No. R06-325; Filed August 17, 2006, 3:54 p.m.

BOARD OF MEDICINE

Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 2.2-4007 of the Code of Virginia that the Board of Medicine intends to consider amending regulations entitled **18 VAC 85-20, Regulations Governing the Practice of Medicine, Osteopathy, Podiatry, and Chiropractic**. The purpose of the proposed action is to waive all or part of the continuing education requirements for doctors who restrict their practices to serving as medical examiners.

The agency does not intend to hold a public hearing on the proposed action after publication in the Virginia Register.

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

Public comments may be submitted until 5 p.m. on September 20, 2006.

Contact: William L. Harp, M.D., Executive Director, Board of Medicine, 6603 W. Broad St., 5th Floor, Richmond, VA 23230-1712, telephone (804) 662-9908, FAX (804) 662-9943 or e-mail william.harp@dhp.virginia.gov.

VA.R. Doc. No. R06-303; Filed July 27, 2006, 1:41 p.m.

Notices of Intended Regulatory Action

BOARD OF MEDICINE

† Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 2.2-4007 of the Code of Virginia that the Board of Medicine intends to consider amending regulations entitled:

18 VAC 85-20, Regulations Governing the Practice of Medicine, Osteopathic Medicine, Podiatry, and Chiropractic.

18 VAC 85-40, Regulations Governing the Practice of Respiratory Care Practitioners.

18 VAC 85-50, Regulations Governing the Practice of Physician Assistants.

18 VAC 85-80, Regulations Governing the Licensure of Occupational Therapists.

18 VAC 85-101, Regulations Governing the Licensure of Radiologic Technologists and Radiologic Technologists-Limited.

18 VAC 85-110, Regulations Governing the Practice of Licensed Acupuncturists.

The purpose of the proposed action is to set out the fees and renewal requirements for a person holding a restricted volunteer license.

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

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

Public comments may be submitted until 5 p.m. on October 4, 2006.

Contact: William L. Harp, M.D., Executive Director, Board of Medicine, 6603 W. Broad St., 5th Floor, Richmond, VA 23230-1712, telephone (804) 662-9908, FAX (804) 662-9943 or e-mail william.harp@dhp.virginia.gov.

VA.R. Doc. No. R06-337; Filed August 10, 2006, 4:02 p.m.

BOARD OF NURSING

Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 2.2-4007 that the Board of Nursing intends to consider amending regulations entitled **18 VAC 90-20, Regulations Governing the Practice of Nursing**. The purpose of the proposed action is to address inadequacy in regulations for nursing programs and clarify other requirements.

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

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

Public comments may be submitted until 5 p.m. on September 6, 2006.

Contact: Jay P. Douglas, R.N., Executive Director, Board of Nursing, 6603 W. Broad St., 5th Floor, Richmond, VA 23230-1712, telephone (804) 662-9909, FAX (804) 662-9512 or e-mail jay.douglas@dhp.virginia.gov.

VA.R. Doc. No. R06-307; Filed July 28, 2006, 2:26 p.m.

Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 2.2-4007 that the Board of Nursing intends to consider amending regulations entitled **18 VAC 90-25, Regulations Governing Certified Nurse Aides**. The purpose of the proposed action is to clarify certain requirements and address issues and problems that have arisen with the Nurse Aide Registry.

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

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

Public comments may be submitted until 5 p.m. on September 6, 2006.

Contact: Jay P. Douglas, R.N., Executive Director, Board of Nursing, 6603 W. Broad St., 5th Floor, Richmond, VA 23230-1712, telephone (804) 662-9909, FAX (804) 662-9512 or e-mail jay.douglas@dhp.virginia.gov.

VA.R. Doc. No. R06-306; Filed July 28, 2006, 2:22 p.m.

† Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 2.2-4007 that the Board of Nursing intends to consider amending regulations entitled **18 VAC 90-30, Regulations Governing the Licensure of Nurse Practitioners**. The purpose of the proposed action is to implement 2006 legislation for the practice of certified nurse midwives with the collaboration and consultation with a physician.

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

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

Public comments may be submitted until 5 p.m. on October 4, 2006.

Contact: Jay P. Douglas, R.N., Executive Director, Board of Nursing, 6603 W. Broad St., 5th Floor, Richmond, VA 23230-1712, telephone (804) 662-9909, FAX (804) 662-9512 or e-mail jay.douglas@dhp.virginia.gov.

VA.R. Doc. No. R06-341; Filed August 22, 2006, 9:10 a.m.



Notices of Intended Regulatory Action

TITLE 22. SOCIAL SERVICES

STATE BOARD OF SOCIAL SERVICES

† Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 2.2-4007 of the Code of Virginia that the State Board of Social Services intends to consider amending regulations entitled **22 VAC 40-35, Virginia Independence Program**. The purpose of the proposed action is to implement provisions of the federal Deficit Reduction Act of 2005 that requires states to meet certain work participation rates in their Temporary Assistance for Needy Families program or face substantial penalties.

The agency does not intend to hold a public hearing on the proposed action after publication in the Virginia Register.

Statutory Authority: § 63.2-217 of the Code of Virginia.

Public comments may be submitted until October 4, 2006.

Contact: Mark Golden, Economic Assistance and Employment Manager, Department of Social Services, 7 N. 8th St., Richmond, VA 23219, telephone (804) 726-7385, FAX (804) 726-7356, toll-free 1-800-828-1120 or e-mail mark.golden@dss.virginia.gov.

VA.R. Doc. No. R06-328; Filed August 10, 2006, 1:20 p.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 4. CONSERVATION AND NATURAL RESOURCES

DEPARTMENT OF MINES, MINERALS AND ENERGY

Title of Regulation: **4 VAC 25-130. Coal Surface Mining Reclamation Regulations. (amending 4 VAC 25-130-700.12, 4 VAC 25-130-773.21, 4 VAC 25-130-775.11, 4 VAC 25-130-775.13, 4 VAC 25-130-784.20, 4 VAC 25-130-800.51, 4 VAC 25-130-816.105, 4 VAC 25-130-817.11, 4 VAC 25-130-817.64, 4 VAC 25-130-817.121, 4 VAC 25-130-842.15, 4 VAC 25-130-843.12, 4 VAC 25-130-843.13, 4 VAC 25-130-843.15, 4 VAC 25-130-843.16, 4 VAC 25-130-845.13, 4 VAC 25-130-845.15, 4 VAC 25-130-845.18, 4 VAC 25-130-845.19, 4 VAC 25-130-846.14).**

Statutory Authority: §§ 45.1-161.3 and 45.1-230 of the Code of Virginia.

Public Hearing Date: N/A -- Public comments may be submitted until 5 p.m. on November 3, 2006.

(See Calendar of Events section for additional information)

Agency Contact: Gavin Bledsoe, Legal Services Officer, Department of Mines, Minerals and Energy, P.O. Drawer 900, Big Stone Gap, Virginia 24219-0900, telephone (276) 523-8157, FAX (275) 523-8163 or e-mail gavin.bledsoe@dmme.virginia.gov.

Basis: Section 45.1-161.3 of the Code of Virginia empowers DMME, with the approval of the director, to promulgate regulations necessary or incidental to the performance of duties or execution of powers under Title 45.1 of the Code of Virginia.

Section 45.1-230 of the Code of Virginia empowers the DMME director to promulgate regulations as may be necessary to carry out the provisions of the Virginia Coal Surface Mining Control and Reclamation Act, (Chapter 19 (§ 45.1-226 et seq.) of Title 45.1 of the Code of Virginia).

Section 45.1-242 of the Code of Virginia directs the DMME director to, by regulation, establish performance standards applicable to all surface mining and reclamation operations. Establishment of these performance standards by regulation is mandatory.

Purpose: Amendments of the administrative hearing regulations in the Coal Surface Mining Reclamation Regulations are being made to update references to the Virginia Administrative Process Act. This is to ensure that the agency, industry, and public are provided with the correct and updated section references of the Virginia Administrative Process Act.

Amendments are also made to provide direction as to where requests for formal administrative review and notices of

judicial appeal shall be filed. These will ensure a consistent administrative and judicial review process for all parties to a contested action/decision and make this regulation consistent with recent changes to DMME's Public Participation Guidelines.

Amendments are made to be consistent with the corresponding federal amendments regarding survey requirements and the rebuttable presumption of subsidence determinations. The U.S. Court of Appeals vacated the federal rules on April 27, 1999; whereupon, the federal Office of Surface Mining suspended its rules effective December 22, 1999. As provided by 4 VAC 25-130-700.2 of the Virginia Coal Surface Mining Reclamation Regulation, "These regulations are promulgated pursuant to Chapter 19, Title 45.1 of the Code of Virginia. In order for these regulations to receive approval by the United States Secretary of the Interior as part of the Commonwealth's permanent regulatory program, the federal Surface Mining Control and Reclamation Act requires that these regulations be consistent with (as effective as) applicable regulations issued by the Secretary, contained in 30 CFR Chapter VII."

4 VAC 25-130-816.105 is being amended to ensure it addresses "thick overburden" conditions. The current version is essentially a duplication of 4 VAC 25-130-816.104, which pertains to "thin overburden" conditions. The amendment will ensure the Virginia regulation is consistent with the federal rule, 30 CFR 816.105.

Amendments are also made to make requirements for signs and markers and blast monitoring for surface areas at underground coal mines consistent with those for surface coal mines.

Chapter 3 of the 2005 Virginia Acts of Assembly (HB 2573) increased the civil penalties for violations of the Virginia Coal Surface Mining Control and Reclamation Act that result in a personal injury or fatality. 4 VAC 25-130-845.13, 4 VAC 25-130-845.15, and 4 VAC 25-130-846.14 are being amended to provide that a civil penalty up to \$70,000 may be assessed for a violation that results in personal injury or fatality, consistent with amendments to the Act.

The changes represent important improvements to the safety of people living or working near coal mines and are required by the Virginia Coal Surface Mining Control and Reclamation Act.

Substance: The proposed changes will update references to the Code of Virginia. Sections to reflect the renumbering of the Administrative Process Act; provide current information regarding the administrative hearing process; ensure regulations regarding subsidence are consistent with the federal rules; make regulations dealing with signs and markers and blast monitoring for surface areas at underground coal mines consistent with those for surface coal mines; ensure regulations regarding thick overburden are

Proposed Regulations

consistent with the federal rules; and revise the civil penalty system to address violations that result in personal injury or fatality.

Issues: The proposed changes correct and clarify a number of regulatory sections dealing with administrative hearings. These changes provide clearer instructions and will be advantageous to companies or individuals wishing to appeal agency regulations or decisions.

Proposed changes dealing with pre-mining survey requirements and the rebuttable presumption of subsidence determinations are being made to provide consistency with federal regulations. Increased expenses for boundary markers and blast monitoring at underground coal mines may be considered disadvantages to businesses engaged in the mining of coal; however, these changes are required to maintain consistency between requirement for underground mines and surface mines. Increased civil penalties for violations causing injury or death may also be considered disadvantages for the mining industry. These changes, however, represent important improvements to the safety of people living or working near coal mines and are required by the Virginia Coal Surface Mining Control and Reclamation Act.

These changes will have little impact on the agency, and no disadvantages are anticipated for the public or the Commonwealth.

Department of Planning and Budget's Economic Impact Analysis:

Summary of the proposed regulation: The Department of Mines, Minerals and Energy (DMME) proposes to amend its Coal Surface Mining Reclamation Regulations to: (i) update all obsolete references to the Code of Virginia; (ii) maintain consistency, as required by state law, with amended federal regulations; and (iii) increase civil penalties for violations of the Virginia Coal Surface Mining Control and Reclamation Act that result in personal injury or fatality.

Result of Analysis. The benefits likely exceed the costs for these proposed regulatory changes.

Estimated Economic Impact. Current regulation mirrors older federal regulations that required mining companies, as a part of any permit process, to survey noncommercial buildings and residences to identify any areas that might be adversely impacted by mining activities. In 1999, a federal appeals court ruled that the Federal Office of Surface Mining could not require mining companies to survey private property over which the mining companies had no control; FOSM subsequently suspended enforcement of this rule.

In response to this federal action, DMME also suspended enforcement of the portion of its regulations that mirrored this requirement. This proposed regulatory action will entirely remove the language that had required these surveys. DMME estimates that, on average, these surveys added approximately \$1,000 to the cost of applying for a mining permit. Since suspension of this rule, mining companies have been able to save this cost each time they applied for a permit to open a new mine. Adding clarity to this regulation by removing the now irrelevant language will benefit the citizens of the Commonwealth, but any monetary savings attached to

this regulatory change were realized some time ago when enforcement was suspended.

Under current regulation, DMME can issue, along with a cessation order or notice of (rule) violation, a fine of up to \$5,000. In 2005, the General Assembly passed a law (Chapter 3 of the 2005 Acts of Assembly) that raised the maximum fine that DMME could levy to \$70,000. The new fine limit, however, only applies to rule violations that result in injury or death.

This proposed regulation will implement that legislative change. Although mining companies will now be subject to potentially much larger fines, DMME reports that mining companies have an extremely good safety history and, so, the cost of this regulatory change for companies should be minimal. In any case the benefit accrued to the public, since larger fines should provide a larger incentive for mining companies to be mindful of safety, likely outweighs the potential costs for mining companies.

Businesses and Entities Affected. There are 70 active surface coal mines and 150 active underground coal mines in the Commonwealth. The community that will be affected by this regulatory change comprises the companies that own these mines and all individuals who work for these companies as well as residents and businesses located near mining operations.

Localities Particularly Affected. According to DMME, this proposed regulation will primarily affect counties, such as Buchanan, Dickenson, Wise, Lee, Tazewell, Russell, and Scott counties, where there are currently operating mines.

Projected Impact on Employment. This proposed regulation will likely have no impact on employment in the Commonwealth.

Effects on the Use and Value of Private Property. Under the proposed regulation, mining companies will no longer be required to complete a survey of "the condition of all noncommercial buildings or occupied residential dwellings, and structures related thereto, that may be materially damaged...". This change will allow mining companies to save approximately \$1000 at the onset of any new mining activity.

Small Business: Costs and Other Effects. None of the mining companies that will be directly affected by this proposed regulation are small businesses.

Small Business: Alternative Method that Minimizes Adverse Impact. None of the mining companies that will be directly affected by this proposed regulation are small businesses.

Legal Mandate: 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. Further, if the proposed regulation has adverse effect on small businesses, § 2.2-4007 H requires that such economic impact analyses include (i) an identification and estimate of the number of small businesses subject to the regulation; (ii) the projected reporting, recordkeeping, and other administrative costs required for small businesses to comply with the regulation, including the type of professional skills necessary for preparing required reports and other documents; (iii) a statement of the probable effect of the regulation on affected small businesses; and (iv) a description of any less intrusive or less costly alternative methods of achieving the purpose of the regulation. The analysis presented above represents DPB's best estimate of these economic impacts.

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

Summary:

The proposed amendments (i) revise references to sections in the Virginia Administrative Process Act to reflect its current numbering, (ii) provide direction as to where requests for formal administrative review and notices of judicial appeal shall be filed, (iii) maintain consistency with corresponding federal amendments regarding survey requirements and the rebuttable presumption of subsidence determinations, (iv) maintain consistency with federal regulations regarding thick overburden, (v) maintain consistency between requirements for surface mines and underground mines, (vi) and increase the civil penalties for violations of the Virginia Coal Surface Mining Control and Reclamation Act that result in personal injury or fatality consistent with amendments to the Act.

4 VAC 25-130-700.12. Petitions to initiate rule making.

(a) Any person may petition to initiate a proceeding for the issuance, amendment, or repeal of any regulation under the Act. The petition shall be addressed to either the director of the division or the director of the department and mailed or submitted to the division office at Big Stone Gap.

(b) The petition shall be a concise statement of the facts, technical justification, and law which requires issuance, amendment, or repeal of a regulation under the Act and shall indicate whether the petitioner desires a public hearing.

(c) Upon receipt of the petition, the division shall make a preliminary determination whether the petition sets forth facts, technical justification and law which may provide a reasonable basis for issuance, amendment or repeal of a regulation. Facts, technical justification or law previously considered in a petition or rule making on the same issue shall not provide a reasonable basis. The division shall send the preliminary determination to the director, who may hold a public hearing, conduct an investigation or take other action to determine whether the petition should be granted.

(d) Within 90 days of receipt of the petition, the director shall issue a written decision to either grant or deny the petition.

(e) If the director grants the petition, he shall initiate a rule making proceeding pursuant to the Virginia Administrative

Process Act, Chapter 1.1:1 (§ ~~9-6.14:4~~ 2.2-4000 et seq.) of Title 9 of the Code of Virginia. If the director denies the petition, he shall notify the petitioner in writing, setting forth the reasons for the denial.

(f) Nothing herein shall be construed as preventing the director from initiating any rule making proceeding on his own motion.

4 VAC 25-130-773.21. Improvidently issued permits; rescission procedures.

If the division, under 4 VAC 25-130-773.20 (c) (4), elects to rescind an improvidently issued permit, it shall serve on the permittee a notice of proposed suspension and rescission which includes the reasons for the finding of the division under 4 VAC 25-130-773.20 (b) and states that:

(a) Automatic suspension and rescission. After a specified period of time not to exceed 90 days the permit automatically will become suspended, and not to exceed 90 days thereafter rescinded, unless within those periods the permittee submits proof, and the division finds, that:

(1) The finding of the division under 4 VAC 25-130-773.20 (b) was erroneous;

(2) The permittee or other person responsible has abated the violation on which the finding was based, or paid the penalty or fee, to the satisfaction of the responsible agency;

(3) The violation, penalty or fee is the subject of a good faith appeal, or of an abatement plan or payment schedule with which the permittee or other person responsible is complying to the satisfaction of the responsible agency; or

(4) Since the finding was made, the permittee has severed any ownership or control link with the person responsible for, and does not continue to be responsible for, the violation, penalty or fee:

(b) Cessation of operations. After permit suspension or rescission, the permittee shall cease all surface coal mining and reclamation operations under the permit, except for violation abatement and for reclamation and other environmental protection measures as required by the division; and

(c) Right to appeal. The permittee may file an appeal for administrative review of the notice under ~~§ 9-6.14:4~~ § 2.2-4000 A et seq. of the Code of Virginia.

4 VAC 25-130-775.11. Administrative review.

(a) General. Within 30 days after an applicant or permittee is notified of the decision of the division concerning an application for approval of exploration required under Part 772, a permit for surface coal mining and reclamation operations, a permit revision, a permit renewal, or a transfer, assignment, or sale of permit rights, the applicant, permittee, or any person with an interest which is or may be adversely affected by the decision may request, in writing, a formal public hearing to contest such action with the Director of the Division of Mined Land Reclamation, Drawer 900, Big Stone Gap, VA 24219.

(b) Administrative hearings.

Proposed Regulations

(1) The division shall conduct the formal hearing within 30 days from the receipt of the request. The hearing shall be conducted in accordance with ~~§ 9-6-14-12~~ § 2.2-4020 of the Virginia Administrative Process Act. No person who presided at an informal conference under 4 VAC 25-130-773.13 (c) shall either preside at the hearing or participate in the formal hearing decision and any subsequent appeal.

(2) The division may, under such conditions as it prescribes, grant such temporary relief as it deems appropriate, pending final determination of the proceeding, if--

(i) All parties to the proceeding have been notified and given an opportunity to be heard on a request for temporary relief;

(ii) The person requesting that relief shows that there is a substantial likelihood that he will prevail on the merits of the final determination of the proceeding;

(iii) The relief sought will not adversely affect the public health or safety, or cause significant, imminent environmental harm to land, air, or water resources; and

(iv) The relief sought is not the issuance of a permit where a permit has been denied, in whole or in part, by the division except that continuation under an existing permit may be allowed where the operation has a valid permit issued under § 45.1-238 of the Act.

(3) The hearing shall be conducted under the following conditions:

(i) The hearing officer may administer oaths and affirmations, subpoena witnesses and written or printed materials, compel attendance of witnesses or production of those materials, compel allowable discovery, and take evidence, including, but not limited to, site inspections of the land to be affected and other surface coal mining and reclamation operations carried on by the applicant in the general vicinity of the proposed operations.

(ii) A verbatim record of each public hearing required by this section shall be made, and a transcript made available on the motion of any party or by order of the hearing officer.

(iii) Ex parte contacts between representatives of the parties appearing before the hearing officer and the hearing officer shall be prohibited, unless prior approval is given by the noncontacting party.

(4) Within 30 days after the close of the record, the director shall issue and furnish the applicant and each person who participated in the hearing, a copy of the hearing officer's decision and written findings of fact, and conclusions of law. The decision shall also set forth the right of appeal process.

(5) The burden of proof at such hearings shall be on the party seeking to reverse the decision of the division.

(c) Within 14 days after the issuance of the hearing officer's decision under subsection (b) (4) above, the applicant, permittee or any other person with an interest which is or may be adversely affected and who appeared and participated in the hearing, may appeal to the director or his designee for review of the record and reconsideration of the hearing

officer's decision. The director or his designee may also, on his own motion, with notice to the parties, within the same time period, review the record and reconsider the hearing officer's decision. No further evidence will be allowed in connection with such review and reconsideration but the director or his designee may hear further argument, and may also, after considering the record, remand any case for further hearing if he considers such action necessary to develop the facts. Within 30 days of the appeal or motion for review and reconsideration, the director or his designee shall complete his review of the hearing officer's decision and issue a final decision thereon.

(d) All requests for hearing or appeals for review and reconsideration made under this section shall be filed with the Director, Division of Mined Land Reclamation, Department of Mines, Minerals and Energy, Post Office Drawer 900, Big Stone Gap, Virginia 24219.

4 VAC 25-130-775.13. Judicial review.

(a) General. Any applicant, or any person with an interest which is or may be adversely affected by the final administrative decision and who has participated in the administrative hearings as an objector may appeal as provided in Paragraph (b) of this section if--

(1) The applicant or person is aggrieved by the director or his designee's final order under 4 VAC 25-130-775.11; or

(2) Either the division or the director failed to act within time limits specified in 4 VAC 25-130-775.11.

(b) Judicial review. The final order of the division pursuant to paragraph (a) of 4 VAC 25-130-775.11 shall be subject to judicial review as provided by the Virginia Administrative Process Act and the rules of the Supreme Court of Virginia as promulgated thereto. The availability of such review shall not be construed to limit the operation of the rights established in Section 520 of the Federal Act.

(c) All notices of appeal for judicial review of a hearing officer's final decision, or the final decision on review and reconsideration, shall be filed with the Director, Division of Mined Land Reclamation, Department of Mines, Minerals and Energy, Post Office Drawer 900, Big Stone Gap, Virginia 24219.

4 VAC 25-130-784.20. Subsidence control plan.

(a) Presubsidence survey. Each application must include:

(1) A map of the permit and adjacent areas at a scale of 1:12,000, or larger if determined necessary by the division, showing the location and type of structures and renewable resource lands that subsidence may materially damage or for which the value or reasonably foreseeable use may be diminished by subsidence, and showing the location and type of drinking, domestic, and residential water supplies that could be contaminated, diminished, or interrupted by subsidence.

(2) A narrative indicating whether subsidence, if it occurred, could cause material damage to or diminish the value or reasonably foreseeable use of such structures or renewable

resource lands or could contaminate, diminish, or interrupt drinking, domestic, or residential water supplies.

~~(3) A survey of the condition of all noncommercial buildings or occupied residential dwellings and structures related thereto, that may be materially damaged or for which the reasonably foreseeable use may be diminished by subsidence, within the area encompassed by the applicable angle of draw; as well as a survey of the quantity and quality of all drinking, domestic and residential water supplies within the permit area and adjacent area that could be contaminated, diminished or interrupted by subsidence. If the applicant cannot make this survey because the owner will not allow access to the site, the applicant will notify the owner in writing of the effect that denial of access will have as described in 4 VAC 25-130-817.121 (c) (4) pursuant to § 45.1-258 D of the Code of Virginia, as amended. The applicant must pay for any technical assessment or engineering evaluation used to determine the ~~premining condition or value of such noncommercial buildings or occupied residential dwellings and structures related thereto~~ and the quantity and quality of drinking, domestic, or residential water supplies. The applicant must provide copies of the survey and any technical assessment or engineering evaluation to the property owner and the division.~~

(b) Subsidence control plan. If the survey conducted under subsection (a) of this section shows that no structures, or drinking, domestic, or residential water supplies, or renewable resource lands exist, or that no material damage or diminution in value or reasonably foreseeable use of such structures or lands, and no contamination, diminution or interruption of such water supplies would occur as a result of mine subsidence, and if the division agrees with this conclusion, no further information need be provided under this section. If the survey shows that structures, renewable resource lands, or water supplies exist and that subsidence could cause material damage or diminution in value or reasonably foreseeable use, or contamination, diminution or interruption of protected water supplies, or if the division determines that damage, diminution, in value or foreseeable use, or contamination, diminution, or interruption could occur, the application must include a subsidence control plan that contains the following information:

(1) A description of the method of coal removal, such as longwall mining, room-and-pillar removal or hydraulic mining including the size, sequence and timing of the development of underground workings;

(2) A map of the underground workings that describes the location and extent of the areas in which planned subsidence mining methods will be used and that identifies all areas where the measures described in subdivisions (b) (4), (b) (5), and (b) (7) of this section will be taken to prevent or minimize subsidence and subsidence related damage; and, when applicable, to correct subsidence related material damage;

(3) A description of the physical conditions, such as depth of cover, seam thickness and lithology of overlying strata, that affects the likelihood or extent of subsidence and subsidence related damage;

(4) A description of the monitoring, if any, needed to determine the commencement and degree of subsidence so that, when appropriate, other measures can be taken to prevent, reduce, or correct material damage in accordance with 4 VAC 25-130-817.121 (c).

(5) Except for those areas where planned subsidence is projected to be used, a detailed description of the subsidence control measures that will be taken to prevent or minimize subsidence and subsidence related damage, such as, but not limited to:

(i) Backstowing or backfilling of voids;

(ii) Leaving support pillars of coal;

(iii) Leaving areas in which no coal is removed, including a description of the overlying area to be protected by leaving coal in place; and

(iv) Taking measures on the surface to prevent or minimize material damage or diminution in value of the surface.

(6) A description of the anticipated effects of planned subsidence, if any.

(7) For those areas where planned subsidence is projected to be used, a description of methods to be employed to minimize damage from planned subsidence to noncommercial buildings and occupied residential dwellings and structures related thereto; or the written consent of the owner of the structure or facility that minimization measures not be taken; or, unless the anticipated damage would constitute a threat to health or safety, a demonstration that the costs of minimizing damage exceed the anticipated costs or repair.

(8) A description of the measures to be taken in accordance with 4 VAC 25-130-817.41 (j) and 4 VAC 25-130-817.121 (c) to replace adversely affected protected water supplies or to mitigate or remedy any subsidence related material damage to the land and protected structures.

(9) Other information specified by the division as necessary to demonstrate that the operation will be conducted in accordance with 4 VAC 25-130-817.121.

4 VAC 25-130-800.51. Administrative review of performance bond forfeiture.

(a) The permittee or surety, if applicable, may request, in writing, a hearing on the division's determination to forfeit the performance bond within 30 days of receipt of the written determination from the division.

(b) A request for hearing shall not operate as a stay of the bond forfeiture decision. Unless the division decides to withhold forfeiture as provided by 4 VAC 25-130-800.50 (a) (2), it shall take immediate steps to collect the necessary performance bond amounts so that it, or its contractor, may complete the reclamation plan and any other regulatory requirements in the most expeditious manner possible, pending administrative and/or judicial review.

(c) (1) The division shall commence the hearing within 30 days of the hearing request. The hearing shall be conducted

Proposed Regulations

in accordance with ~~§ 9-6-14:12~~ § 2.2-4020 of the Code of Virginia by a Hearings Officer appointed by the director.

(2) The burden of proof at such hearing shall be on the party seeking to reverse the decision of the division.

(3) For the purpose of such hearing, the hearings officer may administer oaths and affirmations, subpoena witnesses, written or printed materials, compel attendance of witnesses or production of those materials, compel discovery, and take evidence, including but not limited to site inspections of the land affected.

(4) The hearings officer shall cause an accurate verbatim record of the hearing to be made. The division may charge the reasonable cost of preparing such record to any party who requests a copy of the record.

(5) Ex parte contacts between representatives of the parties to the hearing and the hearings officer shall be prohibited.

(6) Within 30 days after the close of the record, the division shall issue and furnish the permittee, surety (if applicable) and each person who participated in the hearing with the written findings of fact, conclusion of law, and order of the hearings officer with respect to the appeal. The decision of the hearings officer shall be final as of the date of issuance, subject to the review and reconsideration by the director or his designee, provided in subsection (d).

(d) Within 14 days after the issuance of the hearings officer's decision under subsection (c) (6), the permittee, surety (if applicable), or any person who participated in the hearing and has an interest which is or may be adversely affected by the decision, may appeal to the director or his designee for review of the record and reconsideration of the hearings officer's decision. The director or his designee may also on his own motion, with notice to the parties, review the record and reconsider the hearings officer's decision within the same time period. No further evidence will be allowed in connection with such review and reconsideration, but the director or his designee may hear further arguments and may, after considering the record, remand the case for further hearing if he considers such action necessary to develop the facts. Within 30 days of the appeal or motion for review and reconsideration, the director or his designee shall complete his review of the hearings officer's decision and issue a final decision.

(e) All requests for hearing, or appeals for review and reconsideration made under this section; and all notices of appeal for judicial review of a hearing officer's final decision, or the final decision on review and reconsideration shall be filed with the Director, Division of Mined Land Reclamation, Department of Mines, Minerals and Energy, Post Office Drawer 900, Big Stone Gap, Virginia 24219.

4 VAC 25-130-816.105. Backfilling and grading; thick overburden.

(a) ~~This~~ *Thick* overburden exists when spoil and other waste materials available from the entire permit area is ~~insufficient~~ *more than sufficient* to restore the disturbed area to its approximate original contour. ~~Insufficient~~ *More than sufficient* spoil and other waste materials occur where the overburden thickness times the swell factor, plus the thickness of other

available waste materials, is ~~less~~ *more* than the combined thickness of the overburden and coal bed prior to removing the coal, so that after backfill and grading the surface configuration of the reclaimed area would not:

(1) Closely resemble the surface configuration of the land prior to mining; or

(2) Blend into and complement the drainage pattern of the surrounding terrain.

(b) Where ~~this~~ *thick* overburden occurs within the permit area, the permittee at a minimum shall:

(1) Restore the approximate original contour and then use the remaining spoil and other waste materials to attain the lowest practicable grade, but not more than the angle of repose;

(2) Meet the requirements of 4 VAC 25-130-816.102 (a) (2) through (j); and

(3) Dispose of any excess spoil in accordance with 4 VAC 25-130-816.71 through 4 VAC 25-130-816.75.

4 VAC 25-130-817.11. Signs and markers.

(a) Specifications. Signs and markers required under this part shall--

(1) Be posted, maintained, and removed by the person who conducts the underground mining activities;

(2) Be of a uniform design throughout the operation that can be easily seen and read;

(3) Be made of durable material;

(4) Be made of or marked with fluorescent or reflective paint or material if the signs are permit boundary markers on areas that are located on steep slopes above private dwellings or other occupied buildings; and

~~(4)~~ (5) Conform to local ordinances and codes.

(b) Maintenance. Signs and markers shall be maintained during the conduct of all activities to which they pertain.

(c) Mine and permit identification signs.

(1) Identification signs shall be displayed at each point of access from public roads to areas of surface operations and facilities on permit areas for underground mining activities.

(2) Signs shall show the name, business address, and telephone number of the permittee and the identification number of the current permit authorizing underground mining activities.

(3) Signs shall be retained and maintained until after the release of all bonds for the permit area.

(d) Perimeter markers. The perimeter of a permit area shall be clearly marked prior to the permit review conducted by the division's field enforcement personnel. The perimeter shall be clearly marked by flagging, stakes or signs. All markers shall be easily visible from adjacent markers. The approximate outer perimeter of the solid portion of any pre-existing bench shall be closely marked prior to permit review.

(e) Buffer zone markers. Buffer zones shall be marked along their boundaries, prior to permit review conducted by the division's field enforcement personnel. The boundaries shall be clearly marked by flagging, stakes or signs as required under 4 VAC 25-130-817.57. All markers of the buffer zone shall be easily visible from adjacent markers.

(f) Blasting signs. If blasting is conducted incident to underground mining activities, the person who conducts these activities shall:

(1) Conspicuously place signs reading "Blasting Area" along the edge of any blasting area that comes within 100 feet of any public road right of way, and at the point where any other road provides access to the blasting area; and

(2) At all entrances to the permit area from public roads or highways place conspicuous signs which state "Warning! Explosives In Use" which clearly list and describe the meaning of the audible blast warning and all clear signals that are in use, and which explain the marking of blasting areas and charged holes awaiting firing within the permit area.

(g) Topsoil markers. Where topsoil or other vegetation-supporting material is segregated and stockpiled as required under 4 VAC 25-130-817.22, the stockpiled material shall be clearly marked.

(h) Incremental bonding markers. When the permittee elects to increment the amount of performance bond during the term of the permit, he shall, if required by the division, identify the initial and successive incremental areas for bonding by clearly marking such areas (with markers different from the perimeter markers) prior to disturbing the incremental area(s).

4 VAC 25-130-817.64. Use of explosives; general performance standards.

(a) The permittee shall notify, in writing, residents within 1/2 mile of the blasting site and local governments of the proposed times and locations of blasting operations. Such notice of times that blasting is to be conducted may be announced weekly, but in no case less than 24 hours before blasting will occur.

(b) Unscheduled blasts may be conducted only where public or permittee health and safety so requires and for emergency blasting actions. When a permittee conducts an unscheduled surface blast incidental to underground coal mining operations, the permittee, using audible signals, shall notify residents within 1/2 mile of the blasting site and document the reason in accordance with 4 VAC 25-130-817.68 (p).

(c) All blasting shall be conducted during daylight hours. The division may specify more restrictive time periods for blasting.

(d) Seismic monitoring shall be conducted when blasting operations on coal surface mining operations are conducted within 1,000 feet of a private dwelling or other occupied building.

4 VAC 25-130-817.121. Subsidence control.

(a) Measures to prevent or minimize damage.

(1) The permittee shall either adopt measures consistent with known technology which prevent subsidence from causing material damage to the extent technologically and economically feasible, maximize mine stability, and maintain the value and reasonably foreseeable use of surface lands; or adopt mining technology which provides for planned subsidence in a predictable and controlled manner. Nothing in this part shall be construed to prohibit the standard method of room-and-pillar mining.

(2) If a permittee employs mining technology that provides for planned subsidence in a predictable and controlled manner, the permittee must take necessary and prudent measures, consistent with the mining method employed, to minimize material damage to the extent technologically and economically feasible to noncommercial buildings and occupied residential dwellings and structures related thereto except that measures required to minimize material damage to such structures are not required if:

(i) The permittee has the written consent of the structure owners;

(ii) Unless the anticipated damage would constitute a threat to health or safety, the costs of such measures exceed the anticipated costs of repair; or

(iii) The structure owners have denied the permittee access to implement the measures specified in subdivision (a) (2) of this section and the permittee has provided written evidence of his good faith efforts to obtain access. The good faith effort shall include documentation apprising the structure owners that such measures are intended to lessen the potential for property damages or personal injury and that denial of access will not prevent mining.

(b) The permittee shall comply with all provisions of the approved subsidence control plan prepared pursuant to 4 VAC 25-130-784.20.

(c) Repair of damage.

(1) Repair of damage to surface lands. The permittee must correct any material damage resulting from subsidence caused to surface lands, to the extent technologically and economically feasible, by restoring the land to a condition capable of maintaining the value and reasonably foreseeable uses that it was capable of supporting before subsidence damage.

(2) Repair or compensation for damage to noncommercial buildings and dwellings and related structures. The permittee must promptly repair, or compensate the owner for, material damage resulting from subsidence caused to any noncommercial building or occupied residential dwelling or structure related thereto that existed at the time of mining. If repair option is selected, the permittee must fully rehabilitate, restore, or replace the damaged structure. If compensation is selected, the permittee must compensate the owner of the damaged structure for the full amount of the decrease in value resulting from the subsidence related damage. The permittee may provide compensation by the purchase, before mining, of a noncancelable premium-prepaid insurance policy. The requirements of this

Proposed Regulations

subdivision apply only to subsidence related damage caused by underground mining activities conducted after October 24, 1992.

(3) Repair or compensation for damage to other structures. The permittee must, to the extent required under applicable provisions of state law, either correct material damage resulting from subsidence caused to any structures or facilities not protected by subdivision (c) (2) of this section by repairing the damage or compensate the owner of the structures or facilities for the full amount of the decrease in value resulting from the subsidence. Repair of damage includes rehabilitation, restoration, or replacement of damaged structures or facilities. Compensation may be accomplished by the purchase before mining of a noncancelable premium-prepaid insurance policy.

~~(4) Rebuttable presumption of causation by subsidence.~~

~~(i) Rebuttable presumption of causation for damage within angle-of-draw. If damage to any noncommercial building or occupied residential dwelling or structure related thereto occurs as a result of earth movement within an area determined by projecting a specified angle of draw from the outermost boundary of any underground mine workings to the surface of the land, a rebuttable presumption exists that the permittee caused the damage. The presumption will normally apply to a 28-degree angle of draw.~~

~~(ii) Approval of site specific angle of draw. A permittee or permit applicant may request that the presumption apply to an angle of draw different from that established in the state program. The division may approve application of the presumption to a site specific angle of draw different from that contained in the state program based on a site specific analysis submitted by an applicant. To establish a site specific angle of draw, an applicant must demonstrate and the division must determine in writing that the proposed angle of draw has a more reasonable basis than the standard set forth in the state program, based on a site specific geotechnical analysis of the potential surface impacts of the mining operation.~~

~~(iii) No presumption where access for presubsidence survey is denied. If the permittee was denied access to the land or property for the purpose of conducting the presubsidence survey in accordance with 4 VAC 25-130-784.20(a) of this chapter, no rebuttable presumption will exist.~~

~~(iv) Rebuttal of presumption. The presumption will be rebutted if, for example, the evidence establishes that the damage predated the mining in question, the damage was proximately caused by some other factor or factors and was not proximately caused by subsidence, or the damage occurred outside the surface area within which subsidence was actually caused by the mining in question.~~

~~(4)~~ (4) Information to be considered in determination of causation. In a determination whether damage to protected structures was caused by subsidence from underground mining, all relevant and reasonably available information will be considered by the division.

(5) Adjustment of bond amount for subsidence damage. When subsidence related material damage to land, structures, or facilities protected under subdivisions (c) (1) through (c) (3) of this section occurs, or when contamination, diminution, or interruption to a water supply protected under 4 VAC 25-130-817.41 (j) occurs, the permittee shall provide additional performance bond in the amount of the estimated cost of the repairs if the permittee will be repairing, or in the amount of the decrease in value if the permittee will be compensating the owner, or in the amount of the estimated cost to replace the protected water supply if the permittee will be replacing the water supply, until the repair, compensation, or replacement is completed. If repair, compensation or replacement is completed within 90 days of the occurrence of damage or if the permittee demonstrates that the liability insurance required under 4 VAC 25-130-800.60 provides applicable to exceed one year, if the permittee demonstrates and the division finds in writing that subsidence is not complete, that not all probable subsidence related material damage has occurred to lands or protected structures, or that not all reasonably anticipated changes have occurred affecting the protected water supply, and that, therefore, it would be unreasonable to complete within 90 days the repair of the subsidence related material damage to lands or protected structures, or the replacement of protected water supply.

(d) Underground mining activities shall not be conducted beneath or adjacent to:

(1) Public buildings and facilities;

(2) Churches, schools, and hospitals; or

(3) Impoundments with a storage capacity of 20 acre-feet or more or bodies of water with a volume of 20 acre-feet or more, unless the subsidence control plan demonstrates that subsidence will not cause material damage to, or reduce the reasonably foreseeable use of, such features or facilities. If the division determines that it is necessary in order to minimize the potential for material damage to the features or facilities described above or to any aquifer or body of water that serves as a significant water source for any public water supply system, it may limit the percentage of coal extracted under or adjacent thereto.

(e) If subsidence causes material damage to any of the features or facilities covered by subsection (d) of this section, the division may suspend mining under or adjacent to such features or facilities until the subsidence control plan is modified to ensure prevention of further material damage to such features or facilities.

(f) The division shall suspend underground mining activities under urbanized areas, cities, towns, and communities, and adjacent to industrial or commercial buildings, major impoundments, or perennial streams, if imminent danger is found to inhabitants of the urbanized areas, cities, towns, or communities.

(g) Within a schedule approved by the division, the permittee shall submit a detailed plan of the underground workings. The detailed plan shall include maps and descriptions, as appropriate, of significant features of the underground mine, including the size, configuration, and approximate location of

pillars and entries, extraction ratios, measures taken to prevent or minimize subsidence and related damage, areas of full extraction, and other information required by the division. Upon request of the permittee, information submitted with the detailed plan may be held as confidential, in accordance with the requirements of 4 VAC 25-130-773.13 (d).

4 VAC 25-130-842.15. Review of decision not to inspect or enforce.

(a) Any person who is or may be adversely affected by a coal exploration or surface coal mining and reclamation operation may ask the division to review informally an authorized representative's decision not to inspect or take appropriate enforcement action with respect to any violation alleged by that person in a request for inspection under 4 VAC 25-130-842.12. The request for review shall be in writing and include a statement of how the person is or may be adversely affected and why the decision merits review.

(b) The division shall conduct the review and inform the person, in writing, of the results of the review within 30 days of receipt of the request. The person alleged to be in violation shall also be given a copy of the results of the review, except that the name of the person who is or may be adversely affected shall not be disclosed unless confidentiality has been waived or disclosure is required under the Virginia Freedom of Information Act (Chapter 21 (§ 2.1-340 et seq.) of Title 2.1 of the Code of Virginia).

(c) Informal review under this section shall not affect any right to formal review under § 45.1-249 of the Act or to a citizen's suit under § 45.1-246.1 of the Act.

(d) Any person who requested a review of a decision not to inspect or enforce under this section and who is or may be adversely affected by any determination made under subsection (b) of this section may request review of that determination by filing an application for formal review and request for hearing under the Virginia Administrative Process Act, Chapter 1.1:1 ~~§ 9-6.14:1~~ (§ 2.2-4000 A et seq.) of Title 9 of the Code of Virginia.

4 VAC 25-130-843.12. Notices of violation.

(a) An authorized representative of the director shall issue a notice of violation if, on the basis of an inspection pursuant to § 45.1-244 of the Act, the representative finds a violation of the Act, this chapter, or any condition of a permit or an exploration approval imposed under the Act, or this chapter, which does not create an imminent danger or harm for which a cessation order must be issued under 4 VAC 25-130-843.11.

(b) A notice of violation issued under this section shall be in writing, signed by the authorized representative who issues it, and shall set forth with reasonable specificity:

- (1) The nature of the violation;
- (2) The remedial action required, which may include interim steps;
- (3) A reasonable time for abatement, which may include time for accomplishment of interim steps; and

(4) A reasonable description of the portion of the coal exploration or surface coal mining and reclamation operation to which it applies.

(c) An authorized representative of the director may extend the time set for abatement or for accomplishment of an interim step, if the failure to meet the time previously set was not caused by the permittee's lack of diligence. The total time for abatement under a notice of violation, including all extensions, shall not exceed 90 days from the date of issuance, except upon a showing by the permittee that it is not feasible to abate the violation within 90 calendar days due to one or more of the circumstances in paragraph (f) of this section. An extended abatement date pursuant to this section shall not be granted when the permittee's failure to abate within 90 days has been caused by a lack of diligence or intentional delay by the permittee in completing the remedial action required.

(d) (1) If the permittee fails to meet the time set for abatement, the authorized representative shall issue a cessation order under 4 VAC 25-130-843.11 (b).

(2) If the permittee fails to meet the time set for accomplishment of any interim step the authorized representative may issue a cessation order under 4 VAC 25-130-843.11 (b).

(e) An authorized representative of the director shall terminate a notice of violation by written notice to the permittee when the representative determines that all violations listed in the notice of violation have been abated. Termination shall not affect the right of the division to assess civil penalties under Part 845 for those violations.

(f) Circumstances which may qualify a coal exploration or a surface coal mining operation for an abatement period of more than 90 days are:

(1) Where the permittee of an on-going permitted operation has timely applied for and diligently pursued a permit renewal or other necessary approval of designs or plans but such permit or approval has not been or will not be issued within 90 days after a valid permit expires or is required, for reasons not within the control of the permittee;

(2) Where there is a valid judicial or administrative order precluding abatement within 90 days as to which the permittee has diligently pursued all rights of appeal and as to which the permittee has no other effective legal remedy;

(3) Where the permittee cannot abate within 90 days due to a labor strike;

(4) Where climatic conditions preclude abatement within 90 days, or where, due to climatic conditions, abatement within 90 days clearly would cause more environmental harm than it would prevent; or

(5) Where abatement within 90 days requires action that would violate safety standards established by statute or regulation under the Mine Safety and Health Act of 1977.

(g) Whenever an abatement time in excess of 90 days is permitted, interim abatement measures shall be imposed to the extent necessary to minimize harm to the public or the environment.

Proposed Regulations

(h) If any of the conditions in paragraph (f) of this section exists, the permittee may request the authorized representative to grant an abatement period exceeding 90 days. The authorized representative shall not grant such an abatement period without the concurrence of the director and the abatement period granted shall not exceed the shortest possible time necessary to abate the violation. The permittee shall have the burden of establishing by clear and convincing proof that he is entitled to an extension under the provisions of 4 VAC 25-130-843.12 (c) and (f). In determining whether or not to grant an abatement period exceeding 90 days the authorized representative may consider any relevant written or oral information from the permittee or any other source. The authorized representative shall promptly and fully document in the file his reasons for granting or denying the request. The authorized representative's immediate supervisor shall review this document before concurring in or disapproving the extended abatement date and shall promptly and fully document the reasons for his concurrence or disapproval in the file.

(i) No extension granted under paragraph (h) of this section may exceed 90 days in length. Where the condition or circumstance which prevented abatement within 90 days exists at the expiration of any such extension, the permittee may request a further extension in accordance with the procedures of paragraph (h) of this section.

(j) Any determination made under subsection (h) of this section shall be subject to formal review pursuant to the provisions of the Virginia Administrative Process Act section ~~§ 9-6-14-4~~ § 2.2-4000 A et seq.) of the Code of Virginia.

4 VAC 25-130-843.13. Suspension or revocation of permits; pattern of violations.

(a) (1) The director shall issue a show cause order to a permittee requiring justification as to why his permit and right to mine under the Act should not be suspended or revoked, if the director determines that a pattern of violations of any requirements of the Act, this chapter, or any permit condition required by the Act exists or has existed, and that the violations were caused by the permittee's willful or unwarranted failure to comply with those requirements or conditions, or if the permittee failed to pay the final civil penalty assessment as required by 4 VAC 25-130-845.20. Violations by any person conducting surface coal mining operations on behalf of the permittee shall be attributed to the permittee, unless the permittee establishes that they were acts of deliberate sabotage.

(2) The director may determine that a pattern of violations exists or has existed based upon two or more inspections of the permit area within any 12-month period, after considering the circumstances, including:

(i) The number of violations, cited on more than one occasion, of the same or related requirements of the Act, this chapter, or the permit;

(ii) The number of violations, cited on more than one occasion, of different requirements of the Act, this chapter, or the permit; and

(iii) The extent to which the violations were isolated departures from lawful conduct.

(3) The director shall promptly review the history of violations of any permittee who has been cited for violations of the same or related requirements of the Act, this chapter, or the permit during three or more inspections of the permit area within any 12-month period. If, after such review, the director determines that a pattern of violations exists or has existed, he shall issue a show cause order as provided in paragraph (a) (1) of this section.

(4) (i) In determining the number of violations within any 12-month period, the director shall consider only violations issued as a result of an inspection carried out pursuant to 4 VAC 25-130-840.11, 4 VAC 25-130-842.11 and 4 VAC 25-130-842.12.

(ii) The director may not consider violations issued as a result of inspections other than those mentioned in paragraph (a) (4) (i) of this section in determining whether to exercise his discretion under paragraph (a) (2) of this section, except as evidence of the "willful" or "unwarranted" nature of the permittee's failure to comply.

(5) Whenever a permittee fails to abate a violation contained in a notice of violation or cessation order within the abatement period set in the notice or order or as subsequently extended, the division shall review the permittee's history of violations to determine whether a pattern of violations exists pursuant to this section, and shall issue a show cause order as appropriate pursuant to 4 VAC 25-130-845.15 (b) (2).

(b) The permittee shall have 15 days from receipt of the show cause order to file an answer and request a formal public hearing in writing. The director shall give ~~thirty~~ 30 days written notice of the date, time and place of the hearing to the permittee, and any intervenor. The public hearing shall be conducted in accordance with section ~~§ 9-6-14-12~~ § 2.2-4020 of the Virginia Administrative Process Act. The director shall publish the notice, if practicable, in a newspaper of general circulation in the area of the surface coal mining and reclamation operations, and shall post it at the division's Big Stone Gap office.

(c) Within 30 days after the hearing, the hearing officer shall issue a written decision as to whether a pattern of violations exists, and, if appropriate, an order. The decision and order shall be final, subject to the review and reconsideration by the director or his designee provided in paragraph (e) below. If the decision and order revoke or suspend the permit and the permittee's right to mine under the Act, the permittee shall immediately cease surface coal mining operations on the permit area and shall:

(1) If the permit and right to mine under the Act are revoked, complete reclamation within the time specified in the order; or

(2) If the permit and the right to mine under the Act are suspended, complete all affirmative obligations to abate all conditions, practices or violations, as specified in the order.

(d) Within 14 days after the issuance of a decision or order, the permittee, or any person who participated in the hearing

and who has an interest which is or may be adversely affected by the hearing officer's decision may appeal to the director, or his designee (who shall not be the same person who issued the show cause order) for review of the record and reconsideration of the hearing officer's decision. The director or his designee may also, on his own motion, with notice to the parties, made within 14 days of the hearing officer's decision, review the record and reconsider the hearing officer's decision. No further evidence will be allowed in connection with such review and reconsideration but the director or his designee may hear further arguments, and may also after considering the record, remand any case for further hearing if he considers such action necessary to develop the facts. Within 30 days of the appeal or motion for review and reconsideration, the director or his designee shall complete his review of the hearing officer's decision and issue a final decision thereon.

(e) All requests for hearing before a hearing officer, or appeals for review and reconsideration, made under this section, and all notices of appeal for judicial review of a hearing officer's final decision or a final decision on review and reconsideration, shall be filed with the ~~division~~ Director, Division of Mined Land Reclamation, *Department of Mines, Minerals and Energy*, Post Office Drawer 900, Big Stone Gap, Virginia 24219.

(f) Any person who owns or controls or has owned or controlled any operations on which the permit has been revoked pursuant to this section may apply for reinstatement pursuant to 4 VAC 25-130-800.52.

4 VAC 25-130-843.15. Informal public hearing.

(a) A notice of violation or cessation order which requires cessation of mining, expressly or by necessary implication, shall expire within 30 days after it is served unless an informal public hearing is held or if the notice or order is terminated prior to the hearing. Expiration of a notice or order shall not affect the division's right to assess civil penalties for the violations as set forth in part 845. For purposes of this section, mining includes (1) extracting coal from the earth or coal waste piles and transporting it within or from the permit area, and (2) the processing, cleaning, concentrating, preparing or loading of coal where such operations occur at a place other than at a mine site.

(b) A person issued a notice of violation or cessation order pursuant to this part may request, in writing within 15 days from service of the notice or order, an informal public hearing to review the issuance of the notice or order. The written request must be submitted to the division's Big Stone Gap Office.

(c) The division shall conduct the informal hearing within 30 days from receipt of the hearing request pursuant to ~~§ 9-6-44:14~~ § 2.2-4019 of the Virginia Administrative Process Act. The division shall give as much advance notice as is practicable of the time, place, and subject matter of the informal public hearing to:

- (1) The person to whom the notice or order was issued; and
- (2) Any person who filed a report which led to that notice or order.

(d) The division shall also post notice of the hearing at its Big Stone Gap office and, where practicable, publish it in a newspaper of general circulation in the area of the mine.

(e) An informal public hearing shall be conducted by a representative of the division, who may accept oral or written arguments and any other relevant information from any person attending.

(f) Within five days after the close of the informal public hearing, the division shall affirm, modify, or vacate the notice or order in writing. The decision shall be sent to-

- (1) The person to whom the notice or order was issued; and
- (2) Any person who filed a report which led to the notice or order.

(g) The granting of an informal public hearing shall not affect the right of any person to formal review under § 45.1-249 of the Act.

(h) The person conducting the hearing for the division shall determine whether or not the mine site should be viewed during the hearing. In making this determination the only consideration shall be whether a view of the mine site will assist the person conducting the hearing in reviewing the appropriateness of the enforcement action or of the required remedial action.

4 VAC 25-130-843.16. Formal review of citations.

(a) A person issued a notice of violation or cessation order under 4 VAC 25-130-843.11 or 4 VAC 25-130-843.12, or a person having an interest which is or may be adversely affected by the issuance, modification, vacation, or termination of a notice or order may request review of that action by filing an application for formal review and request for hearing, under § 45.1-249 of the Act, within 30 days after receiving notice of the action. A person may also request formal review of the decision rendered under 4 VAC 25-130-843.15, if the request is submitted within 15 days of receipt of the informal public hearing decision.

(b) The filing of an application for review and request for a hearing under this section shall not operate as a stay of any notice or order, or of any modification, termination, or vacation of either.

(c) Hearings under subsection (a) of this section shall be conducted by a hearing officer appointed by the director. Within 30 days after the close of the record, the hearing officer shall issue a written decision affirming, modifying, terminating, or vacating the notice or order. The decision shall be final, subject to the review and reconsideration by the director or his designee provided in subsection (d) below.

(d) Within 14 days after the issuance of a decision the permittee, or any person who participated in the hearing and who has an interest which is or may be adversely affected by the hearing officer's decision, may appeal to the director or his designee for review of the record and reconsideration of the hearing officer's decision. The director or his designee may also, on his own motion, with notice to the parties, made within 14 days of the hearing officer's decision, review the record and reconsider the hearing officer's decision. No

Proposed Regulations

further evidence will be allowed in connection with such review and reconsideration but the director or his designee may hear further arguments and may also, after considering the record remand any case for further hearing if he considers such action necessary to develop the facts. Within 30 days of the appeal or motion for review and reconsideration, the director or his designee shall complete his review of the hearing officer's decision and issue a final decision thereon.

(e) All requests for hearing before a hearing officer, or appeals for review and reconsideration, made under this section, and all notices of appeal for judicial review of a hearing officer's final decision, or a final decision on review and reconsideration, shall be filed with the ~~division~~ Director, Division of Mined Land Reclamation, ~~P.O.~~ Department of Mines, Minerals and Energy, Post Office Drawer 900, Big Stone Gap, Virginia 24219.

4 VAC 25-130-845.13. Point system.

The division shall use the point system described in this section to determine the amount of the penalty.

(a) Seriousness. The division shall assign up to 10 points based on the seriousness of the violation in accordance with the following.

Points:

0 No actual or potential damage to the environment or threat to public health and safety.

1-2 Slight actual or potential damage to the environment and no actual or potential threat to public health and safety; also violations of administrative requirements which can be quickly corrected and which do not obstruct enforcement by the division.

3-4 Moderately significant actual or potential damage to the environment which can be corrected promptly; also actual or potential minor hazard to the public health and safety; also violations of administrative requirements which can be corrected after some delay, and which tend to hamper or obstruct enforcement by the division.

5-6 Moderately significant actual or potential damage to the environment which can be corrected only after a substantial effort or period of time; also actual or potential moderately significant hazard to the public health and safety.

7-8 Substantial actual or potential damage to the environment which can be corrected only after a substantial effort or period of time; also extremely serious potential damage to the environment; also substantial actual or potential damage to the public health and safety.

9-10 Extremely serious actual damage to the environment; also extreme actual or potential hazards to the public health and safety.

(b) Negligence.

(1) The division shall assign up to six points based on the degree of fault of the person to whom the notice or order was issued in causing or failing to correct the violation, condition, or practice which led to the notice or order, either

through act or omission. Points shall be assessed as follows:

(A) A violation which occurs through no negligence shall be assigned no penalty points for negligence;

(B) A violation which is caused by negligence shall be assigned three points or less, depending on the degree of negligence;

(C) A violation which occurs through a greater degree of fault than negligence shall be assigned four to six points, depending on the degree of fault.

(2) In determining the degree of negligence, involved in a violation and the number of points to be assigned, the following definitions apply:

(A) No negligence means an inadvertent violation which was unavoidable by the exercise of reasonable care.

(B) Negligence means the failure of a permittee to prevent the occurrence of any violation of the permit or any requirement of the Act or this chapter due to indifference, lack of diligence, or lack of reasonable care, or the failure to abate any violation of such permit or the Act due to indifference, lack of diligence, or lack of reasonable care.

(C) A greater degree of fault than negligence means reckless, knowing, or intentional conduct.

(3) In calculating points to be assigned for negligence, the acts of all persons working on the coal exploration or surface coal mining and reclamation site shall be attributed to the person to whom the notice or order was issued, unless that person establishes that they were acts of deliberate sabotage.

(c) Credit for good faith in attempting to achieve compliance.

(1) The division shall deduct from the total points assigned under subsections (a) and (b) ~~and (e)~~ points based on the demonstrated good faith of the permittee in attempting to achieve rapid compliance after notification of the violation. Points shall be deducted as follows:

(i) three to four points shall be deducted when the permittee to whom the notice or order was issued took extraordinary measures to abate the violation in the shortest possible time and that abatement was achieved before the time set for abatement.

(ii) one to two points shall be deducted when the permittee to whom the notice or order was issued took prompt and diligent efforts to promptly abate the violation and that abatement was achieved before the time set for abatement.

(2) If the consideration of this criterion is impractical because of the length of the abatement period, the calculation of points may be made without considering this criterion and may be re-calculated after the violation has been abated.

(d) Determination of base penalty.

The division shall determine the base amount of any civil penalty by converting the total number of points calculated under subsections (a), (b), and (c); and ~~(d)~~ of this section to a dollar amount, according to the following schedule:

Points	Dollars	Points	Dollars
1	50	9	1050
2	100	10	1350
3	175	11	1700
4	250	12	2050
5	325	13	2400
6	400	14	2750
7	475	15	3100
8	750	16	3500

(e) Credit and additional penalties for previous history.

(1) *Except for a violation that resulted in personal injury or fatality to any person*, the division shall reduce the base penalty determined under subsection (d) by 10% if the permittee has had no violations cited by the division within the preceding 12-month period.

(2) The division shall add to the base penalty determined under subsection (d) additional sums for the permittee's previous history of violations as follows:

(i) Twenty dollars for each violation contained in a notice of violation, up to 10 of such violations;

(ii) Fifty dollars for each violation contained in a notice of violation, in excess of 10 violations;

(iii) One hundred dollars for each violation contained in a cessation order.

(3) A violation shall not be counted if the notice or order is the subject of pending administrative or judicial review or if the time to request such review has not expired, and thereafter it shall be counted for only one year; provided however, that a violation which is subject to administrative or judicial review, or for which the time to request such review has not expired, shall not be disregarded for the purpose of obtaining a 10% reduction pursuant to subsection (e) (1), unless such administrative or judicial review results in the vacation of the penalty.

(4) No violation for which the notice or order has been vacated shall be counted.

(5) Each violation shall be counted without regard to whether it led to a civil penalty assessment.

(f) The maximum penalty which the division may assess under this section for each cessation order or notice of violation shall be \$5,000, *except that if the violation resulted in a personal injury or fatality to any person, then the civil penalty determined under subsection (d) shall be multiplied by a factor of 20, not to exceed \$70,000*. As provided in 4 VAC 25-130-845.15, each day of continuing violation may be deemed a separate violation for the purpose of assessing penalties.

4 VAC 25-130-845.15. Assessment of separate violations for each day.

(a) The division may assess separately a civil penalty for each day from the date of issuance of the notice of violation or cessation order to the date set for abatement of the violation. In determining whether to make such an assessment, the division shall consider the factors listed in 4 VAC 25-130-845.13 and may consider the extent to which the person to whom the notice or order was issued gained any economic benefit as a result of a failure to comply. For any violation which continues for two or more days and which has been assigned a penalty of \$5,000 *or more* under 4 VAC 25-130-845.13, the division shall assess a penalty for a minimum of two separate days.

(b) In addition to the civil penalty provided for in Paragraph (a), whenever a violation contained in a notice of violation or cessation order has not been abated within the abatement period set in the notice or order or as subsequently extended pursuant to § 45.1-245 B of the Act, a civil penalty of not less than \$750 shall be assessed for each day during which such failure to abate continues, except that:

(1) (i) If suspension of the abatement requirements of the notice or order is ordered in a temporary relief proceeding under § 45.1-249 C of the Act, after a determination that the person to whom the notice or order was issued will suffer irreparable loss or damage from the application of the requirements, the period permitted for abatement shall not end until the date on which the director or his authorized representative issues a final order with respect to the violation in question; and

(ii) If the person to whom the notice or order was issued initiates review proceedings under § 45.1-251 B of the Act with respect to the violation, in which the obligations to abate are suspended by the court pursuant to § 45.1-251 B of the Act, the daily assessment of a penalty shall not be made for any period before entry of a final order by the court;

(2) Such penalty for the failure to abate the violation shall not be assessed for more than 30 days for each such violation. If the permittee has not abated the violation within the 30 day period, the division shall take appropriate action pursuant to §§ 45.1-245 and 45.1-246 of the Act within 30 days to ensure that abatement occurs or to ensure that there will not be a reoccurrence of the failure to abate.

4 VAC 25-130-845.18. Procedures for assessment conference.

(a) The division shall arrange for a conference to review the proposed assessment or reassessment, upon written request of the person to whom notice or order was issued, if the request is received within 30 days from the date the proposed assessment or reassessment is served.

(b) (1) The division shall assign a conference officer to hold the assessment conference. The assessment conference shall be conducted as an informal proceeding in accordance with ~~§ 9-6.14:14~~ § 2.2-4019 of the Code of Virginia. The assessment conference shall be held within 60 days from the date the conference request is received or the end of the

Proposed Regulations

abatement period, whichever is later. Provided that a failure by the division to hold such conference within 60 days shall not be grounds for dismissal of all or part of an assessment unless the person against whom the proposed penalty has been assessed proves actual prejudice as a result of the delay.

(2) The division shall post notice of the time and place of the conference at the division's office in Big Stone Gap or field office located closest to the mine at least five days before the conference. Any person shall have a right to attend and participate in the conference.

(3) The conference officer shall consider all relevant information on the violation. Within 30 days after the conference is held, the conference officer shall either:

(i) Settle the issue, in which case a settlement agreement shall be prepared and signed by the division and by the person assessed; or

(ii) Affirm, raise, lower, or vacate the penalty.

(4) An increase or reduction of a proposed civil penalty assessment of more than 25% and more than \$500 shall not be final and binding on the division, until approved by the director or his designee.

(c) The division shall promptly serve the person assessed with a notice of the conference decision in the manner provided in 4 VAC 25-130-845.17 (b) and shall include a worksheet if the penalty has been raised or lowered. The reasons for the conference officer's action shall be fully documented in the file.

(d) (1) If a settlement agreement is entered into, the person assessed will be deemed to have waived all rights to further review of the violation or penalty in question, except as otherwise expressly provided for in the settlement agreement. The settlement agreement shall contain a clause to this effect.

(2) If full payment of the amount specified in the settlement agreement is not received by the division within 30 days after that date of signing, the division may enforce the agreement or rescind it and proceed according to paragraph (b) (3) (ii) with 30 days from the date of the rescission.

(e) The conference officer may terminate the conference if it is determined that the issues cannot be resolved or that the person assessed is not diligently working toward resolution of the issues.

(f) At any formal review proceedings under §§ 45.1-245 C, 45.1-246 and 45.1-249 of the Act, no evidence as to statements made or evidence produced by one party at a conference shall be introduced as evidence by another party or to impeach a witness.

4 VAC 25-130-845.19. Request for hearing.

(a) The person charged with the violation may contest the proposed penalty or the fact of the violation by submitting a petition and an amount equal to the proposed penalty or, if a conference has been held, the reassessed or affirmed penalty to the division (to be held in escrow as provided in paragraph (b) of this section) within 30 days from receipt of the proposed assessment or reassessment or 30 days from the date of

service of the assessment conference decision, whichever is later. The fact of the violation may not be contested if it has been decided in a review proceeding commenced under 4 VAC 25-130-843.16.

(b) The division shall transfer all funds submitted under paragraph (a) to the State Treasurer's Office which shall hold them in escrow pending completion of the administrative and judicial review process, at which time it shall disburse them as provided in 4 VAC 25-130-845.20.

(c) The hearing requested pursuant to a petition filed under paragraph (a) of this section shall be conducted as a formal hearing in accordance with the provisions of ~~§ 9-6.14:12~~ § 2.2-4020 of the Code of Virginia. The hearing officer shall cause an accurate verbatim record of the hearing to be made. The division may charge the reasonable cost of preparing such record to any party to the hearing who requests a copy of the record.

(d) *All requests for hearing, or appeals for review and reconsideration made under this section; and all notices of appeal for judicial review of a hearing officer's final decision, or the final decision on review and reconsideration shall be filed with the Director, Division of Mined Land Reclamation, Department of Mines, Minerals and Energy, Post Office Drawer 900, Big Stone Gap, Virginia 24219.*

4 VAC 25-130-846.14. Amount of the individual civil penalty.

(a) In determining the amount of an individual civil penalty, the division shall consider the criteria specified in § 45.1-246 (A) of the Act, including:

(1) The individual's history of authorizing, ordering or carrying out previous violations, failures or refusals at the particular surface coal mining operation;

(2) The seriousness of the violation, failure or refusal (as indicated by the extent of damage and/or the cost of reclamation), including any irreparable harm to the environment and any hazard to the health or safety of the public; and,

(3) The demonstrated good faith of the individual charged in attempting to achieve rapid compliance after notice of the violation, failure or refusal.

(b) The penalty shall not exceed \$5,000 for each violation, *except that if the violation resulted in a personal injury or fatality to any person, then the civil penalty determined under 4 VAC 25-130-845.13 (d) shall be multiplied by a factor of 20, not to exceed \$70,000.* Each day of a continuing violation may be deemed a separate violation and the division may assess a separate individual civil penalty for each day the violation, failure or refusal continues, from the date of service of the underlying notice of violation, cessation order or other order incorporated in a final decision issued by the director, until abatement or compliance is achieved.

VA.R. Doc. No. R06-38; Filed August 4, 2006, 9:34 a.m.



TITLE 12. HEALTH

STATE BOARD OF HEALTH

Titles of Regulations: **12 VAC 5-31. Virginia Emergency Medical Services Regulations (adding 12 VAC 5-31-2300 through 12 VAC 5-31-2970).**

12 VAC 5-40. Regulations Governing Financial Assistance for Emergency Medical Services (repealing 12 VAC 5-40-10 through 12 VAC 5-40-190).

Statutory Authority: §§ 32.1-12, 32.1-111.11, and 32.1-111.4 of the Code of Virginia.

Public Hearing Date: N/A -- Public comments may be submitted until November 18, 2006.

(See Calendar of Events section for additional information)

Agency Contact: Michael D. Berg, Manager, Regulation and Compliance, Department of Health, 109 Governor Street, Suite UB-55, Richmond, VA 23219, telephone (804) 864-7600, FAX (804) 864-7580, or e-mail michael.berg@vdh.virginia.gov.

Basis: The Board of Health has the authority to promulgate this regulation under §§ 32.1-12 and 32.1-111.4 of the Code of Virginia. The regulations are consistent with the board's mandate as set forth in these sections.

Section 32.1-111.11 of the Code of Virginia requires the State Board of Health to promulgate regulations governing regional EMS councils.

Purpose: Financial Assistance. Section 32.1-111.12 of the Code of Virginia establishes the Virginia Rescue Squad Assistance Fund (RSAF) for the purpose of providing financial assistance to rescue squads and other emergency medical services organizations in the Commonwealth, of providing requisite training for emergency medical services personnel, and of purchasing equipment needed by such rescue squads and organizations. These items support the effective integration of personnel, transportation, communications, facilities, and education and training into a unified system that provides quality emergency medical care, thereby decreasing morbidity, mortality and hospitalization.

Regional EMS Councils. The intent of these regulations aligns with the Virginia Department of Health's mission of promoting and protecting the health of Virginians by reducing death and disability resulting from sudden or serious injury and illness in the Commonwealth. This is accomplished through planning and development of a comprehensive, coordinated regional emergency medical services (EMS) system; and provision of other technical assistance and support to enable the EMS community to provide the highest quality emergency medical care possible to those in need.

Substance: Financial Assistance. The proposed regulatory action will clarify the regulations governing the Rescue Squad Assistance fund administration and the Financial Assistance Review Committee. It will incorporate changes in the EMS financial assistance program through consistent application of standards and administration of the grant process. New and

revised regulations are essential to provide continued safe, efficient and quality emergency medical care to all citizens and visitors of the Commonwealth.

Regional EMS Councils. The new substantive provisions include the following items: purpose of designation of regional EMS councils, compliance with regulations, requirements for regional EMS council designation, the designation process, the application process, inspection procedures, designation approval, designation periods, requesting undesignation, exemption and variance procedures, the right to and enforcement actions, complaints and investigative processes, the composition and governing bodies of designated regional councils, regional EMS plans, regional trauma triage plans, regional training plans, regional mass casualty incident plans, regional medical protocols, regional hospital diversion plans, regional medical direction committee, regional medical director, ALS coordinator endorsement, financial assistance to emergency medical services, base funding for designated regional EMS councils, matching funds, performance based contract for services and the accountability for public funds.

Issues: Financial Assistance. The proposed regulatory action would provide the administration of the Rescue Squad Assistance grant programs through specifications of policies and procedures for the qualification for EMS financial assistance to purchase the needed equipment, for the provision of training programs, EMS recruitment and retention projects and other specified initiatives. Revision and reorganization of previously issued guidance documents would be included to update the administration of EMS financial assistance programs.

These regulatory actions pose no disadvantages to the public or the Commonwealth.

Regional EMS Councils. The proposed regulations provides oversight of the regional EMS programs through specification of policies and procedures for services provided to the community, EMS providers, EMS agencies, and local governments. The minimum prerequisites for regional EMS council's services will be defined by regulations.

These regulatory actions pose no disadvantages to the public or the Commonwealth.

Department of Planning and Budget's Economic Impact Analysis:

Summary of the proposed regulation. The proposed regulations will update the financial assistance requirements to reflect the practices that have been followed since the beginning of the 1990s. The proposed regulations will also establish regulations to reflect the current practices followed regarding Regional Emergency Services Councils.

Result of analysis. The benefits likely exceed the costs for all proposed changes.

Estimated economic impact. One set of the proposed changes will update the Rescue Squad Assistance Fund requirements to reflect the practices followed since early 1990s. The language regarding Emergency Medical Services financial assistance matters has not been updated for approximately 16 years. According to the Virginia Department of Health, the proposed changes will simply update the

Proposed Regulations

regulations to reflect the rules currently followed in practice. Thus, no significant economic effect is expected upon promulgation of the proposed financial assistance regulations. However, amending the regulations to be consistent with the procedures followed in practice may produce net benefits in terms of potential confusion and liability avoided.

The second set of proposed changes will establish the rules for the Regional Emergency Services Councils. Similarly, all of the proposed regulations simply reflect the procedures followed in practice and are not expected to create any significant economic effects. However, clear and consistent rules may help avoid potential confusion, help improve consistency across the Commonwealth, and help improve enforceability of the rules.

Businesses and entities affected. The proposed regulations apply to 718 licensed Emergency Medical Services agencies and 33,000 Emergency Medical Services personnel.

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

Projected impact on employment. The proposed regulations are not expected to create any significant effect on employment.

Effects on the use and value of private property. The proposed regulations are not expected to create any significant effect on the use and value of private property.

Small businesses: costs and other effects. The proposed regulations are not likely to create any costs or other affects on small businesses.

Small businesses: alternative method that minimizes adverse impact. The proposed regulations are not likely to adversely affect small businesses.

Legal mandate. 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. Further, if the proposed regulation has an adverse effect on small businesses, § 2.2-4007 H requires that such economic impact analyses include (i) an identification and estimate of the number of small businesses subject to the regulation; (ii) the projected reporting, recordkeeping, and other administrative costs required for small businesses to comply with the regulation, including the type of professional skills necessary for preparing required reports and other documents; (iii) a statement of the probable effect of the regulation on affected small businesses; and (iv) a description of any less intrusive or less costly alternative methods of achieving the purpose of the regulation. The analysis presented above represents DPB's best estimate of these economic impacts.

Agency's Response to the Department of Planning and Budget's Economic Impact Analysis: Virginia Department of Health concurs substantially with the economic impact analysis prepared by Department of Planning and Budget on repeal of 12 VAC 5-40 and amendments to 12 VAC 5-31.

Summary:

The proposed action repeals existing 12 VAC 5-40, Regulations Governing Financial Assistance for Emergency Medical Services, and concurrently adds those provisions to existing regulation 12 VAC 5-31. The proposed regulations (i) update the financial assistance requirements to reflect the practices that have been followed since the beginning of the 1990s and (ii) establish provisions to reflect the current practices followed regarding regional emergency medical services councils.

PART VII.

DESIGNATED REGIONAL EMS COUNCILS.

12 VAC 5-31-2300. Purpose of designated regional EMS councils.

For the purposes of these regulations regional EMS councils shall be designated by the Board of Health, adhere to policy direction established by the Office of EMS and carry out the development and implementation of an efficient and effective statewide regional EMS system.

12 VAC 5-31-2310. Provision of regional EMS council services within Virginia and compliance with these regulations.

An organization or person providing designated regional EMS council services within Virginia must comply with these regulations, the applicable regulations of other state agencies, the Code of Virginia and the United States Code. The Office of EMS will publish the Virginia Regional EMS Council Designation Manual, a document that describes and provides guidance on how to comply with these regulations.

12 VAC 5-31-2320. Requirement for regional EMS council designation.

Any organization or person establishing, operating, maintaining, advertising or representing itself or any services as a designated regional EMS council must have a valid designation issued by the Board of Health.

12 VAC 5-31-2330. Designation of a regional EMS council.

A. The Board of Health will designate a regional EMS council that satisfies the representation requirements in these regulations.

B. The designation of a regional EMS council will be based on:

1. The "Regional EMS Council Designation Manual" application process;

a. Completed application. Submitted applications missing any information requested will be considered incomplete and will not be processed for designation,

b. Completed Regional EMS Council Self-Assessment Checklist; comply with all indicated standards,

c. *Current roster of the membership of the applicant organization's board of directors. The roster needs to show all members of the board of directors for the applicant, their addresses, e-mail addresses, phone numbers, and the constituency they represent,*

d. *Current approved bylaws. A copy of the most recently approved bylaws complete with adoption date,*

e. *Scope of services plan. A plan shall include data and information that demonstrates the qualifications of the applicant to plan, initiate, expand or improve the regional EMS delivery system,*

f. *Budget. A proposed budget for the first year of designation must illustrate costs associated with the applicant's proposed operations and programs as a designated regional EMS council,*

g. *EMS involvement. Documentation demonstrating how the applicant organization interacts with EMS agencies and personnel,*

h. *Policies and guidelines. Up-to-date policies and guidelines covering all aspects of the applicant's regional EMS councils operations, must show all changes made and be consistent with these regulations,*

i. *Directory of localities, hospitals and EMS agencies. A comprehensive directory of the localities, hospitals and EMS agencies the applicant organization will be serving,*

j. *Locality support. Letters of support from the chief executive officers of the cities and counties within the applicant's proposed geographic service delivery area confirming support of the application. The letters must be dated within 120 days of the date of application and specify the three-year period for which the applicant seeks designation.*

2. *Hospital catchment areas for all hospitals within the applicant's proposed geographic service delivery area. Hospital catchment areas are the geographic area from which a hospital draws the majority of its patients.*

3. *The demonstrated capability to establish communitywide and regional programs.*

4. *An evaluation of prior performance as a designated regional EMS council.*

C. *The Office of EMS will evaluate the performance and effectiveness of a regional EMS council on a periodic basis.*

12 VAC 5-31-2340. Application process for designation.

A. *An applicant for regional EMS council designation shall file a written application specified by the Office of EMS.*

B. *If the applicant is a company or corporation as defined in § 12.1-1 of the Code of Virginia it must clearly disclose the identity of its owners, officers and directors.*

C. *An applicant must provide information on any previous record of performance in the provision of related EMS services or any other related licensure, registration, certification or endorsement within or outside Virginia.*

D. *Completed application packages must be received in the Office of EMS no later than October 1 to be considered for designation commencing July 1 of the following year.*

E. *The application and preliminary review process is to be completed prior to a site review visit.*

F. *The Office of EMS may use whatever means of investigation necessary to verify any or all information contained in the application.*

G. *If the applicant organization does not comply with the required standards for designation as a regional EMS council, the agent of the applicant organization will be notified of the deficiencies by the Office of EMS.*

H. *If the applicant organization complies with the required standards, the agent of the applicant organization will be notified and arrangements will be made for a site visit by a review team as designated by the Office of EMS.*

I. *The Office of EMS will conduct a site review of the applicant.*

J. *The applicant organization will receive the written report of the visiting team reviewing its findings and recommendations in accordance with the criteria.*

K. *If a deficiency is reported, the Office of EMS may order the designated regional EMS council to correct the deficiency by issuing a written correction order.*

L. *If a deficiency requires a revisit by a site review team, a fee commensurate with direct costs will be paid by the applicant.*

M. *The site review process will be completed prior to the Office of EMS forwarding a recommendation for designation or denial to the Board of Health.*

N. *The Office of EMS will then forward a recommendation for designation or denial to the Board of Health.*

O. *Acting upon the favorable recommendation of the site review team and the Office of EMS, the Board of Health may designate the applicant organization as a regional EMS council.*

P. *The Office of EMS may schedule unannounced site visits at its discretion.*

12 VAC 5-31-2350. Inspection.

An applicant agency and all places of operation shall be subject to inspection by the Office of EMS for compliance with these regulations. The inspection may include any or all of the following:

1. *All fixed places of operations, including all offices and training facilities;*

2. *All applicable records maintained by the applicant agency; and*

3. *All vehicles and required equipment used by the applicant agency.*

12 VAC 5-31-2360. Designation approval.

A. *The Office of EMS will review and make recommendations to the Board of Health determining whether an applicant is*

Proposed Regulations

qualified for designation based upon the applicant meeting the requirements of these regulations.

B. The Board of Health will make the final determination on regional EMS designation.

C. The designated regional EMS council or applicant has the right to appeal any decision or order of the Office of EMS except as may otherwise be prohibited, and provided such a decision or order was not the final decision of an appeal.

12 VAC 5-31-2370. Designation periods.

The designation is for a period of three years, effective July 1, after completion of the designation process.

12 VAC 5-31-2380. Regional EMS councils requesting undesignation.

Regional EMS councils desiring to become undesigned by the Board of Health must provide the Office of EMS a minimum of 30 days written notice of intent. Upon review the Office of EMS will forward the request to the Board of Health with its recommendation. Only the Board of Health can grant or remove regional EMS council designation.

12 VAC 5-31-2390. Powers and procedures of regulations not exclusive.

The Board of Health reserves the right to authorize any procedure for the enforcement of these regulations that is not inconsistent with the provisions set forth herein or the provisions of §§ 32.1-27 and 32.1-111.1 of the Code of Virginia.

12 VAC 5-31-2400. Exceptions.

Exceptions to any provision of these regulations are specified as part of the regulation concerned. Any deviation not specified in these regulations is not allowed except by variance or exemption.

12 VAC 5-31-2410. Variances.

A. The Office of EMS is authorized to grant variances for any part or all of these regulations in accordance with the procedures set forth herein. A variance permits temporary specified exceptions to these regulations. A designated regional EMS council may file a written request for a variance with the Office of EMS on specified forms.

1. The written variance request must be submitted for review and recommendations to the governing body of all localities in the service delivery area of the applicant or the designated regional EMS council prior to submission to the Office of EMS.

2. Issuance of a variance does not obligate localities to allow the conditions of such variance if they conflict with local ordinances or regulations.

B. Both the written request and the recommendation of the governing bodies must be submitted together to the Office of EMS.

12 VAC 5-31-2420. Issuance of a variance.

A request for a variance may be approved and issued by the Office of EMS provided all of the following conditions are met:

1. The information contained in the request is complete and correct;

2. The regional EMS council concerned is designated by the Board of Health;

3. The Office of EMS determines the need for such a variance is genuine, and extenuating circumstances exist;

4. The Office of EMS determines that issuance of such a variance would be in the public interest and would not present any risk to, or threaten or endanger the public health, safety or welfare;

5. The Office of EMS will consider the recommendation of the governing body provided all of the above conditions are met; and

6. The agent of the designated regional EMS council making the request will be notified in writing of the approval and issuance within 30 days of receipt of the request unless the request is awaiting approval or disapproval of a designation. In such case, notice will be given within 30 days of the issuance of the designation.

12 VAC 5-31-2430. Content of variance.

A variance shall include but not be limited to the following information:

1. The name of the designated regional EMS council to which the variance applies;

2. The expiration date of the variance;

3. The provision of the regulations that is to be varied and the type of variations authorized; and

4. Any special conditions that may apply.

12 VAC 5-31-2440. Conditions of variance.

A variance shall be issued and remain valid with the following conditions:

1. A variance will be valid for a period not to exceed one year unless and until terminated by the Office of EMS;

2. A variance is neither transferable nor renewable under any circumstances.

12 VAC 5-31-2450. Termination of variance.

A. The Office of EMS may terminate a variance at any time based upon any of the following:

1. Violations of any of the conditions of the variance;

2. Falsification of any information;

3. Suspension or revocation of the designation; and

4. A determination by the Office of EMS that continuation of the variance would present a risk to or threaten or endanger the public health, safety or welfare.

B. The Office of EMS will notify the agent of the designated regional EMS council of the termination by certified mail to his last known address.

C. Termination of a variance will take effect immediately upon receipt of notification unless otherwise specified.

12 VAC 5-31-2460. Denial of a variance.

A request for a variance will be denied by the Office of EMS if any of the conditions of 12 VAC 5-31-2430 fail to be met.

12 VAC 5-31-2470. Exemptions.

A. The Board of Health is authorized to grant exemptions from any part or all of these regulations in accordance with the procedures set forth herein. An exemption permits specified or total exceptions to these regulations for an indefinite period.

B. A designated regional EMS council may file a written request for an exemption with the Office of EMS on specified forms.

1. The written exemption request must be submitted for review and recommendations to the governing body of all localities in the service delivery area of the applicant or the designated regional EMS council prior to submission to the Office of EMS.

2. The written exemption request must be submitted to the Office of EMS a minimum of 30 days before the scheduled review by the governing bodies. At the time of submission, the applicant or designated regional EMS council must provide the Office of EMS with the date, time and location of the scheduled review by the governing bodies.

12 VAC 5-31-2480. Public notice of request for exemption.

Upon receipt of a request for an exemption, the Office of EMS will cause notice of such request to be published in a newspaper of general circulation in the area wherein the service delivery area of the applicant or designated regional EMS council making the request and in other major newspapers of general circulation in major regions of the Commonwealth. The cost of such public notices will be borne by the applicant or designated regional EMS council making the request.

12 VAC 5-31-2490. Public hearing for exemption request.

If the Board of Health determines that there is substantial public interest in a request for an exemption, a public hearing may be held.

12 VAC 5-31-2500. Issuance of an exemption.

A. A request for an exemption may be approved and an exemption issued provided all of the following conditions are met:

1. The information contained in the request is complete and correct;
2. The need for such an exemption is determined to be genuine; and
3. The issuance of an exemption would not present any risk to, threaten or endanger the public health, safety or welfare of citizens.

B. The Board of Health may accept the recommendation of the governing bodies provided all of the conditions in subsection A of this section are met.

C. The agent of the designated regional EMS council making the request will be notified in writing of the approval or denial of a request.

12 VAC 5-31-2510. Content of exemption.

An exemption includes but is not limited to the following information:

1. The name of the applicant or designated regional EMS council to whom the exemption applies;
2. The provisions of the regulations that will be exempted; and
3. Any special conditions that may apply.

12 VAC 5-31-2520. Conditions of exemption.

A. An exemption remains valid for an indefinite period of time unless and until terminated by the Board of Health or the Office of EMS, or unless an expiration date is specified.

B. An exemption is neither transferable nor renewable.

12 VAC 5-31-2530. Termination of exemption.

A. The Office of EMS may terminate an exemption at any time based upon any of the following:

1. Violation of any of the conditions of the exemption;
2. Suspension or revocation of designation; and
3. A determination by the Office of EMS that continuation of the exemption would present risk to, or threaten or endanger the public health, safety or welfare.

B. The Office of EMS will notify the agent of the designated regional EMS council to whom the exemption was issued of the termination by certified mail to his last known address.

C. Termination of an exemption takes effect immediately upon receipt of notification unless otherwise specified.

12 VAC 5-31-2540. Denial of an exemption.

A request for an exemption will be denied by the Office of EMS if any of the conditions of these regulations fail to be met.

12 VAC 5-31-2550. Right to enforcement.

A. The Office of EMS may use the enforcement procedures provided in this article when dealing with any deficiency or violation of these regulations or any action or procedure that varies from the intent of these regulations.

B. The Office of EMS may determine that a deficiency or violation of these regulations or any action or procedure that varies from the intent of these regulations occurred.

C. The enforcement procedures provided in this article are not mutually exclusive. The Office of EMS may invoke as many procedures as the situation may require.

D. The commissioner empowers the Office of EMS to enforce the provisions of these regulations.

Proposed Regulations

12 VAC 5-31-2560. Enforcement actions.

An enforcement action must be delivered to the agent of the affected designated regional EMS council and must specify information concerning the violations, the actions required to correct the violations and the specific date by which correction must be made as follows:

1. *Warning*: a verbal notification of an action or situation potentially in violation of these regulations.
2. *Citation*: a written notification for violations of these regulations.
3. *Suspension*: a written notification of the deactivation and removal of authorization issued under a designation.
4. *Action of the commissioner*: the commissioner may command a designated regional EMS council operating in violation of these regulations or state law pursuant to the commissioner's authority under § 32.1-27 of the Code of Virginia and the Administrative Process Act (§ 2.2-4000 et seq. of the Code of Virginia) to halt such operation or to comply with applicable law or regulation. A separate and distinct offense will be deemed to have been committed on each day during which any prohibited act continues after written notice to the offender.
5. *Criminal enforcement*: the commissioner may elect to enforce any part of these regulations or any provision of Title 32.1 of the Code of Virginia by seeking to have criminal sanctions imposed. The violation of any of the provisions of these regulations constitutes a misdemeanor. A separate and distinct offense will be deemed to have been committed on each day during which any prohibited act continues after written notice by the commissioner to the offender.

12 VAC 5-31-2570. Correction order.

A. The Office of EMS may order the designated regional EMS council to correct a deficiency, cease any violations or comply with these regulations by issuing a written correction order as follows:

1. Correction orders may be issued in conjunction with any other enforcement action in response to individual violations or patterns of violations.
2. The Office of EMS will determine that a deficiency or violation exists before issuance of any correction order.

B. The Office of EMS will send a correction order to the agent of the designated regional EMS council by certified mail to his last known address. Notification will include, but not be limited to, a description of the deficiency or violation to be corrected, and the period within which the deficiency or situation must be corrected, which shall not be less than 30 days from receipt of such order, unless an emergency has been declared by the Office of EMS.

C. A correction order takes effect upon receipt and remains in effect until the deficiency is corrected or until the designation is suspended, revoked, or allowed to expire or until the order is overturned or reversed.

D. Should the designated regional EMS council be unable to comply with the correction order by the prescribed date, it may

submit a request for modification of the correction order with the Office of EMS. The Office of EMS will approve or disapprove the request for modification of the correction order within 10 days of receipt.

E. The designated regional EMS council shall correct the deficiency or situation within the period stated in the order.

1. The Office of EMS will determine whether the correction is made by the prescribed date.

2. Should the designated regional EMS council fail to make the correction within the time period cited in the order, the Office of EMS may invoke any of the other enforcement procedures set forth in this part.

12 VAC 5-31-2580. Suspension of a designation.

A. The Office of EMS may suspend a designation without a hearing, pending an investigation or revocation procedure.

1. Reasonable cause for suspension must exist before such action is taken by the Office of EMS. The decision must be based upon a review of evidence available to the Office of EMS.

a. The Office of EMS may suspend the designation for failure to adhere to the standards set forth in these regulations.

b. The Office of EMS may suspend the designation if the agency, organization or any of its personnel are found to be operating in a manner that presents a risk to, or threatens, or endangers the public health, safety or welfare.

c. The Office of EMS may suspend the designation for violation of federal or state laws resulting in a civil monetary penalty.

d. The Office of EMS may suspend the designation for conviction of criminal acts.

B. The Office of EMS will notify the agent of the designated regional EMS council of the suspension in person or by certified mail to his last known address.

C. A suspension takes effect immediately upon receipt of notification unless otherwise specified. A suspension remains in effect until the Office of EMS further acts upon the designation or until the order is overturned on appeal as specified in the Administrative Process Act (§ 2.2-4000 et seq. of the Code of Virginia).

D. The designated regional EMS council shall abide by any notice of suspension.

E. The Office of EMS may invoke any procedure set forth in this part to enforce the suspension.

12 VAC 5-31-2590. Revocation of a designation.

A. The Board of Health may revoke the designation of a regional EMS council after a hearing or waiver thereof. Reasonable cause for revocation must exist before such action by the Board of Health. The Board of Health may revoke designation for the following:

- a. Failure to adhere to the standards set forth in these regulations;
- b. Violation of a correction order or for engaging in or aiding, abetting, causing, or permitting any act prohibited by these regulations;
- c. Violation of federal or state laws resulting in a civil monetary penalty; and
- d. Conviction of criminal acts.

B. The Office of EMS will notify the agent of the designated regional EMS council of the intent to revoke by certified mail to his last known address.

C. The designated regional EMS council will have the right to a hearing.

1. If the designated regional EMS council desires to exercise its right to a hearing, it must notify the Office of EMS in writing of his intent within 10 days of receipt of notification. In such cases, a hearing must be conducted and a decision rendered in accordance with the Administrative Process Act (§ 2.2-4000 et seq. of the Code of Virginia).

2. Should the designated regional EMS council fail to file such notice, he will be deemed to have waived the right to a hearing. In such case, the Board of Health may revoke the designation.

D. A revocation takes effect immediately upon receipt of notification unless otherwise specified. A revocation order is permanent unless and until overturned on appeal.

E. The designated regional EMS council shall abide by any notice of revocation.

F. The Office of EMS may invoke any procedures set forth in this part to enforce the revocation.

12 VAC 5-31-2600. Judicial review.

A. The procedures of the Administrative Process Act (§ 2.2-4000 et seq. of the Code of Virginia) control all judicial reviews.

B. The designated regional EMS council or applicant has the right to appeal any decision or order of the Office of EMS except as may otherwise be prohibited, and provided such a decision or order was not the final decision of an appeal.

C. The designated regional EMS council or applicant shall abide by any decision or order of the Office of EMS, or he must cease and desist pending any appeal.

D. If the designated regional EMS council or applicant who sought the appeal is aggrieved by the final decision, that person may seek judicial review as provided in the Administrative Process Act (§ 2.2-4000 et seq. of the Code of Virginia).

12 VAC 5-31-2610. Submission of complaints.

A. The Office of EMS will investigate complaints related to designation, operation and the delivery of services by regional EMS councils.

B. Any person may submit a complaint. A complaint is submitted in writing to the Office of EMS, signed by the complainant and includes the following information:

- 1. The name and address of the complainant;
- 2. The name of the designated regional EMS council or person involved; and
- 3. A detailed description of the complaint, including the date, location and conditions and the practice or act that exists or has occurred.

12 VAC 5-31-2620. Investigation process.

A. The Office of EMS may investigate complaints received about conditions, practices, or acts that may violate any provision of either Article 2.1 (§ 32.1-111.1 et seq.) of Chapter 4 of Title 32.1 of the Code of Virginia or provision of these regulations.

B. If the Office of EMS determines that the conditions, practices, or acts cited by the complainant are not in violation of applicable sections of the Code of Virginia or these regulations; then the Office of EMS will investigate no further.

C. If the Office of EMS determines that the conditions, practices, or acts cited by the complainant may be in violation of applicable sections of the Code of Virginia or these regulations, the Office of EMS will investigate the complaint fully in order to determine if a violation took place.

D. The Office of EMS may investigate or continue to investigate and may take appropriate action on a complaint even if the original complainant withdraws his complaint or otherwise indicates a desire not to cause it to be investigated to completion.

E. The Office of EMS may initiate a formal investigation or action based on an anonymous or unwritten complaint.

12 VAC 5-31-2630. Action by the Office of EMS.

A. If the Office of EMS determines that a violation has occurred, it may apply all provisions of these regulations that it deems necessary and appropriate.

B. At the completion of an investigation and following any appeals, the Office of EMS will notify the complainant.

12 VAC 5-31-2640. Designated regional EMS council name.

An organization may not apply to conduct business under a name that is the same as, or misleadingly similar to the name of an organization designated by the Board of Health as a designated regional EMS council.

12 VAC 5-31-2650. Composition of designated regional EMS councils.

A designated regional EMS council shall include, if available, representatives of the participating local governments, fire protection agencies, law-enforcement agencies, emergency medical services agencies, hospitals, licensed practicing physicians, emergency care nurses, mental health professionals, emergency medical technicians and other appropriate allied health professionals.

Proposed Regulations

12 VAC 5-31-2660. Governing body of a designated regional EMS council.

A. A regional EMS council shall be organizationally independent of any other entity.

B. A regional EMS council shall be governed by a board.

C. Articles of incorporation and bylaws shall be in force that specify:

1. Designated regional EMS council representation;
2. Method of designated regional EMS council appointments and/or elections;
3. Governing board representation;
4. Method of governing board appointments and/or elections;
5. Tenure of representatives;
6. Officers, their roles, responsibilities and terms of office;
7. Quorum requirements;
8. Meeting attendance requirements and enforcement policies;
9. Indemnification of officers and directors; and
10. Dissolution of assets.

D. There shall be a minimum of five members with full voting privileges comprising a governing board.

12 VAC 5-31-2670. Regional EMS plan.

A designated regional EMS council, in cooperation with the Governor's EMS Advisory Board, shall develop, maintain, and distribute a comprehensive regional EMS plan for coordinating and improving the delivery of EMS in the regional service area, in accordance with §§ 32.1-111.3 and 32.1-111.11 of the Code of Virginia.

1. The plan shall be submitted for approval by the Office of EMS within one year of designation.
2. The approved plan shall be distributed to the Office of EMS, all localities, EMS agencies, hospitals and EMS physicians within its service delivery area.
3. The plan shall be reviewed and revised, if necessary, every three years and redistributed to the Office of EMS, all localities, EMS agencies, hospitals and EMS physicians within its service delivery area.

12 VAC 5-31-2680. Regional trauma triage plan.

A designated regional EMS council, in corporation with the Governor's EMS Advisory Board, shall develop, maintain, and distribute a regional trauma triage plan in accordance with §§ 32.1-111.3 and 32.1-111.11 of the Code of Virginia.

1. The plan shall be submitted for approval by the Office of EMS within one year of designation.
2. The approved plan shall be distributed to the Office of EMS, all localities, EMS agencies, hospitals and EMS physicians within its service delivery area.

3. The plan shall be reviewed and revised, if necessary, every three years and submitted for approval by the Office of EMS.

4. The approved revisions shall be distributed to the Office of EMS, all localities, EMS agencies, hospitals and EMS physicians within its service delivery area.

12 VAC 5-31-2690. Regional training plan.

A designated regional EMS council shall develop, maintain, and distribute a regional training plan.

1. The plan shall be submitted for approval by the Office of EMS within one year of designation.
2. The approved plan shall be distributed to the Office of EMS, all localities, EMS agencies, accredited EMS training institutions, hospitals and EMS physicians within its service delivery area.
3. The plan shall be reviewed and revised annually, as required by the Office of EMS.
4. The approved revisions shall be distributed to the Office of EMS, all localities, EMS agencies, accredited EMS training institutions, hospitals and EMS physicians within its service delivery area.

12 VAC 5-31-2700. Regional mass casualty incident plan.

A designated regional EMS council shall develop, maintain, and distribute a regional mass casualty incident plan.

1. The plan shall be submitted for approval by the Office of EMS within one year of designation.
2. The approved plan shall be distributed to the Office of EMS, all localities, EMS agencies, hospitals and EMS physicians within its service delivery area.
3. The plan shall be reviewed and revised, if necessary, every three years and submitted for approval by the Office of EMS.
4. The approved revisions shall be distributed to the Office of EMS, all localities, EMS agencies, hospitals and EMS physicians within its service delivery area.

12 VAC 5-31-2710. Regional medical protocols.

A designated regional EMS council shall develop, maintain, and distribute regional medical protocols that include medication kit restocking procedures.

1. The protocols shall be distributed to the Office of EMS, all localities, EMS agencies, hospitals and EMS physicians within its service delivery area within one year of designation.
2. The protocols shall be reviewed and revised, if necessary, every three years and redistributed to the Office of EMS, all localities, EMS agencies, hospitals and EMS physicians within its service delivery area.

12 VAC 5-31-2720. Regional hospital diversion plan.

A designated regional EMS council shall develop, maintain, and distribute a regional hospital diversion plan.

1. The plan shall be distributed to the Office of EMS, all localities, EMS agencies, hospitals and EMS physicians within its service delivery area within one year of designation.

2. The plan shall be reviewed and revised, if necessary, every three years and redistributed to the Office of EMS, all localities, EMS agencies, hospitals and EMS physicians within its service delivery area.

12 VAC 5-31-2730. Regional medical direction committee.

A designated regional EMS council shall establish a regional medical direction committee consisting of EMS physicians within its service delivery area.

1. The regional medical direction committee shall be established within one year of designation.

2. A regional medical direction committee shall:

a. Develop and implement a process for endorsement of EMS physicians,

b. Develop regional medical protocols and make them available for implementation,

c. Develop and implement a process for the provision of concurrent medical direction,

d. Develop recommendations for initial qualifications of prehospital personnel involved in patient care, and

e. Develop and implement a quality performance improvement program for continuous system and patient care outcome and improvement.

12 VAC 5-31-2740. Regional medical director.

A designated regional EMS council shall designate, based on Office of EMS guidelines, a regional medical director for its service delivery area within one year of designation.

12 VAC 5-31-2750. ALS coordinator endorsement.

A. A designated regional EMS council shall develop and implement an ALS Coordinator applicant endorsement process.

B. The regional ALS endorsement process shall have written guidelines and procedures, approved by the Office of EMS, that meet the requirements stated in 12 VAC 5-31-1700 A.

12 VAC 5-31-2760. Financial assistance for emergency medical services.

A. A designated regional EMS council shall participate in the Virginia financial assistance for emergency medical services program and assist eligible EMS agencies and organizations needing funding within the service area.

B. The designated regional EMS council participation in the Virginia financial assistance for emergency medical services program process shall have written guidelines and procedures, approved by the Office of EMS, that meet the requirements stated in 12 VAC 5-31-2810 through 12 VAC 5-31-2900.

12 VAC 5-31-2770. Base funding of designated regional EMS councils.

A. Required services provided by a designated regional EMS council may be funded by the state.

B. A designated regional EMS council may receive annual base funding by the state to assist with infrastructure development and maintenance in providing required regional services.

C. A designated regional EMS council shall submit documentation, as required, demonstrating a 25% match for base funding to the Office of EMS. Moneys received directly or indirectly from the Commonwealth shall not be used as matching funds.

12 VAC 5-31-2780. Matching funds.

For the purposes of these regulations, approved matching funds are monetary and only apply to base funding.

12 VAC 5-31-2790. Performance-based contract for service.

A. The Office of EMS may enter into performance-based contracts for the delivery of specific identified services and projects with designated regional EMS councils.

B. The contracts will be based upon the specific needs of the regional service delivery area and the requirements of the Office of EMS.

12 VAC 5-31-2800. Accountability for public funds.

A. A designated regional EMS council shall maintain a current operating statement, reflecting revenue and expenditures, available for review.

B. A designated regional EMS council shall have a current income and expenditure statement available at all governing board meetings.

C. A designated regional EMS council shall have an independent annual audit of financial records with management letters.

D. A designated regional EMS council shall have an independent audit of financial records conducted by a Certified Professional Accountant (CPA) upon change of an executive director.

E. A designated regional EMS council shall retain all books, records, and other documents relative to public funds for five years after the close of the fiscal year the funds were received. The Office of EMS, its authorized agents, and/or state auditors shall have full access to and the right to examine any materials related to public funds during said period.

F. A designated regional EMS council shall follow generally accepted accounting principles for financial management.

G. A designated regional EMS council's governing board shall approve its annual fiscal year (July 1 - June 30) budget by July 15 of each year.

H. A designated regional EMS council shall comply with all appropriate federal and state tax-related reporting.

Proposed Regulations

I. A designated regional EMS council shall follow generally accepted fund raising practices in the charitable field.

J. A designated regional EMS council shall have written policies that indicate by position, signatories of executed financial and contractual instruments.

PART VIII.

FINANCIAL ASSISTANCE FOR EMERGENCY MEDICAL SERVICES.

12 VAC 5-31-2810. The Financial Assistance and Review Committee (FARC).

A. Financial Assistance and Review Committee appointments.

1. Appointments shall be made for terms of three years or the unexpired portions thereof in a manner to preserve, insofar as possible, the representation of the emergency medical services councils. No member may serve more than two successive terms. The chairman shall be elected from the membership of the FARC for a term of one year and shall be eligible for reelection.

2. The EMS Advisory Board may revoke appointment for failure to adhere to the standards set forth in these regulations, and the State and Local Government Conflict of Interests Act (§ 2.2- 3100 et seq. of the Code of Virginia).

3. Members serving on the FARC [on the effective date of these regulations] shall complete their current terms of office.

4. Midterm vacancies shall be filled by nominations submitted from affected designated regional EMS council.

B. Geographical representation.

1. Designated regional EMS councils shall be eligible to submit nominations to the EMS Advisory Board for representation on the FARC.

2. The eligible designated regional EMS council shall nominate one to three candidates to fill a vacancy on the FARC. The EMS Advisory Board shall make appointments from the nominations submitted by the designated regional EMS council. Consideration for filling vacancies shall include length of nonrepresentation on FARC in an effort to provide reasonable geographic distribution.

3. A designated regional EMS council whose representative has completed two successive terms on FARC shall not be eligible to submit a nomination for one full term (three years).

C. Meetings and attendance.

1. The FARC shall meet at least four times annually at the call of the chairman or the commissioner.

2. Attendance at FARC Grant Review meetings is mandatory for all members.

3. A quorum for a meeting of the FARC shall consist of not fewer than four members.

12 VAC 5-31-2820. RSAF General Grant Program administration.

A. The FARC will administer the RSAF (Rescue Squad Assistance Fund) General Grant Program and the funding of RSAF General Grant awards using the Office of EMS approved pricing, applicant eligibility, award criteria, and priorities as approved by the EMS Advisory Board.

B. The Office of EMS shall approve and maintain a list that represents an average price of EMS vehicles, EMS equipment, communications equipment, and EMS education programs frequently requested under the RSAF General Grant Program. This list will be based on current market pricing and is not all-inclusive. RSAF General Grant awards for items maintained on this list shall not exceed the approved amount.

C. Funding priorities for RSAF General Grants shall be identified in the Virginia Statewide EMS Plan as stipulated in § 32.1-111.3 of the Code of Virginia or special initiatives as approved by the EMS Advisory Board.

12 VAC 5-31-2830. Award of RSAF General Grants.

A. The requirements of this section shall apply to the disbursement of funds.

B. A nonprofit licensed EMS agency or other Virginia emergency medical service organization operating on a nonprofit basis exclusively for the benefit of the general public pursuant to § 32.1-111.12 of the Code of Virginia is eligible for an RSAF General Grant.

An applicant must be in compliance with these regulations.

C. Programs, services, and equipment funded by the RSAF must comply with the plans, policies, procedures, and guidelines adopted by the State EMS Advisory Board. Awards are based upon one or more of the following criteria:

1. Establishment of a new EMS agency, program, or service where needed to improve emergency medical services offered in an area;

2. Expansion or improvement of an existing EMS agency, program, or service;

3. Replacement of equipment or procurement of new equipment. EMS vehicles purchased with funding from the RSAF shall meet the current state and/or federal standards for the type of vehicle purchased; or

4. Establishment, expansion or improvement of EMS training programs.

12 VAC 5-31-2840. Grant award cycle.

A. The grant period shall be for a period of 12 months from the date of award and there shall be two review cycles per year;

B. Deadline for submission of applications shall be March 15 and September 15 of each year. Applications must be received in the Office of EMS by 5 p.m. of the date of the deadline. In the event the deadline falls on a Saturday, Sunday, state or federal holiday, the application must be received by 5 p.m. in the Office of EMS the next business day.

C. Dates of award shall be July 1 and January 1 of each year.

D. Other dates in the award process shall be established by the Office of EMS.

12 VAC 5-31-2850. Emergency awards.

A. The commissioner empowers the Office of EMS the ability to implement Emergency Grant Awards. The Office of EMS will advise the EMS Advisory Board and FARC of emergency grants awarded and the purpose(s) of disbursement of these funds.

B. Applications shall be made to the Office of EMS on an approved application form at any time.

C. The Emergency Grant Award will be made or rejected by the Office of EMS within 10 business days after receiving an application on an approved form.

D. Award of funds shall be based upon the demonstrated needs arising from a natural or man-made disaster as defined in § 44-146.16 of the Code of Virginia.

E. Award of funds shall be based upon incidents or circumstances involving the loss or potential loss of critical equipment or services.

12 VAC 5-31-2860. EMS System Initiative Awards.

EMS System Initiative Awards are based on priorities and needs identified by the Advisory Board in concert with the office to meet EMS system objectives as stipulated in § 32.1-111.3 of the Code of Virginia.

1. The Office of EMS or FARC, in consultation with EMS Advisory Board, may implement EMS System Initiative Awards at any time. Examples of such awards would include medically advanced equipment with broad application (automated external defibrillation) and information technology to enhance communications and data (computers).

2. Applications must be made to the Office of EMS on an approved application form.

3. The EMS System Initiative Award will be made or rejected by the Office of EMS within 30 business days after receiving an application on an approved form.

4. EMS System Initiative Awards shall be based upon the demonstrated needs from the following criteria:

a. Establishment of a new EMS agency, program, or service where needed to improve emergency medical services offered in an area;

b. Expansion or improvement of an existing EMS agency, program, or service;

c. Replacement of equipment or procurement of new equipment. EMS vehicles purchased with funding from the RSAF shall meet the current state and/or federal standards for the type of vehicle purchased;

d. Establishment, expansion or improvement of EMS training programs.

12 VAC 5-31-2870. Responsibilities of the grantee.

A. Grantee shall not discriminate in the provisions of its services or in the conduct of its business affairs on the basis of race, color, creed, religion, sex, national origin, or disability.

B. Grantee must comply with these regulations. The grantee shall be responsible for ensuring that item(s) purchased in whole or in part with the use of the state moneys comply with these regulations.

C. Grantee shall be responsible for the preparation and maintenance of proper accounting records that shall be maintained for a period of not less than five years from the end of the grant period.

12 VAC 5-31-2880. Application for award.

A. Applications must be made to the Office of EMS.

B. The Office of EMS will review applications for compliance with the EMS regulations and RSAF policies and procedures. The FARC reviews and grades applications and makes recommendations on funding.

12 VAC 5-31-2900. Awards.

A. The Office of EMS shall make awards as approved by the commissioner.

B. Grantees will be notified of their award by mail.

C. Funds may be disbursed to the grantee at any time within the grant period.

1. Agreement to the award and any attached conditions shall be secured prior to any disbursements.

2. Disbursements will be made on a reimbursement basis. Following proof of expenditure for item(s) approved in the award, the authorized agent must submit required documentation (original invoice and signed contract) to the Office of EMS. The Office of EMS will verify submitted documentation and upon approval, authorize the disbursement of the appropriate funds.

12 VAC 5-31-2910. Amount of grant award.

A. The amount of RSAF General Grant award granted an applicant will not exceed 50% of the cost of the item(s) except in documented and approved cases of hardship. The amount of an RSAF General Grant award shall be based upon the amount requested for the item(s) and state approved pricing determined by the Office of EMS. The amount awarded will not exceed the amount requested by the applicant.

B. Additional funding may be recommended for those unique situations where the applicant has demonstrated the lack of reasonable capability to generate a 50% match (hardship). The additional funding above a 50% match will be determined by the FARC.

1. Awards identified on the notice of award as being "hardship" (above a 50% match level) require the grantee to purchase from available state contracts.

Awardees, able to demonstrate the ability to purchase at a cost equal to or less than the state contract price, may purchase outside the state contract with prior approval.

Proposed Regulations

2. The FARC shall recommend the percentage of an RSAF General Grant award based upon the review of the application.

12 VAC 5-31-2920. Use of funds.

A. Awards will be made in accordance with § 32.1-111.12 of the Code of Virginia.

B. Funds must be used only for the specific items, service, or programs for which they were awarded. This includes any conditions placed upon a grant award.

C. The grantee is required to sign an agreement form attesting that the award funds will be used as granted and meets all conditions placed upon the award.

D. Sale, trade, transfer, or disposal, within five years of vehicles or items specified by the Office of EMS in the notice of award purchased in whole or in part with the use of state moneys requires prior approval by the Office of EMS.

E. Funds must not be used for expenditures or commitments made before the date of the grant award or after the conclusion of the grant period.

F. Funds will not be approved or disbursed for:

1. Leased equipment or vehicle,
2. Equipment or vehicles secured by a lien,
3. Guarantees or warranties,
4. Used equipment or vehicles without prior approval, or
5. Fire suppression apparatus or law-enforcement equipment.

12 VAC 5-31-2930. Ownership.

The title for all equipment, including EMS vehicles, shall be in the name of the organization to which the award has been made or in the name of the local jurisdiction or government entity in which the organization is located. This requirement shall apply to the ownership of equipment purchased in whole or in part with the use of these funds.

12 VAC 5-31-2940. Improper expenditures.

A. An audit revealing expenditures not permitted by the conditions of the award will result in the grantee being required to reimburse the Office of EMS any funds received.

B. An agency providing false, misleading or improper information to the Office of EMS will be ineligible for future grants for a period of five years.

12 VAC 5-31-2950. Modification of an award.

Any changes in the project, including any changes in the approved item(s), shall be permitted only by modification of the award.

1. The grantee must request in writing the specific modifications desired and the reasons and circumstances necessitating such a request to the Office of EMS.
2. The Office of EMS may modify, approve or deny the request for modification.

12 VAC 5-31-2960. Suspension of an award.

A. The Office of EMS may suspend an award and all disbursements of funds attached pending an investigation.

B. There shall exist reasonable cause for suspension prior to such action by the Office of EMS. Such cause shall include:

1. Failure to comply with these regulations,
2. Violation of the terms of any conditions or agreements attached to an award, or
3. A reasonable belief by the Office of EMS that any such violations might otherwise continue unabated.

C. The Office of EMS shall notify the grantee of the suspension by certified mail to the last known address.

D. A suspension shall take effect immediately upon receipt of notification unless otherwise specified. A suspension shall remain in effect until reinstated or revoked by the Office of EMS.

12 VAC 5-31-2970. Revocation of an award.

The Office of EMS may revoke an award and all disbursements of funds attached after a hearing or waiver thereof.

1. Cause. There must exist reasonable cause for revocation prior to such action by the Office of EMS.
2. Notification. The Office of EMS must notify the grantee of the revocation by certified mail to the last known address.
3. Period of Effect. A revocation shall be permanent unless and until overturned on appeal.

VA.R. Doc. No. R03-158; Filed August 16, 2006, 10:25 a.m.

* * * * *

Title of Regulation: **12 VAC 5-585. Biosolids Use Regulations (adding 12 VAC 5-585-760 through 12 VAC 5-585-830).**

Statutory Authority: § 32.1-164.5 of the Code of Virginia.

Public Hearing Date: October 4, 2006 - 7 p.m.

Public comments may be submitted until November 10, 2006.

(See Calendar of Events section for additional information)

Agency Contact: C.M. Sawyer, Division Director, Virginia Department of Health, 109 Governor Street, Fifth Floor, Richmond, VA 23219, telephone (804) 864-7463, FAX (804) 864-7475.

Basis: Legislation was passed by the General Assembly (SB 1088, Acts of Assembly c. 681, 2003) and signed into law by the Governor, amending § 32.1-164.6 of the Code of Virginia, requiring that the State Board of Health (board) adopt regulations for Certification of Sewage Sludge Land Applicators. The board, with the assistance of the Virginia Department of Health (VDH), the Department of Environmental Quality and the Department of Professional and Occupational Regulation are to promulgate the

regulations and standards required by the amended Code of Virginia and no person shall land apply Class B sewage sludge pursuant to a permit under § 32.1-164.5 or 62.1-44.19:3 of the Code of Virginia unless a certified sewage sludge land applicator is onsite at all times during such land application, as of 180 days following the effective date of the amended regulations.

Purpose: The Biosolids Use Regulations (regulations) provide the means to protect public health from improper and unregulated disposal of sewage sludge. However, individuals have expressed opposition to the land application of biosolids and have insisted that land application operations on permitted sites are not being adequately supervised. These amendments are designed to provide a consistent and uniform set of state requirements that will ensure that a qualified individual is supervising operations in which biosolids are land applied. It is anticipated that the development of state requirements will help improve the credibility of the VDH permit program and prevent extended litigation brought by permitted entities concerning restrictive local government ordinances that would effectively ban land application of biosolids.

Substance: The proposed amendment to the regulations will involve the addition of new sections, 12 VAC 5-585-760 through 12 VAC 5-585-830, addressing standards for training, testing and certification of persons land applying Class B biosolids in the Commonwealth, and for revoking, suspending or denying such certification from any person for cause. The land applier must have a certified individual onsite and if the certified land applicator leaves the site they must be available to return to that site within 30 minutes and if not so available, then the land application operation must be shut down at that site. The certified land applicator must provide required identification upon request by VDH staff or local government representatives.

Issues: The State Board of Health approved the submittal of a Notice of Intended Regulatory Action (NOIRA) for an amendment to the regulations concerning certification of land applicators at its July 22, 2004, meeting. An ad hoc advisory committee assisted the Virginia Department of Health (VDH) in developing the draft amendment language that reflects the recommendations received from a majority of committee members. The NOIRA public comment period closed on January 13, 2005. The public comments received up to that date did not raise any new issues that had not been discussed at the ad hoc advisory committee meetings. The draft amendment was brought before the State Board of Health at their January 21, 2005, meeting for consideration of initiating the rulemaking process. The State Board of Health approved the draft amendments as proposed with two minor revisions concerning the conditions under which a certified land applicator is "onsite" at the location of land application of biosolids. The State Board of Health requested that the draft language be revised from "is considered to be onsite," to "may be considered to be onsite." The State Board of Health also requested that the amendment specify that certified land applicators make their credentials available if requested. The draft amendment was revised to require the applicator to have the certificate number issued by VDH and their personal identification with them at the land application site.

The advantage of adopting the requested amendments is that the credibility of this controversial state permit program will be enhanced. By establishing reasonable requirements for certifying land applicators, the most economical and most beneficial means of sludge management will continue to be available to the owners of sewage treatment works, who are primarily metropolitan governments.

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 State Board of Health (board) proposes to amend the Biosolids Use Regulations to establish guidelines for testing, certifying and training of Class B sewage sludge (biosolids) land applicators. Under the proposed regulation, no person shall land apply biosolids unless a certified sewage sludge land applicator is onsite at all times during such land application.

Estimated Economic Impact. Biosolids are the treated form of the sewage sludge generated during the wastewater treatment process. Applying biosolids to crop land, strip mines, public parks, and other areas has become a common practice in the United States, which provides an effective and environmentally friendly way to dispose of wastes while simultaneously improving soil quality. According to the National Academies' National Research Council¹, there is no documented scientific evidence of adverse human health effects from treated sewage sludges applied to land in accordance with the Environmental Protection Agency (EPA)'s regulation. However, individuals have expressed concerns about whether the land application operations on permitted sites are being adequately supervised. In order to ensure that biosolids are properly land applied on permitted sites so as to protect public health and the environment from exposure to heavy metals, toxic chemicals, and pathogens, the proposed regulation requires that a certified land applicator be onsite to supervise the land application operations all the time during the land application. According to Virginia Department of Health (VDH), responsibilities of the certified land application supervisor will include to establish the means for transport trucks to enter and exit the permitted sites, to ensure that transport trucks meet all requirements and are unloaded in a safe manner, to track the biosolids source manifests, to place the flags marking the application area, to ensure that biosolids spreading equipment is properly calibrated so that the application rate is correct based on the biosolids

¹ "Biosolids Applied to Land: Advancing Standards and Practices", the National Academy of Sciences, 2002.

Proposed Regulations

characteristics, to ensure that all other permit requirements are adhered to during the land application operations, to ensure that tracked material or spillage from transport trucks is removed from road surfaces to the extent possible, to provide the required advance notification of operations and maintain good communications with local government representatives, such as local monitors, and with the state regulatory agencies on operational problems and complaints.

The proposed land applicator certification program will ensure that the certified land applicators will have the minimum knowledge base necessary to handle the above duties. Under the proposed regulation, a certified land applicator will have to pass the land applicators certification examination administered by VDH, which will cover knowledge of biosolids, soil science, public health protection concept, land application and site management, occupational safety and health protection, land application training and certification regulatory requirements. The certified land applicators will also be required to complete at least four hours of continuing education course work within the past two years to have their certificates renewed. The continued education requirement will serve to ensure that these individuals will stay up to date with the changes to regulatory requirements such as nutrient management standards, decreasing the risk of violation of permit restrictions such as minimum buffer zones.

With a certified land application supervisor onsite who is educated about biosolids land applications and trained to keep in close communication with the state and local government, land applications will likely be practiced in closer accordance with the federal and state regulations so as to reduce potential harm to public health and the environment. For example, potential contamination of ground water and exposure of biosolids on the roads could be reduced.

The proposed regulation will increase the cost of certificate applications for the private firms that land apply biosolids through contracts with municipalities and agreements with landowners and farmers. Currently the land application companies usually hire persons with land application experience to supervise their land applications on permitted sites, but there is no requirement from VDH as to the eligibility of the supervisor. Under the proposed regulations, the companies will have to have a certified land applicator on site at all times during the land application. The companies may encourage their current land application supervisors to obtain certification or, if needed, replace the current supervisor with someone who has a certificate. In either case, a certification will cost \$200 annually for the companies, which includes a \$100 certificate or re-certificate fee, and a \$100 training fee. According to VDH, currently there are 10 land application companies in the Commonwealth of Virginia that are expected to apply for 40 certificates. Therefore, the proposed regulation will cause an increase in fees of \$8,000 annually for these land application companies statewide.² The companies may also need to pay for additional supervisor-hours to ensure that their land applications will continue without interruption because under the proposed regulations, a certified land applicator may not leave the site for more than 30 minutes. The increase in cost will reduce profits commensurately.

² Calculation: 200 x 40=\$8,000.

However, the change in cost is not likely big enough to discourage the land application companies from offering services.

For the certified applicator supervisors, the proposed regulation will cause additional time spent on certificate application, training, exams and transportation. For example, each exam is expected to last one to two hours. Each certified land applicators will be required to attend at least four hours of training within the past two years to have his certificate renewed.

The proposed regulation will also increase the administration cost for VDH. According to VDH, the estimated increase in administration cost is one man-year of staff time at a cost of \$60,000, which will be funded from the Division of Wastewater Engineering budget. Fees collected from certification and training will be \$8,000 annually.

According to an EPA-requested report by the National Research Council,³ there is currently a lack of knowledge about potential human health effects and exposure of biosolids land application. Thus, it is not possible to quantify the benefits, and it is not clear whether the benefits of the certificate program exceed these costs.

Businesses and entities affected. Ten land application companies that perform biosolids land applications in the Commonwealth will be affected by the proposed regulatory change. The three largest companies are Synagro Mid Atlantic, Inc., Recyc System, Inc., and Nutri-Blend, Inc.⁴

The proposed regulation will create an increase in fees of \$8,000 for the 10 land application companies annually. For example, the largest land application company, Synagro Mid Atlantic, Inc., is expected to apply for 20 certificates with a total fee of \$4,000. The second largest company, Recyc Systems, Inc. is expected to submit 10 to 12 certificate applications and the cost will be between \$2,000 and \$2,400. Another major contractor, Nutri-Blend, Inc. is expected to apply for six to eight certificates with a cost between \$1,200 and \$1,600. The seven smaller companies are expected to apply for two certificates each, with an annual fee of \$400 each. The increase in cost will not likely be big enough to discourage the 10 companies from biosolids land applications.

Localities particularly affected. The proposed regulation particularly affects the 51 counties where VDH biosolids permits have been issued. The followings are the top 10 counties based on the amount of biosolids applied in 2003.

Rank	County	Amount Applied in 2003 (Dry Tons)
1	Buckingham	22477
2	Nottoway	17348
3	Dinwiddie	15060
4	Caroline	14598
5	Madison	11788

³ Biosolids Applied to Land: Advancing Standards and Practices," the National Academy of Sciences, 2002.

⁴ Source: the Virginia Department of Health

6	Cumberland	10641
7	Louisa	8488
8	Appomattox	8367
9	Charlotte	8210
10	Westmoreland	7709

Projected impact on employment. The proposed regulation will moderately increase costs for the firms, but will likely not adversely affect employment. Currently the land application companies usually hire persons with land application experience to supervise their land applications on permitted sites. The requirement of a certified land applicator onsite at all times during the land application will encourage the companies to help their current land application supervisors obtain the certificate and fulfill the annual training requirement in the following years. On the other hand, the companies may need to pay for additional supervisor-hours to ensure that their land applications will continue without interruption because under the proposed regulations, a certified land applicator may not leave the site for more than 30 minutes.

Effects on the use and value of private property. The requirement of a certified land applicator being onsite all the time will ensure that land applications are being practiced in accordance with the federal and state regulations so as not to impose harm to public health and environment. This proposed regulation may help to relieve the public's skepticism about the safety of biosolids land applications. Therefore, more people may be willing to accept land applications on their land or on the neighborhood land. As a result, the value of private properties on or surrounding the areas that have been land applied may increase.

Small businesses: Costs and other effects. According to VDH, all of the 10 land application companies are small businesses with fewer than 500 employees. The proposed regulation will create fees of \$8,000 for the 10 land application companies annually. Specifically, the largest land application company, Synagro Mid Atlantic, Inc., will incur an increase in cost of \$4,000. The increase in cost ranges from \$2,000 to \$2,400 for the second largest company, Recyc Systems, Inc., and from \$1,200 to \$1,800 for the third largest, Nutri-Blen, Inc. The seven smaller companies will have an increase in cost of \$400 each annually. Although the increase in cost will reduce profits commensurately, the change in cost is not likely big enough to have any significant effect on the behavior of the businesses.

Small businesses: Alternative method that minimizes adverse impact. The proposed certified land applicator program will ensure that biosolids land applications are being practiced in accordance with the federal and state regulations. There is no clear alternative that can have a smaller adverse effect.

Agency's Response to the Department of Planning and Budget's Economic Impact Analysis: VDH concurs substantially with the EIA prepared by DPB on these proposed amendments to 12 VAC 5-585.

Summary:

The amendment provides regulations and standards for training, testing, and certification of persons who land apply

Class B sewage sludge (biosolids) in the Commonwealth, and for revoking, suspending or denying such certification from any person for cause. The amended regulations are to include standards and criteria for the approval of instructional programs to be taught by governmental entities and by the private sector for the purpose of certifying biosolids land applicators.

12 VAC 5-585-760. Certificate requirements for land applicators.

A. No person shall land apply biosolids pursuant to a permit issued in accordance with this chapter unless an individual holding a valid certificate of competence as specified in this chapter (certified land applicator) is onsite at all times during such land application. Certified land applicators may be considered to be onsite if they are at the site permitted for land application and, if it is necessary to leave the site, they are available within 30 minutes to return to the site to verify and ensure that land application of biosolids is in compliance with the issued permit. Certified land applicators shall possess the site specific permit information necessary to conduct land application on the site in accordance with the issued permit and make available at the land application site proper identification, including their certificate number issued by VDH.

Monthly reports submitted in accordance with the requirements of 12 VAC 5-585-370 B shall bear the name and certificate number of the certified land applicators with an approved statement attesting that they were onsite at the times of the reported operations and that those operations were in compliance with the permit. The following parts of this chapter apply to any individual seeking a certificate of competence as required in § 32.1-164.6 of the Code of Virginia.

B. Certificates of competence shall be issued by the department to certified land applicators. The department may issue such certification based on specified areas of training, experience and level of knowledge as demonstrated through successful completion of examinations as acceptable to the department.

12 VAC 5-585-770. Eligibility requirements.

A. Certification may be obtained by satisfying all of the following requirements:

1. Satisfactorily completing and submitting to the department an application in the form required by the department, including a statement of any felony convictions. Such application shall be submitted to the department at least 30 days before the scheduled examination date set by the department. The application shall request information relating to the person's education, work experience, knowledge of land application of biosolids and applicable regulations, and willingness to abide by the requirements of this chapter.

2. Supplying proof of meeting one of the following:

a. A copy of a transcript or similar documentation indicating completion of a high school or higher degree or equivalent education level, with work experience in an agriculturally related area including farming, and three

Proposed Regulations

months of practical experience related to land application of biosolids acceptable to the department,

b. A combination of training acceptable to the department that may include soil science or nutrient management or farming practice related educational training and a minimum of six months of practical experience related to land application of biosolids, or

c. Evidence of prior supervisory level experience with land application of biosolids of two or more years that is acceptable to the department.

3. Obtaining a passing score on each part of the land applicators certification examination administered by the department; and

4. Submitting the required certification fee by check or money order to the department.

B. Certificates shall be valid upon notification by the department and for two years following each renewal from the established renewal date and will expire on the last day of the expiration month. Certified land applicators or applicants shall notify the department of any change in mailing address within 30 days of such change in address.

C. The department, upon review, may accept or approve land applicator certification programs of other states as satisfying partial requirements for certification.

Individuals certified as land application operators in other states under certification or licensing programs acceptable to the department will be eligible for certification in Virginia by complying with all requirements of these regulations except for subdivision A 2 of this section. These individuals may also substitute for the requirements in 12 VAC 5-585-790, the attainment of a passing score on a Virginia specific examination component that shall include at a minimum the elements listed in 12 VAC 5-585-790 C 1 and C 6.

12 VAC 5-585-780. Fees.

A. Fees shall be collected for certification and recertification to defray the administrative cost for the certification program.

B. A fee may be charged to supply training materials and present education and training programs, including continuing education, that support the certification program.

C. Fees are nonrefundable and shall not be prorated.

D. The certification fee of \$100 for the initial certification period shall be due with the application for certification. If an applicant is unsuccessful in achieving a passing score on the examination, the applicant is eligible to retake the examination at a scheduled time as offered by the department. Applicants may retake the examination one time with no additional charge by resubmitting the application for certification. Eligibility for any additional examinations beyond the initial retaking will require the submittal of an application and appropriate fees.

E. The certificate of competence renewal fee is \$100.

F. All fees collected by the department shall be used exclusively for the operation of the Land Applicator Training and Certification Program.

12 VAC 5-585-790. Examination.

A. The department may offer the land applicator certification examinations on request and will schedule an examination at least once per year. The examinations shall require a demonstration of the ability to ensure that biosolids will be land applied in compliance with the requirements of this chapter. The department may limit the number of applicants taking the examination based upon available examination space.

B. Applicants for a certificate of competence shall achieve a passing score on each part of the land applicator certification examination to become eligible for certification. If applicants receive a passing score on any part of the examination they will only be retested on the remaining parts.

C. The examinations for qualified applicants for a certificate of competence in accordance with this chapter shall address the following elements:

1. General understanding of biosolids treatment processes and biosolids characteristics;
2. Basic principles of soils, agriculture, and silviculture;
3. Public health protection concepts;
4. Land application concepts and site management and operations;
5. Occupational safety and health protection concepts; and
6. Land application training and certification regulatory requirements, and requirements of other land application related laws, regulations, and incentive programs.

D. An individual who is unable to take an examination at the scheduled time shall notify the department at least five days prior to the date of the examination; such individual may reapply for an examination. The department may consider accepting notice of less than five days due to individual hardship situations on a case-by-case basis. Failure to notify the department may require the individual to submit a new application and payment of fees in accordance with 12 VAC 5-585-780.

E. The department shall establish acceptable passing scores for the examinations based on the department's determination of the level of examination performance required to show minimal acceptable competence.

F. All applicants shall be notified of results in writing within 60 days of the completion of the examinations.

G. A certificate renewal date will be established and provided to the certified land applicator.

12 VAC 5-585-800. Training.

A. The department shall provide training sessions on the various topics essential to ensure that land application of biosolids complies with state and federal laws and regulations at least annually.

B. The department may provide a training course on concepts supporting and relating to land application of biosolids that may include biosolids use regulation, basic soil and crop

science, soil fertility, environmental management, and other relevant topics.

12 VAC 5-585-810. Certificate renewal.

A. The department may not renew a certificate if a proceeding to deny certification under 12 VAC 5-585-830 has begun, or if the department has found that the applicant violated any requirements of this chapter. A certificate is to be renewed every two years and may be renewed on or before the expiration of a certificate by complying with all of the following requirements:

1. Submittal of a renewal application on the form the department requires;
2. Payment of the renewal fee to the department;
3. Submittal of proof of satisfactory completion of at least four hours of continuing education course work within the past two years. The completed course work must be approved by the department as providing satisfactory training. Requests for pre-approval of continuing education courses should be received at least 60 days prior to the expected course date(s) and must include a detailed syllabus indicating time to be spent on each topic area covered. Continuing education course work must be in subject matter consistent with 12 VAC 5-585-790.

B. Department personnel may attend continuing education sessions to verify that the requirements are met. Proof of attendance must be verified by the course provider. The department may accept continuing education units obtained in other states if such continuing education units are specifically for the purpose of recertification in the state land application operator certification program.

12 VAC 5-585-820. Certificate expiration.

A. Certificates issued under this chapter shall expire two years from the last day of the month in which they were issued, as indicated on the certificate, if any of the requirements of 12 VAC 5-585-810 are not met.

B. Following the expiration of a certificate, reinstatement may be accomplished only by reapplication and compliance with all requirements of 12 VAC 5-585-770 A, including the examination requirements.

C. It is the responsibility of the certified land applicators to accumulate the required continuing education requirements prior to expiration of the certificate of competence they hold. The department will attempt to notify the certified land applicators of any continuing education needs and other requirements as necessary for certificate renewal 90 days or more prior to certificate expiration.

12 VAC 5-585-830. Compliance with regulations and disciplinary action.

A. If the department finds that a certified land applicator or an applicant for certification violated any applicable requirements of this chapter, including the procedural violations listed in subsection B of this section, the department may deny, suspend or revoke certification, following the informal fact-finding procedures of the Virginia Administrative Process Act (§ 2.2-4019 et seq. of the Code of Virginia).

B. Certification procedural violations include:

1. Providing misleading, false, or fraudulent information in applying for a certificate;
2. Providing the department with any misleading, false, or fraudulent report;
3. Failing to ensure that land application of biosolids complies with permit requirements in accordance with 12 VAC 5-585-490 through 12 VAC 5-585-510 due to negligence of responsibilities by the certified land applicator;
4. Failing to promptly and accurately record observed permit noncompliance or, failure to promptly notify the permittee of observed permit noncompliance or, preventing access to inspect any land application site or, failure to provide required field records upon request, in accordance with this chapter; and
5. Conviction of a felony related in any way to the responsibilities of a certified land applicator.

VA.R. Doc. No. R05-69; Filed August 16, 2006, 10:01 a.m.



TITLE 13. HOUSING

VIRGINIA HOUSING DEVELOPMENT AUTHORITY

REGISTRAR'S NOTICE: The Virginia Housing Development Authority is exempt from the Administrative Process Act (§ 2.2-4000 et seq. of the Code of Virginia) pursuant to § 2.2-4002 A 4; however, under the provisions of § 2.2-4031, it is required to publish all proposed and final regulations.

Title of Regulation: 13 VAC 10-50. Rules and Regulations for Home Rehabilitation Loans. (repealing 13 VAC 10-50-10 through 13 VAC 10-50-100).

Statutory Authority: § 36-55.30:3 of the Code of Virginia.

Public Hearing Date: September 14, 2006 - 10 a.m.
Public comments may be submitted until 5 p.m. on September 14, 2006.

Agency Contact: J. Judson McKellar, Jr., General Counsel, Virginia Housing Development Authority, 601 South Belvidere Street, Richmond, VA 23220, telephone (804) 343-5540, FAX (804) 783-6701, toll free 1-800-968-7837, email judson.mckellar@vhda.com.

Summary:
The authority's rules and regulations for the home rehabilitation loan program are being repealed because the program authorized by such rules and regulations has been terminated.

VA.R. Doc. No. R06-331; Filed August 14, 2006, 9:49 a.m.

* * * * *

Proposed Regulations

Title of Regulation: ~~13 VAC 10-120. Rules and Regulations for the Virginia Housing Fund REACH Virginia (amending 13 VAC 10-120-10 through 13 VAC 10-120-80).~~

Statutory Authority: § 36-55-30:3 of the Code of Virginia.

Public Hearing Date: September 14, 2006 - 10 a.m.

Public comments may be submitted until 5 p.m. on September 14, 2006.

Agency Contact: J. Judson McKellar, Jr., General Counsel, Virginia Housing Development Authority, 601 South Belvidere Street, Richmond, VA 23220, telephone (804) 343-5540, FAX (804) 783-6701, toll free 1-800-968-7837, or e-mail judson.mckellar@vhda.com.

Summary:

The proposed amendments to the authority's rules and regulations for the Virginia Housing Fund will (i) include references to REACH Virginia that supersede the authority's Virginia Housing Fund and that provide increased funding for housing previously assisted by the authority through the Virginia Fund and (ii) make related technical changes.

CHAPTER 120.

RULES AND REGULATIONS FOR ~~THE VIRGINIA HOUSING FUND~~ REACH VIRGINIA.

13 VAC 10-120-10. Definitions.

"Application" or "proposal" means a written request to the authority by a prospective borrower for a loan or a written request to the authority by an applicant requesting the establishment of a loan program or other assistance under these rules and regulations.

~~"Fund" means the housing fund created by the authority from moneys in its general fund for the purposes set forth herein.~~

"Loan" means any extension of credit which is made or financed or is to be made or financed pursuant to these rules and regulations.

"Loan program" means any program requested to be developed or implemented by the authority for the purpose of providing loans pursuant to these rules and regulations.

"REACH Virginia" means the funding from the authority net assets that are dedicated to reduce the interest rates or otherwise provide housing subsidies under its programs.

"VHF" means the housing fund created by the authority in 1989 and continued through June 30, 2005, from moneys in its general fund.

13 VAC 10-120-20. Applicability and purpose.

The rules and regulations that follow will be applicable to loans or programs for loans which are made or financed or are proposed to be made or financed by the authority to borrowers who have presented proposals or applications for loans or loan programs from ~~the fund REACH Virginia.~~

The *principal* purpose of ~~the fund REACH Virginia~~ is to create new housing opportunities for lower income Virginians ~~through its operation as a special purpose revolving loan fund.~~ The highest priority is placed upon serving the elderly, disabled,

and homeless as well as families in need of affordable housing not otherwise being serviced by other housing programs. ~~The fund REACH Virginia~~ will also seek to provide support for comprehensive programs of neighborhood revitalization.

There will be special emphasis placed upon using ~~the fund REACH Virginia~~ to attract and leverage other housing aid of all kinds including, but not limited to, financial, in kind, tax incentives and subsidies. ~~The fund REACH Virginia~~ shall be used to encourage partnerships with both public and private interests including state agencies, localities and nonprofit organizations. The goal is to maximize the participation in, and resources devoted to, solving housing problems of lower income Virginians.

There will be an emphasis on creative uses of ~~the fund REACH Virginia~~ which will result in the most effective use of its resources and advancement of the state of the art in providing decent housing at an affordable cost to lower income Virginians.

Notwithstanding anything to the contrary herein, the executive director is authorized to waive or modify any provision herein, where deemed appropriate by him, for good cause, to the extent not inconsistent with the Act.

All reviews, analyses, evaluations, inspections, determinations and other actions by the authority pursuant to the provisions of these rules and regulations shall be made for the sole and exclusive benefit and protection of the authority and shall not be construed to waive or modify any of the rights, benefits, privileges, duties, liabilities or responsibilities of the authority, the borrower, any contractors or any other parties under any agreements or documents relating to the loan.

These rules and regulations are intended to provide a general description of the authority's processing requirements for loans or loan programs under ~~the fund REACH Virginia~~ and are not intended to include all actions involved or required in the processing and administration of such loans or loan programs. Because ~~the fund REACH Virginia~~ is an experimental venture, in order to refine and improve its implementation, it is the intention of the authority to be flexible in its interpretation of the principles set forth herein for loans or loan programs of special merit. These rules and regulations are subject to change at any time by the authority and may be supplemented by additional policies, rules and regulations adopted by the authority from time to time. The authority reserves the right to change the ~~size of the fund or its amount of funds available under REACH Virginia or their uses as~~ circumstances may reasonably dictate.

PART II.

PRINCIPLES GOVERNING ~~THE FUND~~ REACH VIRGINIA.

13 VAC 10-120-30. General principles.

~~The fund is a revolving loan fund. It is the authority's intent that repaid principal plus interest, less any loss of interest or principal in the event of default sustained by the fund, will be recycled and loaned to additional projects up to the full amount of the fund as approved by the board.~~

Project and program proposals will be given preference in the selection process to the extent they address the following:

1. Needs of the user group, which shall be primary;
2. Partnerships which maximize leveraging of ~~fund~~ REACH Virginia loans;
3. Extent to which the project is either innovative or demonstrates a possible "breakthrough" idea for serving lower income households or both;
4. Potential for the project to be replicable (i.e., demonstration);
5. Financial soundness and experience of the sponsor.

Proposals should seek to maximize the number of persons or projects which are served. Projects which highly leverage ~~fund~~ REACH Virginia moneys by attracting external subsidies and capital are encouraged.

The authority will seek an equitable geographic distribution of loans made from ~~the fund~~ REACH Virginia.

All loans to be made from ~~the fund~~ REACH Virginia shall comply with all applicable laws and regulations to which the authority is subject and with any rules and regulations of the authority applicable or to be applicable thereto and such other underwriting criteria as the executive director deems necessary to protect the interests of the authority as lender.

13 VAC 10-120-40. Terms of loans.

~~For~~ Thirty-five years shall be the maximum loan term, although longer amortization schedules may be utilized.

13 VAC 10-120-50. Interest rates.

The interest rate on loans shall be determined ~~pursuant to a schedule and criteria established~~ from time to time by a ~~resolution of the board~~ the authority. Such interest rates are expected to be significantly lower than those which would be available from other sources and, at the same time, will provide continuing support for the authority's currently outstanding and future bond issues. The authority realizes that loans will have significantly higher risks than alternative investments and will have little or no liquidity. If deemed necessary, all or a portion of the ~~interest~~ principal payments on loans may be deferred by the authority.

13 VAC 10-120-60. Solicitation of applications and proposals.

The executive director may from time to time take such action as he may deem necessary or proper in order to solicit proposals or applications for ~~the fund~~ REACH Virginia. Such actions may include advertising in newspapers and other media, mailing of information to prospective applicants and other members of the public, and any other methods of public announcement which the executive director may select as appropriate under the circumstances. The executive director may impose requirements, limitations and conditions with respect to the submission and selection of applications and proposals as he shall consider necessary or appropriate. The executive director may cause market studies and other research and analyses to be performed in order to determine the manner and conditions under which available moneys in ~~the fund~~ REACH Virginia are to be allocated and such other matters as he shall deem appropriate relating to the selection

of applications and proposals or the establishment of programs. The authority may also consider and approve applications and proposals submitted from time to time to the authority without any solicitation therefor on the part of the authority.

13 VAC 10-120-70. Authority programs under ~~the fund~~ REACH Virginia.

Programs may be designed and operated by the authority if they are innovative, cannot currently be conventionally funded, or may serve as models for future state or bond funding.

13 VAC 10-120-80. Application and selection for processing.

Application for a loan or loan program shall be commenced by filing with the authority an application or proposal on such form or forms as the executive director may from time to time prescribe, together with such documents and additional information as may be requested by the authority.

Based on the applications, proposals, documents and any additional information submitted by applicants or obtained from other sources ~~by the authority, a subcommittee of the board,~~ the authority shall select for processing those applications and proposals which it determines may best satisfy the purposes and principles of ~~the fund~~ REACH Virginia set forth in 13 VAC 10-120-20 and 13 VAC 10-120-30 hereof.

Nothing contained herein shall require the authority to select any application or proposal which, in the judgment of the ~~subcommittee of the board~~ authority, does not adequately satisfy the purposes and principles of ~~the fund~~ REACH Virginia set forth in 13 VAC 10-120-20 and 13 VAC 10-120-30 hereof.

The selection by the ~~subcommittee of the board~~ authority shall be based only on the documents and information received or obtained by it at that time and shall be subject to modification or reversal upon receipt and further analysis of additional documents or information at a later time.

After selection of an application or proposal for a loan has been made by the ~~subcommittee of the board~~ authority, such application will then be processed by the authority in accordance with ~~the authority's one or both of the following:~~ (i) any applicable rules and regulations of the authority or, ~~if no such rules and regulations are applicable, in accordance with~~ (ii) such written agreement or agreements with the applicant as the executive director may require to effect the purposes and principles hereof and to protect the authority's interest as lender.

After selection of an application or proposal for a loan program has been made by the ~~subcommittee of the board~~ authority, the authority may implement such program by ~~one or more of the following:~~ (i) applying any ~~then~~ applicable existing rules and regulations of the authority, (ii) promulgating new rules and regulations therefor, or (iii) entering into such written agreement or agreements with the applicant or proposed borrowers ~~or both~~ as the executive director may require consistent with the purposes and principles hereof and the authority's interest as lender.

Online Education.³ Thus, for the person only interested in taking the online courses, it is less costly to take the courses as a non-member and not pay the annual membership fee. Unlike in-person continuing education, online courses do not involve hotel and travel costs.

The least cost method of satisfying the proposed education requirement depends on whether or not the auctioneer lives near where VAA or other onsite providers offer courses. An auctioneer who lives near where onsite board-approved classes are offered would not need to pay for a hotel and would have minimal travel costs. Such an individual could potentially satisfy the requirement by paying about \$50 in fees,⁴ plus the minimal travel costs. For an individual that does not live near where onsite auctioneer continuing education classes are provided, it may be less costly to take the courses online. As described above, the requirement can be satisfied by taking online courses costing \$250 in fees. Since there are no hotel and travel costs⁵ associated with online courses, the \$250 in fees for online courses will likely be less than the cost of taking in-person continuing education for many auctioneers.

The board estimates that as many as 430 auctioneers will choose to give up their license as a result of the continuing education requirement. Historically, the department has found that 30% to 35% of licensees choose not to renew when continuing education requirements are first required for professional licensure. Given that there are currently about 1,380 individuals licensed as auctioneers in Virginia, the board estimate of 430 represents 31% of auctioneers choosing not to renew their license. Since the proposal for continuing education is only six hours over two years, less than for most other professions with continuing education requirements, the estimate that 430 auctioneers will choose to forego licensure may be high. On the other hand, the department believes there are many part-time auctioneers for whom the time and monetary cost of acquiring continuing education will be enough to discourage them from maintaining their licensure.

According to the department, there have been very few (if any) problems with auctioneers due to lack of knowledge. The small number of problems with auctioneers have been due to dishonesty rather than insufficient knowledge. Thus, there does not appear to be a great need for required continuing education in order to protect the public. Though individual auctioneers may find continuing education courses worthwhile, the benefit of requiring continuing education for auctioneers appears to be small.

Businesses and entities affected. The proposed changes will affect auctioneers and organizations that offer continuing education courses for auctioneers. According to the department, there are approximately 1,380 individuals licensed as auctioneers in Virginia.

³ The standard membership rate is \$200.

⁴ The \$50 estimate is based on an individual attending two VAA spring meetings. Since VAA does hold their meetings at different locations in different years, it may be unlikely that an auctioneer will live near the spring meeting location in two consecutive years. But course providers other than VAA may very well offer board approved-continuing education courses at other Virginia locations.

⁵ Travel costs include the value of time spent traveling, in addition to airfare, gas, etc.

Localities particularly affected. The proposed regulations affect all Virginia localities.

Projected impact on employment. The proposed changes will increase demand for auctioneer continuing education courses. Consequently, there may be a small increase in employment for organizations that offer auctioneer continuing education courses.

The costs, in time and dollars, of acquiring continuing education may be enough to discourage some part-time auctioneers from renewing their license. These costs are not likely large enough to discourage full-time auctioneers from renewing their license and continuing with their career.

Effects on the use and value of private property. The increased costs associated with the proposed required continuing education will correspondingly lower the new worth of those auctioneers who would not have met the requirement otherwise. Some part-time auctioneers will likely choose not to renew their license.

The proposed amendments will increase demand for auctioneer continuing education courses. This will result in an increase in value of organizations that offer these courses.

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

Summary:

The proposed amendments implement a mandatory continuing education program for the renewal and reinstatement of auctioneer licenses as required by Chapter 956 of the 2004 Acts of Assembly.

CHAPTER 21.
RULES AND REGULATIONS OF THE VIRGINIA
AUCTIONEERS BOARD.

18 VAC 25-21-80. Notice of renewal.

The Department of Professional and Occupational Regulation will mail a renewal notice to the licensee outlining the amount due and procedures for renewal. Failure to receive this notice shall not relieve the individual or firm licensee of the obligation to renew.

Licenses issued under this chapter shall be issued for a two-year period. Each license holder, corporation or firm shall be required to renew the license by submitting the proper fee made payable to the Treasurer of Virginia, with verification of current surety bond coverage as detailed in 18 VAC 25-21-30 of this chapter. *In addition, individual license holders applying for renewal are required to certify that they comply with the continuing education requirements as contained in this chapter.*

18 VAC 25-21-90. Failure to renew.

A. Any individual or firm licensee who fails to renew a license within 30 days after the license expires, shall be required to pay a late renewal fee.

B. Any individual or firm licensee, including individuals initially licensed pursuant to § 54.1-603 A of the Code of Virginia, who fails to renew his license within six calendar months after the expiration date of the license shall be required to apply for

Proposed Regulations

reinstatement of the license. The applicant shall submit to the Department of Professional and Occupational Regulation a reinstatement application and fee and comply with the following paragraph.

If the license has expired for six months or more, but less than two years, the applicant shall be required to submit a reinstatement application, which shall be evaluated by the board to determine if the applicant meets the renewal requirements. *In addition, individual license holders applying for reinstatement are required to provide evidence of compliance with the continuing education requirements as contained in this chapter.* A license that is reinstated shall be deemed as having been continuous without interruption. Nothing in these regulations shall divest the board of its authority to discipline a license holder for a violation of the law or regulation during the period of time for which the regulant was licensed.

C. If the license has expired for two years or more, the applicant shall be required to submit a new application and meet current entry requirements that are in effect as of the date the application is received by the board office. The applicant shall be required to submit the examination fee and sit for and pass the Virginia Licensed Auctioneer's Examination or comply with the provisions contained in 18 VAC 25-21-40. Any auctioneering activity conducted between the time the previous license expired and the effective date of the new license shall be considered unlicensed activity.

D. The date the *complete* renewal application, *including fees and all required documentation*, is received by the Department of Professional and Occupational Regulation or its agent will determine whether a license will be renewed without penalty or will be subject to reinstatement requirements.

E. Auctioneer individual and firm licenses issued under this regulation shall expire 24 months from the last day of the month in which the license was issued ~~as indicated on the license~~. *The expiration date of the license will be included on the license.*

18 VAC 25-21-180. Discipline.

A. The board has the power to fine any individual or firm licensee, or to suspend or revoke any license issued under the provisions of Chapter 6 (§ 54.1-600 et seq.) of Title 54.1 of the Code of Virginia and the regulations of the board pursuant to the provisions of the Administrative Process Act (§ 2.2-4000 et seq. of the Code of Virginia) if it finds that:

1. The license was obtained ~~or~~, renewed or reinstated through fraud or misrepresentation;
2. The licensed auctioneer or firm has been found guilty by a court of any criminal offense or material misrepresentation in the course of performing auctioneer duties. A certified copy of a final order, decree or case decision by a court with the lawful authority to issue such order shall be admissible as prima facie evidence of such conviction or discipline;
3. The licensed auctioneer or firm has been found by any regulatory board or agency to have violated any applicable regulations or laws in the course of performing auctioneer duties. A certified copy of a final order, decree or case

decision by a court or regulatory agency with the lawful authority to issue such order shall be admissible as prima facie evidence of such conviction or discipline;

4. The licensed auctioneer or firm has not demonstrated reasonable care, judgment, or application of his knowledge and ability in the performance of auctioneering duties;

5. The license auctioneer or firm violated or induced another person to violate any provisions of Chapters 1, 2, 3, or 6 of Title 54.1 of the Code of Virginia, or any provision of this chapter; ~~or~~

6. The licensee, auction firm, or firm owner refuses or fails, upon request or demand, to produce to the board or any of its agents any document, book, or copy thereof in licensee's or owner's possession concerning the performance of auctioneering duties; ~~or~~

7. The licensee fails to comply, or misrepresents any information pertaining to his compliance, with any of the continuing education requirements as contained in this chapter.

B. The board, in its discretion, may refuse to grant ~~or~~, renew or reinstate a license ~~of any person~~ for any of the reasons specified in subsection A of this section.

PART VII. CONTINUING EDUCATION REQUIREMENTS.

18 VAC 25-21-230. Application and criteria for course approval.

A. *Course providers seeking approval of their continuing education course shall file an application with the board office. All continuing education course providers shall obtain approval from the board office prior to offering to provide, or providing, a course that is advertised or represented as being eligible to comply with the continuing education provisions of this chapter. Retroactive approval of continuing education courses shall not be permitted.*

Continuing education courses shall be approved provided the following criteria are met:

1. *Course subjects must be related to the current practice of auctioneering and have defined learning objectives.*
2. *At the end of the course each attendee must be assessed to verify that they have achieved the defined learning objectives.*
3. *The course curriculum must be consistent with the defined learning objectives.*
4. *The method of instruction must be consistent with the defined learning objectives of the course.*
5. *Course instructors must be competent in the subject being taught, either by education or experience, and in instructional techniques.*
6. *Fifty contact minutes shall equal one continuing education credit hour. No credit shall be awarded for partial continuing education credit hours or partial completion of the course. In addition, attendees who fail to demonstrate successful completion of the defined learning objectives of*

the course shall not be awarded credit for the course. For courses in which individual segments are less than 50 minutes, the sum of the segments shall be totaled for computation of continuing education credit hours.

7. The course provider certifies that the laws, regulations, and industry practices that will be taught or utilized in the course are up to date and that any subsequent changes in laws, regulations, or industry practices will be incorporated into the course curriculum as they occur.

8. The course provider certifies that they will comply with provisions of this chapter in administering and providing the approved course.

B. Pursuant to § 54.1-603.1 A of the Code of Virginia, continuing education courses completed by an auctioneer pursuant to a requirement of the Certified Auctioneer's Institute or participation in the educational programs sponsored by the National Auctioneer's Association or Virginia Auctioneer's Association are approved.

18 VAC 25-21-240. Administration of courses.

A. Approved course providers shall comply with the requirements of this chapter when providing approved courses. Failure of a course provider to comply with the board's requirements contained in 18 VAC 25-21-230 or any other provision of this chapter at any time after receiving approval from the board may result in the board withdrawing its approval for a course or a specific offering or offerings of the course.

B. Course approval is not transferable from the course provider to whom it was originally issued.

C. The approved course providers shall award a certificate of completion to those attendees who successfully complete the course that includes the sponsor identification number of the course provider issued by the board office, name of the course, number of continuing education credit hours awarded, and the date of the course. Course providers shall only award continuing education credit hours in the amount as approved.

D. Attendance must be verified and documented at the beginning and end of the course and monitored during the course. No credit may be awarded to attendees who arrived late, left early, or missed a portion of the course or failed to accomplish the learning objectives of the course. Further, such individuals shall not be awarded a certificate of completion by the course provider.

E. At the end of each course, the course provider shall solicit feedback from the attendees to assess the effectiveness of the course, course content, course curriculum, instructor, and method of instruction. The course provider shall monitor the feedback from the attendees and make adjustments as warranted.

F. All records related to an approved course must be maintained for four years from the date of the course and such records shall be provided to the board or its duly authorized agents upon request. Records that must be maintained include, but are not limited to, time, date and location of the course; course materials; course curriculum; instructor; instructor qualifications; learning objectives; assessment of

attendees for verification of achievement of the learning objectives; end of course feedback from attendees; attendance rosters; and records of those attendees who successfully completed the course and those who did not and reasons why attendees noted as not successfully completing the course did not successfully complete the course.

18 VAC 25-21-250. Continuing education requirements for renewal or reinstatement.

A. Individuals whose licenses expire, or apply to reinstate, after [DATE - 6 months after the effective date of these regulations] shall be required to comply with the continuing education provisions of this chapter.

B. Individuals are required to complete at least six continuing education credit hours of board-approved continuing education courses for any license renewal or reinstatement.

C. 1. Each individual applying for renewal shall certify that he has met the continuing education requirements of this chapter. Only continuing education courses completed during the license period immediately prior to the expiration date of the license shall be acceptable in order to renew the license.

2. Individuals shall maintain records of completion of continuing education credit hours for two years from the date of expiration of the license for which the continuing education credit hours are being used to renew the license. Individuals shall provide such records to the board or its duly authorized agents upon request.

3. Continuing education credit hours utilized to satisfy the continuing education requirements to renew a license shall be valid only for that renewal and shall not be accepted for any subsequent renewal cycles or reinstatement.

D. 1. Each individual applying for reinstatement shall provide, as part of his reinstatement application, evidence of compliance with the continuing education requirements of this chapter. The completion date of continuing education courses submitted in support of a reinstatement application shall not be more than two years old as of the date a complete reinstatement application is received by the board.

2. Continuing education credit hours utilized to satisfy the continuing education requirements in order to reinstate a license shall be valid only for that reinstatement and shall not be accepted for any subsequent renewal cycles or reinstatement.

E. Notwithstanding the provisions of subsection C of this section, continuing education hours earned during a licensing renewal cycle to satisfy the continuing education requirements of the preceding licensing renewal cycle shall be valid only for that preceding license renewal cycle and shall not be accepted for any subsequent renewal cycles or reinstatement.

18 VAC 25-21-260. Exemptions and waivers.

Pursuant to § 54.1-603.1 B of the Code of Virginia, the board may grant exemptions or waive or reduce the number of continuing education hours required in cases of certified illness or undue hardship. However, such exemptions, waivers, or reductions shall not relieve the individual of his obligation to comply with any other requirements of this chapter, including but

Proposed Regulations

not limited to the provisions of 18 VAC 25-21-80 or 18 VAC 25-21-90.

18 VAC 25-21-270. Amendments and changes.

Any change in the information provided by a course provider to the board as required by 18 VAC 25-21-230 A, or 18 VAC 25-21-280 or change in ability to comply with the requirements of 18 VAC 25-21-240 shall be reported to the board in writing within 10 days of such an occurrence. In instances of noncompliance with the provisions of this chapter, the approval of the course is automatically suspended until such time as the course provider corrects the deficiency and notifies the board in writing that such deficiency has been corrected.

18 VAC 25-21-280. Periodic requalification for continued course approval.

At times established by the board, the board may require that course providers that have previously obtained course approval provide the board with evidence, in a form set forth by the board, that they continue to comply with the requirements of 18 VAC 25-21-230 A and 18 VAC 25-21-240. Failure to continue to comply with the board's requirements or respond to such a request may result in the board withdrawing its approval.

NOTICE: The forms used in administering 18 VAC 25-21, Regulations of the Virginia Auctioneers Board, are not being published; however, the name of each form is listed below. The forms are available for public inspection at the Department of Professional and Occupational Regulation, 3600 West Broad Street, Richmond, Virginia, or at the office of the Registrar of Regulations, General Assembly Building, 2nd Floor, Richmond, Virginia.

FORMS

License By Examination Application, 29EXLIC (rev. ~~4/18/00~~ 2/05)

~~License By Reciprocity & Reinstatement Application, 29F&RLIC (4/18/00)~~

Auctioneer Surety Bond Form, 29IBOND (rev. ~~4/18/00~~ 1/04)

Firm License Application, 29FIRM (rev. ~~4/18/00~~ 6/06)

Auction Firm Surety Bond Form, 29FBOND (rev. ~~4/18/00~~ 1/04)

Application Supplement (States with Approved Reciprocal Agreements and Virginia Approved Auctioneering Schools), 29ST&SCL (rev. ~~8/27/04~~ 7/06)

Application for Training Course Approval, 29CFS (rev. ~~3/2/04~~ 1/04)

License By Reciprocity Application, 29REC (7/06)

Application for Continuing Education Training Course Approval, 29CEC (8/06)

License Reinstatement Application, 29REI (8/06)

Examination Site Conduct Agreement (10/04)

VA.R. Doc. No. R04-278; Filed August 16, 2006, 9:53 a.m.

CEMETERY BOARD

Title of Regulation: **18 VAC 47-20. Cemetery Board Rules and Regulations (amending 18 VAC 47-20-10; adding 18 VAC 47-20-35, 18 VAC 47-20-250, 18 VAC 47-20-260, 18 VAC 47-20-270; repealing 18 VAC 47-20-240).**

Statutory Authority: §§ 54.1-201 and 54.1-2313 of the Code of Virginia.

Public Hearing Date: October 17, 2006 - 10:30 a.m.

Public comments may be submitted until November 3, 2006.

(See Calendar of Events section for additional information)

Agency Contact: Christine Martine, Executive Director, Department of Professional and Occupational Regulation, 3600 West Broad Street, Richmond, VA 23230, telephone (804) 367-8552, FAX (804) 367-6946, or e-mail cemetery@dpor.virginia.gov.

Basis: Section 54.1-2313 D of the Code of Virginia states in part that the board shall have the power and duty to regulate preneed burial contracts and perpetual care trust fund accounts and regulate sales personnel.

Section 54.1-2313 E of the Code of Virginia states in part that the board shall adopt such other regulations it deems appropriate. Section 54.1-201 E of the Code of Virginia states in part that regulatory boards shall promulgate regulations in accordance with the Administrative Process Act necessary to assure continued competence, to prevent deceptive or misleading practices by practitioners and to effectively administer the regulatory system administered by the regulatory board. The regulation is mandatory to implement Chapters 192 and 247 of the 2004 Acts of Assembly.

Purpose: The new regulation establishes qualifications and standards of conduct for compliance agents employed by cemetery companies as well as standards of approval for training courses for compliance agents. It also provides a mechanism for protection of the perpetual care and preneed trust funds. The new regulation is necessary to implement Chapters 192 and 247 of the 2004 Acts of Assembly. By providing a mechanism for protection of the trust funds and establishing qualifications and standards for compliance agents and training, compliance agents and the public they deal with know what is expected of them and they will be less likely to engage in improper or dishonest conduct therefore providing protection of the public's health, safety and welfare. The goal of the regulation is to establish qualifications and standards of conduct for compliance agents in accordance with Chapter 247 and to provide a mechanism for protection of the trust funds and appointment of a receiver in accordance with Chapter 192.

Substance: These regulations are necessary to implement Chapters 192 and 247 of the 2004 Acts of Assembly, which were the result of HB 857 and SB 303, and to establish the qualifications and standards therein mandated.

The regulations provide:

1. Definitions of terms to be used in the regulations;

2. Qualifications for compliance agents and designees;
3. Standards for protection of perpetual care and preneed trust funds;
4. Standards of conduct for compliance agents and designees; and
5. Requirements for training courses.

Issues: The primary advantage to the public and the agency is that the people will know what is expected of compliance agents and those who go through the training become more aware of the Cemetery laws and regulations and will be less likely to engage in behavior that may result in a complaint. Also, it provides a mechanism for the board to initiate legal proceedings to protect the perpetual care and preneed trust funds from wrongful acts by licensees thereby protecting the public.

The regulatory action poses no known disadvantages to the public or the Commonwealth.

Department of Planning and Budget's Economic Impact Analysis:

Summary of the proposed amendments to regulation. Pursuant to Chapter 247 of the 2004 Acts of the General Assembly, the Cemetery Board (board) proposes to establish qualifications and standards of conduct for compliance agents employed by cemetery companies. Proposed qualification requirements include two years experience in the cemetery business and successful completion of a board-approved training course. The proposed regulations also include required topics for the board-approved training course. Additionally, the board proposes to reiterate in these regulations language concerning the protection of perpetual care and pre-need trust funds that was added to the Code of Virginia (§ 54.1-2313.1) pursuant to Chapter 192 of the 2004 Acts of Assembly.

Result of analysis. There is insufficient data to accurately compare the magnitude of the benefits versus the costs. Detailed analysis of the benefits and costs can be found in the next section.

Estimated economic impact. Chapter 247 of the 2004 Acts of Assembly adds language to § 54.1-2313 of the Code of Virginia stating that the board shall "regulate and establish qualifications and standards of conduct for compliance agents employed by a cemetery company ..." According to § 54.1-2310, "compliance agent" means a natural person who owns or is employed by a cemetery company to assure the compliance of the cemetery company with the provisions of this chapter (i.e., Title 54.1, Chapter 23.1 of the Code of Virginia)." The current regulations do not address qualifications and standards of conduct for compliance agents. The board proposes, among other requirements,¹ that applicants have two years experience in the cemetery business and have successfully completed a board-approved training course.

¹ Other requirements include a minimum age of 18, that the applicant be an employee or principal of the cemetery company, information disclosure, and certification that the applicant understands and will comply with the law.

The Department of Professional and Occupational Regulation (department) knows of two organizations that plan to offer a board approved training course: the Virginia Cemetery Association and the Virginia Community College System, Community Workforce Alliance. The Virginia Cemetery Association will charge \$125 for their upcoming compliance agent training course. The Association is considering offering the training course for free at future annual meetings. The annual dues for Virginia Cemetery Association membership are \$200 plus \$1 per burial. The Association will also likely offer the course at other times of the year if there is sufficient demand. The Association would likely charge just enough to cover their costs at such times.² The Virginia Community College System, Community Workforce Alliance is charging \$165 for their upcoming compliance agent training course. According to Leonard Sledge of the Virginia Community College System, the training course will be offered at community colleges throughout the state.³ Compliance agents will also incur transportation and time costs⁴ associated with attending the required training course.

The proposed regulations specify that "The training program shall include, but is not limited to the following topics:

1. Cemetery Board statute and regulations;
2. Perpetual care trust fund requirements;
3. Preneed trust fund requirements;
4. Preneed burial contracts;
5. Interment records;
6. General price list;
7. Itemized statement of goods and services provided;
8. Advertising;
9. Solicitation;
10. Funeral rule; and
11. Proper care, maintenance, administration and embellishment of the cemetery."

The proposed regulations also specify that the training course be at least eight hours and include testing procedures for students to demonstrate understanding of the required topics.

According to the department, there have been a number of instances where trust funds have been mishandled, likely out of misunderstanding of proper procedures rather than dishonesty. Such mishandling can result in the loss of hundreds of dollars.⁵ Thus there are potential benefits from requiring that compliance agents take such training and demonstrate understanding. Data are not currently available to estimate the likely reduction in frequency and dollar value of

² Source: Virginia Cemetery Association

³ Source: Virginia Department of Professional and Occupational Regulation

⁴ Time spent at training and traveling to and from training could have been used on other activities if the training course requirement did not exist. Compliance agents lose the value of the work or leisure that is lost due to the time spent at training and traveling to and from training.

⁵ Ibid

Proposed Regulations

problems in mishandling of trust funds and other areas due to the required training. Therefore an accurate comparison of the magnitude of the benefits versus the costs cannot currently be made.

According to the department, "compliance agents who stay at the cemetery company where they are currently affiliated will be grandfathered for that cemetery company and will not have to take the training. However, if this person goes to another cemetery company, he/she will need to take the training." As was discussed above, it is not clear whether or not the benefits of the required training exceed the costs; but if it is not worthwhile for a compliance agent who stays at the cemetery company where he is currently affiliated to take the training, there is no reason to believe that it will become worthwhile if he goes to another cemetery company. In other words, if the costs exceed the benefits of required training for a compliance agent who stays at the cemetery company where he is currently affiliated, there is no reason to believe that the benefits will exceed the costs of required training for that same compliance agent if he goes to another cemetery company.

Exempting compliance agents who stay at the cemetery company where they are currently affiliated from the costs of the training requirement, while imposing these costs on the same compliance agents if they change employers, will to some undetermined degree discourage compliance agents from considering positions with other employers. This may produce a small reduction in potential market salaries for compliance agents.

Businesses and entities affected. Cemeteries, their employees, and their clients are affected by the proposed regulations. The Virginia Employment Commission has 153 firms listed as cemeteries or crematoriums, all of which qualify as small businesses. The Department of Professional and Occupational Regulations reports that the Cemetery Board regulates 1,100 individuals and 93 companies.

Localities particularly affected. The proposed regulations affect all cemeteries throughout the Commonwealth.

Projected impact on employment. The proposed regulations will to some undetermined degree discourage cemetery compliance agents from considering positions with other employers.

Effects on the use and value of private property. Costs for future compliance agents moderately increase with the proposed training course requirement. The effective increase in cost for a compliance agent to switch employers will reduce the potential for turnover in cemetery company compliance agent staffing.

Small businesses: costs and other effects. The proposed requirement for compliance agent training course completion will moderately increase costs for compliance agents and perhaps their employers who may seek to offset some of that cost.

Small businesses: alternative method that minimizes adverse impact. One potential alternative that could reduce some adverse impact would be to permit compliance agents to test out of training.

Legal mandate. 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. Further, if the proposed regulation has an adverse effect on small businesses, § 2.2-4007 H requires that such economic impact analyses include (i) an identification and estimate of the number of small businesses subject to the regulation; (ii) the projected reporting, recordkeeping, and other administrative costs required for small businesses to comply with the regulation, including the type of professional skills necessary for preparing required reports and other documents; (iii) a statement of the probable effect of the regulation on affected small businesses; and (iv) a description of any less intrusive or less costly alternative methods of achieving the purpose of the regulation. The analysis presented above represents DPB's best estimate of these economic impacts.

Agency's Response to the Department of Planning and Budget's Economic Impact Analysis: The agency agrees in part with the EIA and disagrees in part. In the Localities Particularly Affected section it states the proposed regulations affect all cemeteries throughout the Commonwealth. The regulations will only affect licensed cemetery companies in the Commonwealth. Section 54.1-2312 of the Code of Virginia lists exemptions from licensure and most cemeteries in Virginia fall within one of the exemptions. The education required by the proposed regulations will benefit all parties. Once a person completes the board-approved training, he will have a better understanding of what the laws and regulations governing cemetery companies require. Therefore, the person will be less likely to violate the laws and regulations. Further, a person will only have to take the training one time. If that person chooses to go to another employer, he only needs to show proof of completion of the board-approved training.

Summary:

To conform the regulations with Chapters 192 and 247 of the 2004 Acts of Assembly, the proposed amendments establish qualifications and standards of conduct for compliance agents employed by cemetery companies and add a section on protection of perpetual care and preneed trust funds.

18 VAC 47-20-10. Definitions.

The following words and terms when used in this chapter shall have the definitions ascribed to them in § 54.1-2310 of the Code of Virginia or shall have the following meanings, unless the context clearly indicates otherwise:

"Administration" means the cost to administer and maintain records required by Chapter 23.1 (§ 54.1-2310 et seq.) of Title

54.1 of the Code of Virginia or any regulation of the board, including a percentage of compensation of employees, payment of insurance premiums, reasonable payments for employees' pension and other benefit plans, and costs of maintaining cemetery company and sales personnel compliance with the board's licensure and registration requirements.

"Approved training program" means a training program that has been approved by the board to provide training for individuals to act as a compliance agent or compliance agent designee.

"Change in ownership" means a change in 50% or more of the stockholders or partnership interest, or both, of a cemetery company.

"Compliance agent designee" means an individual who shall be designated by the cemetery company to assure the compliance of the cemetery company with the provisions of Chapter 23.1 (§ 54.1-2310 et seq.) of Title 54.1 of the Code of Virginia and this chapter when the compliance agent is not available to supervise the activities of any of its affiliated cemeteries.

"Experience" means supervisory experience with a cemetery company as defined in § 54.1-2310 of the Code of Virginia.

"Licensee" means any person licensed by the board as a cemetery company.

"Moral turpitude" means, but is not limited to, lying, cheating or stealing.

"Outer burial container" means any container which is designed for placement in the grave around the casket including, but not limited to, containers commonly known as burial vaults or grave boxes and grave liners.

"Perpetual care" means continuing care, maintenance, administration and embellishment of the cemetery.

"Preneed trust fund" means those moneys held in accordance with § 54.1-2325 of the Code of Virginia.

"Principal" means the following individuals:

1. The sole proprietor of a sole proprietorship.
2. The partners of a general partnership.
3. The managing partners of a limited partnership.
4. The officers of a corporation as registered with the State Corporation Commission.
5. The managers of a limited liability company.
6. The officers or directors of an association.

"Registrant" means any natural person registered with the board as sales personnel.

"Sales personnel" means any natural person employed by or affiliated as an independent contractor with a licensed cemetery company who deals with the public in the sale or offering for sale of any property or services enumerated in the definition of "cemetery company" contained in § 54.1-2310 of the Code of Virginia.

"Services" means any act or activity by the cemetery company in relation to arranging, supervising, interring or disposing of the remains or commemorating the memory of deceased human beings.

18 VAC 47-20-35. Qualifications for compliance agents and designees.

A. Every applicant for compliance agent or designee shall have the following qualifications:

1. Be at least 18 years old;
2. Have two years experience in the cemetery business and have successfully completed a board approved training course; and
3. Be a full time employee of the cemetery company or is a principal.

B. The applicant shall disclose any current or previous licenses/registrations from Virginia or in any other jurisdictions, and any disciplinary actions taken against those licenses/registrations. This includes, but is not limited to, any monetary penalties, fines or disciplinary actions taken by any federal, state or local regulatory agencies. The board, at its discretion, may deny approval of the compliance agent or designee based upon disciplinary actions by any jurisdiction.

C. The applicant shall disclose any conviction or finding of guilt, regardless of adjudication, in any jurisdiction of the United States of any misdemeanor involving moral turpitude or any felony, there being no appeal pending therefrom or the time for appeal having elapsed. Any plea of nolo contendere shall be considered a conviction for purposes of this subsection. The record of conviction, finding or case decision shall be considered prima facie evidence of a conviction or finding of guilt. The board, at its discretion, may deny approval of the compliance agent or designee in accordance with § 54.1-204 of the Code of Virginia.

D. The applicant shall certify that he understands and will comply with all the laws of Virginia related to cemetery company licensure under the provisions of Chapter 23.1 (§ 54.1-2310 et seq.) of Title 54.1 of the Code of Virginia and this chapter.

18 VAC 47-20-240. Execution of contracts for licensees whose licenses have been suspended or revoked. (Repealed.)

~~In the event a license has been suspended or revoked and the licensee is a party to a preneed burial contract which must be executed at need, the board may file a petition for appointment of a receiver with any court of record having equity jurisdiction over the licensee. The petition shall be necessary to ensure execution of the contract including the appointment of a receiver. If a receiver is appointed, the licensee, as determined by the court, shall pay his expenses and a reasonable fee.~~

18 VAC 47-20-250. Compliance agent or designee conduct.

Each cemetery company and cemetery affiliated with a cemetery company shall be supervised by a compliance agent

Proposed Regulations

or designee. The compliance agent or designee shall exercise reasonable and adequate supervision of the provision of services by employees of the cemetery company. Factors to be considered in determining whether the supervision is reasonable and adequate include, but are not limited to, the following:

1. The availability of the compliance agent or designee to all cemetery company employees and to the public to answer questions within a reasonable time pertaining to the operation of the cemetery company.
2. The availability of training and written procedures and policies that provide, without limitation, clear guidance in the following areas:
 - a. Required deposits for the perpetual care trust fund;
 - b. Required deposits for the preneed trust fund;
 - c. Proper handling of preneed burial contracts;
 - d. Proper handling of deposits to the perpetual care trust fund;
 - e. Proper handling of deposits to the preneed trust fund;
 - f. Interment records;
 - g. Itemized statement of goods and services provided;
 - h. General price list;
 - i. Advertising;
 - j. Solicitation;
 - k. Proper care, maintenance, administration and embellishment of the cemetery;
 - l. Such other matters as necessary to assure the competence of licensees and registrants to comply with this chapter and Chapter 23.1 (§ 54.1-2310 et seq.) of Title 54.1 of the Code of Virginia.

18 VAC 47-20-260. Protection of perpetual care and preneed trust funds.

In the event that preneed or perpetual care funds are held in trust and the board or any of its agents have reason to believe that (i) the licensee or any agent of the licensee has diverted or misused any funds held in trust; (ii) the licensee is not able to adequately protect the interest of the person involved; (iii) the licensee's conduct or the operation of the cemetery company threatens the interests of the public; or (iv) the licensee has had its license suspended, revoked or surrendered, the board may initiate legal proceedings in accordance with § 54.1-2313.1 of the Code of Virginia.

18 VAC 47-20-270. Standards of approval of training course.

All training courses shall be approved by the board. The training course shall be at least eight hours and include appropriate testing procedures to demonstrate an understanding of the topics. The training program shall include, but is not limited, to the following topics:

1. Cemetery Board statute and regulations;

2. Perpetual care trust fund requirements;
3. Preneed trust fund requirements;
4. Preneed burial contracts;
5. Interment records;
6. General price list;
7. Itemized statement of goods and services provided;
8. Advertising;
9. Solicitation;
10. Funeral rule; and
11. Proper care, maintenance, administration and embellishment of the cemetery.

NOTICE: The forms used in administering 18 VAC 47-20, Cemetery Board Rules and 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 Professional and Occupational Regulation, 3600 West Broad Street, Richmond, Virginia, or at the office of the Registrar of Regulations, General Assembly Building, 2nd Floor, Richmond, Virginia.

FORMS

- Compliance Agent/Director/Officer Change Form, ~~GCADOCHG (eff. 7/1/00)~~ 49ADOCHG (eff. 7/05).
- Cemetery Addition Form, 49CADD (eff. 1/06).
- Cemetery Company License Application, 49LIC (eff. 1/06).
- New Trustee/Transfer of Funds Notification Form, ~~CCNEWTR (eff. 7/1/00)~~ 49NEWTR (eff. 7/05).
- Perpetual Care Trust Fund Financial Report Instructions, ~~CCPCTINS (eff. 7/1/00)~~ 49PCTINS (eff. 7/03).
- Perpetual Care Fidelity Bond Form, ~~CCPCFBND (eff. 7/1/00)~~ 49PCFBND (eff. 7/05).
- Perpetual Care Trust Fund Financial Report, ~~CCPCTFR (eff. 7/1/00)~~ 49PCTFR (eff. 7/05).
- Perpetual Care Trust Fund Financial Report-Schedule A (Statement of Receipts and Expenses), ~~CCPCTFRA (eff. 7/1/00)~~ 49PCTFRA (eff. 7/05).
- Perpetual Care Trust Fund Financial Report-Schedule B (Statement of Required Deposits), ~~CCPCTFRB (eff. 7/1/00)~~ 49PCTFRB (eff. 7/05).
- Perpetual Care Trust Fund Financial Report-Schedule C (Statement of Expenses Incurred for the General Care, Maintenance, Embellishment and Administration of Cemeteries), ~~CCPCTFRC (eff. 7/1/00)~~ 49PCTFRC (eff. 7/05).
- Perpetual Care Trust Fund Financial Report-Schedule D (Statement of Investment Securities), ~~CCPCTFRD (eff. 7/1/00)~~ 49PCTFRD (eff. 7/05).

Perpetual Care Trust Fund Financial Report-Schedule E (Cemeteries Covered by Trust Fund), ~~CCPCTFRE (eff. 7/1/00)~~ 49PCTFRE (eff. 7/05).

Preneed Trust Fund Financial Report Instructions, ~~CCPTINS (eff. 7/1/00)~~ 49PTINS (eff. 7/03).

Preneed Fidelity Bond Form, ~~CCPFBNB (eff. 7/1/00)~~ 49PFBNB (eff. 7/05).

Preneed Trust Fund Financial Report, ~~GCPTFR (eff. 7/1/00)~~ 49PTFR (eff. 7/05).

Preneed Trust Fund Financial Report-Schedule A (Statement of Receipts and Expenses), ~~CCPTFRA (eff. 7/1/00)~~ 49PTFRA (eff. 7/05).

Preneed Trust Fund Financial Report-Schedule B (Statement of Financial Deposits), ~~CCPTFRB (eff. 7/1/00)~~ 49PTFRB (eff. 7/05).

Preneed Trust Fund Financial Report-Schedule C (Statement of Investment Securities), ~~CCPTFRC (eff. 7/1/00)~~ 49PTFRC (eff. 7/05).

Cemetery Company Renewal/Reinstatement Application, 49RENREI (eff. 1/06).

Sales Personnel Registration Form, 49SLSREG (eff. 1/06).

Perpetual Care Trust Fund Trustee Affidavit Verification, ~~CCTRAFF (eff. 7/1/00)~~ 49TRVER (eff. 7/05).

Trustee Approval Application, ~~CCTRAPP (eff. 7/1/00)~~ 49TRAPP (eff. 7/05).

Preneed Burial Contract, ~~CCPCTRCT (eff. 7/1/00)~~ 49PCTRCT (eff. 7/03).

Compliance Agent Designee Application, 49CADAPP (eff. 2/05).

VA.R. Doc. No. R05-276; Filed August 16, 2006, 9:56 a.m.

DEPARTMENT OF PROFESSIONAL AND OCCUPATIONAL REGULATION

Title of Regulation: 18 VAC 120-40. Virginia Professional Boxing and Wrestling Events Regulations (amending 18 VAC 120-40-10, 18 VAC 120-40-20, 18 VAC 120-40-80 through 18 VAC 120-40-360, 18 VAC 120-40-390, 18 VAC 120-40-410, 18 VAC 120-40-420, 18 VAC 120-40-430; adding 18 VAC 120-40-15, 18 VAC 120-40-221, 18 VAC 120-40-222, 18 VAC 120-40-295, 18 VAC 120-40-342, 18 VAC 120-40-385, 18 VAC 120-40-411, 18 VAC 120-40-411.1 through 18 VAC 120-40-411.21, 18 VAC 120-40-415, 18 VAC 120-40-415.1, 18 VAC 120-40-415.2, 18 VAC 120-40-415.3; repealing 18 VAC 120-40-370, 18 VAC 120-40-380, 18 VAC 120-40-400).

Statutory Authority: § 54.1-831 of the Code of Virginia.

Public Hearing Date: September 27, 2006 - 10 a.m.

Public comments may be submitted until November 3, 2006.

(See Calendar of Events section for additional information)

Agency Contact: Karen W. O'Neal, Deputy Director for Licensing and Regulation, Department of Professional and Occupational Regulation, 3600 West Broad Street, Richmond, VA 23230, telephone (804) 367-8537, FAX (804) 367-2475, or e-mail karen.oneal@dpor.virginia.gov.

Basis: Section 54.1-831 of the Code of Virginia gives the department the authority to promulgate regulations that implement the federal Professional Boxing Safety Act of 1996 (15 USC § 6301 et seq.), as amended and "protect the public against incompetent, unqualified, unscrupulous or unfit persons engaging in the activities regulated by Chapter 8.1, Title 54.1 of the Code of Virginia." Section 54.1-828 was amended (Chapter 287, 2005 Acts of Assembly) to include "martial arts" within the definition of "boxing."

Purpose: The purpose of the proposal is to make general clarifying changes, restructure the regulations to better distinguish between boxing (including kick boxing) and wrestling; comply with Chapter 287 of the 2005 Acts of Assembly, incorporate generally accepted industry standards; and make other changes that may result from the department's review of the regulations. The use of generally accepted industry standards will increase public protection by ensuring that participants in all types of events are practicing in the safest manner possible. Further, the restructuring and clarifying changes will increase compliance and therefore increase public protection.

Substance: General clarifying changes are made, including restructuring the regulations to better distinguish between boxing (including kick boxing, mixed martial arts, and other similar contests) and wrestling. The changes separate duties of event officials into two parts: (i) boxing, kick boxing and similar contests and (ii) wrestling. The changes separate the event licensing and standards of conduct into three parts: (i) boxing; (ii) kick boxing and similar contests; and (iii) wrestling. The changes are made to comply with Chapter 287 of the 2005 Acts of Assembly, incorporate generally accepted industry standards and make the regulations easier to use.

Issues: The advantage to the public and the Commonwealth resulting from the proposed regulatory changes is that the regulations will conform to federal and state law and will be structured in a format easily understood for all users. There are no apparent disadvantages to the 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 Section 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.

Proposed Regulations

Summary of the proposed regulation. The Department of Professional and Occupational Regulation (DPOR) proposes to amend the Professional Boxing and Wrestling Event Regulations by separating the rules for boxing, wrestling and kickboxing into different sections, which will make the rules for each sport easier to find, and by incorporating changes to Association of Boxing Commission (ABC) regulatory guidelines as required by federal Professional Boxing Safety Act. This proposed regulatory change will also incorporate § 54.1-828 of the Code of Virginia as amended during the 2005 General Assembly session.

Estimated economic impact. Currently, the Professional Boxing and Wrestling Regulations (regulation) groups rules for all types of matches together and uses wording that specifically mentions boxing when rules apply to all types of matches. The proposed regulation substitutes more general language for specific language that might seem misleading. The words "fighting ring," for instance, will be substituted for the words "boxing ring" in the parts of the regulation that enumerates the responsibilities of event promoters; this will serve to clarify the regulation as it is meant to cover promoters of boxing, kickboxing and wrestling events. The proposed regulation provides more clarification by separating rules for different types of matches into different regulatory sections. This change allows interested parties to more easily find the section of regulation that governs a specific type of match and also eliminates the confusion that might arise from having a "one size fits all" set of rules. It makes little sense, for instance, to have glove weights regulated in a regulatory section that applies to wrestlers. The regulated community is likely to benefit from this change as it will make the rules easier to find and interpret.

Because the federal Professional Boxing Act of 1996 requires it, the proposed regulation incorporates numerous new provisions that will assure that Virginia is in compliance with Association of Boxing Commissions (ABC) regulations. These changes encompass almost every aspect of boxing matches from how much tape can be used to wrap a boxer's wrists (not more than one continuous roll) to who must provide the ringside stool (the event promoter) to what the measurements of a boxing ring must be (between 18 and 20 feet squared within the ropes). One of the more interesting ABC code changes will stop match seconds from literally throwing in the towel the proposed regulation will prohibit seconds from throwing any foreign objects into the ring during a boxing match. None of these changes will be particularly onerous for the regulated community and sanctioned professional matches cannot be held in Virginia until they are implemented.

The proposed regulation goes beyond the requirements of the ABC regulations, however, in one way that raises troubling privacy concerns. ABC regulations require that, for women boxers, a "negative pregnancy test, not more than 14 days old, shall be provided to the supervising boxing commission prior to each bout." The proposed regulation imposes further qualifications that require women boxers to take a pregnancy test, in the presence of a boxing official, directly prior to the event in which they are to participate. The event official would not necessarily be another woman and home pregnancy kits that test urine would be used. This provision will preclude event participation for women who are otherwise willing and

able to box but who do not want to expose themselves to the event official in the minimal way required to obtain a urine sample. Paradoxically, the proposed regulation does not ban participation of pregnant women in boxing events; even though this would seem to be the intent of the ABC regulations that require submission of a negative pregnancy test. The proposed regulation will allow the ringside physician to decide whether a pregnant boxer was fit to participate.

The proposed regulation will incorporate language from § 54.1-828 of the Code of Virginia that requires inclusion of rules for "mixed martial arts." These rules are, according to DPOR, consistent with industry standards and are to be located in the section of the proposed regulation that covers kick-boxing events. The proposed regulation also incorporates definition changes that are a part of § 54.1-828 of the Code of Virginia.

Businesses and entities affected. Professional boxers, kick boxers and wrestlers as well as licensed promoters, seconds and cutmen and ringside physicians will be affected by the proposed regulation. In all this regulated community comprises 1,100 individuals.

Localities particularly affected. All localities in the Commonwealth will be affected by the proposed regulation.

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

Effects on the use and value of private property. The proposed regulation is likely to forestall the negative impact that ABC noncompliance would likely have on the owners of venues capable of hosting sanctioned boxing matches. These matches cannot happen in Virginia if DPOR does not insure that the Professional Boxing and Wrestling Event Regulations are compliant with ABC regulations.

Small businesses: Costs and other effects. The proposed regulatory changes should not create any new bookkeeping costs for small businesses. Compliance with ABC requirements may add some small costs for event officials who will have to spend a small amount of extra time on new tasks, like monitoring pregnancy tests, that have not historically been part of their job.

Small businesses: Alternative method that minimizes adverse impact. Because the proposed regulation mostly implements changes required by either ABC regulations or the Code of Virginia, DPOR is effectively unable to explore alternative methods that minimize adverse impact for regulated small businesses.

Agency's Response to the Department of Planning and Budget's Economic Impact Analysis: The department has made revisions to the proposed text to address privacy concerns relating to the required pregnancy test. Specifically, 18 VAC 120-40-290 D and 18 VAC 120-40-411.6 D were revised to clarify that the pregnancy test required of female boxers is done in the presence of a female inspector. Also, as an alternative, the boxer may provide the ringside physician with a negative pregnancy test result taken not more than 24 hours prior to the event. Forty-three states (including the District of Columbia) regulate boxing. Of those jurisdictions, 70% require pregnancy testing. In other respects, the

department concurs with the economic impact analysis performed by the Department of Planning and Budget.

Summary:

The proposed amendments include restructuring the regulations to better distinguish between boxing (including kick boxing, mixed martial arts, and other similar contests) and wrestling. The changes separate duties of event officials into two parts: (i) boxing, kick boxing and similar contests; and (ii) wrestling. The changes separate the event licensing and standards of conduct into three parts: (i) boxing; (ii) kick boxing and similar contests; and (iii) wrestling. The changes are made to comply with Chapter 287 of the 2005 Acts of Assembly, incorporate generally accepted industry standards and make the regulations easier to use.

PART I.
SCOPE.

18 VAC 120-40-10. Scope.

~~These regulations contain~~ *This chapter contains procedures and requirements for the licensure of individuals and firms to engage in the conduct of professional boxing and wrestling events as provided for in Chapter 8.1 (§ 54.1-828 et seq.) of Title 54.1 of the Code of Virginia.*

Amateur boxing and wrestling contests, where the participants receive no money, compensation, including a promise of participation in a future nonamateur event, or reward other than a suitably inscribed memento are exempt from the provisions of Chapter 8.1 (§ 54.1-828 et seq.) of Title 54.1 of the Code of Virginia and from the provisions of ~~these regulations~~ this chapter. Amateurs may participate in licensed events only if the portion of the event containing amateur matches is sanctioned by a nationally recognized sanctioning organization. The department will not exercise any control over amateur contests that take place during a licensed event.

The director of the department is empowered to (i) promulgate ~~these regulations~~ this chapter, (ii) issue licenses, (iii) investigate to determine compliance with ~~these regulations~~ this chapter, and (iv) take disciplinary action, in accordance with the Virginia Administrative Process Act, against those who fail to comply with ~~these regulations~~ this chapter. Furthermore, to the extent applicable, ~~these regulations~~ this chapter shall be construed in accordance with and governed by Virginia's Administrative Process Act. The director is also empowered to contract with a vendor to perform certain tasks on the director's behalf. These tasks include examining and recommending licensure, investigating and ensuring that events are conducted in compliance with statutes and regulations, performing clerical duties, collecting fees, maintaining records, developing proposed regulations, and recommending enforcement actions.

18 VAC 120-40-15. Applicability.

As referenced in this chapter and in § 54.1-828 of the Code of Virginia, boxing includes boxing, kick boxing, mixed martial arts, or similar contests. Individuals participating in these events are required to be licensed as a boxer. Requirements to obtain a boxer license are set forth in 18 VAC 120-40-70 and 18 VAC 120-40-80. Event licensing and conduct

standards for boxing are set forth in 18 VAC 120-40-230 through 18 VAC 120-40-410. Event licensing and conduct standards for kick boxing and other similar contests, including mixed martial arts, are set forth in 18 VAC 120-40-411 through 18 VAC 120-40-411.21.

Individuals participating in wrestling events are required to be licensed as a wrestler. Requirements to obtain a wrestler license are set forth in 18 VAC 120-40-70 and 18 VAC 120-40-90. Event licensing and conduct standards for wrestling are set forth in 18 VAC 120-40-415 through 18 VAC 120-40-415.3.

PART II.
GENERAL PROVISIONS.

18 VAC 120-40-20. Definitions.

Section 54.1-828 of the Code of Virginia provides definitions of the following terms:

*Boxer
Boxing
Cable television system
Contractor
Department
Director
Event
License
Manager
Martial arts
Matchmaker
Person
Promote
Promoter
Trainer, second or cut man
Wrestler
Wrestling*

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

"Assistant event inspector" means the individual assigned to assist the event inspector.

"Boxer registry" means any entity certified by the Association of Boxing Commissions for the purposes of maintaining records and identification of boxers.

"Contest," "bout," or "match" means the portion of an event wherein specific individuals (two boxers, or two or more wrestlers) engage in boxing or wrestling which ends when a decision is reached.

"Event," as defined in § 54.1-828 of the Code of Virginia, begins when a promoter takes possession or control of a facility or area and lasts until the promoter releases control of the facility or area. One event shall not exceed one 24-hour period.

"Event inspector" means the individual assigned to be in overall charge of the conduct of an event to assure compliance with this chapter.

Proposed Regulations

"Event license" means a method of regulation whereby any promoter arranging or conducting a boxing or wrestling event is required to obtain a prior authorization from the department.

"Event officials" means those individuals assigned to carry out the duties of an event inspector, assistant event inspector, inspector, referee, timekeeper, judge, or ringside physician as established by this chapter.

"Firm" means any sole proprietorship, general partnership, limited partnership, limited liability company, association, corporation or other business entity.

"Inspector" means the individual assigned to assist the event inspector as provided for in this chapter.

"Judge" means an individual assigned to score a boxing contest as provided for in this chapter.

"Licensed event" means an event that has been issued a license from the department in accordance with this chapter.

"Rabbit punch" means a blow delivered by a boxer against his opponent that strikes the back of the opponent's neck or head with a chopping motion or punch.

"Referee" means the event official assigned to a boxing contest to assure the proper conduct of the contest and the safety of the contestants or the licensed wrestler assigned to a wrestling contest to assure the safety of the spectators as provided for in this chapter.

"Responsible management" means the following individuals:

1. The sole proprietor of a sole proprietorship;
2. The partners of a general partnership;
3. The general partners of a limited partnership;
4. The officers of a corporation;
5. The managers of a limited liability company; or
6. The officers and directors of an association.

"Ringside physician" means the medical doctor assigned to assure the medical health and safety of each boxer as provided for in this chapter.

"Task force" means the professional boxing and wrestling task force.

"Ten point must system" means the winner of the round must receive 10 points.

"Timekeeper" means the individual assigned to time each round and the interval between rounds, and to count for knockdowns as provided for in this chapter.

PART III.

INDIVIDUAL AND EVENT LICENSING STANDARDS.

18 VAC 120-40-80. Entry requirements for boxer.

A. Each applicant for a license as a boxer shall submit a completed application as described in 18 VAC 120-40-70 and shall:

1. Have a satisfactory record of professional boxing or, in the case of applicants who have participated in fewer than

~~40~~ five professional boxing bouts, evidence of competency in the elements of offense and defense. Such evidence may take the form of signed statements from individuals who have provided training to the applicant or records of the applicant's conduct in amateur as well as professional boxing competition and shall be sufficient to satisfy the department that the applicant has the ability to compete.

~~2. Submit a list of all ring names under which the applicant has competed as a boxer in this Commonwealth or elsewhere.~~

~~3. Have a current personal identification number as required by 15 USC §6305.~~

~~4.~~ 2. Submit the following certification:

I understand as a professional boxer I should be aware that this sport includes many health and safety risks, in particular the risk of brain injury. As such I will take the necessary medical exams that detect brain injury. If I need further information about these exams I will ask my doctor or staff of the department.

~~5.~~ 3. Submit a complete professional record *or, if amateur just turning professional, an amateur record*, including date and result of last fight.

~~B. The department shall approve and issue all licenses in accordance with the standards established by the federal Professional Boxing Safety Act of 1996 (15 USC § 6301 et seq.), as amended.~~

18 VAC 120-40-90. Entry requirements for wrestler.

A. Each applicant for a license as a wrestler shall submit a completed application as described in 18 VAC 120-40-70 and a signed statement ~~from a licensed physician~~ certifying that the applicant is in good physical health ~~and~~, has no abnormalities or deficiencies which would prevent his participation in a wrestling event or endanger the applicant's health when engaging in a wrestling exhibition, *and understands the health and safety risks involved in participation in a wrestling event and, if not previously licensed in the Commonwealth, a statement certifying his experience and training.*

B. The department may deny the application for a license as a wrestler to any applicant who has suffered a serious head injury or other serious physical injury, and may, in any case, require an additional, specific medical examination to determine the applicant's suitability before approving the applicant for licensure as a wrestler.

C. The department may deny the application for a license as a wrestler of any applicant who has been subject to the following actions by agencies in other jurisdictions that regulate wrestling:

1. Denial or suspension of a license as a wrestler for reasons of medical safety when it has been determined by competent medical examination that participation in a wrestling event by the applicant may pose a risk to the applicant's health; or
2. A violation of a law or regulation governing wrestling which is substantially the same as that found in Chapter 8.1

(§ 54.1-828 et seq.) of Title 54.1 of the Code of Virginia or in this chapter.

18 VAC 120-40-100. Entry requirements for manager.

Each applicant for a license as a manager shall submit a completed application as described in 18 VAC 120-40-70 and a statement that the applicant possesses a knowledge of this chapter. The department shall approve and issue all licenses in accordance with the standards established by the federal Professional Boxing Safety Act of 1996 (15 USC § 6301 et seq.), *as amended*.

18 VAC 120-40-110. Entry requirements for matchmaker.

Each applicant for a license as a matchmaker shall submit a completed application as described in 18 VAC 120-40-70 and a statement that the applicant does not employ and does not otherwise have a financial interest in or commercial connection with any wrestler, boxer, manager, trainer, or second, except that which may be necessary to arrange a wrestler's or boxer's participation in a specific event. The department shall approve and issue all licenses in accordance with the standards established by the federal Professional Boxing Safety Act of 1996 (15 USC § 6301 et seq.), *as amended*.

18 VAC 120-40-120. Entry requirements for promoter.

Each applicant for a license as a promoter shall submit a completed application as described in 18 VAC 120-40-70, a statement that the applicant possesses knowledge of this chapter and the following certification:

I understand that I am not entitled to compensation in connection with a boxing match, including gate fees, until I provide the department with a copy of any agreement in writing to which I and any boxer participating in the match are parties; a statement made under penalty of perjury that there are no other agreements; a statement of fees, charges and expenses that will be assessed by or through me on the boxer, including any portion of the boxer's purse that I receive and training expenses; all payments, gifts or benefits I am providing to any sanctioning organization affiliated with the event; any reduction in the boxer's purse contract to a previous agreement between myself and the boxer. Further, I understand that I am not entitled to compensation in connection with a boxing match until I provide the boxer I promote with the amounts of any compensation or consideration that I have contracted to receive from such match; all fees, charges and expenses that will be assessed by or through me on the boxer pertaining to the event, including any portion of the boxer's purse that I will receive and training expenses; and any reduction in a boxer's purse contract to a previous agreement between myself and the boxer.

The department shall approve and issue all licenses in accordance with the standards established by the federal Professional Boxing Safety Act of 1996 (15 USC § 6301 et seq.), *as amended*.

18 VAC 120-40-130. Entry requirements for trainer, second, or cutman.

Each applicant for a license as a trainer, second, or cutman shall submit a completed application as described in 18 VAC 120-40-70 and evidence of a knowledge of:

1. This chapter;
2. The treatment of injuries;
3. Physical conditioning, health care, nutrition, training, first aid, and the effects of alcohol as it relates to boxing; and
4. The bandaging of a boxer's hand.

The required evidence may take the form of the applicant's official record from a state regulatory agency, signed statements from current or former *client* or clients, or other documentary evidence that establishes that the applicant is competent. The department shall approve and issue all licenses in accordance with the standards established by the federal Professional Boxing Safety Act of 1996 (15 USC § 6301 et seq.), *as amended*.

PART IV.
OFFICIAL APPROVAL AND CONDUCT STANDARDS FOR
ASSIGNMENT TO EVENTS.

18 VAC 120-40-140. Requirements for approval to act as a ~~boxing event inspector, inspector, referee, judge, or timekeeper~~ an event official.

A. To qualify to act on the department's behalf as an event ~~inspector, inspector, referee, judge, or timekeeper of boxing contests~~ official, a person must:

1. Be at least 18 years of age;
2. Not have been convicted or found guilty, regardless of adjudication, of any felony or other crime involving lying, cheating or stealing, or involving illegal drugs or other acts involving the sport of boxing. Any plea of nolo contendere shall be considered a conviction for the purposes of this chapter. The record of conviction, authenticated in such form as to be admissible as evidence under the laws of the jurisdiction where convicted, shall be admissible as prima facie evidence of such conviction; and
3. Submit verifications from three persons of his proficiency as an event inspector, *locker room* inspector, referee, judge, or timekeeper, whichever is appropriate. Evidence of approval by the department, its contractor, or another jurisdiction with a regulatory program substantially equivalent to this chapter, may be submitted in lieu of the verifications from three persons.

B. In addition to requirements set forth in subsection A of this section, each referee or judge shall submit the following certification:

I understand that I am not entitled to receive any compensation in connection with a boxing match until I provide the department a statement of all consideration, including reimbursement for expenses that will be received from any source for participation in the match.

Proposed Regulations

18 VAC 120-40-150. Requirements for approval of boxing ringside physicians.

To qualify to act on the department's behalf as a boxing ringside physician, an applicant must provide evidence of (i) licensure by the Virginia Board of Medicine as a physician ~~for a period of at least five years~~ and (ii) a current certification in cardiopulmonary resuscitation or osteopathic medicine.

18 VAC 120-40-160. Assignment to boxing event.

A. The department or its contractor shall assign a sufficient number of event officials to each licensed ~~boxing~~ event who shall discharge the duties established in this chapter and to assure compliance with Chapter 8.1 (§ 54.1-828 et seq.) of Title 54.1 of the Code of Virginia and this chapter.

B. Event officials not assigned to a licensed event shall be present at the event only upon payment of admission as a spectator.

PART V.

DUTIES OF EVENT OFFICIALS FOR BOXING, KICK BOXING AND SIMILAR CONTESTS.

18 VAC 120-40-170. Duties of boxing event inspectors.

A. An event inspector shall be assigned by the department or its contractor to each ~~boxing~~ event and shall be in overall charge of the conduct of the event and shall assure that all assigned inspectors, referees, timekeepers, judges, and ringside physicians are present and perform their duties.

B. The event inspector shall officiate at weigh-in to assure that all boxers are properly weighed and licensed, and shall assure that the boxers have no weights or other objects which could influence the accuracy of the weighing.

C. The assigned event inspector shall comply with all procedures established by the department and assure compliance with Chapter 8.1 (§ 54.1-828 et seq.) of Title 54.1 of the Code of Virginia and this chapter.

D. The assistant event inspector shall perform all duties assigned by the event inspector.

18 VAC 120-40-180. Duties of boxing locker room inspectors.

A. *Locker room* inspectors shall be assigned to each event to assist the event inspector in the discharge of his duties.

B. *Locker room* inspectors shall be assigned by the event inspector to be in charge of the ~~dressing~~ *locker room* and the corners and shall accompany the boxers to the corner. ~~An~~ *A locker room* inspector shall remain in each corner and assure compliance with this chapter.

C. ~~An~~ *A locker room* inspector shall assist the event inspector during the weigh-in and, *when requested*, assist the ringside physician during the physical examination.

D. *Locker room* inspectors shall comply with all procedures established by the department and perform other duties as assigned to assure compliance with this chapter.

18 VAC 120-40-190. Duties of boxing referees.

An assigned referee shall pass a prefight physical performed by the ringside physician in accordance with 18 VAC 120-40-220, comply with all procedures established by the department, *perform other duties as assigned to assure compliance with this chapter*, and perform the following duties before, during, and after each assigned contest:

1. Provide the prefight instructions to boxers;
2. Assure that each boxer is properly gloved and wearing the required safety equipment;
3. Exercise supervision over the conduct of the contest to assure compliance with this chapter and to take immediate corrective action when a failure to comply is observed;
4. Immediately stop any contest when, in his judgment, one of the boxers is outclassed by the other, injured, or otherwise unable to safely continue to participate in the contest;
5. Endeavor to perform his duties in a manner which does not impede the fair participation of either boxer;
6. Consult, when he feels it appropriate, with the ringside physician on the advisability of stopping the contest if either boxer appears injured or unable to continue;
7. Count for knockdowns and knockouts as provided for in 18 VAC 120-40-340;
8. Determine fouls and stop contests as provided in 18 VAC 120-40-342 and 18 VAC 120-40-350;
9. Immediately stop any contest and notify the department's representative or contractor present at the event if one or both of the boxers is not putting forth his best effort; and
10. Assure the health and well-being of the boxers to the greatest extent possible.

18 VAC 120-40-200. Duties of boxing judges.

An assigned ~~boxing~~ judge shall comply with all procedures established by the department, *perform other duties assigned to assure compliance with this chapter*, and perform the following duties before, during, and after each assigned contest:

- ~~1. Score each contest on the 10-point system. The better boxer of each round shall receive 10 points and the opponent proportionately less. If the round is even, assign each boxer 10 points. No fractional points shall be given. Points shall be awarded immediately after the end of the round;~~
- ~~2.~~ 1. Be present and attentive during the entire contest;
- ~~3.~~ 2. Provide his scorecards to the event inspector or his designee at the end of each round; and
- ~~4.~~ 3. Report to the event inspector or his designee promptly at the time directed.

18 VAC 120-40-210. Duties of boxing timekeepers.

An assigned boxing timekeeper shall comply with all procedures established by the department, *perform other*

duties as assigned to assure compliance with this chapter, and perform the following duties before, during, and after each assigned contest:

1. Provide a chronometer of a type suitable for timing the rounds of a boxing contest;
2. Assure that a warning is sounded 10 seconds before the start of each round by blowing a whistle or other sound easily heard by the boxers and distinct from the sound signaling the beginning and end of each round;
3. Assure that each round and the interval between each round is correctly and uniformly timed and that a bell or gong with a distinctive tone which is easily heard by the boxers is sounded at the beginning and end of each round;
4. Assist the referee in the counting for a knockdown to assure the downed boxer receives the correct amount of time allowed by this chapter to return to the contest; and
5. Report to the event inspector or his designee promptly at the time directed.

18 VAC 120-40-220. Duties of ringside physicians.

The assigned ringside physician shall comply with all procedures established by the department and perform the following duties before, during, and after each assigned contest:

1. Conduct a physical examination of each referee immediately before the contest to assure his fitness to act as a referee.
2. Conduct a physical examination and take a medical history of each boxer immediately before the contest to assure his fitness to compete. ~~Tests, including a pregnancy test, may be conducted if the ringside physician determines it is necessary to assure the health and safety of the boxer;~~
3. Report to the event inspector or his designee promptly at the time directed and remain at ringside during the entire duration of all contests assigned;
4. Signal the referee immediately in the event an injury is observed which the referee has not observed and enter the ring only after the referee has stopped or suspended the action;
5. Render immediate medical aid to any boxer injured during a contest and, where appropriate, accompany the boxer to the hospital or other place where competent medical aid may be delivered. In no case shall the assigned ringside physician cease the direct application of his skills as a physician to an injured boxer until such time as the ringside physician, in his best medical judgment, determines that his services are no longer necessary or the injured boxer is under the care of other medically competent individuals;
6. Assure all substances in the possession of seconds, trainers, or cutmen are appropriate for use on boxers during the course of the contest; and
7. Report immediately to the department or its contractor his determination of the fitness of each boxer to participate in the boxing contest. A written report summarizing the results

of his examination of each boxer shall be provided to the department or its contractor within 24 hours after the date of the licensed boxing event.

PART VI. DUTIES OF OFFICIALS FOR WRESTLING.

18 VAC 120-40-221. Duties of event inspectors.

A. An event inspector may be assigned by the department or its contractor to each event and shall be in overall charge of the conduct of the event and shall assure that all assigned officials are present and perform their duties.

B. The assigned event inspector shall comply with all procedures established by the department and assure compliance with Chapter 8.1 (§ 54.1-828 et seq.) of Title 54.1 of the Code of Virginia and this chapter.

C. An assistant event inspector shall perform all duties assigned by the event inspector.

18 VAC 120-40-222. Duties of locker room inspectors.

A. Locker room inspectors may be assigned to each event to assist the event inspector in the discharge of his duties.

B. Locker room inspectors shall comply with all procedures established by the department and perform other duties as assigned to assure compliance with this chapter.

PART VII. EVENT LICENSING AND CONDUCT STANDARDS FOR BOXING.

18 VAC 120-40-230. Application for a license to conduct a boxing or wrestling event.

A. At least 30 days before the date of any boxing or wrestling event in the Commonwealth, the licensed promoter desiring to conduct the event shall deliver an application for a license to conduct a boxing or wrestling event to the department or its contractor. The application shall be on forms provided by the department and shall include:

1. The card of boxing or wrestling contests to be exhibited, including the name of each ~~contestant boxer~~, the boxer's federal identification number, and, ~~in the case of a boxing contest~~, the number of rounds each is scheduled to compete. The promoter may modify the card at any time up to the day of the event by providing the required documents for the additions to and notice of the deletions from the card which accompanied the application;

2. Verification of all scheduled boxers' fight records;

~~2-~~ 3. The date, location, and time of the event for which a license is sought;

~~3-~~ 4. Evidence that all boxers scheduled to compete are covered by a health insurance policy that covers medical expenses for injuries incurred during the boxing event, has a minimum of coverage of ~~\$25,000~~ \$10,000, and meets all requirements specified in 15 USC § 6304;

~~4-~~ 5. Evidence of a surety bond filed with the department or its contractor conditioned on the payment of gate fees and penalties imposed by Chapter 8.1 (§ 54.1-828 et seq.) of

Proposed Regulations

Title 54.1 of the Code of Virginia and on the fulfillment of contracts made with boxers and ~~wrestlers~~. The bond shall be in form and substance satisfactory to the department and in an amount equal to the sum of (i) the total gate fee required by this chapter and § 54.1-833 A of the Code of Virginia if all seats were to be sold and (ii) the total amount due to all boxers and ~~wrestlers~~ for their appearance in the event, ~~but shall not exceed \$100,000~~. The bond shall not exceed \$100,000 and shall be executed by a surety authorized to do business in the Commonwealth;

~~5- 6. Acknowledgment that the boxing promoter will provide a copy of the contract between the promoter applying for an event license and each licensed boxer at weigh-in. No contract shall be required from wrestling promoters;~~

~~6- 7. A copy of each contract by the promoter for the sale of rights to distribute in any manner such event by any video, telephonic, or other communication method involving the control of electrons or other charge carriers; and~~

~~7- 8. A statement that the applicant has read and understands this chapter and will conduct the event in full compliance with same.~~

B. In no case shall the applicant for an event license announce or advertise, either directly or indirectly, the event to the public until the department has approved the application and issued the event license.

18 VAC 120-40-240. Equipment to be provided by boxing promoters.

The promoter shall assure that each event shall have the following:

1. A ~~boxing fighting~~ ring, which shall be in the shape of a square ~~not less than 16 feet nor more than 24 feet on each side within the ropes. or an octagon. A square ring shall not be less than 18 feet square inside the ropes and shall not exceed 20 feet square inside the ropes. An octagon ring shall not be less than 18 feet (from any side to the opposite side) inside the ropes and shall not exceed 32 feet (from any side to the opposite side) inside the ropes.~~

The ring floor ~~must extend at least 18 inches beyond the ropes and shall be padded with ensolite one inch thick or another similar closed-cell foam. Padding~~ The padded ring floor must extend at least 18 inches beyond the ring ropes and over the edge of the platform with a top covering of canvas, ~~duck~~, or similar material tightly stretched and laced to the ring platform. Material that tends to gather in lumps or ridges ~~or material with a slick covering~~ shall not be used.

The ring platform shall not be more than five feet above the floor of the building and shall ~~be provided with~~ have suitable steps for use by ~~contestants~~ boxers in their corners and by the ringside physician in a neutral corner.

Ring posts shall be of metal, not more than three inches in diameter, extending from the floor of the building to a height of 58 inches above the ring floor. The ring posts must be at least 18 inches away from the ropes.

There shall be four ring ropes not less than one inch in diameter and ~~wrapped in soft material. The lower rope shall~~

~~be 18 inches above the ring floor; , evenly spaced, with the bottom ring rope not less than 18 inches above the ring floor and the top ring rope not more than 52 inches above the ring floor. The ring ropes must be padded with a padding of closed cell padding of not less than 1/2 inch. Ropes are to be connected with soft rope ties six feet apart. All ring ropes are to be tight and approved by the department or its contractor.~~

All corners must be padded with approved pads. All turnbuckles are to be covered with a protective padding.

A ring stool and bucket shall be provided for each boxer's corner.

The ring shall have bright lights and light all four corners and middle of the ring equally. No lights shall shine into the face of the boxers or ring side judges; lights may only shine downward and not shine at any angle directly into the fighting ring area that may blind the boxers or judges.

The promoter shall provide a ringside restrictive barrier between the first row of ringside seats and the event official's area that will restrict the crowd from confronting either the boxers or event officials and will ensure that the boxers remain free from obstructions or distractions. The ringside barrier must be a minimum of eight feet from the outside edge of the ring.

2. A bell or gong located at the ring no higher than the floor level of the ring. The bell or gong must produce a clear tone easily heard by the ~~contestants~~ boxers;

3. ~~Dressing~~ Locker rooms adequate in number and equipment to reasonably facilitate the boxer's activities before and after the contest. Separate ~~dressing~~ locker rooms shall be provided when both male and female boxers are scheduled to compete; . Locker rooms shall have restroom facilities available.

4. A fully equipped ambulance with a currently trained ambulance crew at the site of any boxing event for the entire duration of the event and any additional personnel or equipment required by 15 USC §6304; .

5. A notice to the nearest hospital and the persons in charge of its emergency room of the date, time, and location of the boxing event;

6. Boxing gloves of at least 10 ounces for all contestants, except that during all championship bouts, boxers weighing under 147 pounds shall wear at least eight ounce gloves; and ~~7. Boxing gloves having the distal portion of the thumb the proper weight that are set by weight classification by 18 VAC 120-40-295. Boxing gloves must have laces to secure proper fit. Gloves must have an attached thumb to the body of the glove so as to minimize the possibility of injury to the opponent's eye and shall, if not new, be whole. Gloves must be clean and in sanitary condition , free of cuts, have good laces, with no displacement or lumping of the padding material. Gloves used in world title fights shall be new and taken from the package just prior to issuing to the boxers. Gloves shall be inspected by the event inspector or his designee before each contest and those found defective shall be replaced before the contest begins. In all championship bouts, the boxers shall be gloved in the ring.~~

A solution of 10% household bleach and water shall be used for cleansing of all gloves prior to and after each bout.

7. A sealed OTC pregnancy test kit, approved by the Food and Drug Administration, for each female boxer that will be given to the event inspector or his designee.

8. A clear plastic water bottle, a bucket containing ice, surgeon's adhesive tape and surgical gauze for each boxer.

18 VAC 120-40-250. Promoter to provide copy of contract with boxer at weigh-in; penalty for noncompliance; contents of contract.

A. The promoter shall provide a copy of his contract with each boxer scheduled to compete in the event to the event inspector at the time of weigh-in ~~for the event.~~

B. Failure to provide a copy of the contract for a boxer at weigh-in shall result in the boxer's disqualification to compete in the event.

C. Each contract shall contain the name of the promoter, the name of the boxer, the amount of compensation to be paid to the boxer by the promoter and shall comply with the minimum provisions ~~promulgated contained in the most current model contract developed~~ by the Association of Boxing Commissions and contained in the federal Professional Boxing Safety Act of 1996 (15 USC § 6301 et seq.), *as amended.*

18 VAC 120-40-260. Equipment to be provided by boxing seconds.

Each boxing second shall provide the following equipment for use at the event:

- ~~1. A clear plastic water bottle;~~
- ~~2. A bucket containing ice;~~
- ~~3.~~ 1. A solution of a kind approved by the Association of Boxing Commissions to stop hemorrhaging;
- ~~4. Adhesive tape;~~
- ~~5. Gauze;~~
- ~~6.~~ 2. Scissors; and
- ~~7.~~ 3. One extra mouthpiece.

18 VAC 120-40-270. Equipment to be provided by each boxer.

Each boxer shall provide the following equipment:

- 1. *Boxing trunks* for male boxers, and *boxing trunks and tight upper body covering* for female boxers;
- 2. ~~Foul-proof~~ *Approved groin protector (males) or foul-proof pelvic girdle for male boxers and foul-proof breast protector as a binder (females) approved pelvic girdle and a padded sports bra for female boxers;*
- 3. A mouth piece properly fitted to each boxer's mouth; *and*
- 4. Boxing shoes;
- ~~5. Foot pads—kick boxers only; and~~
- ~~6. Shin pads—kick boxers only.~~

18 VAC 120-40-280. Contest approval; request for reconsideration; ~~weight classifications.~~

A. ~~The event inspector assigned to an event~~ department or its contractor shall obtain information on each boxer from a boxer registry and examine that information; *for records, experience, and consecutive losses. Boxers with 10 or more consecutive losses must obtain a special exception before being placed on the fight card.* The results of the ~~ringside physician's examination, prefight physical~~ and any other pertinent information available *will be used* to determine, to the extent possible, that both ~~contestants~~ boxers are substantially equal in ~~boxing~~ skill and ability and are medically fit to compete. No contest shall take place without the approval of the ~~event inspector~~ department or its contractor and the ringside physician assigned to the event by the department or its contractor.

B. *Each boxer must possess a current personal identification number as required by 15 USC § 6305.*

~~B.~~ C. No boxer shall participate in a boxing contest who has:

- 1. Been knocked out in the 60 days immediately preceding the date of the contest;
- 2. Been technically knocked out in the 30 days preceding the date of the contest;
- 3. Been a contestant in a boxing bout of more than six rounds during the 15 days preceding the date of the contest or ~~in a boxing bout of six or fewer rounds during the seven days preceding the date of the contest;~~
- 4. Suffered a cerebral hemorrhage;
- 5. Suffered a serious head injury or other serious physical injury. The department or its contractor may require an additional, specific medical examination to determine the boxer's suitability; or
- 6. Been found to be blind in one eye or whose vision in one eye is so poor that a physician recommends the boxer not participate in ~~a boxing~~ the contest. *A boxer who is totally unsighted (uncorrected vision worse than 20/400) in one or both eyes shall be prohibited from competing.*

~~E.~~ D. No boxer shall participate in a boxing contest while under a suspension from the boxing commission of another jurisdiction of the United States due to:

- 1. A recent knockout or series of consecutive losses;
- 2. An injury, requirement for a medical procedure, or physician denial of eligibility to ~~box~~ compete;
- 3. Failure of a test for drugs or controlled substances; or
- 4. The use of false aliases or falsifying, or attempting to falsify, official identification cards or documents.

~~D.~~ E. Any promoter or boxer may request a reconsideration by the director of the event inspector's decision by immediately providing in writing additional information or contradictory evidence concerning the boxer's skill, ability, or medical fitness.

Proposed Regulations

~~E. F.~~ A boxer who is suspended by a boxing commission of another jurisdiction of the United States may be allowed to ~~box~~ compete if:

1. The boxer was suspended for a knockout, technical knockout, series of consecutive losses, an injury, a requirement of a medical procedure, or physician denial of certification and the time interval for knockouts and technical knockouts in subsection B of this section has been met and further proof of sufficiently improved medical or physical condition has been furnished;
2. The boxer was suspended for the failure of a drug test or the use of false aliases or falsifying, or attempting to falsify, official identification cards or documents and that a suspension was not, or is no longer, merited by the facts;
3. The boxer was suspended for any reason other than those mentioned in subdivisions 1 and 2 of this subsection and the department or the department's contractor notifies the suspending commission in writing and consults with the designated official of the suspending commission prior to the grant of approval for such boxer to participate in a boxing contest; or
4. The boxer was suspended for any reason other than those mentioned in subdivisions 1 and 2 of this subsection and the boxer's appeal to the Association of Boxing Commissions results in a determination that the suspension was without sufficient grounds, was for an improper purpose, or was not related to the health and safety of the boxer or the purposes of the federal Professional Boxing Safety Act of 1996 (15 USC § 6301 et seq.).

~~F.~~ Each boxer shall compete only with a boxer within the same weight classification as specified in the following schedule:

Mini-Flyweight	up to 105 pounds
Light-Flyweight	over 105 to 108 pounds
Flyweight	over 108 to 112 pounds
Junior-Bantamweight	over 112 to 115 pounds
Bantamweight	over 115 to 118 pounds
Junior-Featherweight	over 118 to 122 pounds
Featherweight	over 122 to 126 pounds
Junior-Lightweight	over 126 to 130 pounds
Lightweight	over 130 to 135 pounds
Junior-Welterweight	over 135 to 140 pounds
Welterweight	over 140 to 147 pounds
Junior-Middleweight	over 147 to 154 pounds
Middleweight	over 154 to 160 pounds
Super-Middleweight	over 160 to 168 pounds
Light-Heavyweight	over 168 to 175 pounds
Cruiserweight	over 175 to 190 pounds
Heavyweight	over 190 pounds

~~G.~~ No boxer may engage in a boxing contest without the approval of the department or the department's representative if the difference in weight between the contestants exceeds the allowance shown in the following schedule:

- ~~Up to 118 pounds, not more than 3 pounds~~
- ~~118 pounds—126 pounds, not more than 5 pounds~~
- ~~126 pounds—135 pounds, not more than 7 pounds~~
- ~~135 pounds—147 pounds, not more than 9 pounds~~

- ~~147 pounds—160 pounds, not more than 11 pounds~~
- ~~160 pounds—175 pounds, not more than 12 pounds~~
- ~~175 pounds—190 pounds, not more than 20 pounds~~
- ~~190 pounds and over, no limit.~~

18 VAC 120-40-290. Boxing event conduct standards.

A. ~~Bandaging~~ *Wrapping* of each boxer's hands shall not exceed ~~one roll~~ *more than one continuous winding* of surgeon's adhesive tape *around the wrist*, not over 1-1/2 inches wide, placed directly on the hand to protect the part of the hand near the wrist. The tape may cover the hand but may not extend within ~~three-fourths of an~~ *3/4* inch of the knuckles when the hand is clenched to make a fist. Soft surgical ~~bandage gauze~~, not over two inches wide, held in place by not more than six feet of surgeon's adhesive tape for each hand shall be used. Up to one ~~45~~ *10*-yard roll of ~~bandage surgical gauze~~, may be used to complete the wrappings for each hand. Strips of tape may be used between the fingers to hold down the ~~bandages gauze~~, not to cover the knuckles. ~~Bandages Gauze~~ shall be adjusted in the ~~dressing~~ *locker* room in the presence of the event inspector or his designee. *Before putting on gloves the boxer shall present his wrapped hands for inspection by the event inspector or his designee.*

B. Any boxer who has signed a contract to box on a promoter's program shall be subject to be called by the department to appear at any time to be weighed or to be examined by a physician designated by the department when the department has reason to believe the boxer may not be qualified or may not be medically sound to participate in the contest.

C. Each boxer who signs a contract to box on a promoter's program shall appear at a time and place designated by the department or its contractor to be weighed on department-approved scales in the presence of each other and a representative designated by the department. Boxers shall have all weights removed from their bodies before the weigh-in but may wear shorts in the case of males, and shorts and shirts in the case of females.

D. In accordance with 15 USC § 6304, each boxer shall be examined immediately before the contest and *who certifies in writing on a form provided by the department whether the boxer is physically fit to safely compete. The original health certificate will be submitted to the event inspector or his designee. In addition, each female boxer shall take a pregnancy test in the presence of a female inspector, using the pregnancy kit required by subdivision 7 of 18 VAC 120-40-240 or provide the ringside physician with a negative pregnancy test result taken not more than 24 hours prior to the event. The inspector will give the results to the physician and the results will be noted on the physical form. If the physician's certification fails to certify that the boxer is physically fit to safely compete, the boxer shall not participate in the contest unless pronounced medically able to compete by the ringside physician, and shall immediately be placed on suspension on the boxer registry. All boxers shall submit to a postfight physical if requested by the ringside physician or the department or its designee.*

E. All boxing events shall be conducted in accordance with the rules set forth by the Association of Boxing Commissions. The

department may use the Championship Rules adopted by the Association of Boxing Commissions in any championship fight.

F. Discretionary use of petroleum jelly is permitted on the face, arms or any other part of the boxer's body. In the case of a cut, topical use of a solution approved by the Association of Boxing Commissions is permitted. All other solutions are prohibited.

G. Headgear is not permitted.

18 VAC 120-40-295. Weight classes and weigh-ins and prefight meeting.

A. Weight classes are as follows:

Weight Class	Weight in Lbs	Max Weight Spread	Glove sizes
Mini-Flyweight	105 & below	3 lbs	8 oz
Light-Flyweight	105.1 – 108	3 lbs	8 oz
Flyweight	108.1 – 112	3 lbs	8 oz
Junior Bantamweight	112.1 – 115	3 lbs	8 oz
Bantamweight	115.1 – 118	3 lbs	8 oz
Junior Featherweight	118.1 – 122	4 lbs	8 oz
Featherweight	122.1 – 126	4 lbs	8 oz
Junior Lightweight	126.1 – 130	4 lbs	8 oz
Lightweight	130.1 – 135	5 lbs	8 oz
Junior Welterweight	135.1 – 140	5 lbs	8 oz
Welterweight	140.1 – 147	7 lbs	8 oz
Super Welterweight	147.1 – 154	7 lbs	10 oz
Middleweight	154.1 – 160	7 lbs	10 oz
Super Middleweight	160.1 – 168	7 lbs	10 oz
Light-Heavyweight	168.1 – 175	7 lbs	10 oz
Cruiserweight	175.1 – 200	12 lbs	10 oz
Heavyweight	200.1 and up	No limit	10 oz

B. No boxer may engage in a contest without the approval of the department or its contractor if the difference in weight between the boxers exceeds the allowance shown in subsection A of this section.

C. If one of the two boxers in a contest is above or below the weights shown in subsection A of this section, both boxers shall wear the gloves of the higher weight.

D. Boxers shall be weighed within 24 hours prior to the scheduled event. Each boxer and second shall appear at a time and place designated by the promoter and approved by the department or its contractor to be weighed on scales approved by the department or its contractor in the presence of each other, the promoter or his representative and a

designee of the department or its contractor. Boxers shall have all weight removed from their bodies before the weigh-in but may wear shorts in the case of males, and shorts and shirts in the case of females. Once weigh-ins commence, the scales shall not be moved until weigh-ins are complete.

E. When weigh-ins occur within 24 hours, but not less than 12 hours prior to the event's scheduled start time, the boxer shall not exceed the weight specified in his contract with the promoter. If a boxer exceeds the weight specified in the contract he shall not compete unless he:

1. Loses the weight exceeded in the contract at least 12 hours prior to the event's scheduled start time;
2. Loses all but two pounds of the weight exceeded in the contract at least 12 hours prior to the event's scheduled start time and loses the final two pounds at least six hours prior to the event's scheduled start time; or
3. Renegotiates the contract.

Boxers who weigh-in 24 hours prior to the scheduled event shall be required to re-weigh two hours prior to the event's scheduled start time and will not be permitted to exceed the weight specified in the contract by more than 10 pounds.

F. When weigh-ins occur less than 12 hours prior to an event's scheduled start time, the boxer shall not exceed the weight specified in the contract. No boxer shall be permitted to lose more than two pounds within 12 hours of a contest. If a boxer weighs more than two pounds over the weight specified in the contract, he shall not compete unless he:

1. Loses up to two pounds at least six hours prior to the event's scheduled start time; or
2. Renegotiates his contract.

G. The promoter is responsible for ensuring that all boxers and seconds are present at the prefight meeting. Any second who does not attend the prefight meeting will not be permitted in the corner of their boxer. All boxers will report to the event location and their locker rooms at the specified time on the night of the event. Once the boxer reports to the event facility and to the locker room he will be disqualified if he leaves the locker room before time for the bout or leaves the facility before the end of the bout.

18 VAC 120-40-300. Access to boxer's dressing locker rooms.

On the day of a contest, only the following individuals are allowed in the dressing locker room of a boxer:

1. The boxer's licensed manager;
2. The boxer's licensed trainers, seconds, or cutmen;
3. The promoter or the promoter's representatives;
4. Any representative of the department or its contractor in the conduct of his official duties; and
5. Any representative of a law-enforcement agency of competent jurisdiction while discharging his official duties.

Proposed Regulations

18 VAC 120-40-310. Referee's instructions to ~~boxing~~ contestants boxers.

The referee shall, before starting a contest, ascertain from each boxer the name of his chief second, and shall hold the chief second responsible for the conduct of the assistant seconds during the progress of the contest. The referee shall call ~~contestants~~ boxers together before each bout for final instructions, at which time each ~~contestant~~ boxer shall be accompanied by his chief second only.

18 VAC 120-40-320. Number and conduct of seconds.

A. Before a contest begins, the chief second and other seconds shall be identified for the officials. The corner shall present the boxer, ready to compete, when the event inspector calls the boxers to the ring and shall present the boxer, ready to box, when the referee calls the boxers to the center of the ring for final instructions.

~~A. B.~~ No ~~contestant~~ boxer may have more than ~~four~~ three seconds, except that in a ~~contest~~ for a world title bout, the department or its contractor may authorize up to five seconds. Seconds must appear at the official weigh-in and prefight meeting at the time and place designated by the department or its contractor.

C. All seconds must keep their shoulders below the ring floor level during the bout. Seconds are prohibited from standing up or leaning on the edge of the ring, mat or floor or slapping the ring, mat or floor while the bout is in progress, or touching the ring ropes until the bell sounds to end the round. Seconds must keep coaching volume down while the bout is in progress and are prohibited from interfering with the officials in any physical or verbal way.

~~B. D.~~ Only one of the seconds may be inside the ring ropes between rounds and shall not enter the ring until the bell signals the end of the round. During the rest period, the second may coach his boxer; treat cuts, abrasions or swelling; and provide water, ice, approved sport drinks, or other cooling-down techniques.

~~G. E.~~ Any excessive or undue spraying or throwing of water on any boxer by a second between rounds is prohibited. Seconds are responsible for wiping up any fluids in their corners between rounds.

~~D. F.~~ Seconds shall not enter the ring ~~until the bell signals the end of a round~~ to assist or move a boxer who has been knocked down or injured until instructed to do so by the ringside physician. Seconds shall leave the ring at the sound of the timekeeper's warning that 10 seconds remain before the start of the next round, removing all buckets, stools and other equipment promptly.

~~E.~~ Seconds shall not use during any contest ~~Monso's solution, alcoholic beverages, stimulants, or other substances not approved by the department or its contractor.~~

G. Throwing in the towel is not permitted by any second. If a second enters the ring during the round, the boxer shall be disqualified by the referee. Only the referee can stop the bout.

18 VAC 120-40-330. Length of contest and duration of round.

No boxing contest shall be scheduled for less than four rounds or more than 12 rounds for males or 10 rounds for females. Each round of boxing shall be three minutes in duration with a one-minute ~~lapse~~ rest period between rounds, except that bouts between female boxers shall consist of two-minute rounds with a one-minute ~~lapse~~ rest period between rounds.

18 VAC 120-40-340. Determination of a knockdown, counting by referee during knockdowns and knockouts.

A. It shall be ruled a knockdown when, as a result of a legal blow or series of legal blows, a boxer touches the floor with any part of the body other than his feet, or is being held up by the ropes, or is hanging on, through, or over the ropes without the ability to protect himself and cannot fall to the floor. A boxer who is knocked ~~from his feet by a blow from his opponent~~ down shall receive a minimum count of eight seconds and a maximum count of 10 seconds ~~from the referee~~. The referee shall begin his count when the boxer is down or is helpless on the ropes and after the opponent is in a neutral corner. The referee may stop the counting if the opponent fails to go to the neutral corner, and resume the count where he left off when the opponent returns to the neutral corner. If the boxer rises before the count of 10 is reached and goes back down immediately without being struck by his opponent, the referee shall resume the count where he left off.

B. A boxer who leaves the ring during a round for any reason shall have a count of 20 seconds to reenter the ring unassisted and cannot be touched while out of the ring by his second or others.

~~C.~~ The referee shall administer a "mandatory eight" count to a boxer who is knocked down.

~~D.~~ The referee shall rule as a knockout any count of 10 where the boxer is unable or unwilling to reenter the contest before the count of 10 or, in the case of a boxer who has left the ring for any reason, before the count of 20. The opponent of the boxer so counted shall win the contest.

18 VAC 120-40-342. Bout termination, knockout, technical knockout, medical suspensions.

A. A referee may terminate the count and the bout at any point when he determines that the safety of the downed boxer is at risk.

B. When a boxer loses by way of knockout, is unable to rise by the count of 10 or, in the case of a boxer who has left the ring for any reason, before the count of 20, the department or its designee shall record in the records the letters KO (loss by knockout). A boxer losing by way of a knockout shall be placed on medical suspension by the department on the boxer registry and shall not participate in any boxing activity for a minimum period of 60 days.

C. When a cut is produced by a legal punch and the fight is stopped because of that cut, the injured boxer shall lose by technical knockout and the department or its designee shall record in the records the letters TKO (loss by technical knockout).

D. Any boxer losing by way of TKO resulting from head blows shall be placed on medical suspension by the department on the boxer registry and shall not participate in any boxing activity for a minimum of 30 days. Longer medical suspension periods may be issued for a knockout or technical knockout upon the advice of the ringside physician. The ringside physician may also request a medical suspension any time he believes it to be in the best interest of the safety of the boxer.

18 VAC 120-40-350. Boxing fouls, duties of referee, and deduction of points.

A. Any of the following acts committed by a boxer during a boxing contest shall constitute a foul:

1. Hitting below the belt ~~naval~~ *naval or behind the ear.*
2. Hitting an opponent who is down or is getting up after being down.
3. Holding an opponent with one hand and hitting with the other.
4. Holding or deliberately maintaining a clinch.
5. Wrestling or kicking.
6. Striking an opponent who is helpless as a result of previous blows and so supported by the ropes that he does not fall after being instructed by the referee to a neutral corner.
7. Butting with the head or shoulder or using the knee.
8. Hitting with the open glove, the butt of the hand, the wrist or the elbow, and all backhand blows.
9. Purposely going down without being hit.
10. Striking deliberately at that part of the body over the kidneys.
11. ~~Deliberately~~ Using the rabbit punch (*punch thrown to the back of the head and neck areas*).
12. Jabbing the opponent's eyes with the thumb of the glove.
13. Using abusive language in the ring.
14. Engaging in any unsportsmanlike *conduct including, but not limited to, a trick or other action which causes injury to an opponent.*
15. Hitting on the break.
16. Hitting after the bell has sounded signaling the end of the round.
17. Hitting an opponent whose head is between or outside of the ropes.
18. Pushing an opponent about the ring or into the ropes.
19. *Intentionally spitting out the mouthpiece.*
20. *Biting or spitting.*
21. *Not following referee's instructions.*
22. *Stepping on opponent.*

23. *Crouching below opponent's belt.*

24. *Leaving neutral corner.*

25. *Corner second shouting.*

B. Referees are responsible for enforcing the rules of the contest and shall not permit fouls or other unfair practices which may cause an injury to a boxer. Referees shall warn each boxer who commits a foul during a boxing contest.

C. Any boxer who commits any foul after being warned by the referee may have points deducted by the referee or may lose the contest by disqualification by the referee.

D. Boxers who commit fouls or any other infraction may be penalized by the referee through the deduction of points from his score. The number of points to be deducted shall be determined by the referee based on his determination of the severity of the foul and its adverse effect on the opponent and shall be reported to the judges and both ~~contestants~~ *boxers* as soon as practical. The points shall be deducted from the score of the round in which the fouls were committed.

E. The referee shall stop a contest when he determines that a foul has occurred and determine whether the fouled boxer is able to continue. The referee may order the contest suspended for a reasonable period of time, *not to exceed five minutes*, to allow the fouled boxer to recover if the referee determines the boxer's chance of winning has not been seriously jeopardized. The referee shall inform the event inspector or his designee of his determination that the foul was accidental.

F. The referee shall stop a contest when he determines that an injury resulting from an accidental foul is so severe as to adversely affect the fouled boxer's chances of winning. The contest shall be a draw if the accidental foul occurs during the first four rounds. The contest shall be determined by a tabulation of the scores of the completed rounds if the accidental foul occurs after the fourth round *in a contest or more than four rounds.*

G. The referee shall stop a contest when he determines that an injury resulting from an accidental foul has been aggravated by fair blows. The outcome of the contest shall be determined by scoring the completed rounds.

H. *If a boxer commits an intentional foul in the ring and the foul causes an injury severe enough to terminate the bout immediately, the boxer causing the injury shall lose by disqualification. If an intentional foul causes an injury and the bout is allowed to continue, the referee will notify the event inspector and deduct two points from the boxer who caused the foul. Point deductions for intentional fouls are mandatory. If an intentional foul causes an injury and the injury results in the bout being stopped in a later round, the injured boxer will win by technical decision if he is ahead on the score cards or the bout will result in a technical draw if the injured boxer is behind or even on the score cards. If no action has occurred, the round should be scored as an even round. If the boxer injures himself while attempting to intentionally foul his opponent, the referee will not take any action in his favor, and the injury will be the same as one produced by a fair blow.*

Proposed Regulations

I. If the boxer conducts himself in an unsportsmanlike manner, the referee may stop the bout and disqualify the boxer.

J. If a boxer is injured by an accidental foul and the injury is severe enough for the referee to stop the bout immediately, the bout will result in a no decision if stopped before three completed rounds in bouts scheduled for four rounds. Rounds are complete when the bell rings signifying the end of the round. If a bout is scheduled for more than four rounds, the bout will result in a no decision if stopped before four completed rounds.

K. If the boxer is injured by an accidental foul that causes an injury severe enough for the referee to stop the bout immediately, the bout will result in a technical decision awarded to the boxer who is ahead on the score cards if the bout is stopped after three completed rounds in bouts scheduled for four rounds. If a bout is scheduled for more than four rounds and four rounds are completed, the bout will result in a technical decision, awarded to the boxer who is ahead on the score cards at the time the bout is stopped.

L. If a boxer is hit with an accidental low blow, he must be able to rise by the count of 10 and to continue after a reasonable amount of time not to exceed five minutes or he will lose the bout.

M. Disqualification for fouls to the body may occur if the fouls are flagrant or continual. The referee may order a deduction of points for any illegal blow to the body and may, at his discretion, give a rest period of up to five minutes for the injured boxer to recover. The referee may ask the ringside physician to examine the boxer before granting the rest period. If the referee rules the foul accidental and the injured boxer is unable to continue after the five minute rest period, the rules governing accidental fouls shall apply.

18 VAC 120-40-360. Scoring of boxing contest, decisions, and announcement of decisions.

A. Each contest shall be scored by the judges assigned by the department or its contractor. ~~The referee will not score the contest. The scoring will be done on the 10 point must system. Judges will score each round based on clean punches (power versus quantity), effective aggressiveness, ring generalship, and defense. In a bout that is stopped in the middle of the round, the judges shall score all incomplete or partial rounds as if they were a complete round. Judges may deduct points for knockdowns only when they are called as such by the referee and for fouls when they are instructed to do so by the referee. Judges should avoid scoring a round even.~~ At the end of each round, the score cards shall be presented to the event inspector or his designee who shall examine the score cards. The winner shall be the boxer who receives the highest score from the majority of the judges ~~at the end of the contest.~~ The contest is a draw if neither boxer scores so as to obtain a majority.

B. When the event inspector has examined the score cards and checked them for accuracy, he shall inform the ring announcer of the decision. ~~The announcer may inform the audience of the decision.~~

C. The department shall not change a decision rendered at the end of any boxing contest unless:

1. It is determined that there has been wrongful or illegal collusion affecting the result of the contest;

2. An error is found in the compilation of the scorecards ~~which discloses an error which shows that resulting in the decision favored favoring~~ the wrong boxer; or

3. The department determines through investigation that there was a violation of this chapter which adversely impacted on the fairness of the contest or the decision.

18 VAC 120-40-370. Boxer conduct standards. (Repealed.)

~~A. The administration of or use of any alcohol, controlled substance, or stimulant in any part of the body, either before or during a match, to or by any boxer shall be grounds for disciplinary action.~~

~~B. A boxer shall submit to a urinalysis or chemical test before or after a contest if the department or its contractor directs him to do so. Failure to submit to medical testing shall be grounds for disciplinary action.~~

~~C. A boxer found to be under the influence of alcohol or any controlled substance shall be subject to disciplinary action.~~

18 VAC 120-40-380. Full contact karate (kick boxing) event conduct standards. (Repealed.)

The provisions of this chapter which apply to boxers shall also apply to full contact karate (kick boxing) with the following modifications:

~~1. Contests shall not exceed 12 two-minute rounds with a one-minute rest period between rounds.~~

~~2. Fouls may result in the deduction of one or more points based on the severity of the foul as determined by the referee. The referee shall base his decision as to the severity of the foul on the intent of the contestant committing the foul and the result of the foul on the fouled contestant. At the time of the foul, the referee shall indicate to the judges the number of points to be subtracted from each judge's ballot. Fouls include:~~

~~a. Head butting;~~

~~b. Striking with the elbow;~~

~~c. Striking to the groin;~~

~~d. Attacking with the knee;~~

~~e. Chopping to the back of the neck or head (rabbit punch);~~

~~f. Striking to the face with any part of the arm other than the gloved hand (as in the spinning back first attempt which lands with the forearm or elbow);~~

~~g. Kicking to the legs;~~

~~h. Punching or kicking a contestant when he is down (A contestant is knocked down when any part of his body, other than his feet, touches the floor. If a contestant is on his way to the floor, his opponent may continue to attack until he has touched the floor with any part of his body other than his feet.);~~

~~i. Takedowns;~~

- ~~j. Intentionally pushing, shoving, or wrestling an opponent out of the ring with any part of the body;~~
- ~~k. Sweeping other than boot to boot;~~
- ~~l. Attacking on the break when both contestants have been ordered to take one step back by the referee;~~
- ~~m. Attacking after the bell has sounded to end the round;~~
- ~~n. Holding and hitting, such as holding with one hand, especially behind the neck, and hitting with the other hand;~~
- ~~o. Grabbing or holding onto an opponent's foot or leg, followed by a takedown;~~
- ~~p. Holding the ropes with one hand while kicking, punching, or defending with the other hand or with the legs;~~
- ~~q. Leg checking extending the leg to check an opponent's leg to prevent him from kicking;~~
- ~~r. Purposely going down without being hit, resulting in the referee automatically administering an 8 count;~~
- ~~s. Using abusive language in the ring;~~
- ~~t. Hitting or flicking with an open glove; and~~
- ~~u. Refusing to compete.~~

18 VAC 120-40-385. Rules for elimination boxing contest only.

This section governs elimination boxing contests only. To the extent any of the provisions of this section conflict with 18 VAC 120-40-230 through 18 VAC 120-40-410, the provisions of this section shall apply.

1. A boxer shall not be permitted to compete if he has a personal identification number as required by 15 USC § 6305.
2. A bout shall consist of three one-minute rounds with a one-minute rest period between rounds.
3. The standing eight count will be used. The three knockdown in any round rule will be in effect. If a fighter is knocked down four times in the bout, it shall be ruled as a technical knockout. No boxer shall be saved by the bell.
4. No boxer shall compete in more than five bouts in two days and three bouts in one day and must have a minimum rest period of 60 minutes between bouts.
5. No boxer shall be permitted to participate in any contest if he has been knocked out or technically knocked out within 60 days immediately preceding the contest.
6. No boxer shall be permitted to participate in an event within 30 days of his last event.
7. No boxer taking prescribed medication of any type shall be permitted to participate in any contest without approval from the ringside physician at the time of the physical. No boxer shall be permitted to participate who is under the influence of an illegal substance or who has consumed any type of alcoholic beverage within 24 hours of the scheduled

contest. After the physical, a boxer shall be permitted to drink water only prior to the contest.

8. All boxers shall be required to wear headgear and have fitted mouth pieces during the bout. Male boxers shall wear an approved groin protector and female boxers shall wear an approved pelvic girdle and have a minimum requirement of a padded sports bra. The promoter is responsible for providing boxing gloves, groin protectors for males and pelvic girdles for females that shall be clean, free from cuts and with no displacements or lumping of padded material. Headgear shall meet minimum requirements set by USA Boxing. Dipped style, sparring and thin padded training/sparring headgear will not be allowed.

9. No bouts with a weight difference of more than 20 pounds shall approved with the exception of heavyweights (190 pounds and above) where this is no limit to weight differential.

10. All gloves used shall be a minimum of 16 ounces.

18 VAC 120-40-390. Reporting the results of boxing contests.

Not later than two business days after the conclusion of a boxing match, the department or its contractor shall report the results of such boxing match and any related ineligibility to compete in boxing contests to each boxer registry as required by the federal Professional Boxing Safety Act of 1996 (15 USC § 6301 et seq.), as amended.

18 VAC 120-40-400. Wrestling event conduct standards. (Repealed.)

~~A. Wrestling exhibitions shall be conducted inside the ring ropes or inside of a securely barricaded area which positively prevents any direct contact between the wrestlers and the audience.~~

~~B. Each match shall be conducted under the supervision of a referee who shall be currently licensed as a wrestler and who shall be responsible for the safety of the spectators.~~

~~C. Each participant in each wrestling match shall be currently licensed as a wrestler.~~

~~D. In no case shall a wrestler intentionally cause a flow of blood or other bodily fluid from his body during the course of the exhibition.~~

~~E. In the event a visible flow of blood or other bodily fluid from any wrestler occurs during a contest, the referee shall immediately suspend the contest until medical treatment can be obtained. If the flow of blood or other bodily fluid cannot be stopped, the exhibition involving that wrestler shall not continue.~~

~~F. Neither referees nor promoters shall permit physically dangerous conduct or tactics by any wrestler.~~

~~G. Promoters shall maintain peace, order, and decency in the conduct of any wrestling exhibition.~~

~~H. Promoters must report to the department, within 24 hours of the completion of the event, the fees paid to the participants. Such report shall be on the form provided by the~~

Proposed Regulations

~~department or consist of copies of the contracts with the participants.~~

18 VAC 120-40-410. Promoter to allow access to event and event facilities.

A. The department may assign one or more representatives to each event to evaluate the contractor's performance or to assure compliance with Chapter 8.1 (§ 54.1-828 et seq.) of Title 54.1 of the Code of Virginia and this chapter.

B. All event officials and representatives of the department assigned to an event, whether to monitor the contractor's performance or for any other authorized purpose, shall be granted immediate access by the promoter and the promoter's representatives to the licensed event and to any area or portion of the event facilities.

C. *The promoter is responsible for security of the locker room area and shall not permit access except as specified in 18 VAC 120-40-300.*

PART ~~VI~~ VIII.

EVENT LICENSING AND CONDUCT STANDARDS FOR KICK BOXING AND ANY SIMILAR CONTESTS.

18 VAC 120-40-411. Application for a license to conduct a kick boxing event or any similar contest.

A. *At least 30 days before the date of any kick boxing or similar contest in the Commonwealth, the licensed promoter desiring to conduct the event shall deliver an application for a license to conduct a kick boxing event or similar contest to the department or its contractor. The application shall be on forms provided by the department and shall include:*

1. *The card of the contest to be exhibited, including the name of each contestant and the number of rounds each is scheduled to compete. The promoter may modify the card at any time up to the day of the event by providing the required documents for the additions to and the notice of the deletions from the card that accompanied the application.*

2. *Verification of all scheduled contestants' fight records and location of the contestants last five fights.*

3. *The date, location, and time of the event for which a license is sought.*

4. *Evidence that all contestants scheduled to compete are covered by a health insurance policy that covers expenses for injuries incurred during the event and has a minimum coverage of \$10,000.*

5. *Evidence of a surety bond filed with the department or its contractor conditioned on the payment of gate fees and penalties imposed by Chapter 8.1 (§ 54.1-828 et seq.) of Title 54.1 of the Code of Virginia and on the fulfillment of the contracts made with the contestants. The bond shall be in form and substance satisfactory to the department and in an amount equal to the sum of (i) the total gate fee required by this chapter and § 54.1-833 A of the Code of Virginia if all seats were to be sold and (ii) the total amount due to all contestants for their appearance in the event. The bond shall not exceed \$100,000 and shall be executed by a surety authorized to do business in the Commonwealth.*

6. *Acknowledgment that the promoter will provide a copy of the contract between the promoter and each of the contestants licensed at weigh-in.*

7. *A copy of each contract by the promoter for the sale of the rights to distribute in any manner such event by any video, telephonic, or other communication method involving the control of electrons or other charge carriers.*

8. *A statement that the applicant has read and understands this chapter and will conduct the event in full compliance with same.*

B. In no case shall the applicant for an event license announce or advertise, either directly or indirectly, the event to the public until the department has approved the application and issued the event license.

18 VAC 120-40-411.1. Equipment to be provided by promoters.

The promoter shall assure that each event shall have the following:

1. *A fighting ring that will be in the shape of a square or an octagon. A square ring shall not be less than 18 feet square inside the ropes and shall not exceed 20 feet square inside the ropes. An octagon ring shall not be less than 18 feet (from any side to the opposite side) inside the ropes and shall not exceed 32 feet (from any side to the opposite side) inside the ropes.*

The ring floor shall be padded with ensolite one inch thick or another similar closed-cell foam. The padded ring floor must extend at least 18 inches beyond the ropes and over the edge of the platform with a top covering of canvas or other similar material tightly stretched and laced to the ring platform. Material that tends to gather in lumps or ridges shall not be used.

The ring platform shall not be more than five feet above the floor of the building and shall have suitable steps for use of the contestants in their corners and by the ringside physician in a neutral corner.

Ring posts shall be of metal, not more than three inches in diameter, extending from the floor of the building to a height of 58 inches above the ring floor. The ring posts shall be at least 18 inches away from the ring ropes.

There shall be four ring ropes, no more than one inch in diameter, evenly spaced, with the bottom ring rope not less than 18 inches above the ring floor and the top ring rope not more than 52 inches above the ring floor. The bottom ring rope must be padded with a padding of closed cell padding of not less than 1/2 inch (recommend all ring ropes be padded of the same thickness and material). Ropes are to be connected with soft rope ties six feet apart. All ring ropes are to be tight and approved.

All corners must be padded with approved pads. All turnbuckles are to be covered with a protective padding.

A ring stool and bucket shall be provided for each contestant's corner. The ring shall have bright lights and light all four corners and middle of the ring equally. No lights shall shine into the face of the contestants or ring side

judges, lights may only shine downward and not shine at any angle directly into the fighting ring area that may blind the contestants or judges.

The promoter shall provide a ringside restrictive barrier between the first row of ringside seats and the event official's area that will prevent the crowd from confronting either the contestants or event officials. The ringside barrier must be a minimum of eight feet from the outside edge of the ring.

2. A bell or gong located at the ring no higher than the floor level of the ring. The bell or gong must produce a clear tone easily heard by the contestants.

3. Locker rooms adequate in number and equipment to reasonably facilitate the contestant's activities before and after the contest. Separate locker rooms shall be provided when both male and female contestants are scheduled to compete. Locker rooms shall have restroom facilities easily available.

4. A fully equipped ambulance with a currently trained ambulance crew at the site of any event for the entire duration of the event.

5. A notice to the nearest hospital and the persons in charge of its emergency room of the date, time and location of event.

6. Boxing gloves of the proper weight that are set by weight classification by rule. Boxing gloves must have laces to secure proper fit. Gloves must have an attached thumb to the body of the glove. Gloves must be clean, free of cuts, have good laces, with no displacement or lumping of padding material. Gloves used in world title fights shall be new and taken from the package just prior to issuing to the contestants. Gloves shall be inspected by the event inspector or his designee before each contest and those found defective shall be replaced before the contest.

7. A clear plastic water bottle, a bucket containing ice, surgeon's adhesive tape and surgical gauze for each contestant.

8. A sealed OTC pregnancy test kit, approved by the Food and Drug Administration, for each female boxer that will be given to the event inspector or his designee.

18 VAC 120-40-411.2. Promoter to provide copy of contract with contestants at weigh-in; penalty for noncompliance; contents of contract.

A. The promoter shall provide a copy of his contract with each contestant scheduled to compete in the event to the event inspector at the time of the weigh-in.

B. Failure to provide a copy of the contract for a contestant at the weigh-in shall result in the contestant's disqualification to compete in the event.

C. Each contract shall contain the name of the promoter, the name of the contestant, the amount of compensation to be paid to the contestant by the promoter and shall comply with the minimum provisions contained in the most current model contract developed by the Association of Boxing Commissions

and contained in the federal Professional Boxing Safety Act of 1996 (15 USC § 6301 et seq.).

18 VAC 120-40-411.3. Equipment to be provided by seconds.

Each second shall provide the following equipment for use at the event:

1. A solution approved by the Association of Boxing Commissions to stop hemorrhaging;
2. Scissors; and
3. One extra mouthpiece.

18 VAC 120-40-411.4. Equipment to be provided by each contestant.

Each contestant shall provide the following equipment:

1. Trunks for male contestants (two pair shorts for mixed martial arts, one being tight fitting) or long pants if required and trunks with tight upper body covering for female contestants;
2. Approved groin protector for male contestants and approved pelvic girdle and a padded sports bra for female contestants;
3. A mouth piece properly fitted to each contestant's mouth;
4. Foot pads when required; and
5. Shin pads when required.

18 VAC 120-40-411.5. Contest approval; request for reconsideration.

A. The department or its contractor shall obtain information on each contestant from a registry and examine that information, the results of the prefight physical, and any other pertinent information available to determine, to the extent possible, that both contestants are substantially equal in skills and ability and are medically fit to compete. No contest shall take place without the approval of the event inspector and the ringside physician assigned to the event by the department or its contractor.

B. No contestant shall participate in a contest who has:

1. Been knocked out in the 60 days immediately preceding the date of the contest;
2. Been technically knocked out in the 30 days preceding the date of the contest;
3. Been a contestant in a boxing, kick boxing or martial arts event of more than six rounds during the 15 days preceding the date of the contest or six or fewer rounds during the seven days preceding the date of the contest;
4. Suffered a cerebral hemorrhage;
5. Suffered a serious head injury or other serious physical injury. The department or its contractor may require an additional, specific medical examination to determine the contestant's suitability; or
6. Been found to be blind in one eye or whose vision in one eye is so poor that a physician recommends the contestant

Proposed Regulations

not participate in the contest. A boxer who is totally unsighted (uncorrected vision worse than 20/400) in one or both eyes shall be prohibited from competing.

C. No contestant shall participant in an event while under suspension from a commission of another jurisdiction of the United States due to:

1. A recent knockout or series of consecutive losses;
2. An injury, requirement for a medical procedure, or physician denial of eligibility to compete;
3. Failure of a test for drugs or controlled substances; or
4. The use of false aliases or falsifying, or attempting to falsify, official identification cards or documents.

D. Any promoter or contestant may request reconsideration by the director of the event inspector's decision by immediately providing in writing additional information or contradictory evidence concerning the contestant's skill, ability, or medical fitness.

E. A contestant who is suspended by a commission of another jurisdiction of the United States may be allowed to compete if:

1. The contestant was suspended for a knockout, technical knockout, series of consecutive loses, an injury, a requirement of a medical procedure, or physician denial of certification and the time interval for knockouts and technical knockouts in subsection B of this section has been met and further proof of sufficiently improved, medical or physical condition has been furnished;
2. The contestant was suspended for the failure of a drug test or the use of false aliases or falsifying, or attempting to falsify, official identification cards or documents and that a suspension was not, or is no longer, merited by the facts; or
3. The contestant was suspended for any reason other than those mentioned in subdivisions 1 and 2 of this subsection and the department or the department's contractor notifies the suspending commission in writing and consults with the designated official of the suspending commission prior to the grant of approval for such contestant to participate in a contest.

18 VAC 120-40-411.6. Event conduct standards for kick boxing and other similar contests.

A. Bandaging of each contestant's hands shall not exceed one roll of surgeon's adhesive tape, not over 1-1/2 inches wide, placed directly on the hand to protect the part of the hand near the wrist. The tape may cover the hand but not extend within 3/4 inch of the knuckles when the hand is clenched to make a fist. Soft surgical bandage, not over two inches wide, held in place by not more than six feet of surgeon's adhesive tape for each hand shall be used. Up to one 10-yard roll of bandage may be used to complete the wrappings for each hand. Strips of tape may be used between the fingers to hold down the bandages, not to cover the knuckles. Bandages shall be adjusted in the locker room in the presence of the event inspector or his designee.

B. Any contestant who has signed a contract to compete on a promoter's program shall be subject to be called by the

department to appear at any time to be weighed or to be examined by a physician designated by the department when the department has reason to believe the contestant may not be qualified or may not be medically sound to participate in the contest.

C. Each contestant who signs a contract to compete on a promoter's program shall appear at a time and place designated by the department or its contractor to be weighed on department-approved scales in the presence of each other and a representative designated by the department. Contestants shall have all weights removed from their bodies before the weigh-in but may wear shorts in the case of males, and shorts and shirts in the case of females.

D. Each contestant shall be examined immediately before the contest by a ringside physician assigned to the event who certifies in writing on a form provided by the department whether the contestant is physically fit to safely compete. The original health certificate will be submitted to the event inspector or his designee. In addition, each female contestant shall take a pregnancy test in the presence of a female inspector, using the pregnancy kit required by subdivision 8 of 18 VAC 120-40-411.1 or provide the ringside physician with a negative pregnancy test result taken not more than 24 hours prior to the event. The inspector will give the results to the physician and the results will be noted on the physical form. If the physician's certification fails to certify that the contestant is physically fit to safely compete, the contestant shall not participate in the contests. All contestants shall submit to a postfight physical if requested by the ringside physician or the department or its designee.

E. Discretionary use of petroleum jelly is permitted on the face, arms or any other part of the body. In the case of a cut, topical use of a solution approved by the Association of Boxing commissions is permitted. All other solutions are prohibited.

F. Headgear is not permitted.

18 VAC 120-40-411.7 Weight classes, weigh-ins and prefight meeting.

A. Weight classes are as follows:

Weight Class	Weight in Lbs	Weight in KG	Max Weight Spread	Glove sizes
Atomweight	112 & below	50.9 & below	3 lbs – 1.36kg	8-10 oz
Flyweight	112.1 – 117	50.95 – 53.18	3 lbs – 1.36 kg	8-10 oz
Bantamweight	117.1 – 122	53.22 – 55.45	4 lbs – 1.8 kg	8-10 oz
Featherweight	122.1 – 127	55.50 – 57.72	4 lbs – 1.8 kg	8-10 oz
Lightweight	127.1 – 132	57.77 – 60	4 lbs – 1.8 kg	8-10 oz
Super Lightweight	132.1 – 137	60.04 – 62.27	5 lbs – 2.3 kg	8-10 oz
Light Welterweight	137.1 – 142	62.31 – 64.51	5 lbs – 2.3 kg	8-10 oz

Welterweight	142.1 – 147	64.59 – 66.8	7 lbs – 3.2 kg	8-10 oz
Super Welterweight	147.1 – 153	66.9 – 69.5	7 lbs – 3.2 kg	10 oz
Light Middleweight	153.1 – 159	69.6 – 72.3	7 lbs – 3.2 kg	10 oz
Middleweight	159.1 – 165	72.4 – 75	7 lbs – 3.2 kg	10 oz
Super Middleweight	165.1 – 172	75.1 - 78.2	7 lbs – 3.2 kg	10 oz
Light Heavyweight	172.1 – 179	78.3 – 81.4	7 lbs – 3.2 kg	10 oz
Light Cruiserweight	179.1 – 186	81.5 – 84.5	7 lbs – 3.2 kg	10 oz
Cruiserweight	186.1 – 195	84.6 – 88.6	12 lbs – 5.5 kg	10 oz
Heavyweight	195.1 – 215	88.7 – 97.7	20 lbs – 9.1 kg	10 oz
Super Heavyweight	215.1 and up	97.8 and up	No limit	10 oz

B. No contestant may engage in a contest without the approval of the department or its contractor if the difference in weight between the contestants exceeds the allowance in subsection A of this section.

C. If one of the two boxers in a contest is above or below the weights shown in subsection A of this section, both boxers shall wear the gloves of the higher weight.

D. When weigh-ins occur within 24 hours, but not less than 12 hours prior to the event's scheduled start time, the boxer shall not exceed the weight specified in his contract with the promoter. If a boxer exceeds the weight specified in the contract he shall not compete unless he:

1. Loses the weight exceeded in the contract at least 12 hours prior to the event's scheduled start time;
2. Loses all but two pounds of the weight exceeded in the contract at least 12 hours prior to the event's scheduled start time and loses the final two pounds at least six hours prior to the event's scheduled start time; or
3. Renegotiates the contract.

Boxers who weigh-in 24 hours prior to the scheduled event shall be required to re-weigh two hours prior to the event's scheduled start time and will not be permitted to exceed the weight specified in the contract by more than 10 pounds.

E. When weigh-ins occur less than 12 hours prior to an event's scheduled start time, the boxer shall not exceed the weight specified in the contract. No boxer shall be permitted to lose more than two pounds within 12 hours of a contest. If a boxer weighs more than two pounds over the weight specified in the contract, he shall not compete unless he:

1. Loses up to two pounds at least six hours prior to the event's scheduled start time; or
2. Renegotiates his contract.

F. All contestants and their seconds must be present at the official weigh-in. The time, date and location of the weigh-in will be approved by the department. Contestants will be allowed to witness their opponent's weigh-in. All contestants and their seconds must be present at the prefight meeting. Any second who does not attend the prefight meeting will not be permitted in the corner of their contestant.

G. All contestants will report to the event location and their locker rooms at the specified time on the night of the event. Once the contestant reports to the event facility and to the locker room he will be disqualified if he leaves the locker room before time for the bout or leaves the facility before the end of the bout.

18 VAC 120-40-411.8. Access to contestant's locker rooms.

On the day of the contest, only the following individuals are allowed in the locker room of a contestant:

1. The contestant's licensed manager;
2. The contestant's licensed trainers, seconds, or cutmen;
3. The promoter or the promoter's representatives;
4. Any representative of the department or its contractor in the conduct of his official duties; and
5. Any representative of a law-enforcement agency of competent jurisdiction while discharging his official duties.

18 VAC 120-40-411.9. Referee's instructions to contestants.

The referee shall, before starting the contest, ascertain from each contestant the name of his chief second, and shall hold the chief second responsible for the conduct of the assistant seconds during the progress of the contest. The referee shall call contestants together before each bout for final instructions, at which time each contestant shall be accompanied by his chief second only.

18 VAC 120-40-411.10. Number and conduct of seconds.

- A. No contestant shall have more than three seconds.
- B. All seconds must keep their shoulders below the ring floor level during the bout. Seconds are prohibited from standing up or leaning on the edge of the ring, mat or floor or slapping the ring, mat or floor while the bout is in progress, or touching the ring ropes until the bell sounds to end the round. Seconds must keep coaching volume down while the bout is in progress and are prohibited from negatively interfering with the officials in any physical or verbal way.
- C. Only one second may be inside of the ring ropes between rounds.
- D. Any excessive or undue spraying or throwing of water on any contestant by a second between rounds is prohibited. Seconds are responsible for wiping up any fluids in their corners between rounds.
- E. Seconds shall not enter the ring until the bell signals the end of the round. Seconds shall leave the ring at the sound of the timekeeper's warning that 10 seconds remain before the

Proposed Regulations

start of the next round, removing all buckets, stools and other equipment promptly.

F. Seconds shall not use Monsol's solution, alcoholic beverages, stimulants, or other substances not approved by the department or its contractor during any contest.

G. Throwing in the towel is not permitted by any second. If a second enters the ring during the round, the contestant shall be disqualified by the referee. The referee is the only person who can stop the bout.

18 VAC 120-40-411.11. Length of contest and duration of round.

In events where only kicks above the waist are allowed, the rounds shall be two minutes in length with a one-minute rest period between the rounds. In all other events the rounds shall be three minutes in length with a one-minute rest period between rounds. In mixed martial arts events, the rounds shall be five minutes in length with a one-minute rest period between rounds.

18 VAC 120-40-411.12. Counting by referee during knockdowns and knockouts, determination of a knockdown.

A. A contestant who is knocked from his feet by a blow (leg sweeps and tripping are not considered blows) from his opponent may receive a count of 10 seconds from the referee. The count shall begin when the contestant is down or helpless on the ropes and after the opponent is in a neutral corner. If the contestant is unable or unwilling to reenter the contest before the count of 10, the referee shall rule a knockout and the contestant's opponent shall win the contest.

B. The referee may, at his discretion, administer an eight count to a contestant who has been stunned, but who remains standing. The referee will direct the contestant's opponent to a neutral corner, then begin the count, examining the stunned contestant during the count. If, after completing the standing eight count, the referee determines the contestant is able to continue, the bout shall resume. If the referee determines the contestant is not able to continue, the referee will stop the contest and declare the contestant's opponent the winner by technical knockout.

C. The referee shall administer a mandatory eight count to a contestant who is knocked down.

D. A contestant who leaves the ring during a round for any reason shall have a count of up to 20 seconds to reenter the ring unassisted and cannot be touched while out of the ring by his second or others. If the contestant does not reenter the ring before the count of 20, the contestant's opponent shall win the contest.

18 VAC 120-40-411.13. Fouls, duties of the referee, and deduction of points.

A. The following are considered fouls:

1. Head butts.
2. Punches to the back of the head.
3. Striking to the spine area.

4. Slapping (striking with the lace side of the glove).

5. Spitting.

6. Biting.

7. Holding the opponent's head or arm and hitting, unless permitted by this chapter.

8. Knee strikes unless permitted by this chapter.

9. Strikes to the knees.

10. Elbow and forearm strikes unless permitted by this chapter.

11. Palm heel strikes.

12. Joint attacks.

13. Take downs, throwing or grappling unless permitted by this chapter.

14. Clubbing.

15. Strikes to the groin area.

16. Spinning sweeps (boot to boot sweeps are allowed as long as the user does not spin).

17. Karate chopping style strikes.

18. Striking the opponent while he has slipped or fallen to one knee or more.

19. Using abusive language.

20. Attacking on the break.

21. Striking after the bell that had indicated the end of the round.

22. Pushing or shoving unless permitted by this chapter.

23. Grabbing or holding onto an opponents leg, foot, or any other part of the body unless permitted by this chapter.

24. Spinning forearm or elbow. A spinning backhand is allowed. It must strike with the legal striking area of the glove. This portion is limited to the tapeline at the wrist to the end of the glove. It does not include either side of the glove or wrist.

B. Referees are responsible for enforcing the rules of the contest and shall not permit fouls or other unfair practices that may cause an injury to a contestant. Referees shall warn contestants who commit fouls during the contest.

C. If a contestant commits a foul in the ring, the referee shall have the discretion to determine the following:

1. Give the contestant who has fouled a warning.

2. Deduct one to three points from the contestant who committed the foul. The number of points to be deducted shall be determined by the referee based on his determination of the severity of the foul and its adverse effect on the opponent and shall be reported to the judges and both contestants as soon as practical. The points shall be deducted from the score of the round in which the fouls were committed.

3. Disqualify the contestant who committed the foul.

D. Any contestant who commits a foul after being warned by the referee may have points deducted by the referee or may lose the contest by disqualification by the referee.

E. The referee shall stop the contest when he determines that a foul has occurred and determine whether the fouled contestant is able to continue. The referee may order the contest suspended for a reasonable period of time to allow the fouled contestant to recover if the referee determines the contestant's chance of winning has not been seriously jeopardized.

F. The referee shall inform the event inspector or his designee of any accidental foul. The referee shall stop a contest when it is determined that an injury resulting from an accidental foul is so severe as to adversely affect the fouled contestant's chances of winning. Except as provided in subsection H of this section, the contest shall be a draw if the accidental foul occurs during the first four rounds of a bout scheduled for more than four rounds or before the half-way point of a bout scheduled for four rounds or less. The contest shall be determined by a tabulation of the scores of the completed rounds if after the fourth round of a bout scheduled for more than four rounds or after the middle of a bout scheduled for four rounds or less.

G. The referee shall stop a contest when it is determined that an injury resulting from an accidental foul has been aggravated by fair blows. The outcome of the contest shall be determined by scoring the completed rounds.

H. If the contestant who committed the foul knocks out or causes injury to his opponent and the opponent is unable to continue the bout, the referee will stop the bout. The judges' score cards will be totaled and the decision of the bout will be announced. If the foul is committed in the first round and the fouled contestant cannot continue, the contestant who fouled will be automatically disqualified.

I. If a contestant is injured from a foul and the bout continues but is later stopped in any round after the first round because of additional injury to the fouled area, the judges' score cards will be totaled. If the contestant who committed the foul is ahead on the score cards the bout will end in a technical draw. If the contestant who was fouled is ahead, he will be awarded a technical win.

J. If a contestant becomes injured by something other than a foul or legal strike and the injury occurs in the first round, the bout shall be stopped and declared a no contest. If the injury occurs in the second round or beyond the judges will be asked to score the portion of the round. All judges score cards will be collected and tallied. If the injured contestant is ahead on the score cards he will be awarded a technical draw. If the noninjured contestant is ahead on the score cards he will be awarded a technical knockout (TKO).

18 VAC 120-40-411.14. Scoring of contest, decisions and announcements of decisions.

A. Each contest shall be scored by the judges assigned by the department or its contractor. At the end of each round, the score and the score cards shall be presented to the event inspector or his designee who shall examine the score cards.

At the end of the contest, the winner shall be the contestant who receives the highest score of the majority of the judges except as provided in 18 VAC 120-40-411.13. The contest is a draw if neither contestant scores so as to obtain a majority.

B. When the event inspector has examined the score cards and checked them for accuracy, he will inform the ring announcer of the decision.

C. The department shall not change a decision rendered at the end of any contest unless:

1. It is determined that there has been wrongful or illegal collusion affecting the results of the contest;
2. An error is found in the compilation of the score cards that shows that the decision favored the wrong contestant; or
3. The department determines through investigation there was a violation of this chapter that adversely impacted on the fairness of the contest or decision.

18 VAC 120-40-411.15. Promoter to allow access to event and facilities.

A. The department may assign one or more representatives to each event to evaluate the contractor's performance or to assure compliance with Chapter 8.1 (§ 54.1-828 et seq.) of Title 54.1 of the Code of Virginia and this chapter.

B. All event officials and representatives of the department assigned to an event, whether to monitor the contractor's performance or for any other authorized purpose, shall be granted immediate access by the promoter and the promoter's representatives to the licensed event and to any area or portion of the event facilities.

C. The promoter is responsible for security of the locker room area and shall not permit access except as specified in 18 VAC 120-40-411.8.

18 VAC 120-40-411.16. Full contact rules.

A. All legal kicks and punches must be above the waist of each contestant.

B. Leg sweeps, boot to boot, to the inside and outside of the opponent's foot (not above the ankle) are permitted.

C. Foot pads are required and are to be supplied by each contestant. Foot pads must be secured to the foot with elastic strap and medical athletic tape and must cover both toes and heel. Laces must not be exposed.

D. Shin pads must be made of a soft material (dipped foam or cotton) and secured to the shin with elastic straps and medical athletic tape.

18 VAC 120-40-411.17. International (low kick) rules.

A. Along with legal kicks and punches above the waist, contestants may also kick to the legs, but not to the knee.

B. Leg sweeps, boot to boot, to the inside and outside of the contestant's foot (not above the ankle) are permitted.

C. Kicks may be made with the shin or foot.

Proposed Regulations

D. Kicks to the inside and outside of the contestant's legs are permitted.

E. Direct sidekicks to the legs are not permitted.

F. Foot pads are not permitted. Shin pads may be worn but are not mandatory. If used, shin pads must be made of a soft material (dipped foam or cotton) and must be secured to the shin with elastic straps and medical athletic tape.

18 VAC 120-40-411.18. Muay Thai (Thai boxing) rules.

A. Along with legal kicks and punches above the waist, contestants may use legal kicks to the legs (not the knees) and elbows to legal target areas along with legal throws and take downs.

B. Use of knees and elbows is restricted to legal target areas below the neck. Use of knees and elbows to the head are permitted if prior approval by the department or its contractor is obtained.

C. Kneeing is permitted if one contestant is active within the clinch.

D. Kicks may be made with the shin or foot.

E. Kicks to the inside and outside of the fighter's leg are permitted.

F. Direct sidekicks to the legs are not permitted.

G. Contestants are permitted to catch their opponent's leg and take up to two steps. Contestants may strike anytime during the two steps, but must release the leg when they strike or by the end of the two steps.

H. Foot pads and shin pads are not permitted.

18 VAC 120-40-411.19. San Shou (Sanda) rules.

A. Along with legal kicks and punches above the waist, contestants may use legal kicks to the legs (not the knees) and elbows to legal target area. Use of knees and elbows is restricted to legal target areas below the neck. Use of knees and elbows to the head is permitted if prior approval by the department or its contractor is obtained.

B. Leg sweeps, boot to boot, to the inside and outside of the contestant's foot (not above the ankle) are permitted.

C. Kicks may be made with the shin or foot.

D. Kicks to the inside and outside of the contestant's leg are permitted.

E. Direct sidekicks to the legs are not permitted.

F. Contestants are permitted to catch their opponent's leg and take up to two steps. Contestants may strike anytime during the two steps, but must release the leg when they strike or by the end of the two steps.

G. Kneeing is permitted if one contestant is active within the clinch.

H. Clinching without kneeing is permitted for five seconds to execute a throw, sweep or takedown.

I. All types of Judo and wrestling throws are permitted, except spiking one's opponent directly on the head.

J. Foot pads and shin pads are not permitted.

K. Bouts contested on a platform without ropes must be approved by the department or its contractor 30 days prior to the event.

L. Contests shall be scored as follows:

1. Two areas will be scored, stand up and takedowns. Both are scored by the use of a clicker counter by each judge.

a. Stand up – Each judge will award a contestant one point for every effective strike delivered, with the exception of kicks that are caught and effective counter or throw or sweep delivered.

b. Takedown – After each throw, takedown or sweep, the referee will stop the action and determine if points are to be awarded. The referee will indicate points awarded by pointing to the contestant with one hand and raising his other hand indicating the number of points to be awarded. The referee will also announce the number of points. Each judge will record the number of points, by clicking the appropriate number on their clickers.

2. Referee awarded points.

a. Zero points are awarded if:

(1) A throw is attempted, but the other contestant pulls the thrower down with him and neither can show control;

(2) One contestant uses a falling technique to attack unsuccessfully; or

(3) One contestant uses a flying offensive technique with a deliberately falling technique, the latter one will not score.

b. One point is awarded if the contestant being thrown uses a throw "counter technique" and reverses the beginning thrower in regards to position of control or command. The contestant who ends up in the controlling or commanding position within a count of one after both contestants hit the floor shall receive the one point. If both contestants end up side to side no points shall be awarded.

c. Two points are awarded:

(1) For any knockdown from a strike (punch or kick) if the technique is clean and the standing contestant does not touch the ring floor and the fallen contestant is not given a standing eight count and rises off the mat quickly after the knockdown;

(2) For any basic throw that is not high altitude or of extreme skill or difficulty and the thrower remains standing; or

(3) If the contestant is forced to fall by the opponent's techniques, including the opponent deliberately falling while dodging defensively.

d. Three points are awarded:

(1) For any high altitude or explosive or extremely difficult throw;

(2) For any knockdown from a strike or any technique that requires the referee to give the contestant a standing eight count; or

(3) If the opponent is knocked down by a dropping sweep, which causes the opponent to come off his feet and land on his back (the sweepers hands may touch the floor).

3. Judges scoring. At the end of each round, each judge will write the total number of points for each contestant on the scorecard. At the end of each round, the event inspector or his designee will award the winning contestant one point and the losing contestant zero points for that round. At the end of the bout, unless the bout was stopped prior to the end of the scheduled rounds by knockout, technical knockout, or disqualification, the contestant with the most rounds won will be declared the winner. If the bout ends in a decision, the winner is the contestant who wins the most rounds.

18 VAC 120-40-411.20. Mixed martial arts rules.

A. The fighting ring shall be in the shape of a square or an octagon. A square ring shall not be less than 18 feet square within the ropes and shall not exceed 20 feet square inside the ropes. An octagon ring shall not be less than 18 feet (from any side to the opposite side) inside the ropes and shall not exceed 32 feet (from any side to the opposite side) inside the ropes. It shall be canvas and padded in a manner approved by the department or its contractor. The fighting area shall not be more than four feet from the floor and shall have suitable steps or a ramp for use by the contestants. It may be enclosed by a fence made of material that will not permit a contestant to fall out or break through it onto the floor or in spectator area, including, but not limited to, vinyl coated chain link fencing. The fence shall provide two separate entries into the ring. All metal parts shall be covered and padded in a manner approved by the department or its contractor and shall not be abrasive to the contestants. Ring stools shall be of the type approved by the department or its contractor.

B. All contestants are required to wear a mouthpiece during competition. The mouthpiece shall be subject to examination and approval by the ringside physician. The round cannot begin without the mouthpiece in place. If the mouthpiece becomes involuntarily dislodged during competition, the referee shall call time and clean and reinsert the mouthpiece at the first opportune moment, without interfering with the immediate action.

C. Male contestants shall wear a groin protector of a type approved by the department or its contractor. Female contestants shall wear a chest protector during competition, of a type approved by the department or its contractor.

D. Gloves shall be new for all main events and in good condition or they must be replaced. All contestants shall wear either four, five, or six ounce gloves that are supplied by the promoter and approved by the department or contractor. Contestants may not supply their own gloves.

E. Each contestant shall wear two pair of shorts with the top pair being either mixed martial art shorts, biking shorts, or kick

boxing shorts. The second pair shall be worn underneath. G's or shirts and shoes are prohibited during competition.

F. All contestants shall be cleanly shaven immediately prior to competition, except that a contestant may wear a closely cropped mustache. Hair shall be trimmed or tied back in such a manner as not to interfere with the vision of either contestant or cover any part of a contestant's face.

G. Each nonchampionship contest shall consist of three five-minute rounds with a one-minute rest period between rounds. Each championship contest shall consist of five five-minute rounds with a one-minute rest period between rounds.

H. The referee and ringside physician are the sole arbiters of a bout and are the only individuals authorized to enter the ring area at any time during competition or to stop a contest.

I. All bouts will be evaluated and scored by three judges. The 10 point must system will be the standard system of scoring a bout. Judges will evaluate mixed martial arts techniques, such as effective striking, effective grappling, control of the fighting area, and effective aggressiveness and defense. Scores will be weighted in the following order:

1. Effective striking, judged by determining the total number of legal heavy strikes landed by a contestant.

2. Effective grappling, judged by considering the amount of successful executions of a legal takedown or reversals. Factors considered will be take downs from standing position to mount position, passing the guard to mount position, and bottom position contestants using active, threatening guard.

3. Control of the fighting area, judged by determining who is dictating the pace and location and position of the bout. Factors considered will be countering a grappler's attempt at takedown by remaining standing and legally striking, taking down an opponent to force a ground fight, creating threatening submission attempts, passing the guard to achieve mount, and creating striking opportunities.

4. Effective aggressiveness and defense, judged by moving forward and landing a legal strike and avoiding being struck, taken down or reversed while countering with offensive attacks.

J. The following objective scoring criteria shall be utilized by the judges by the judges when scoring a round.

1. A round is to be scored as a 10-10 round when both contestants appear to be fighting evenly and neither contestant shows clear dominance in a round.

2. A round is to be scored as a 10-9 round when a contestant winning by a close margin lands the greater number of effective legal strikes, grappling and other maneuvers.

3. A round is to be scored as a 10-8 round when a contestant overwhelmingly dominates by striking or grappling in a round.

4. A round is to be scored as a 10-7 round when a contestant totally dominates by striking or grappling in a round.

Proposed Regulations

K. Judges shall use a sliding scale and recognize the length of the time the contestants are either standing or on the ground as follows.

1. If the contestant spent a majority of a round on the canvas, the effective grappling is weighed first and effective striking second.
2. If the contestant spent a majority of a round standing, the effective striking is weighed first and effective grappling is second.
3. If a round ends with relatively even amount of standing and canvas fighting, striking and grappling are weighed equally.

L. The referee shall issue a single warning for the following infractions:

1. Holding or grabbing the fence or ropes;
2. Holding an opponent's shorts or gloves; or
3. The presence of more than one second on the fighting area perimeter.

If the prohibited conduct persists after a single warning, the infraction may result in a deduction of points or disqualification.

M. The referee shall deduct points for the following fouls:

1. Butting with the head;
2. Eye gouging of any kind;
3. Biting or spitting at an opponent;
4. Hair pulling;
5. Fish hooking;
6. Groin attacks of any kind;
7. Intentionally placing a finger in any opponent's orifice;
8. Downward pointing of elbows strikes;
9. Small joint manipulation;
10. Strikes to the spine or back of the head;
11. Heel kick to the kidneys;
12. Throat strikes of any kind;
13. Clawing, pinching, twisting the flesh or grabbing the clavicle;
14. Kicking the head of a grounded contestant;
15. Kneeing the head of a grounded contestant;
16. Stomping of a grounded contestant;
17. Use of abusive language in the ring;
18. Any unsportsmanlike conduct that causes an injury to the opponent;
19. Attacking an opponent on or during the break;
20. Attacking an opponent who is under the referee's care at that time;

21. Timidity (avoiding contact, or consistent dropping of the mouthpiece, or faking an injury);

22. Interference from a contestant's second or corner person;

23. Throwing an opponent out of the ring;

24. Flagrant disregard of the referee's instructions; or

25. Spiking an opponent to the canvas on his head or neck.

If a foul is committed, the referee shall call time, check the fouled contestant's condition and safety, assess the foul to the offending contestant, deduct points, and notify each corner's seconds, judges and the event inspector or his designee. Disqualification will occur after any combination of three fouls or after the referee determines that a foul was intentional and flagrant. Fouls will result in a point being deducted by the event inspector or designated scorekeeper from the offending contestant's score. Only the referee can assess a foul. If the referee does not call the foul, judges shall not make that assessment on their own and cannot factor such into their scoring calculations. A fouled contestant has five minutes to recuperate.

If a bottom contestant commits a foul, but the top contestant is not injured and he maintains his position, the match shall continue, so as not to jeopardize the top contestant's superior position at the time. The referee shall verbally notify the bottom contestant of the foul. When the round is over, the referee shall assess the foul and notify both corner's seconds, the judges and the event official or his designee. The referee may terminate a bout based on the severity of a foul.

N. If an injury sustained during competition as a result of a legal maneuver is severe enough to terminate a bout, the injured contestant loses by technical knockout. If an injury sustained during competition is a result of an intentional foul severe enough to terminate a bout, the contestant causing the injury loses by disqualification. If an injury is sustained during competition as a result of an intentional foul and the bout is allowed to continue, the referee shall deduct two points from the offending contestant and shall notify the event inspector or his designee. If an injury sustained during the competition as a result of an intentional foul causes the injured contestant to be unable to continue at a subsequent point in the contest, the injured contestant shall win by technical decision, if he is ahead on the scorecards. In the injured contestant is even or behind on the scorecards at the time the competition is stopped, the outcome of the bout shall be declared a technical draw.

If a contestant injures himself while attempting to foul the opponent, the referee shall not take any action in his favor, and the injury shall be treated in the same manner as an injury produced by a fair blow.

If an injury sustained during a bout as a result of an accidental foul is severe enough for the referee to stop the bout immediately, the bout shall result in a no contest if stopped before two rounds have been completed in a three round bout or before three rounds have been completed in a five round bout. If an injury sustained during a bout as a result of an accidental foul is severe enough for the referee to stop the bout immediately, the bout shall result in a technical decision

awarded to the contestant who is ahead on the score cards at the time the bout is stopped only when the bout is stopped after two rounds of a three round bout or three rounds of a five round bout.

O. There will be no scoring of an incomplete round. However, if the referee penalizes either contestant, then the appropriate points shall be deducted when the event inspector or his representative calculates the final score.

P. Bouts may end in the following ways:

1. Submission by tap out – Contestant physically uses his hand to indicate that he no longer wishes to continue.
2. Verbal tap out – Contestant verbally announces to the referee that he does not wish to continue.
3. Technical knockout – Referee or ringside physician stops the bout when an injury as a result of a legal maneuver is severe enough to terminate a bout.
4. Knockout – Contestant fails to rise from the canvas before a count of 10.
5. Draws – Unanimous when all three judges score the bout a draw. Majority when two of the judges score the contest a draw. Split when all the judges score the bout differently and the score total results in a draw.
6. Disqualification – An injury sustained during the competition as result of an intentional fouls is severe enough to terminate the contest.
7. Forfeit – A contestant fails to begin competition or prematurely ends the contest for reasons other than injury.
8. Technical draw – An injury sustained during the competition as a result of an intentional foul causes the injured contestant to be unable to continue and the injured contestant is even or behind on the score cards at the time of the stoppage.
9. Technical decision – The bout is prematurely stopped due to injury and a contestant is leading on the score cards.
10. No contest – When a contest is prematurely stopped due to accidental injury and a sufficient number of rounds have not been completed to render a decision by the score cards.

Q. Weight classes are as follows:

Weight Class	Weight in Pounds	Max weight difference
Flyweight	125.9 and under	5 lbs
Bantamweight	126 – 134.9	5 lbs
Featherweight	135 – 144.9	5 lbs
Lightweight	145 – 154.9	5 lbs
Welterweight	155 – 169.9	12 lbs
Middleweight	170 – 184.9	12 lbs
Light Heavyweight	185 – 204.9	12 lbs

Heavyweight	204 – 264.9	20 lbs
Super Heavyweight	265 and over	No limit

No contestant may engage in a contest without the approval of the department or the department’s representative if the difference in weight between the contestants exceeds the allowance shown on the above schedule.

18 VAC 120-40-411.21. Rules for other contests.

Rules for aikido, karate, judo, tae kwon do or similar contests shall be the mixed martial arts rules set forth in 18 VAC 120-40-411.20 or other rules submitted with the event application, approved by the department, and agreed to by all licensees participating in the event.

PART IX.
EVENT LICENSING AND CONDUCT STANDARDS FOR
WRESTLING.

18 VAC 120-40-415. Application for a license to conduct a wrestling event.

A. At least 30 days before the date of any wrestling event in the Commonwealth, the licensed promoter desiring to conduct the event shall deliver an application for a license to conduct a wrestling event to the department or its contractor. The application shall be on forms provided by the department and shall include:

1. The card of the wrestling show to be exhibited, including the name of each participant. The promoter may modify the card at any time up to the day of the event by providing the required documents for the additions to and the notice of the deletions from the card that accompanied the application;
2. A certification by the promoter that all participants are properly trained and competent to perform within the ring and ring area;
3. The date, location, and time of the event for which a license is sought;
4. A statement certifying that all participants scheduled to compete are covered by a health insurance policy that covers medical expenses for injuries incurred during the wrestling event.
5. Evidence of a surety bond filed with the department or its contractor conditioned on the payment of gate fees and penalties imposed by Chapter 8.1 (§ 54.1-828 et seq.) of Title 54.1 of the Code of Virginia and on the fulfillment of the contracts made with the participants. The bond shall be in form and substance satisfactory to the department and in an amount equal to the sum of (i) the total gate fee required by this chapter and § 54.1-833 A of the Code of Virginia if all seats were to be sold and (ii) the total amount due to all participants for their appearance in the event. The bond shall not exceed \$100,000 and shall be executed by a surety authorized to do business in the Commonwealth;

Proposed Regulations

6. Acknowledgment that the promoter will provide a copy of the contract between the promoter and each of the participants to the department or its contractor upon request;

7. A copy of each contract by the promoter for the sale of the rights to distribute in any manner such event by any video, telephonic, or other communication method involving the control of electrons or other charge carriers; and

8. A statement that the applicant has read and understands this chapter and will conduct the event in full compliance with same.

B. In no case shall the applicant for an event license announce or advertise, either directly or indirectly, the event to the public until the department has approved the application and issued the event license.

18 VAC 120-40-415.1 Equipment to be provided by wrestling promoters.

The promoter shall assure that each event shall have the following:

1. A fighting ring that will be in the shape of a square or an octagon. A square ring shall not be less than 18 feet square within the ropes and shall not exceed 20 feet square inside the ropes. An octagon ring shall not be less than 18 feet (from any side to the opposite side) inside the ropes and shall not exceed 32 feet (from any side to the opposite side) inside the ropes. The ring floor shall be padded with ensolite, one inch thick, or another similar closed-cell foam. The padded ring floor must extend at least 18 inches beyond the ropes and over the edge of the platform with a top covering of canvas or other similar material tightly stretched and laced to the ring platform. Material that tends to gather in lumps or ridges shall not be used. The ring platform shall not be more than five feet above the floor of the building and shall have suitable steps for use of the contestants in their corners. Ring posts shall be of metal, not more than three inches in diameter, extending from the floor of the building to a height of 58 inches above the ring floor. The ring posts shall be at least 18 inches away from the ring ropes. There shall be three or four ring ropes, no more than one inch in diameter, evenly spaced, with the bottom ring rope not less than 18 inches above the ring floor and the top ring rope not more than 52 inches above the ring floor. The bottom ring rope must be padded with a padding of closed cell padding of not less than 1/2 inch (recommend all ring roped be padded of the same thickness and material). Ropes are to be connected with soft rope ties six feet apart. All ring ropes are to be tight and approved by the department or its contractor. All corners must be padded with approved pads. All turnbuckles are to be covered with a protective padding. The ring shall have bright lights and light all four corners and middle of the ring equally. No lights shall shine into the face of the participants, lights may only shine downward and not shine at any angle directly into the fighting ring area that may blind the participants. The promoter shall provide a ringside restrictive barrier between the first row of ringside seats and the ring area event official's area that will prevent the crowd from confronting

the participants. The ringside barrier must be a minimum of six feet from the outside edge of the ring;

2. A bell or gong located at the ring no higher than the floor level of the ring. The bell or gong must produce a clear tone easily heard by the participants;

3. Locker rooms adequate in number and equipment to reasonably facilitate the participant's activities before and after the show. Separate locker rooms shall be provided when both male and female participants are scheduled to compete. Locker rooms shall have restroom facilities easily available;

4. A notice to the nearest hospital and the persons in charge of its emergency room of the date, time and location of event.

18 VAC 120-40-415.2. Wrestling event conduct standards.

A. Wrestling exhibitions shall be conducted inside the ring ropes or inside a securely barricaded area that prevents any direct contact between the participants and the audience.

B. Each match shall be conducted under the supervision of a referee who shall be currently licensed as a wrestler and who shall be responsible for the safety of the participants and spectators.

C. Neither the promoter or referee shall permit physically dangerous conduct or tactics by any participant.

D. Participants shall not intentionally cause a flow of blood or other bodily fluid from his body or any other participant's body during the course of the match. In the event a visible flow of blood or other bodily fluid from any participant occurs during the show, the referee shall immediately suspend the match until medical treatment can be obtained. If the flow of blood or other bodily fluid cannot be stopped, the match involving that participant shall not continue.

E. All participants will report to the event location and their locker rooms at the specified time. Once the participant reports to the event facility and to his locker room he will be disqualified if he leaves the staging area before the match or leaves the facility before the end of the bout without prior approval from the event inspector.

F. Promoters shall maintain peace, order and decency in the conduct of all participants and spectators.

G. Promoters must have, and maintain for review if needed, individual contracts on file for all their participants or shall report to the department, on a form provided by the department, within 24 hours of the completion of the event, any fees promised or received by the participants of that event.

18 VAC 120-40-415.3 Promoter to allow access to event and facilities.

A. The department may assign one or more representatives to each event to evaluate the contractor's performance or to assure compliance with Chapter 8.1 (§ 54.1-828 et seq.) of Title 54.1 of the Code of Virginia and this chapter.

B. All event officials and representatives of the department assigned to an event, whether to monitor the contractor's

performance or for any other authorized purpose, shall be granted immediate access by the promoter and the promoter's representatives to the licensed event and to any area or portion of the event facilities.

C. The promoter is responsible for security of the locker room area and shall permit no person to enter the locker room area except for the promoter or his staff or representative, licensed participants, the event inspector or any individual the department may deem appropriate to ensure compliance with Chapter 8.1 (§ 54.1-828 et seq.) of Title 54.1 of the Code of Virginia and this chapter.

Part ~~V~~ X. GATE FEES.

18 VAC 120-40-420. Reporting, verification, and payment of gate fees.

A. No person, except for members of a local police department or rescue squad on duty covering the event, officials, event staff, promoters and participants may be admitted to the event without a ticket.

B. Each ticket, except those for the working press, officials, employees, and official photographers, shall have the price, name of the promoter, date, and place of the event printed plainly on it.

C. No promoter shall sell a ticket at a price other than the price that appears on the ticket.

D. No promoter shall change a ticket price or the place or date of the event without the approval of the department.

E. Tickets of different prices shall be printed in different colors.

F. The promoter shall permit the inspector to check the number and location of ticket boxes at the gate, ensure that the ticket boxes are sealed and padlocked, and open the ticket boxes and count the tickets after the event.

G. Each ticket issued to the press shall be marked "press."

H. A maximum of 2.0% of the tickets to an event may be complimentary.

I. Each complimentary ticket shall be marked complimentary.

J. The promoter shall provide to the department, prior to the commencement of an event at which admission is charged, a manifest or report on the number, kind, and price of tickets printed for the contest.

K. Each ticket shall be separated from the stub when entering through the gate. No person shall occupy a seat without a stub.

~~A.~~ L. Each promoter shall furnish to the department, within 24 hours after the completion of each boxing or wrestling event, a written and verified report on the form provided by the department showing the number of tickets sold, unsold, and given away and the amount of gross proceeds thereof for such events originating in the Commonwealth. The report shall also include the total gross proceeds from the sale of rights to distribute in any manner such event by any video, telephonic, or other communication method involving the

control of electrons or other charge carriers for such live events originating in the Commonwealth.

~~B.~~ M. The promoter shall pay the department, within the same 24-hour period, a fee of (i) 5.0% of the first \$100,000 of its total gross receipts and (ii) 2.5% of the remainder of its total gross proceeds. *These fees shall not be reduced for portions of an event containing amateur matches as set forth in 18 VAC 120-40-10.*

~~C.~~ N. The department or its contractor may examine or cause to be audited the records and accounts of the promoter.

PART ~~VII~~ XI. STANDARDS OF CONDUCT AND PERFORMANCE.

18 VAC 120-40-430. Grounds for disciplinary action by the department.

A. The department shall have the authority to discipline a licensee through a fine, license suspension, or license revocation for the same reason it may deny licensure or renewal, and for the following reasons, as may be appropriate:

1. Violating or inducing another person to violate any provisions of the federal Professional Boxing Safety Act of 1996 (15 USC § 6301 et seq.), Chapters 1, 2, 3 or 8.1 of Title 54.1 of the Code of Virginia or of this chapter.

2. Using misrepresentation or fraud to obtain or attempt to obtain a license or event license.

3. Having a medical condition which makes participation in boxing or wrestling¹ events a health hazard.

4. Altering a license issued by the department.

5. Having been convicted in any jurisdiction of any felony or of any misdemeanor involving lying, cheating or stealing, or of any misdemeanor for acts carried out while engaged in boxing, wrestling, or other athletic activities. Any plea of nolo contendere shall be considered a conviction for the purposes of this subsection. A certified copy of a final order, decree or case decision by a court or regulatory agency with the lawful authority to issue such order, decree or case decision shall be admissible as prima facie evidence of such conviction or discipline.

6. Having been the subject of disciplinary action taken by Virginia or another jurisdiction in connection with the participation in or promotion of professional athletic contests or activities, including but not limited to, monetary penalties, fines, suspension, revocation, or surrender of a license in connection with a disciplinary action.

7. Failing or refusing to appear when directed by the department or its contractor for the purposes of weighing or conducting a medical examination.

8. Failing to furnish a valid reason or a doctor's certificate to explain any failure to appear at an event in which an applicant or licensee agreed to participate by signing a contract.

9. Using unsportsmanlike conduct or other inappropriate behavior inconsistent with generally accepted methods of competition.

Proposed Regulations

10. Failure to meet financial obligations that results in collection proceedings against the bond required by ~~18 VAC 420-40-230~~ this chapter and § 54.1-833 A of the Code of Virginia.

11. Use of profane or abusive language, during the event, including at the weigh-in and prefight meeting.

12. Threatening or inflicting bodily harm upon an official or members of the audience during an event.

13. Making allegations of illegal or improper conduct against officials that the licensee knows or should have known to be false.

14. Use of any alcohol, controlled substances, or stimulants in any part of the body prior to or during an event or being found to be under the influence of alcohol, controlled substances or stimulants during an event.

15. Failure to submit to a urinalysis or chemical test before or after an event upon request of the department or its designee.

16. Failure to fulfill contracts for participation in an event.

17. Wearing facial cosmetics or jewelry of any kind, including any type of body piercing by any participants during a contest.

18. Failure by any participant to secure hair with soft, nonabrasive materials during a contest, when deemed appropriate by the department or its contractor.

B. The department shall conduct disciplinary procedures in accordance with the Administrative Process Act (§ 2.2-4000 et seq. of the Code of Virginia).

NOTICE: The forms used in administering 18 VAC 120-40, Virginia Professional Boxing and Wrestling Events 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 Department of Professional and Occupational Regulations, 3600 West Broad Street, Richmond, Virginia, or at the office of the Registrar of Regulations, General Assembly Building, 2nd Floor, Richmond, Virginia.

FORMS

Boxing and Wrestling Nonparticipant License Application, ~~41NPLIC~~ 41NPLIC (rev. 07/05).

Boxing and Wrestling Event Card Additions and Deletions Form, 41EVCHG (eff. 08/03).

Boxing and Wrestling Event Surety Bond Form, 41EVBOND (rev. 08/03).

Boxing and Wrestling Deposit Verification, 41DEPOSIT (rev. 08/03).

Boxing and Wrestling Promoter's Fee Report, 41PFRFIN (rev. ~~08/03~~ 02/06).

Boxing Event License Application, 41BEVLIC (eff. ~~09/03~~ rev. 08/06).

Boxing License Application, 41BOXLIC (eff. ~~09/05~~ rev. 08/06).

Boxing Promoter License Application, 41BPRLIC (eff. 07/05).

Promoters Payout Report, 41PQYREP (eff. ~~07/05~~ rev. 04/06).

Wrestling Event License Application, 41WEVLIC (eff. ~~09/05~~ rev. 08/06).

Wrestling License Application, 41WLIC (eff. ~~09/05~~ rev. 08/06).

Wrestling Promoter License Application, 41WPRLIC (eff. 07/05).

Limited Boxing License Application, 41LTDBOXLIC (eff. 09/05).

Limited Wrestling License Application, 41LTDWLIC (eff. 09/05).

Martial Arts Boxing License Application, 41MALIC (eff. 08/06).

VA.R. Doc. No. R05-200; Filed August 15, 2006, 11:48 a.m.

TITLE 22. SOCIAL SERVICES

STATE BOARD OF SOCIAL SERVICES

Titles of Regulations: **22 VAC 40-20. Food Stamp Program - Income Conversion Method (repealing 22 VAC 40-20-10).**

22 VAC 40-540. Allowance of Telephone Costs in the Food Stamp Program (repealing 22 VAC 40-540-10).

22 VAC 40-600. Food Stamp Program Administrative Disqualification Hearings (repealing 22 VAC 40-600-10 through 22 VAC 40-600-240).

22 VAC 40-601. Food Stamp Program (adding 22 VAC 40-601-10 through 22 VAC 40-601-40).

Statutory Authority: § 63.2-217 of the Code of Virginia.

Public Hearing Date: N/A -- Public comments may be submitted until November 3, 2006.

(See Calendar of Events section for additional information)

Agency Contact: Celestine Jackson, Program Consultant, Division of Benefit Programs, Department of Social Services, 7 North Eighth Street, Richmond, VA 23219, telephone (804) 726-7376, Fax (804) 726-7356, email celestine.jackson@dss.virginia.gov.

Basis: Section 63.2-217 of the Code of Virginia grants authority to the State Board of Social Services to promulgate rules and regulations to operate assistance programs in Virginia. 7 CFR 271.4 delegates responsibility to administer the Food Stamp Program within a state to the agency assigned responsibility for other federally funded public assistance programs.

Purpose: This is a joint action to repeal three regulations related to the Food Stamp Program and replace them with a single comprehensive regulation. The proposed regulation outlines processes that are not mandated by federal or state law or regulation. Procedures in the regulation apply to the eligibility determination process for the Food Stamp Program

and the process to calculate the amount of food stamp benefits eligible households receive. The regulation also outlines the administrative disqualification hearing process to determine when households receive benefits to which they are not entitled.

The regulation ensures that local workers perform the eligibility determination process and the calculation of benefits uniformly for all households by factoring the same standard for telephone expenses and by converting income to monthly amounts. The regulation also requires uniform evaluation of determining if individuals intentionally break program rules to obtain benefits to which they are not entitled. Uniform application of program rules protects the general welfare of food stamp applicant and recipient households. The regulation does not address environmental benefits or provide for the health or safety of citizens.

Substance: The proposed regulation covers issues related to the Food Stamp Program that were previously addressed in three separate regulations. There are no substantive changes between the proposed regulation and the three separate regulations being repealed.

The proposed regulation addresses the conversion of income to monthly amounts. Local social services workers must use conversion factors of 4.3 for weekly income amounts and 2.15 for biweekly amounts when calculating income to determine households' eligibility and benefit levels.

The proposed regulation also addresses using a telephone standard amount in the calculation to determine food stamp eligibility and benefit level. Local workers must use a set standard amount for all households for telephone costs instead of actual costs.

The proposed regulation outlines the administrative disqualification hearing process to determine whether food stamp recipients have committed fraudulent acts against the program; to identify persons who commit program violations and to disqualify them from participation; and to establish requirements to advise individuals of the process, findings, and consequences.

Issues: The provisions of this regulation offer advantages to workers of local departments of social services when they determine eligibility for applying households. Workers must determine eligibility and benefit level based on the amount of income applicants expect to receive in a month. Using a conversion factor with an averaged amount in the calculation allows workers to certify households for longer periods rather than to attempt to guess at the exact amount that will be received. The calculations must be done prospectively instead of retrospectively.

Use of the conversion-factored income also offers advantages to applying and recipient households through the longer eligibility periods before reapplying for benefits. This process is also beneficial to households by leveling monthly income. A more stable or even view of eligibility by excluding periodic fluctuations or income that results from a fifth weekly pay period or a third biweekly period when calendar months have additional periods.

Use of a standard telephone amount benefits households and the department by no longer requiring applicants to provide a current telephone bill to verify the expense. This is beneficial to the department by using the time of eligibility staff more efficiently instead of pursuing telephone bills to determine the basic rate for each household. Use of a standard amount for all households is less error prone than evaluating actual expenses.

The procedures for conducting administrative disqualification hearings for the program offer uniform application of the process to determine if households intentionally provide incorrect or misleading information to receive food stamp benefits to which they are not entitled. Uniform guidelines offer protections to households instead of a process that is variable or subject to change.

Department of Planning and Budget's Economic Impact Analysis:

Summary of the proposed regulation. The State Board of Social Services (board) proposes to repeal their three food stamp regulations (22 VAC 40-20, 22 VAC 40-540 and 22 VAC 40-600) and promulgate one regulation that will set rules for all parts of the food stamp program. The only change between the old and new regulations is that the new regulation contains a definition for "local department."

Result of analysis. The benefits likely exceed the costs for this proposed regulatory change.

Estimated economic impact. Currently, the Department of Social Service's (DSS) food stamp rules are in three separate regulations. One of these regulations sets the multipliers that allow weekly or biweekly income to be converted to a monthly income, one sets rules for the allowance of telephone costs in figuring food stamp allotments, and one sets rules for administrative hearings.

DSS now proposes to repeal these three regulations and promulgate a new regulation that includes all these rules. The new regulation will not vary in any substantive way from what is in the three regulations that are to be repealed. There are no costs associated with this regulatory action. The public will likely gain some small benefit from this small simplification of the Virginia Administrative Code.

Businesses and entities affected. The proposed regulation will affect all 223,000 households in the Commonwealth that receive food stamps.

Localities particularly affected. The proposed regulation will affect all localities in the Commonwealth.

Projected impact on employment. The proposed regulation will likely not affect employment in the Commonwealth.

Effects on the use and value of private property. The proposed regulation is not likely to affect the use and value of any private property in the Commonwealth.

Small businesses: Costs and other effects. No small businesses are likely to be affected by the proposed regulation.

Proposed Regulations

Small businesses: Alternative method that minimizes adverse impact. No small businesses are likely to be affected by the proposed regulation.

Legal mandate. 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. Further, if the proposed regulation has adverse effect on small businesses, Section 2.2-4007 H requires that such economic impact analyses include (i) an identification and estimate of the number of small businesses subject to the regulation; (ii) the projected reporting, recordkeeping, and other administrative costs required for small businesses to comply with the regulation, including the type of professional skills necessary for preparing required reports and other documents; (iii) a statement of the probable effect of the regulation on affected small businesses; and (iv) a description of any less intrusive or less costly alternative methods of achieving the purpose of the regulation. The analysis presented above represents DPB's best estimate of these economic impacts.

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

Summary:

This is a joint action to repeal three regulations, 22 VAC 40-20, 22 VAC 40-540, and 22 VAC 40-600, that affect different aspects of the Food Stamp Program and incorporate them into a single regulation to streamline the regulatory structure for the program. The new regulation, 22 VAC 40-601, will serve as a comprehensive regulation for the Food Stamp Program. The regulation addresses eligibility determination through the conversion of weekly or biweekly income to monthly amounts and use of a standard amount for the basic cost for telephone service. The regulation also includes an administrative hearing process to determine intentional program violations.

22 VAC 40-601-10. Definitions.

The following words and terms when used in these guidelines will have the following meaning unless the context clearly indicates otherwise:

"Access device" means any card, plate, code, account number, or other means of access that can be used alone or in conjunction with another access device, to obtain payments, allotments, benefits, money, goods, or other things of value, or that can be used to initiate a transfer of funds under the Food Stamp Act of 1977, as amended.

"Administrative disqualification hearing" or "ADH" means an impartial review by a hearing officer of a household member's actions involving an alleged intentional program violation for the purpose of rendering a decision of guilty or not guilty of committing an intentional program violation (IPV).

"Authorization to participate" or "ATP" means a document authorizing a household to receive a food stamp allotment in a specific amount for a specific entitlement period from an authorized food coupon issuance agent.

"Hearing officer" means an impartial representative of the state who receives requests for administrative disqualification hearings or fair hearings. The hearing officer has the authority to conduct and control hearings and to render decisions.

"Intentional program violations" or "IPV" means any action by an individual who intentionally made a false or misleading statement to the local department, either orally or in writing, to obtain benefits to which the household is not entitled; concealed information or withheld facts to obtain benefits to which the household is not entitled; or committed any act that constitutes a violation of the Food Stamp Act, Food Stamp regulations, or any state statutes relating to the use, presentation, transfer, acquisition, receipt, or possession of food stamp coupons, authorization to participate cards, access devices, or food stamp benefits.

"Local department" means the local department of social services of any county or city in this Commonwealth.

22 VAC 40-601-20. Income conversion.

Whenever income is anticipated for every pay period in a month and it is received on a weekly or biweekly basis, the eligibility worker shall convert the income to a monthly amount by multiplying weekly amounts by 4.3 and biweekly amounts by 2.15.

22 VAC 40-601-30. Telephone standard.

A standard telephone allowance, as determined by the Department of Social Services annually, shall be used for households that incur a telephone cost in calculating their eligibility and benefit levels instead of actual telephone costs.

22 VAC 40-601-40. Administrative disqualification hearing.

A. The local department is responsible for investigating any case of alleged intentional program violation and ensuring that appropriate cases are acted upon either through referral for an administrative disqualification hearing or for prosecution by a court of appropriate jurisdiction.

B. In order for a local department to request an ADH, there must be clear and convincing evidence that demonstrates a household member committed or intended to commit an IPV.

C. The local department shall ensure that evidence against the household member alleged to have committed an IPV is reviewed by either an eligibility supervisor or the local department director to certify that the evidence warrants referral for an ADH.

D. Before submitting the referral for an ADH to the state hearing manager, the local department shall send a notice to

the person suspected of an IPV that the member may waive the right to a hearing. The person must sign a waiver request and return it to the local department within 10 days from the date the notice was sent to the household member in order to avoid the submission of the ADH referral.

E. If the local department receives a signed waiver, there will not be a hearing but the person will be disqualified for the length of time prescribed by federal policy.

F. The hearing officer will schedule a date for the ADH and provide written notice to the household member suspected of an IPV by certified mail - return receipt requested or first class mail. The notice must be mailed at least 30 days in advance of the date the ADH scheduled. If the notice is sent using first class mail and is returned as undeliverable, the hearing may still be held. The hearing officer must compare the household's address on the local department referral with other documents associated with the case. A revised notice must be provided to the household member if an error is discovered in the address used for the original notice of the hearing.

G. The requirement to notify the individual about the ADH will be met if there is proof of receipt of the advance notice of the ADH or if there is proof that the person refused to accept the notice.

H. The time and place of the ADH shall be arranged so that the hearing is acceptable to the person suspected of an IPV.

I. The person or representative may request a postponement of the ADH if the request for postponement is made at least 10 days in advance of the date of the scheduled hearing.

J. The ADH may be held even if the person or representative subsequently cannot be located or fails to appear without good cause.

K. If the hearing officer finds that a household member committed an IPV but the hearing officer later determines there was good cause for not appearing, including that the notice was sent to an incorrect address, the previous decision will no longer be valid. A new ADH shall be conducted.

L. A pending ADH shall not affect the household or an individual's right to be certified and participate in the Food Stamp Program.

M. The hearing officer shall:

1. Identify those present for the record.
2. Advise the person or representative that he may refuse to answer questions during the hearing.
3. Explain the purpose of the ADH, the procedure, how and by whom a decision will be reached and communicated, and the option of either the local department or the household to request an administrative review of the hearing officer's decision. The hearing officer shall also explain that only the household may seek a change to the hearing officer's decision through a court of appropriate jurisdiction.
4. Consider all relevant issues. Even if the person or representative is not present, the hearing officer must

carefully consider the evidence and determine if any IPV was committed based on clear and convincing evidence.

5. Request, receive and make part of the record all evidence determined necessary to render a decision.

6. Regulate the conduct and course of the hearing consistent with the process to ensure an orderly hearing.

N. The person alleged to have committed an IPV and the representative shall be given adequate opportunity to:

1. Examine all documents and records to be used at the ADH at a reasonable time prior to the ADH as well as during the ADH.
2. Present the case or have it presented by legal counsel or another person.
3. Bring witnesses.
4. Advance arguments without undue interference.
5. Question or refute any testimony or evidence, including the opportunity to confront and cross-examine witnesses.
6. Submit evidence to establish all pertinent fact and circumstances in the case.

O. The hearing officer is responsible for rendering a decision based on clear and convincing evidence from the hearing record that can be substantiated by supporting evidence and applicable regulations.

P. The hearing officer shall prepare a written report of the substance of the findings, conclusions, decisions, and appropriate recommendations.

Q. The hearing officer shall notify the person of the decision in writing and of the household's right to seek an administrative review or court appeal of the decision.

R. If the hearing officer finds that the individual did commit an IPV, the written decision shall advise that household that disqualification shall occur.

S. The determination of IPV by the hearing officer cannot be reversed by a subsequent fair hearing decision.

T. Upon receipt of the notice of a decision from the hearing officer that the household member is guilty of an IPV, the local department shall inform the household of the reason for the disqualification and the date the disqualification will take effect.

VA.R. Doc. No. R06-138; Filed August 10, 2006, 1:16 p.m.

* * * * *

Title of Regulation: **22 VAC 40-25. Auxiliary Grants Program—Levels of Care and Rate Setting (amending 22 VAC 40-25-10 through 22 VAC 40-25-70; adding 22 VAC 40-25-45).**

Statutory Authority: §§ 63.2-217 and 63.2-800 of the Code of Virginia.

Public Hearing Date: N/A -- Public comments may be submitted until November 3, 2006.

(See Calendar of Events section)

Proposed Regulations

for additional information)

Agency Contact: Sandra Coffey, Regional Adult Services Consultant, Virginia Department of Social Services, 1604 Santa Rosa Road, Suite 130, Richmond, VA 23229, telephone (804) 662-9784, FAX (804) 662-7023, email sandra.coffey@dss.virginia.gov.

Basis: Federal authority is found in § 416.2001 of Title XX of the Social Security Act. The state statute providing the mandate for this regulation is found in §§ 63.2-217 and 63.2-800 of the Code of Virginia. Section 63.2-217 of the Code of Virginia authorizes the board to adopt regulations as may be necessary or desirable to carry out the purpose of Title 63.2 of the Code of Virginia. Section 63.2-800 requires the board to adopt regulations for the administration of the Auxiliary Grants Program.

Purpose: The amendment to this regulation is necessary to bring it into compliance with the Code of Virginia and to provide guidelines to protect the health, safety, or welfare of vulnerable adults who meet the criteria for the Auxiliary Grants Program.

Substance: The major changes bring the regulation into compliance with the current Code of Virginia, updating terminology to provide consistency with other department regulations, and adding requirements for an annual audit report and a provider agreement for assisted living facilities. In addition, Code of Virginia references are updated in response to the recodification of Title 63.1.

Issues: The advantage to making these changes is to bring the regulation into compliance with previously promulgated changes. This helps to ensure that auxiliary grants services are provided in a consistent manner across the state in the 120 local departments of social services.

There are no disadvantages to the public and 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 (2). 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 63.2-800 of the Code of Virginia authorizes the State Board of Social Services to prepare and implement a plan for a state and local funded Auxiliary Grants Program to provide assistance to certain individuals ineligible for benefits under Title XVI of the Social Security Act and to certain other individuals for whom benefits provided under Title XVI of the Social Security Act are not

sufficient to maintain the board-established minimum standards of need.

The proposed regulation (i) no longer requires assisted living facilities to submit annual cost reports and instead requires them to submit annual audited financial reports, (ii) modifies the rate setting process for auxiliary grant reimbursement rates for assisted living facilities, and (iii) stipulates that assisted living facilities sign and submit a provider agreement as a condition of participation in the Auxiliary Grants Program.

The proposed regulation also includes changes that make the regulation consistent with current practice. It establishes procedures and requirements for adult foster care providers receiving auxiliary grant payments. These requirements are based on current policy and practice. The proposed regulation also adds clarifying language, modifies existing language, and deletes redundant language. These changes are intended to provide clarification and make the regulation consistent with the Code of Virginia and other Department of Social Services (DSS) and Department of Medical Assistance Services (DMAS) policies and regulations.

Estimated Economic Impact. The Auxiliary Grants Program is a state and locally funded financial assistance program to provide supplemental financial assistance for social security income recipients and other individuals who would have been eligible for social security income but for excess income who reside in assisted living facilities (ALF) or adult foster care homes (AFC). The auxiliary grant has two components: a monthly reimbursement rate per resident for ALFs and AFCs and a personal needs allowance for an auxiliary grant recipient residing at an ALF or an AFC. The maximum monthly reimbursement rate for ALFs and AFCs is established by state regulations and set forth in the Appropriation Act. Under the existing regulation, licensed ALFs are required to submit regular cost reports. Based on the operating cost and expense data detailed in the cost report, a reimbursement rate is determined. This rate is then compared to the maximum monthly rate, and the lesser of the two is chosen as the auxiliary grant reimbursement rate. The cost to the state and to localities of the Auxiliary Grants Program is the auxiliary grant reimbursement rate less the recipient's countable income plus the personal needs allowance. The state's share of the supplemental financial assistance is 80% and local share is 20%. In fiscal year 2003, approximately \$24 million was spent on auxiliary grant payments (80% general funds and 20% local matching funds). Currently, the maximum monthly rate is \$894 (it is \$1,028 in Northern Virginia)¹. In fiscal year 2004, the state share per payment was \$251 and local share per payment was \$63.

(1) The proposed regulation no longer requires ALFs to submit annual cost reports and instead requires them to submit annual audited financial reports. The reports for each year are to be submitted by June 30 of the following calendar year. Licensed ALFs with 20 or more beds are required to submit an audited financial report. Smaller ALFs (19 or fewer beds) are required to submit an abbreviated audit report that only includes the following information: validation that resident

¹ As of January 1, 2004, social security income (included as part of a recipient's countable income) was \$564.

funds are being held separately from the facility's funds, the number of resident beds occupied during the reporting period, the facility's operating revenues and expenses, and the facility's average monthly cost per resident. All audit reports are required to account separately for the personal needs allowance of auxiliary grant recipients.

As discussed above, the existing regulation requires licensed ALFs to submit annual cost reports in order to determine their auxiliary grant reimbursement rate. However, the usefulness of cost reports in setting auxiliary grant rates is moot. A 1997 Joint Legislative Audit and Review Commission (JLARC) report² concluded that the cost reporting and rate-setting process had almost no effect on the auxiliary grant budget. In 1995, all but two out of 425 licensed adult care residences (defined as ALFs in the proposed regulation) that applied for an auxiliary grant were approved for the maximum monthly rate. Thus, cost reports were found in most cases to yield a monthly cost per resident greater than the maximum authorized monthly rate. In addition, the report found the existing rate setting process to be flawed. For example, an adult care residence's reported operating costs are arbitrarily increased by 14% during the rate setting process in order to account for inflation and growth. The report concludes that the current rate setting process used to determine auxiliary grant rates for individual adult care residences is not needed and could be abolished. The report recommends that auxiliary grant reimbursement rates be set through the state's budget process. A 1998 study³ submitted to DMAS and DSS also recommended that the state consider eliminating the filing of cost reports by adult care residences, and base auxiliary grant reimbursement rates on federal maintenance of effort requirements. The state could conduct periodic studies to determine whether auxiliary grants need to be increased beyond federal requirements. The study found that, based on cost verification of 30 adult care residence cost reports with the reporting year ending in 1997, the detail and accuracy of accounting records at adult care residences were inadequate to prepare a cost report that reasonably reflected the cost of providing care to residents. In addition, the design of the cost report prevented the collection of sufficiently detailed information to accurately determine the cost of care to residents. The maximum monthly rate was found to be adequate for adult care residences with over 30 beds. Small adult care residences had costs well above the maximum monthly rate, but some of them were government or not-for-profit facilities with residents having special needs and special sources of payment to meet those needs. Most adult care residences were found to have revenues sufficient to cover their costs.⁴

The usefulness of cost reports in enforcing the requirements of the regulation and preventing the exploitation of residents at adult care residences is also moot. The 1997 JLARC report noted that cost reports are not based on audited financial information. A review of cost reports filed in 1995 revealed

numerous discrepancies between the data reported in the cost report and the adult care residence's general ledger system. While DSS can retroactively adjust the reimbursement rate upon finding such discrepancies, the report found that this provision had not been enforced. The lack of enforcement was partly because the agency believed that even if the errors were to be corrected the facility would still qualify for the maximum monthly rate. The report did recognize the necessity of some financial data collection. It recommended that DMAS collect appropriate financial data for prospective rate setting for assisted living services, and take steps to improve the financial information reported by adult care residences, including requiring audited financial reports from facilities above a certain size threshold.⁵ The 1998 CHPS Consulting and Clifton Gunderson study also found that adequate safeguards and procedures were not in place in the areas of cost documentation and compliance with regulatory standards. For example, many adult care residences could not account for resident funds in their keeping, especially the personal needs allowance provided to residents under the Auxiliary Grants Program. The study recommended that the state consider ways of enforcing requirements concerning the safeguard of resident funds held by adult care residences.

In response, DSS has decided to modify the rate-setting process (discussed later in the analysis) and require ALFs to submit audited financial reports in place of cost reports on an annual basis. The proposed regulation does not require AFCs to submit annual audit reports. An AFC is a facility that provides room, board, supervision, and special services for up to three adults with physical or mental needs. AFCs are currently not required to submit cost or audit reports. DSS does not believe the audit requirement to be necessary for such facilities.

The requirement for ALFs to submit annual audited reports is likely to impose economic costs and produce economic benefits. ALFs will incur additional costs in preparing and submitting annual audited financial reports. However, some of this additional cost is likely to be offset by ALFs no longer being required to prepare and submit an annual cost report. Based on information collected by DSS from a sample of ALF administrators, the cost of an independent financial audit is estimated to range from \$400 to \$700, depending on the size and scope of the facility. The cost of preparing a cost report was found to vary widely across facilities, from \$50 to \$2,000. DSS does not believe that the proposed requirement is likely to impose significant additional costs on ALFs. Many of these facilities are already conducting financial audits on an annual basis. A DSS phone survey of a pool of randomly selected ALFs found that all facilities surveyed reported preparing or hiring someone to prepare an annual audited financial report.⁶ According to DSS, facilities contacted were supportive of the idea of replacing cost reports with audited financial reports, as long as the submittal date was consistent with their tax-filing deadline. Thus, facilities already preparing audited financial reports will not incur any additional costs as a result of the proposed requirement and will, in fact, realize cost savings

² Services for Mentally Disabled Residents of Adult Care Residences, 1997, *Joint Legislative Audit and Review Commission Report*, House Document No. 4.

³ A Study of the Costs of Adult Care Residences Serving Auxiliary Grant Recipients in Virginia, 1998. Prepared by CHPS Consulting and Clifton Gunderson, P.L.L.C., and submitted to the Commonwealth of Virginia Department of Medical Assistance Services and Department of Social Services.

⁴ The median ratio of revenue to cost was 1.08.

⁵ The 1997 JLARC report looked at a subset of the adult care residence population, i.e., mentally disabled residents of adult care residences.

⁶ The number of ALFs selected for the survey within each bed capacity range was proportional to the actual number of ALFs within that range.

Proposed Regulations

from not having to prepare and submit separate cost reports. Facilities not currently preparing audited financial reports will have to incur the additional costs of preparing and submitting an audited financial report. However, some of this additional cost will be offset by not having to prepare and submit a cost report.

The proposed change is also likely to produce some economic benefits. According to DSS, there have been instances of exploitation of residents in ALFs, such as the co-mingling of a resident's personal needs allowance with the facility's funds, residents not receiving the services being paid for by the auxiliary grant, and public pay residents being charged more than the auxiliary grant rate. The 1997 JLARC report and the 1998 CHPS Consulting and Clifton Gunderson study found cost reports to be inadequate for the purposes of enforcing existing requirements and recommended that the state consider taking steps to improve enforcement. DSS believes that replacing cost reports with audited financial reports will provide better enforcement of existing requirements, better protection for ALF residents, and ensure better accountability and utilization of state and local resources. To the extent that the proposed change achieves these goals, it is likely to produce economic benefits.

The net economic impact of the proposed change will depend on whether the additional costs associated with the proposed change are greater than or less than the additional benefits. It is not possible to precisely estimate the costs and benefits of the proposed change at this time. However, the additional cost to ALFs of the meeting the proposed requirement does not appear to be very large. Most ALFs already appear to conduct annual financial audits and, to that extent, not having to prepare and submit a separate cost report is likely to provide them with cost savings.⁷ For those ALFs not currently conducting annual financial audits, the additional cost of replacing the cost report with an audit report is not likely to be very large. Thus, to the extent that the proposed change allows for better enforcement of existing requirements without imposing significant additional costs on ALFs, it is likely to have a net positive economic impact.

(2) The proposed regulation modifies the rate setting process for auxiliary grant reimbursement rates for ALFs. As discussed above, auxiliary grant reimbursement rates for ALFs is the lesser of two rates, the maximum authorized monthly rate and the reimbursement rate calculated based on an ALF's cost report. However, as discussed in the previous section, the usefulness of cost reports in rate setting is moot. The 1997 JLARC report found that the cost report-based rate setting process was flawed and had almost no effect on the auxiliary grant budget. The report recommended setting reimbursement rates through the state budget process. The 1998 CHPS Consulting and Clifton Gunderson study found that cost reports were not adequate for the purpose of accurately determining the cost of providing care to ALF residents. The study recommended basing the reimbursement rates on federal maintenance of effort requirements. Under the proposed regulation, the auxiliary grant reimbursement rate for ALFs is the maximum monthly rate (as established in state

regulations and set forth in the appropriation act or as set forth by changes in the federal maintenance of effort formula). The auxiliary grant amount will be the maximum monthly rate less the recipient's countable income plus the personal needs allowance.⁸

The proposed change is likely to have a small net positive economic impact. According to DSS, most ALFs are already being reimbursed at the maximum monthly rate. Thus, the proposed change is not likely to affect either auxiliary grant payments received by ALFs or the state and local auxiliary grant budget. However, to the extent that the rate setting process is simplified and made less burdensome, it is likely to produce economic benefits. For example, ALFs are currently required to submit cost reports within a year of when their auxiliary grant reimbursement rate was last established. The cost report is then used when establishing a new reimbursement rate (usually the maximum monthly rate). It can take more than a month after the cost report has been submitted for the new reimbursement rate to become effective. Thus, in order to ensure that they are reimbursed at the appropriate rate, ALFs need to keep track of when their reimbursement rate was last established and submit their cost report such that there is enough time for the new reimbursement rate to come into effect. Under the proposed regulation, the maximum monthly rate will be applied automatically in determining the auxiliary grant payment to ALFs. Thus, ALFs will be able to receive the same auxiliary grant payments as before, but with a lot less paperwork and a lot fewer administrative requirements.

While the proposed rate setting process is an improvement over the existing process, ways of improving the rate setting process even further should be considered. For example, evaluation of the maximum monthly rate by DSS on a regular basis and differentiation in the maximum monthly rate between ALFs of different sizes could lead to improvements in the rate-setting process. Currently, the state is only required to meet federal maintenance of effort requirements. This requirement stipulates that when social security income increases, the state must maintain and not reduce the state supplement, ensuring that the entire amount of the social security income increase reaches the recipient. Failure to meet this requirement could jeopardize the state's federal Medicaid funding. As discussed above, the 1998 CHPS Consulting and Clifton Gunderson study found that there was no demonstrated need at the time of the study for across-the-board increases in the auxiliary grant rate other than to meet federal maintenance of effort requirements. The median cost per resident for the 30 facilities subject to cost verification was on average 5.8% higher than the maximum monthly rate. The median revenue to cost ratio was 1.08 and the mean revenue to cost ratio was 1.06.

However, there was a wide variation in costs between facilities depending on their size. For example, the maximum rate was found to be reasonably adequate for adult care residences with more than 30 beds, but was significantly lower than costs for adult care residences with less than 30 beds. Some of the

⁷ A precise estimate of the number of ALFs that do or do not conduct annual financial audits is not known.

⁸ Under the existing regulation, the auxiliary grant amount is the minimum of the maximum monthly rate and the reimbursement rate calculated based on an ALF's cost report less the recipient's countable income plus the personal needs allowance.

smaller facilities had residents with special needs and special sources of funding, but others did not. In addition, the study found that there might be auxiliary grant overpayments to some adult care residences. Of the 30 adult care residences subject to cost verification, all reported costs higher than the maximum monthly rate. The cost verification process reduced the cost of nine of the 30 adult care residences to below the maximum rate (even with a 10% profit add-on).⁹ Thus, conducting periodic studies to determine the average monthly cost to ALFs of different sizes of providing services to residents (both with and without special needs) may be useful in the rate setting process. Information from such studies combined with federal maintenance of effort requirements could be used to determine the maximum monthly rate and could lead to improvements in the rate setting process.

(3) The proposed regulation stipulates that assisted living facilities sign and submit a provider agreement as a condition of participation in the Auxiliary Grants Program. The provider agreement is to be signed and submitted to DSS at the time an ALF applies for licensure. The proposed regulation establishes the conditions to be agreed to by an ALF as part of the provider agreement. These conditions are based on existing requirements. According to DSS, the proposed change is similar to the provider agreement requirement in DMAS's assisted living program.

The proposed change is not likely to have a significant economic impact. The additional cost to ALFs of signing and submitting a provider agreement is not likely to be significant. DSS does not intend to charge ALFs any fees relating to the provider agreement. On the other hand, the agency expects the provider agreement to reinforce existing laws and requirements. To the extent the proposed change improves the understanding, implementation, and enforcement of the proposed regulation, it is likely to produce some economic benefits and could have a small net positive economic impact.

The proposed regulation also includes changes that make the regulation consistent with current practice. It establishes procedures and requirements for adult foster care providers receiving auxiliary grant payments. These requirements are based on current policy and practice. According to DSS, the reimbursement, assessment, and recordkeeping requirements are the same as current practice. Prior to July 2003, AFCs received an auxiliary grant rate that was lower than the ALF auxiliary grant rate. Since then AFCs have received the same auxiliary grant reimbursement rate as ALFs. As the procedures and requirements for adult foster care providers established in the proposed regulation are already part of current practice, they not likely to have a significant economic impact.

The proposed regulation also adds clarifying language, modifies existing language, and deletes redundant language. These changes are intended to provide clarification and make the regulation consistent with the Code of Virginia and other Department of Social Services and Department of Medical Assistance Services policies and regulations. To the extent

⁹ It should be noted that approximately one-third of the costs reduced were due to a lack of documentation. Thus, it is possible that with appropriate documentation some of these costs would not have been disallowed.

that these changes improve understanding and implementation of the regulation, they are likely to have a small net positive economic impact.

Businesses and Entities Affected. The proposed regulation applies to all assisted living facilities and adult foster care providers accepting auxiliary grant residents. As of April 2004, there were 643 licensed ALFs operating in Virginia, with approximately 373 accepting auxiliary grant residents. In addition, there are 63 approved adult foster care homes currently operating in Virginia.

Assisted living facilities will now be required to submit annual audited financial reports in place of annual cost reports, accept reimbursement for auxiliary grant residents at the maximum monthly rate established by state regulations, and sign a provider agreement at the time of licensure. The requirements for adult foster care remain unchanged compared to current practice.

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 the Commonwealth.

Effects on the Use and Value of Private Property. The proposed regulation is not likely to have a significant impact on the use and value of private property. Assisted living facilities will now be required to submit annual audited financial reports in place of annual cost reports, accept reimbursement for auxiliary grant residents at the maximum monthly rate established by state regulations, and sign a provider agreement at the time of licensure. However, the net economic impact of these changes on the use and value of private property is not likely to be significant.

Agency's Response to the Department of Planning and Budget's Economic Impact Analysis: The Department of Social Services concurs with the economic impact analysis prepared by the Department of Planning and Budget with the following exceptions:

1. The analysis refers to Auxiliary Grants' relationship to "social security income." The relationship is to SSI or "supplemental security income."
2. The analysis states, "Currently, the maximum monthly rate is \$894 (it is \$1,028 in Northern Virginia)." The actual current maximum monthly rate is \$1,010 for most of the state and \$1,162 in Planning District Eight in Northern Virginia.

Summary:

This regulatory action updates terminology and establishes guidelines and expectations relative to (i) the requirements to participate in the Auxiliary Grants Program, (ii) minimum services to be provided, and (iii) establishment of reimbursable rates and reporting requirements. Changes provide that (i) only the recipient or representative is authorized to cash or deposit the auxiliary grant payment, (ii) providers must submit an annual audit report instead of the current annual cost report, and (iii) providers are prohibited from charging additional fees to recipients. The

Proposed Regulations

term "adult care residence" is replaced with "adult living facility."

CHAPTER 25. AUXILIARY GRANTS PROGRAM: LEVELS OF CARE AND RATE SETTING.

22 VAC 40-25-10. Definitions.

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

~~"Adult care residence" means any place, establishment, or institution, public or private, operated or maintained for the maintenance or care of four or more adults who are aged, infirm, or disabled and who are cared for in a primarily residential setting, except (i) a facility or portion of a facility licensed by the State Board of Health or the Department of Mental Health, Mental Retardation and Substance Abuse Services, but including any portion of such facility not so licensed, and (ii) the home or residence of an individual who cares for or maintains only persons related to him by blood or marriage, and (iii) a facility or any portion of a facility serving infirm or disabled persons between the ages of 18 and 21, or 22 if enrolled in an educational program for the handicapped pursuant to §22.1-214 of the Code of Virginia, when such facility is licensed by the Virginia Department of Social Services as a child-caring institution under Chapter 10 (§ 63.1-195 et seq.) of Title 63.1 of the Code of Virginia, but including any portion of the facility not so licensed. Included in this definition are any two or more places, establishments, or institutions owned or operated by a single entity and providing maintenance or care to a combined total of four or more aged, infirm or disabled adults.~~

"Adult foster care (AFC)" means a locally optional program that provides room and board, supervision, and special services to an adult who has a physical or mental health need. Adult foster care may be provided for up to three adults by any one provider who is approved by the local department of social services.

"Applicant" means an adult currently residing or planning to reside in an ~~adult care residence~~ assisted living facility or in adult foster care and who has applied for financial assistance under the Auxiliary Grants Program.

~~"Approved rate" means a rate established by the Department of Social Services' Division of Financial Management for use by eligibility workers in local departments in determining Auxiliary Grants Program payments for eligible recipients.~~

"Assisted living" means a level of service provided by an ~~adult care residence~~ assisted living facility for adults who may have physical or mental impairments and require at least moderate assistance with the activities of daily living. Included in this level of service are individuals who are dependent in behavior pattern (i.e., abusive, aggressive, disruptive) as documented on the uniform assessment instrument.

"Assisted living facility" means any congregate residential setting that provides or coordinates personal and health care services, 24-hour supervision, and assistance (scheduled and unscheduled) for the maintenance or care of four or more adults who are aged, infirm or disabled and who are cared for

in a primarily residential setting, except (i) a facility or portion of a facility licensed by the State Board of Health or the Department of Mental Health, Mental Retardation and Substance Abuse Services, but including any portion of such facility not so licensed; (ii) the home or residence of an individual who cares for or maintains only persons related to him by blood or marriage; (iii) a facility or portion of a facility serving infirm or disabled persons between the ages of 18 and 21, or 22 if enrolled in an educational program for the handicapped pursuant to § 22.1-214 of the Code of Virginia, when such facility is licensed by the department as a children's residential facility under Chapter 17 (§ 63.2-1700 et seq.) of Title 63.2 of the Code of Virginia, but including any portion of the facility not so licensed; and (iv) any housing project for persons 62 years of age or older or the disabled that provides no more than basic coordination of care services and is funded by the U.S. Department of Housing and Urban Development, by the U.S. Department of Agriculture, or by the Virginia Housing Development Authority. Included in this definition are any two or more places, establishments or institutions owned or operated by a single entity and providing maintenance or care to a combined total of four or more aged, infirm or disabled adults. Maintenance or care means the protection, general supervision and oversight of the physical and mental well-being of an aged, infirm or disabled individual.

"Audit report" is an annual report prepared by the assisted living facility's private auditor. The auditor shall determine that the financial statements of the auditee are presented fairly and in conformity with generally accepted accounting principles.

"Auxiliary Grants Program" means a state and locally funded assistance program to supplement income of a Supplemental Security Income (SSI) recipient or adult who would be eligible for SSI except for excess income, who resides in an ~~adult care residence~~ assisted living facility or in adult foster care with an approved rate.

~~"Case manager" means an employee of a public human services agency having a contract with the Department of Medical Assistance Services to provide case management services and who is qualified to perform case management activities.~~

~~"Cost report" means Adult Care Residences Cost Report.~~

"Department" means the Virginia Department of Social Services.

"Established rate" means the auxiliary grant rate as set forth in the appropriation act or as set forth to meet federal maintenance of effort requirements.

~~"Minimum rate" means the rate used to determine eligible auxiliary grant recipient reimbursement prior to the establishment of the residence's approved rate.~~

~~"Newly licensed adult care residence assisted living facility" means a residence facility that has been licensed for 12 months or less and is submitting a cost report for the first time for the establishment of a rate in excess of the minimum rate.~~

~~"Nonoperating Other operating expense" means expenses incurred by the residence provider for activities other than those that are not directly related to the care of residents.~~

~~"Nonoperating~~ *Other operating* revenue" means income earned by the ~~residence provider~~ for activities ~~other than these that are not~~ directly related to the care of residents.

"Operating costs" means the allowable expenses incurred by ~~an adult care residence~~ a provider for activities directly related to the care of residents.

"Personal needs allowance" means an amount of money reserved for meeting ~~minimal~~ the adult's personal needs when computing the amount of the auxiliary grant.

"Personal representative" means the person representing or standing in the place of the recipient for the conduct of his affairs. This may include a guardian, conservator, attorney-in-fact under durable power of attorney, next-of-kin, descendent, trustee, or other person expressly named by the recipient as his agent.

"Provider" means an assisted living facility that is licensed by the Department of Social Services or an adult foster care provider that is approved by a local department of social services.

"Provider agreement" means a document that the assisted living facility must complete and submit to the department when requesting to be licensed as an assisted living facility provider and approved for admitting auxiliary grant recipients.

"Qualified assessor" means an ~~entity contracting with the Department of Medical Assistance Services (DMAS) to perform nursing facility preadmission screening or to complete the uniform assessment instrument for a home and community-based waiver program including an independent physician contracting with DMAS to complete the uniform assessment instrument for residents of the adult care residence, or any hospital which has contracted with DMAS to perform nursing facility preadmission screening.~~ individual who is authorized to perform an assessment, reassessment, or change in level of care for an applicant to or resident of an assisted living facility.

"Rate" means the approved auxiliary grant rate.

"Recipient" means an adult approved to receive financial assistance under the Auxiliary Grants Program when residing in ~~an adult care residence~~ a licensed assisted living facility or an approved adult foster care provider with an approved rate.

~~"Residence" means an adult care residence.~~

"Residential living" means a level of service provided by an ~~adult care residence~~ assisted living facility for adults who may have physical or mental impairments and require only minimal assistance with the activities of daily living. Included in this level of service are individuals who are dependent in medication administration as documented on the uniform assessment instrument. ~~This definition includes independent living facilities that voluntarily become licensed.~~

"Uniform assessment instrument" means the department-designated assessment form. It is used to record assessment information for determining the level of service that is needed.

"Virginia Department of Medical Assistance Services (DMAS)" means the single state agency designated to administer the Medical Assistance Program in Virginia.

22 VAC 40-25-20. Assessment.

A. In order to receive payment from the Auxiliary Grants Program for care in ~~an adult care residence~~ assisted living facility or in adult foster care, applicants shall have been assessed by a ~~case manager or other~~ qualified assessor using the uniform assessment instrument and determined to need residential ~~living care~~ or assisted living care or adult foster care.

~~B. In order to continue receiving payment from the Auxiliary Grants Program, recipients residing in adult care facilities on February 1, 1996, shall have been assessed by a case manager or other qualified assessor no later than 12 months from February 1, 1996, and determined to need residential care or assisted living care in an adult care residence. Provisions shall be made by the department in Auxiliary Grants Program policy for grandfathering in those recipients who do not meet the criteria for residential care.~~

~~C. B.~~ As a condition of eligibility for the Auxiliary Grants Program, a uniform assessment instrument shall be completed on a recipient prior to admission, at least once every ~~12 months~~ annually, and whenever there is a significant change in the individual's level or care, and a determination is made that the individual needs residential or assisted living care in an ~~adult care residence~~ assisted living facility or adult foster care.

~~D. C.~~ The assisted living facility or adult foster care provider are prohibited from charging a security deposit or any other form of compensation for providing a room and services to the recipient. The collection or receipt of money, gift, donation or other consideration from or on behalf of a recipient for any services provided is prohibited.

22 VAC 40-25-30. Basic services.

The rate established by the department for an ~~adult care residence~~ providing residential living care or assisted living care under the Auxiliary Grants Program shall cover the following services:

1. Room and board.
 - a. Provision of a furnished room;
 - b. Housekeeping services based on the needs of the recipient;
 - c. Meals and snacks ~~by licensing regulations, including extra portions of food at mealtime and special diets; provided in accordance with 22 VAC 40-71 including, but not limited to, food service, nutrition, number and timing of meals, observance of religious dietary practices, special diets, menus for meals and snacks, and emergency food and water. A minimum of three well-balanced meals shall be provided each day. When a diet is prescribed for a resident by his physician, it shall be prepared and served according to the physician's orders. Basic and bedtime snacks shall be made available for all residents desiring them and shall be listed on the daily menu. Unless otherwise ordered in writing by the resident's physician, the daily menu, including snacks, for each resident shall meet the guidelines of the U.S. Department of Agriculture's Food Guide Pyramid, taking~~

Proposed Regulations

into consideration the age, sex and activity of the resident. Second servings shall be provided, if requested, at no additional charge. At least one meal each day shall include a hot main dish.

d. Clean bed linens and towels as needed by the recipient and at least once a week.

2. Maintenance and care.

a. Minimal assistance with personal hygiene including bathing, dressing, oral hygiene, hair grooming and shampooing, care of clothing, shaving, care of toenails and fingernails, arranging for haircuts as needed, and care of needs associated with menstruation or occasional bladder or bowel incontinence;

b. Medication administration as required by licensing regulations including insulin injections;

c. Provision of generic personal toiletries including soap and toilet paper;

d. Minimal assistance with the following:

(1) Care of personal possessions;

(2) Care of funds if requested by *the* recipient and ~~residence provider~~ policy allows this practice, *and are in compliance with 22 VAC 40-71-440 through 22 VAC 40-71-460, Standards and Regulations for Licensed Assisted Living Facilities;*

(3) Use of the telephone;

(4) Arranging transportation;

(5) Obtaining necessary personal items and clothing;

(6) Making and keeping appointments; *and*

(7) Correspondence; ;

e. Securing health care and transportation when needed for medical treatment;

f. Providing social and recreational activities ~~as required by licensing regulations;~~ *and*

g. General supervision for safety.

22 VAC-25-40. Personal needs allowance.

A. *The personal needs allowance is included in the monthly auxiliary grant payment to the resident and must be used by the auxiliary grant recipient for personal items. These funds shall not be commingled with the funds of the provider. The personal needs allowance for the recipient shall not be charged by the ~~residence provider~~ for any item or service not requested by the ~~resident~~ recipient. The ~~residence provider~~ shall not require a ~~resident~~ an auxiliary grants recipient or his personal representative to request any item or service as a condition of admission or continued stay. The ~~residence provider~~ must inform the ~~resident~~ recipient or his personal representative ~~requesting an item or service for which a charge will be made that there will be a charge for the item or service and what the charge will be~~ of a charge for any requested item or service not covered under the auxiliary grant and the amount of the charge. The personal needs*

allowance is expected to cover the cost of the following ~~categories of~~ items and services:

1. Clothing;

2. Personal toiletries not included in those to be provided by the ~~adult care residence~~ provider or if the recipient requests a specific type or brand of toiletries;

3. Personal ~~comfort~~ items including tobacco products, sodas, and snacks beyond those required ~~by licensing regulations in subdivision 1 c of 22 VAC 40-25-30;~~

4. ~~Barber and beauty shop~~ Hair care services;

5. Over-the-counter medication, medical copayments and deductibles, insurance premiums;

6. Other needs such as postage stamps, dry cleaning, laundry, direct bank charges, personal transportation, and long distance telephone calls;

7. Personal telephone, television, or radio;

8. Social events and entertainment offered outside the scope of the activities program;

9. Other items agreed upon by both parties except those listed in subsection B of this ~~regulation~~ section.

B. The personal needs allowance shall not be encumbered by the following:

1. Recreational activities required by licensing regulations (including any transportation costs of those activities);

2. Administration of accounts (bookkeeping, account statements);

3. Debts owed the ~~residence provider~~ for basic services as outlined by regulations;

4. ~~Charges for laundry by the adult care residence which exceed~~ Provider laundry charges in excess of \$10 per month.

22 VAC 40-25-45. Conditions of participation in the Auxiliary Grants Program.

A. *Provider agreement for assisted living facilities.*

1. *As a condition of participation in the Auxiliary Grants Program, the assisted living facility provider is required to complete and submit to the department a signed provider agreement as stipulated below. The agreement is to be submitted with the application to be a licensed assisted living facility.*

2. *The assisted living facility provider shall agree to the following conditions in the provider agreement to participate in the Auxiliary Grants Program:*

a. *Provide services in accordance with all laws, regulations, policies, and procedures that govern the provision of services in the facility;*

b. *Submit an annual financial audit by June 30 of each year;*

c. *Care for auxiliary grant recipients in accordance with the requirements herein at the current established rate;*

d. Refrain from charging the recipient, his family, or his authorized personal representative a security deposit or any other form of compensation as a condition of admission or continued stay in the facility;

e. Accept the auxiliary grant payment as payment in full for services rendered, except as permitted herein;

f. Account for the resident's personal needs allowance separate and apart from other facility funds;

g. Provide the local department of social services a 60-day written notice when a recipient is to be discharged from the facility;

h. Provide a 60-day written notice to the department in the event of the facility's closure or ownership change; and

i. Return to the local department of social services all auxiliary grant funds received after the death or discharge date of an auxiliary grant recipient in the facility.

B. As a condition of participation in the Auxiliary Grants Program, the adult foster care provider shall be approved by a local department of social services and comply with the requirements set forth in 22 VAC 40-770.

22 VAC 40-25-50. Establishment of Established rate.

A. Submission of a ~~cost~~ *an audit* report to the department's Division of Financial Management, Bureau of Cost Accounting department is required to establish a rate in excess of the minimum rate for an assisted living facility to accept residents who receive an auxiliary grant.

~~B. The rate shall be calculated based on operating cost data reported on the cost report. Total operating costs shall be reduced by any nonoperating revenue, less nonoperating expenses. If nonoperating expenses exceed nonoperating revenue, no adjustment is made. These costs are then adjusted in accordance with department policy to recognize operation changes, growth, and inflation. Based on the greater of actual filled bed days or 85% of bed capacity, a monthly rate per resident shall be calculated.~~

~~C. The established rate shall be the lesser of the calculated rate or the maximum authorized monthly rate established by state regulations as set forth in the Appropriations Act.~~

~~D. Rates B. The rate shall be valid for 12 months unless the residence assisted living facility is required to submit a new cost audit report as a result of (i) significant operational changes as defined by department policy, or (ii) the residence assisted living facility changes ownership, or (iii) the residence assisted living facility changes location, or (iv) the adult foster care provider is no longer approved by the local department of social services.~~

~~E. Newly licensed adult care residences shall operate for a minimum of 90 days prior to submission of a cost report for the purpose of establishing a rate. During the first 90 days of operation, the adult care residence's rate shall be the minimum rate. When cost reports are submitted no later than 60 days after the end of the first 90 days of operation, the effective date of the rate shall be made retroactive to the residence's date of licensure. When cost reports are submitted~~

~~more than 150 days after licensure, the effective date of the rate shall be no later than the first day of the second month following receipt of the cost report by the department's Division of Financial Management.~~

~~C. The auxiliary grant rate for recipients authorized to reside in an assisted living facility or in adult foster care is the established rate as set forth in the appropriation act, plus the personal needs allowance minus the recipient's countable income. The effective date is the date of the individual's approval by the local department of social services for an auxiliary grant.~~

~~F. Adult care residences D. Assisted living facilities that have been in licensed operation in excess of 12 months shall establish an initial approved rate by submitting a cost report for the preceding calendar year submit an annual audited financial report by June 30 for the preceding calendar year. In lieu of an audited financial report, facilities that are licensed for 19 or fewer beds may submit an audited report that includes only the following: validation that resident funds are held separately from any other funds of the facility; number of resident beds occupied during the reporting period; operating revenue and expenses; and average monthly cost per resident. The cost audit report shall be reviewed by the department's Division of Financial Management and the approved rate established department. The approved rate shall be the lesser of the calculated rate or the maximum authorized established rate established by state regulations as set forth in the Appropriations appropriation act. The approved rate shall become effective no later than the first day of the second month following the month the cost report is received by the department's Division of Financial Management or as set forth by changes in the federal maintenance of effort formula. The approved rate will be retroactive to the first month of the calendar year. If a provider fails to submit an annual audit report for a new calendar year, the provider will not be authorized to accept new auxiliary grant recipients.~~

~~G. After the initial approved rate is established, cost reports shall be submitted annually to the department's Division of Financial Management. If a provider that has previously established a rate fails to submit a cost report, the rate for residential living care shall become the minimum rate at the end of the twelfth month from the date the last rate was set.~~

22 VAC 40-25-60. Reimbursement.

Any moneys *in excess of the provider's established rate* contributed toward the cost of care pending public pay eligibility determination shall be reimbursed to the recipient or contributing party by the ~~adult care residence assisted living facility or adult foster care provider~~ once eligibility for public pay is established and that payment received. *The auxiliary grants payment shall be made payable to the recipient, who will then reimburse the provider for care. If the recipient is not capable of managing his finances, his personal representative is responsible for reimbursing the provider. In the event an assisted living facility is closed or sold, the facility shall provide verification that all recipient funds, including auxiliary grants funds, have been transferred and shall obtain a signed receipt from the new owner or new facility. In the event of a recipient's death or discharge, the provider shall give to the resident's personal representative a final accounting of the recipient's*

Proposed Regulations

funds within 30 calendar days of the event. All auxiliary grants funds received after the death or discharge date shall be returned to the department as soon as practicable. Providers who do not comply with the requirements of this regulation may be subject to adverse action.

22 VAC 40-25-70. Audits.

A. All financial information reported by an ~~adult care residence~~ ~~assisted living facility~~ on the ~~east report~~ annual audit report shall be reconcilable to the residence's general ledger system or similar records. *The audit shall account separately for the personal needs allowance of auxiliary grant recipients.* All ~~east~~ reports are subject to audit by the department of ~~Social Services~~. Financial information ~~which~~ that is not reconcilable to the ~~residence's~~ provider's general ledger or similar records could result in retroactive adjustment of the rate and establishment of a liability to the provider. Records shall be retained for three years after the end of the reporting period or until audited by the department, whichever is first.

B. All records maintained by an adult foster care provider, as required by 22 VAC 40-770, shall be made available to the department or the approving local department of social services upon request. All records are subject to audit by the department. Financial information that is not reconcilable to the provider's records could result in retroactive adjustment of the rate and establishment of a liability to the provider. Records shall be retained for three years after the end of the reporting period or until audited by the department, whichever is first.

VA.R. Doc. No. R03-210; Filed August 10, 2006; 1:23 p.m.

Title of Regulation: 22 VAC 40-41. Neighborhood Assistance Tax Credit Program (amending 22 VAC 40-41-10 through 22 VAC 40-41-50, 22 VAC 40-41-55 and 22 VAC 40-41-60).

Statutory Authority: §§ 63.2-217 and 63.2-2002 of the Code of Virginia.

Public Hearing Date: N/A -- Public comments may be submitted until November 3, 2006.

(See Calendar of Events section for additional information)

Agency Contact: J. Mark Grigsby, Director, Office of Community Services, 7 North Eighth Street, Richmond, VA 23219, telephone (804) 726-7922, FAX (804) 726-7946 or e-mail celestine.jackson@dss.virginia.gov.

Basis: Legal authority for promulgation of this regulation is in §§ 63.2-217 and 63.2-2002 of the Code of Virginia. While regulations for this program are not mandated, § 63.2-2002 of the Code of Virginia allows the department the discretion to develop regulations for the equitable distribution of tax credits and the fair and efficient operation of the program.

Purpose: The changes and clarifications to this regulation will make the program more equitable and the language more consistent, benefiting both approved organizations, and their donors and the clients they serve. Improvements to this program will have a direct impact on the approved

organizations and an indirect impact on families and individuals they serve. Ensuring that only viable organizations participate in the Neighborhood Assistance Program (NAP) helps protect the health, safety, and welfare of citizens who receive their services.

These are amendments to the regulations for the program. NAP is a state tax credit program that was established by the General Assembly in 1981. The program uses tax credits as an incentive for businesses and, with certain restrictions, individuals, to make donations to an approved organization. To be a participant an organization must be a 501 (c) (3) or (4) whose primary function is providing assistance to impoverished individuals and families. Tax credits are issued for 45% of the donation value within the minimum and maximum guidelines.

The amendments will make several technical and clarifying changes including updating code citations and correcting inconsistencies in terminology. In addition, amendments are being proposed to ensure the availability of tax credits and their equitable distribution among approved organization. Also, amendments are being proposed to ensure fairness in the valuation of certain donated items and to improve the process for determining eligibility of organizations applying to participate in NAP.

Substance: Definitions were added and clarified. In addition, a revision provides uniform and consistent terminology for approved organizations. A new section was added to consolidate all eligibility criteria and add an additional requirement. The language was also simplified to more clearly describe the process used to allocate tax credits among approved organizations. In addition, a cap of \$500,000 was added.

The language was simplified to more clearly describe the process used to determine the value of donations. In addition, a new rule was added for determining the value of donated items to be sold, auctioned or raffled.

A definition for the date of certain donated items was added.

Issues: This regulation provides a new method for determining the value of items donated to be sold, auctioned, or raffled. Currently, these items are valued using IRS guidelines. The proposed regulations would establish the value as the lesser of the value using IRS guidelines or the proceeds received by the nonprofit organization at the time of sale. In most cases, the nonprofit organization does not receive the value in relation to IRS guidelines for sold items. The adoption of this new rule could decrease the amount of tax credits received by the donating business that could reduce the incentive for a business to make a donation of this type. The new rule would ensure that tax credits issued would directly reflect the actual proceeds received by the nonprofit organization. This would also allow the nonprofit organization to receive the maximum benefit from their tax credit allocation.

The proposed regulation provides a maximum allocation of a \$500,000 to an approved organization per program year. This cap will limit the amount of tax credits available to certain organizations to use as an incentive to receive donations. This could reduce the total amount of donations these approved organizations would receive. This change will ensure that the

program is not dominated by just a few organizations and will continue to allow a diverse group of organizations to participate in the program. It will also ensure that approved organizations will operate throughout the state.

This regulation includes an eligibility requirement that at least 60% of clients served must be impoverished and that at least 75% of an organization's revenue is used in support of their program services. These provisions help ensure that the primary function is assisting impoverished individuals. The requirement that at least 60% of impoverished served has been in practice for two years and meets the legislative intent of the program. Organizations that do not meet the 60% requirement will not be eligible for the program. The 75% requirement is an effort to ensure that an organization uses their revenue to provide services to the impoverished population each year.

Department of Planning and Budget's Economic Impact Analysis:

Summary of the proposed regulation. The Board of Social Services (board) proposes to amend the Neighborhood Assistance Tax Credit Program (program) by capping the tax credits available to any one eligible organization in a given year at \$500,000, requiring organizations that apply for inclusion into the program expend at least 75% of revenues received in any given year for ongoing programs during that year and limiting the tax credit that can be taken by businesses that donate goods for sale, auction or raffle to the lesser of either Internal Revenue Service (IRS) valuation or actual proceeds generated for the eligible organization. The proposed regulation also promulgates several points of long standing policy into regulation.

Result of analysis. There is insufficient data to determine if the benefits of these regulatory changes will outweigh the extra compliance costs that participating charities will accrue. Detailed analysis of these benefits and costs can be found in the next section.

Estimated economic impact. The Neighborhood Tax Credit Program allows approved neighborhood charitable organizations that offer services to poor people to offer tax credits to businesses and individuals from whom they receive donations. These tax credits, because they represent a dollar-for-dollar reduction in tax liability, provide a greater economic incentive to donate than do the standard tax deductions allowed by the Commonwealth. This program was authorized by the legislature during the 1981 legislative session and is currently slated to end after fiscal year (FY) 2009. The Department of Social Services' Office of Community Services expects the program to be reauthorized so that tax credits may be issued beyond 2009.

The current regulation and relevant sections of the Code of Virginia that govern the Neighborhood Tax Credit Program do not place a limit on the amount of tax credit dollars that will be available to any one eligible organization; this proposed regulation will cap available tax credits at \$500,000. Right now, no eligible organization has received tax credits in excess of the proposed cap, but several organizations were allotted over \$400,000 this past fiscal year. The board believes that this cap, along with other provisions in current regulation, will insure that there are tax credits available for

new organizations that apply for inclusion into the program and will better reflect the intent of the legislature which has directed the board to "provide for the equitable allocation of the available... tax credits."

Since all participating organizations receive tax credits that fall short of the cap right now, this change should not disrupt current fundraising efforts. Eligible organizations will, however, have to adjust their future fundraising plans to reflect this new limitation. This new provision is likely to allow more neighborhood organizations to participate in the program but may also, to the extent that larger neighborhood organizations can take advantage of economies of scale to provide services more cheaply and to more individuals, reduce the number of impoverished people served as a result of the program's incentives.

The current regulation is also silent as to when donations to eligible organizations must be used. The board proposes to ensure that money donated to these organizations are used in a timely fashion by mandating that 75% of revenues be expended on current programs during the fiscal year in which they were donated. The board does not require that participating organizations keep donations for which tax credits are issued separate from other revenue that these organizations may receive. Because of this, the board cannot, at this time, narrow its focus and control by imposing the 75% spending requirement on just tax credit donations. This requirement will insure that impoverished aid recipients get a more immediate benefit from donations meant to help them; this requirement will also, because of its emphasis on already existing programs and spending rather than saving, tend to suppress long-term planning and deferred spending that might benefit those recipients more. This requirement, for example, might encourage an organization that provides medical services to seek out more patients now rather than saving money for new facilities or equipment that would tend to expand and improve the services available to existing patients. An emphasis on short-term spending and existing programs to the detriment of long term planning and possible new programs may harm the long-term health of a neighborhood organization; these organizations are, however, perfectly able to avoid the 75% spending requirement by not participating in the program.

Currently, businesses that contribute goods for sale, auction or raffle are able to receive, from the neighborhood organization to which they are donating, tax credits equal to wholesale fair market value of the goods donated; this is the valuation used by the IRS for charitable contributions. The proposed regulation will only allow contributors to receive tax credits equal to the lesser of either Internal Revenue Service valuation or actual proceeds generated for the eligible organization. Since the proceeds generated by donated goods for eligible organizations is likely very frequently below fair market value for those goods, this new rule will likely decrease the value of the tax credit issued to any given donor.

Eligible organizations will likely be able to offer tax credits to more donors as the value of each individual's tax credit eligibility decreases and, so, may be able to solicit more donations under the proposed regulation. This effect will be mitigated by any decrease in individual donations that is

Proposed Regulations

caused by the decrease in the value of tax credits available to donors. It is unclear which of these effects will override the other since the motivation to donate to charity is affected by many factors besides the tax effects of any possible donation.

In addition to the requirements enumerated above that also represent new policy, several long-standing policies of the board are being promulgated into regulation with this action. For the last three years, when eligible neighborhood organizations apply for inclusion in the program, they have been required to provide proof that they have been in operation 12 months and that at least 60% of their target service population is impoverished. All participating organizations have had to provide the results of an annual audit to the Office of Community Services. This audit must be performed by an independent auditor, but that auditor's services may be donated to the organization. Since these have been policy for the last three years, affected organizations should not see any additional economic effects, for good or for ill, as the proposed regulation is promulgated into the Administrative Code.

Businesses and entities affected. During FY 2004, 220 eligible neighborhood charitable organizations participated in the Neighborhood Assistance Tax Credit Program; 222 organizations participated during FY 2005. This proposed regulation will affect current program participants, organizations who are eligible to participate in this program but do not currently do so and current and potential donors.

Localities particularly affected. All localities in the Commonwealth will be affected by the proposed regulation.

Projected impact on employment. If implementation of the proposed regulation has a less positive impact on donations to neighborhood charitable organizations than has been seen under the present regulation, employment opportunities in those organizations may grow more slowly than they otherwise would have or may even shrink. It is by no means certain that this employment effect will occur, however, since individuals and businesses that make charitable contributions are motivated by a number of factors other than the tax implications of their donations.

Effects on the use and value of private property. The proposed regulation will likely discourage eligible neighborhood organizations from saving for future capital improvement and program needs. This lack of savings, in the long run, may decrease the value of these organizations capital stock and property.

Donations made by small businesses under this proposed regulation may have less positive tax consequences for donors than donations made under the current regulation have had.

Legal mandate. The Department of Planning and Budget (DPB) has analyzed the economic impact of this proposed regulation in accordance with Section 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. Further, if the proposed regulation has adverse effect on small businesses, Section 2.2-4007 H requires that such economic impact analyses include (i) an identification and estimate of the number of small businesses subject to the regulation; (ii) the projected reporting, recordkeeping, and other administrative costs required for small businesses to comply with the regulation, including the type of professional skills necessary for preparing required reports and other documents; (iii) a statement of the probable effect of the regulation on affected small businesses; and (iv) a description of any less intrusive or less costly alternative methods of achieving the purpose of the regulation. The analysis presented above represents DPB's best estimate of these economic impacts.

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

Summary:

The proposed amendments ensure the availability of tax credits and their equitable distribution among approved organizations. Also, the proposed amendments ensure fairness in the valuation of certain donated items and improve the process for determining eligibility of organizations applying to participate in the Neighborhood Assistance Program (NAP). In addition, the proposed amendments make several technical and clarifying changes including updating code citations and correcting inconsistencies in terminology.

22 VAC 40-41-10. Definitions.

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

"Approved organization" means a neighborhood organization that has been found eligible to participate in the Neighborhood Assistance Program.

"Audit" means any audit required under the federal Office of Management and Budget's Circular A-133, or, if a neighborhood organization is not required to file an audit under Circular A-133, a detailed financial statement prepared by a an outside independent certified public accountant.

"Business firm" means any corporation, partnership, electing small business (Subchapter S) corporation, limited liability company, or sole proprietorship authorized to do business in this Commonwealth subject to tax imposed by Articles 2 (§ 58.1-320 et seq.) and 10 (§ 58.1-400 et seq.) of Chapter 3, Chapter 12 (§ 58.1-1200 et seq.), Article 1 (§ 58.1-2500 et seq.) of Chapter 25, or Article 2 (§ 58.1-2620 et seq.) of Chapter 26 of Title 58.1 of the Code of Virginia.

"Commissioner" means the Commissioner of the Department of Social Services, his designee or authorized representative.

"Community services" means any type of counseling and advice, emergency assistance, medical care, provision of

basic necessities, or services designed to minimize the effects of poverty, furnished primarily to impoverished people.

"Contracting services" means the provision, by a business firm licensed by the Commonwealth of Virginia as a contractor under Chapter 11 (§ 54.1-1100 et seq.) of Title 54.1 of the Code of Virginia, of labor or technical advice to aid in the development, construction, renovation, or repair of (i) homes of impoverished people or (ii) buildings used by neighborhood organizations.

"Education" means any type of scholastic instruction or scholarship assistance to an individual who is impoverished.

"Housing assistance" means furnishing financial assistance, labor, material, or technical advice to aid the physical improvement of the homes of impoverished people.

"Impoverished people" means people in Virginia with incomes at or below 150% of the poverty guidelines as defined by the United States Office of Management and Budget as published in the Federal Register (62 FR 10856), and as updated and republished annually in the Federal Register.

"Job training" means any type of instruction to an individual who is impoverished that enables him to acquire vocational skills so that he can become employable or able to seek a higher grade of employment.

"Neighborhood assistance" means providing community services, education, housing assistance, or job training.

"Neighborhood organization" means any local, regional or statewide organization whose primary function is providing neighborhood assistance for impoverished people, and holding a ruling from the Internal Revenue Service of the United States Department of the Treasury that the organization is exempt from income taxation under the provisions of § 501(c)(3) or § 501(c)(4) of the Internal Revenue Code of 1986, as amended from time to time, or any organization defined as a community action agency in the Economic Opportunity Act of 1964 (42 USC § 2701 et seq.), or any housing authority as defined in § 36-3 of the Code of Virginia.

"Professional services" means any type of personal service to the public which requires as a condition precedent to the rendering of such service the obtaining of a license or other legal authorization and

22 VAC 40-41-20. Purpose; procedure for becoming neighborhood assistance project an approved organization; eligibility criteria; termination of project status approved organization; appeal procedure.

A. The purpose of the Neighborhood Assistance Program is to encourage business firms and individuals to make donations to neighborhood organizations for the benefit of impoverished people.

B. Neighborhood organizations wishing to become an approved neighborhood assistance project organization must submit a proposal an application and provide the following information to the commissioner of Social Services or his designee. This proposal must be on the form prescribed by the commissioner or his designee and at a minimum contain:

1. A description of their eligibility as a neighborhood organization, the program to be programs being conducted, the impoverished people to be assisted, the estimated amount that will be donated to the program programs, and plans for implementing the program programs.

2. Proof of the neighborhood organization's current exemption from income taxation under the provisions of § 501(c)(3) or § 501(c)(4) of the Internal Revenue Code, or the organization's eligibility as a community action agency as defined in the Economic Opportunity Act of 1964 (42 USC § 2701 et seq.) or housing authority as defined in § 36-3 of the Code of Virginia.

3. A copy of the neighborhood organization's most recent current audit, a copy of the organization's most current federal form 990, a current brochure describing the organization's programs, and a copy of the annual report filed with the Department of Agriculture and Consumer Services' Division of Consumer Protection.

4. A statement of objective and measurable outcomes that are expected to occur and the method the organization will use to evaluate the program's effectiveness.

C. To be eligible for participation in the Neighborhood Assistance Program, the applicant must meet the following criteria:

1. Applicants must have been in operation as a viable entity, providing neighborhood assistance for impoverished people, for at least 12 months.

2. Applicants must be able to demonstrate that at least 60% of the total people served and at least 60% of the total expenditures were for impoverished people.

3. Applicant's audit must not contain any significant findings or areas of concern for the ongoing operation of the neighborhood organization.

4. Applicants must demonstrate that at least 75% of total revenue received is expended to support their ongoing programs each year.

G. D. The application period for neighborhood organizations to become approved neighborhood assistance projects will start no later than March 4 15 of each year. All applications must be received by the Department of Social Services no later than the first working business day of May.

D. E. Those organizations applicants submitting all required information and reports, and meeting the eligibility criteria of a neighborhood organization, and whose proposals are consistent with the Neighborhood Assistance Act (§ 63.1-320 et seq. of the Code of Virginia), described in this section will be determined an eligible project for the Neighborhood Assistance Program approved organization. The program year will run from July 1 through June 30 of the following year.

E. F. The commissioner or his designee may terminate a project's an approved organization's eligibility based on a finding of program abuse involving illegal activities or fraudulent reporting on contributions.

F. G. Any neighborhood organization that disagrees with the disposition of their applications its application, or their its

Proposed Regulations

termination as an ~~eligible project~~ *approved organization*, may appeal to the commissioner *in writing* for a reconsideration. Such requests must be made within 30 days of the denial or termination. The commissioner will act on the request and render a final decision within 30 days of the request for reconsideration.

22 VAC 40-41-30. Allocation of tax credits.

A. The available tax credits will be allocated among all approved ~~projects~~ *organizations* as follows:

1. Any amounts legislatively set aside for special purposes will be allocated for these purposes.

2. At least 10% of the available amount of tax credits each year shall be allocated to ~~qualified programs proposed by neighborhood approved~~ *organizations* not receiving allocations in the preceding year; however, if the amount of *requested* tax credits for ~~qualified programs requested by such neighborhood approved~~ *organizations* is less than 10% of the available amount of tax credits, the unallocated portion of such 10% shall be allocated to other ~~eligible neighborhood approved~~ *organizations*.

3. ~~Projects~~ *Approved organizations* that had received a tax credit allocation within the last four years will be given an allocation based on the average amount of tax credits actually used in prior years. ~~This amount may be reduced by a percentage or be capped in order to stay within the total available funding.~~ 4. ~~The remaining allocation will be distributed among projects which have not received an allocation within the last four years. This~~ *The allocation* process may include a determination of the reasonableness of requests, caps, and percentage reductions in order to stay within the total available funding.

~~5. The steps provided in subdivisions 3 and 4 of this subsection may be used for any amount legislatively designated for specific types of projects. Alternate procedures may be developed to ensure equitable distribution of available tax credits.~~

B. During the program year, ~~neighborhood approved~~ *organizations* may request additional allocations of tax credits *within the limits described in this section*. Requests will be evaluated on reasonableness, and ~~funds tax credits~~ will be reallocated on a first-come basis as they become available. ~~Requests for increases to an organization's allocation received more than two weeks after the end of the program year will not be processed.~~

C. *Maximum allocation of tax credits.*

1. *No organization shall receive an allocation greater than \$500,000.*

2. *For the process of determining the maximum allocation for an organization whose purpose is to support and benefit another approved organization, the combined allocation will not exceed the \$500,000 maximum cap.*

~~C. D. A neighborhood organization shall not assign or transfer an allocation of tax credits to another neighborhood organization without the approval of the Commissioner of Social Services or his designee. Organizations may release all~~

~~or a portion of their unused tax credit allocation to be reallocated in accordance with subsection B of this section.~~

22 VAC 40-41-40. Value of donations.

A. The approved ~~neighborhood~~ *organization* is responsible for maintaining documentation ~~acceptable to as required by the Department of Social Services and establishing to verify~~ the date and value of all donations.

B. The value of donations of cash, including stocks, ~~bonds, or other negotiable items, merchandise, and real estate~~ *real estate, and merchandise to be used by the approved organization* is the value determined for federal tax purposes using IRS regulations (26 CFR 1 et seq., and as amended).

C. *The value of merchandise donated to be sold, auctioned or raffled is the lesser of the value determined for federal tax purposes using IRS regulations or the actual proceeds received by the approved organization.*

~~C. D.~~ D. The value assigned for donated rent/lease of ~~property the approved organization's facility~~ must be reasonable and cannot exceed the prevailing square footage rental charge for comparable property.

~~D. E.~~ E. The value of professional and contracting services is determined as follows:

1. When a business donates professional or contracting services provided by employees, the value of the donation shall be equal to the salary that such employee was actually paid for the period of time that such employee rendered professional or contracting services to the approved ~~program~~ *organization*. Operating overhead and benefit costs are not included in determining the ~~contribution~~ *value*.

2. When a sole proprietor, partner in a partnership, or member of a limited liability company renders professional or contracting services to a ~~program~~ *an approved organization*, the value of the professional or contracting services shall not exceed the lesser of the reasonable cost for similar services from other providers or the maximum amount set forth in ~~§§ 63.1-325 §§ 63.2-2004 and 63.1-325.4~~ *§§ 63.2-2005* of the Code of Virginia.

~~3. When a physician, dentist, nurse practitioner, physician's assistant, optometrist, dental hygienist, or pharmacist licensed pursuant to Title 54.1 of the Code of Virginia provides health care services, the value of such services shall not exceed the lesser of the reasonable cost for similar services from other providers or the maximum amount set forth in § 63.1-325 of the Code of Virginia.~~

22 VAC 40-41-50. Donations by businesses and health care professionals.

A. As provided by ~~§ 63.1-324~~ *§ 63.2-2003* of the Code of Virginia, a business firm shall be eligible for a tax credit based on the value of the money, property, ~~and~~ professional services, *and contracting services* donated by the business firm during its taxable year to an approved ~~neighborhood~~ *organization*.

B. No tax credit shall be granted to any business firm for donations to a ~~neighborhood~~ *an approved organization*

providing job training or education for individuals employed by the business firm.

C. ~~Physicians, dentists, nurse practitioners, physician's assistants, optometrists, dental hygienists, and pharmacists licensed pursuant to Title 54.1 of the Code of Virginia who provide health care services without charge at a clinic which is an approved neighborhood organization, and is organized in whole or in part for the delivery of health care services without charge, Health care professionals that meet certain conditions, as specified in § 63.2-2004 C of the Code of Virginia,~~ shall be eligible for a tax credit based on the time spent in providing health care services ~~at~~ for such clinic.

D. All donations must be made *directly to the approved organization* without any conditions or expectation of monetary benefit ~~from the project~~. ~~Discounted property or professional services is donations and bargain sales are not an allowable donation~~ donations for the Neighborhood Assistance Program.

E. Granting of tax credits shall conform to the minimum and maximum amounts prescribed in ~~§ 63.1-324~~ § 63.2-2003 of the Code of Virginia.

F. Credits granted to a partnership, electing small business (Subchapter S) corporation, or limited liability company shall be allocated to their individual partners, shareholders, or members, respectively, in proportion to their ownership or interest in such business entities.

G. The ~~Neighborhood Assistance project~~ *approved organization* and its donor shall complete a certification on a form prescribed by the Department of Social Services ~~and submit it to the commissioner or his designee~~. The certification shall identify the date, type and value of the donation.

H. All certifications must be submitted ~~to the commissioner or his designee~~ within four years of the date of donation.

I. Upon receipt and approval of the certification, the commissioner ~~or his designee~~ shall issue a tax credit certificate to the business.

22 VAC 40-41-55. Donations by individuals.

A. As provided in ~~§ 63.1-325.2~~ § 63.2-2006 of the Code of Virginia, an individual shall be eligible for a tax credit for a cash donation to a ~~Neighborhood Assistance project~~ *an approved organization*.

B. Such donations are subject to the minimum and maximum amounts and other provisions set forth in ~~§ 63.1-325.2~~ § 63.2-2006 of the Code of Virginia.

C. The ~~Neighborhood Assistance project~~ *approved organization* and the individual shall complete a certification on a form prescribed by the Department of Social Services ~~and submit it to the commissioner or his designee~~. The certification shall identify the date and amount of the donation.

~~D.~~ *All certifications must be submitted within four years of the date of donation.*

~~E.~~ Upon receipt and approval of the certification, the commissioner or his designee shall issue a tax credit certificate to the individual.

22 VAC 40-41-60. Determining date of donation.

A. The date of donation for cash, including stocks, ~~bonds, or other negotiable items, merchandise, and real estate real estate, and merchandise to be used by the approved organization,~~ is the date used for federal tax purposes according to IRS regulations.

B. *The date of the donation for merchandise donated to be sold, auctioned or raffled is the date the proceeds were received by the approved organization*

~~B.~~ C. The date of donation for professional services is the date the service is completed.

~~C.~~ D. The date of donation for donated rent/lease is the effective date of the lease.

FORMS

~~Contribution Notification Form A (CNF-A) (eff. 7/98).~~

~~Contribution Notification Form B (CNF-B) (eff. 7/98).~~

~~Contribution Notification Form C (CNF-C) (eff. 7/98).~~

~~Neighborhood Assistance Program Application, July 1998—June 1999.~~

VA.R. Doc. No. R05-232; Filed August 10, 2006, 1:21 p.m.

Title of Regulation: **22 VAC 40-880. Child Support Enforcement Program (amending 22 VAC 40-880-200, 22 VAC 40-880-250, 22 VAC 40-880-270, 22 VAC 40-880-350 and 22 VAC 40-880-620).**

Statutory Authority: § 63.2-217 of the Code of Virginia.

Public Hearing Date: N/A -- Public comments may be submitted until November 3, 2006.

(See Calendar of Events section for additional information)

Agency Contact: Cynthia Holdren, Program Manager, Division of Child Support Enforcement, Department of Social Services, N. 8th St., 1st Floor, Richmond, VA 23219, telephone (804) 726-7474, FAX (804) 726-7482 or e-mail cynthia.holdren@dss.virginia.gov.

Basis: Title 63.2 of the Code of Virginia places the responsibility for providing child support enforcement services with the Department of Social Services. The State Board of Social Services is given the authority to make rules and regulations in § 63.2-217 of the Code of Virginia.

Purpose: The purpose of the proposed action is to update the current child support regulation impacted by 2003 and 2004 state legislation and to amplify selected sections of the existing regulation. Collection of child support debt protects all citizens of Virginia, particularly its children. The increase in financial support to families enhances the quality of life through better health care, improved housing, and reduced stress. Further, collection of delinquent child support in public assistance cases results in a reduction of legal debts to the state, thus contributing to the general fund.

Proposed Regulations

Substance: The amendments to the regulation are essential to protect the health and welfare of children and their families and are intended to improve the effectiveness of the child support enforcement program. Collection of child support debts benefits the citizens of the Commonwealth, particularly its children. Further, collection of delinquent child support in public assistance cases results in a reduction of legal debts to the state, thus contributing to the general fund. Proposed changes include updating outdated code cites and outdated references to the noncustodial and custodial parents will be updated; outlining DCSE requirements for consideration of self-employment tax paid in the computation of a support obligation and that parents must provide tax returns. Proposed changes also include conforming state regulation to state law; allowing the department to negotiate for payment in full from the noncustodial parent before seized property is returned to the noncustodial parent; and giving authority to the department to not issue refund checks for less than \$1. This provides greater cost effectiveness for the department.

Issues: The primary advantage to the public includes a clearer, more concise administrative code that is in alignment with state law. This will ensure the continuation of equitable and efficient services to the citizens to Virginia from the Commonwealth's employees, local employers and financial institutions. The amplification of the regulation will benefit the agency and the Commonwealth by improving the collection of child support debt. There are no disadvantages to the public, agency, or Commonwealth as a result of the changes made to this regulation.

Department of Planning and Budget's Economic Impact Analysis:

The Department of Planning and Budget (DPB) has analyzed the economic impact of this proposed regulation in accordance with Section 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 State Board of Social Services proposes to amend the Child Support Enforcement Program in several ways.

The proposed regulation allows the Division of Child Support Enforcement (DCSE) to request that child support arrears owed by a noncustodial parent be paid in full before DCSE negotiates a settlement and before property seized from the noncustodial parent is returned.

In order to take advantage of the allowable self-employment tax credit during child support computation, parents will have to provide Schedule H from their most recent federal tax return to prove they actually paid self-employment taxes.

The program is also being amended to account for legislative actions in 2003 and 2004 that make certain provisions and code citations in the program text obsolete.

Estimated economic impact. Under the current regulation, noncustodial parents who are not complying with an effective child support order and who have accumulated arrearages can regain property that DCSE has ordered to be seized from them by paying \$500 or 5% of their accumulated arrearages, whichever is greater. The board proposal will allow DCSE greater flexibility to negotiate a larger settlement up to and including full, lump-sum repayment of all arrearages before seized property is returned. Noncustodial parents will still be accorded the same protection against unjust seizure as they do under current regulation. Children to whom support arrearages are owed will benefit from this regulatory change as their custodial parents are likely to receive a greater percentage of the money owed than they may have under current regulation. This might lead to any number of improvements in the family lives of these children. In any case, this regulatory change is likely to be beneficial for the citizens of the Commonwealth because it helps to place the responsibility for supporting children where that responsibility belongs, with children's parents.

Current regulation requires verification of financial information when child support is calculated. The proposed regulation, which specifies what proof is necessary in order to claim a self employment tax credit, does not change the substance of that requirement.

Legislative action over the last few years has made some code references in the current regulation obsolete. Additionally, § 20-108.2 D of the Code of Virginia, which went into effect July 1, 2004, directs that parents will split any unreimbursed medical or dental expenses that are in excess of \$250 for any calendar year according to the income shares used to compute monthly child support. The proposed regulation corrects the obsolete code references and adds new language so that unreimbursed medical expenses will be split according to legislative mandate. Again, this regulatory change is likely to be beneficial for the citizens of the Commonwealth because it helps to place the responsibility for supporting children where that responsibility belongs, with children's parents.

Businesses and entities affected. The proposed regulation will affect all individuals who have cases being handled by DCSE.

Localities particularly affected. The proposed regulation will affect all localities in the Commonwealth.

Projected impact on employment. Employment in Virginia is unlikely to see either growth or decline due to this regulatory change.

Effects on the use and value of private property. Noncustodial parents may lose the use of seized property until they pay all or part of their child support arrearages.

Small businesses: costs and other effects. The proposed regulatory change is unlikely to create costs for private businesses, small or otherwise.

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

Social Services concurs with the economic impact analysis prepared by the Department of Planning and Budget.

Summary:

The proposed amendments update outdated code cites and references to the noncustodial and custodial parents; outline DCSE requirements for consideration of self-employment tax paid in the computation of a support obligation; conform state regulations to state law; allow the department to negotiate for payment in full from the noncustodial parent before seized property is returned to the noncustodial parent; and give authority to the department to not issue refund checks for less than \$1.

22 VAC 40-880-200. Determining the amount of the child support obligation.

A. The administrative child support order shall include information and provisions as set forth in ~~§ 63.1-252.4~~ § 63.2-1916 of the Code of Virginia.

B. Verification of financial information and use of financial statements.

1. The department shall use financial statements obtained from the legally responsible parents to determine the amount of the child support obligation and shall verify financial information used to determine child support obligations.

2. The legally responsible parents shall complete financial statements upon demand by the department. Such responsible parties shall certify under penalty of perjury the correctness of the statement.

3. If the custodial parent is a recipient of public assistance, the department shall use the information obtained through the TANF or AFDC/FC eligibility process to meet the financial statement and financial information verification requirements.

4. The department shall define the type of financial information which shall be required based on ~~§ 63.1-274.5~~ § 63.2-1919 of the Code of Virginia which is incorporated by reference. The department has the authority to request verification of financial information for the purpose of establishing or modifying a child support obligation. *The department will not provide credit for self-employment tax paid if the most recent federal tax return and the Schedule H attachment are not provided by the party upon request.*

5. When both parents are noncustodial, each parent must provide financial information. In this situation, the person with whom the child resides shall not be required to complete a financial statement.

C. The department shall determine the amount to be paid monthly toward past due support when the obligation is administratively ordered and when a court ordered obligation for support does not specify the amount to be paid toward the past due support. The monthly payment for past due support will be \$65 or 25% of the current obligation, whichever is greater, and shall not exceed the amount allowed under the federal Consumer Credit Protection Act.

22 VAC 40-880-250. Periodic reviews of the child support obligation.

~~A. The amount of the child support obligation is based on the financial situation of both parents. The department, another state's child support agency or either parent may initiate a review of the amount of the child support obligation.~~

~~B. The department shall initiate a review of each child support obligation and adjust the order as required by federal regulations.~~

~~C. A. Either parent may request a review of the child support obligation once every three years. Additional requests may be made earlier by providing documentation of a special circumstance that has occurred that potentially affects the child support obligation. Such changes shall be limited to the following:~~

- ~~1. An additional child needs to be covered by the order;~~
- ~~2. A child needs to be removed when another child remains covered by the order;~~
- ~~3. A provision for health care coverage needs to be added; or~~
- ~~4. A provision ordering the parents to share the costs of all unreimbursed medical/dental expenses exceeding \$250 per child per year covered by the order needs to be added; or~~
- ~~4- 5. A change of at least 25% can be documented by the requesting party in the following circumstances:~~
 - ~~a. Income of either party;~~
 - ~~b. Amount of medical insurance; or~~
 - ~~c. Cost of dependent care; or,~~
 - ~~d. Extraordinary medical expenses.~~

~~D. B. The department shall adjust an administrative obligation when the results of the review indicate a change of at least 10% in the monthly obligation but not less than \$25.~~

~~E. The department shall modify the obligation for future child support payments only.~~

~~F. The department may initiate a review of a court ordered obligation pursuant to §§ 20-108.2 and 63.1-252.2 of the Code of Virginia.~~

22 VAC 40-880-270. Withholding of income.

A. The department shall issue an income withholding order against all income except income exempted under federal and state law.

~~B. The amount of money withheld from disposable earnings may not exceed the amount allowed under the federal Consumer Credit Protection Act. That amount is 50, 55, 60 or 65%, depending on the number of weeks of delinquency, and if the NCP is responsible for other dependents. (See § 34-29 of the Code of Virginia.)~~

~~G. B. The department must legally shall serve the income withholding order on the employer. Upon service of the order on the employer by certified mail, or by electronic means,~~

Proposed Regulations

~~including facsimile transmission, a copy of the order shall be provided to the employee by the employer.~~

~~D. The department shall modify the income withholding order only if there is a change in the amount of the current support or past due support.~~

~~E. C.~~ C. The department shall release the income withholding order only if one of the following occurs:

1. The current support order terminates, and any past due support is paid in full;
2. Only past due support is owed and it is paid in full;
3. The whereabouts of the child or child and ~~caretaker~~ *custodial parent* become unknown;
4. Bankruptcy laws require release; or
5. A nonpublic assistance ~~applicant/recipient~~ *custodial parent or former public assistance custodial parent* no longer wants the services of the department and no debt is owed to the Commonwealth.

22 VAC 40-880-350. Distraint, seizure, and sale.

A. The department may use distraint, including booting of vehicle, seizure and sale against the real or personal property of a noncustodial parent when:

1. There are arrears of at least \$1,000 for a case with a current support obligation and at least \$500 for an arrears-only case;
2. Conventional enforcement remedies have failed or are not appropriate; and
3. A lien has been filed pursuant to ~~§ 63.1-254~~ § 63.2-1927 of the Code of Virginia.

B. Assets targeted for distraint, including booting of vehicle, seizure and sale are:

1. Solely owned by the noncustodial parent.
2. Co-owned by the noncustodial parent and current spouse.
3. Owned by a business in which the noncustodial parent is the sole proprietor. Assets owned by business partnerships or corporations which are co-owned with someone other than a noncustodial parent's current spouse do not qualify for booting of vehicle, or seizure and sale.

C. The Director of the Division of Child Support Enforcement or his designee shall give final approval for the use of distraint, seizure and sale. This includes immobilizing a vehicle using vehicle boots.

D. When initiating booting, or seizure and sale of vehicle, the department shall check with the Department of Motor Vehicles for vehicles registered in the noncustodial parent's name, the address on the vehicle registration, and the name of any lien holder on the vehicle.

E. Once a lien has been filed pursuant to ~~§ 63.1-254~~ § 63.2-1927 of the Code of Virginia, the department shall send a notice of intent to the noncustodial parent before initiating distraint, including booting of vehicle, seizure and sale action.

If there is reason to believe that the noncustodial parent will leave town or hide the asset, the asset can be seized without sending the notice and with proper documentation.

~~F. The department shall negotiate a settlement~~ If the noncustodial parent contacts the department in response to the intent notice, *the department shall request payment of arrears in full. The department shall negotiate a settlement if the noncustodial parent cannot pay the arrears in full.* ~~At~~ *The least acceptable settlement is 5.0% of the arrearage owed or \$500, whichever is greater, with additional monthly payments towards the arrears that will satisfy the arrearage within 10 years.* The department may initiate distraint, including booting of vehicle, seizure and sale without further notice to the noncustodial parent if the noncustodial parent defaults on the payments as agreed.

G. The department shall send a fieri facias request to each county or city where a lien is filed and a levy is being executed if the noncustodial parent does not contact the department in response to the intent notice.

H. The department shall set a target date for seizure or booting and have the sheriff levy the property or boot the vehicle.

I. Once property has been seized or booted by the sheriff, the department must (i) reach a payment agreement with the noncustodial parent of 5.0% of the arrearage owed or \$500, whichever is greater, with additional monthly payments towards the arrears that will satisfy the arrearage within 10 years and release the vehicle to the owner; (ii) proceed with the sale of the vehicle pursuant to ~~§ 63.1-264~~ § 63.2-1933 of the Code of Virginia; or (iii) at the end of 90 days from the issuance of the writ of fieri facias, release the vehicle to the owner.

J. The department shall send a cancellation notice to the sheriff if a decision is made to terminate the seizure action before the asset is actually seized.

K. If the department sells an asset and it is a motor vehicle, the department shall notify the Department of Motor Vehicles to issue clear title to the new owner of the vehicle.

22 VAC 40-880-620. Disbursement of payments.

~~A. An absent parent~~ *A noncustodial parent* may have multiple child support obligations.

1. Each case shall receive full payment of the current obligation when possible.
2. If the ~~absent parent's~~ *noncustodial parent's* disposable earnings do not cover the full payment for each current support order, the department shall prorate the amount withheld among all orders.

B. Current support obligations shall be satisfied before satisfying past due support.

C. The method by which child support and medical support payments are disbursed is governed by 45 CFR 302.51 and 302.52 which are incorporated by reference.

D. No refund shall be made of any overpayment of support under \$1 except upon written request by the payor.

VA.R. Doc. No. R05-169; Filed August 10, 2006, 1:15 p.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 1. ADMINISTRATION

COMMISSION ON LOCAL GOVERNMENT

Title of Regulation: 1 VAC 50-10. Public Participation Guidelines (adding 1 VAC 50-10-60 through 1 VAC 50-10-150; repealing 1 VAC 50-10-10 through 1 VAC 50-10-50).

Statutory Authority: §§ 2.2-4007 and 15.2-2903 of the Code of Virginia.

Effective Date: October 4, 2006.

Agency Contact: Ted McCormack, Associate Director for the Commission on Local Government, 501 N. 2nd Street, Richmond, VA 23219, telephone (804) 786-6508, FAX (804) 371-7090, or e-mail ted.mccormack@dhdcd.virginia.gov.

Summary:

The amendments reflect changes in the Administrative Process Act and modern practice. The amendments repeal obsolete provisions and add purpose, definitions, creation of notification lists, notice of intent to revise regulations, notification of actions, and advisory committees to enhance public participation in the commission's regulations in the future.

Changes from the proposed regulation include adding that the commission may use the mailing list maintained by the Regulatory Town Hall to notify persons interested in the commission's regulations; that undeliverable electronic notifications will have to be returned over two 24-hour periods at least one week apart; that public notifications shall also be published on the Virginia Regulatory Town Hall; and that the commission may choose not to suspend the regulatory review process if the proposed change is exempt from the Administrative Process Act (§ 2.2-4000 et seq. of the Code of Virginia).

Summary of Public Comments and Agency's Response: No public comments were received by the promulgating agency.

1 VAC 50-10-10. Notification of proposal to amend rules. (Repealed.)

Subsequent to any announcement of a proposal to amend its regulations as provided in 1 VAC 50-20-680 through 1 VAC 50-20-700, but prior to the development of any proposed amendments, the commission shall:

1. Publish notice of the proposal to amend its regulations in the Virginia Register of Regulations or in any successor publication;
2. Publish notice of the proposal to amend its regulation in a newspaper of general circulation in the City of Richmond area and in other newspapers or periodicals which the commission deems appropriate for the provision of suitable public notice;

~~3. Distribute press releases and announcements of the proposal to amend its regulations to other newspapers and media throughout the Commonwealth as the commission deems appropriate for the provision of suitable public notice;~~

~~4. Notify by letter, mailed prior to the publication of notice provided for in subsection 1 herein, to each potentially interested party listed in 1 VAC 50-10-20.~~

1 VAC 50-10-20. Identification of potentially interested parties. (Repealed.)

~~The commission shall consider as potentially interested parties for purposes of its public participation process the following entities:~~

- ~~1. The Virginia Municipal League and the Virginia Association of Counties;~~
- ~~2. Any law firm, consulting entity, or other intermediary which is known by the commission to have represented or to have prepared data, exhibits, or testimony for any party previously appearing before it;~~
- ~~3. Any firm, group, association, or other entity which has advised the commission of interest in its work; and~~
- ~~4. Any other entity considered by the commission to be affected by the proposed amendments.~~

1 VAC 50-10-30. Content of notification. (Repealed.)

~~The notifications provided for in 1 VAC 50-10-10 shall advise of the commission's proposal to amend its regulations and shall state the scope and nature of the amendments to be considered. The notifications shall solicit comment, data, and views from all interested parties on the proposed amendments. The notifications shall also specify the date, place, and time at which the commission will begin to formulate proposed amendments and the latest date, which shall be not less than 60 days after the publication of notice provided for in 1 VAC 50-10-10, by which interested parties may submit materials to the commission for review with respect to the proposed amendments.~~

1 VAC 50-10-40. Public hearing. (Repealed.)

~~The commission shall hold one or more public hearings for the receipt of oral comment on proposed amendments from interested parties prior to their final adoption.~~

1 VAC 50-10-50. Extent of public participation. (Repealed.)

~~By the adoption of this regulation the commission intends to afford all interested parties an opportunity to participate to the fullest in the initial formation, promulgation, and adoption of all amendments to its regulations.~~

Final Regulations

1 VAC 50-10-60. Purpose and authority.

This chapter establishes public participation guidelines for soliciting input from interested parties in the formation, development and revision of regulations by the Commission on Local Government. These guidelines are required under § 2.2-4007 of the Administrative Process Act. The guidelines do not apply to any regulations adopted on an emergency basis or to other regulations excluded from the operation of Article 2 (§ 2.2-4006 et seq.) of the Administrative Process Act.

1 VAC 50-10-70. Definitions.

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

"Administrative Process Act" means Chapter 40 (§ 2.2-4000 et seq.) of Title 2.2 of the Code of Virginia.

"Commission" means the Commission on Local Government.

"Person or persons" means an individual, a corporation, a partnership, an association, a government body, a municipal corporation, a political subdivision, or any other legal entity.

1 VAC 50-10-80. Initiation of regulation development procedures.

A. The commission may, by majority vote of its membership, announce a decision to propose amendments to its regulations at any regular or special meeting.

B. Any person may petition the commission to promulgate new regulations or to amend existing regulations subject to § 2.2-4007 A of the Code of Virginia. The commission shall consider and respond to the petition pursuant to § 2.2-4007 A of the Code of Virginia within 90 days of receipt. The commission shall have sole authority to dispose of the petition.

1 VAC 50-10-90. Notification lists.

A. The commission shall establish and maintain lists of persons who shall be mailed the following documents, or notification of how to obtain a copy of the documents electronically, as they become available:

1. Notice of Intended Regulatory Action to promulgate, amend or repeal regulations.
2. Notice of Comment Period and public hearings.
3. Notice that final regulations have been adopted.

B. Failure of a person to receive the documents or notification for any reason shall not affect the validity of any regulations otherwise properly adopted by the commission under the Administrative Process Act.

1 VAC 50-10-100. Placement on the notification list; deletion.

A. The notification list maintained by the commission shall include, as a minimum, the following:

1. The Virginia Municipal League and the Virginia Association of Counties;

2. Any law firm, consulting entity, or other intermediary that is known by the commission to have represented or to have prepared data, exhibits, or testimony for any party previously appearing before it; and

3. Any firm, group, association, or other entity that has advised the commission of interest in its work.

B. Any other person wishing to be placed on the notification list may do so by electronic notification or by writing the commission. In addition, the commission at its discretion may add to the list any person it believes will serve the purpose of responsible participation in the formulation or promulgation of regulations. [Moreover, the commission may use the mailing list maintained by the Virginia Regulatory Town Hall of persons interested in the regulations of the commission.] Each person on the list will be provided all information stated in 1 VAC 50-10-90. A person or persons may be requested periodically to indicate their desire to continue to receive documents or be deleted from the list. When mail is returned as undeliverable, the person will be deleted from the list. When electronic notifications are returned as undeliverable over [~~more than one day~~ two 24-hour periods at least one week apart] , the person may be deleted from the list.

1 VAC 50-10-110. Notice of intent.

At least 30 days prior to filing the Notice of Comment Period and proposed regulations as required by § 2.2-4007 of the Code of Virginia, the commission will publish a Notice of Intended Regulatory Action. This notice will provide at least a 30-day comment period and shall state whether the commission intends to hold a public hearing. Further, the notice shall describe the subject matter and intent of the planned regulation. Such notice shall be transmitted to the Registrar of Regulations for inclusion in The Virginia Register of Regulations [and on the Virginia Regulatory Town Hall] .

1 VAC 50-10-120. Informational proceedings or public hearings for existing regulations.

Within two years of the promulgation of a regulation, the commission shall evaluate it for effectiveness and continued need. The commission shall conduct an informal proceeding, which may take the form of a public hearing, to receive public comment on existing regulations. Notice of such proceedings shall be transmitted to the Registrar of Regulations for inclusion in The Virginia Register of Regulations [and on the Virginia Regulatory Town Hall] . Such proceedings may be held separately or in conjunction with any other meeting of the commission.

1 VAC 50-10-130. Notice of formulation and adoption.

At any meeting of the commission where it is anticipated the formation or adoption of a regulation will occur, the subject matter shall be transmitted to the Registrar [of Regulations] for inclusion in the Virginia Register [of Regulations and on the Virginia Regulatory Town Hall] .

If one or more changes have substantial impact on a regulation, then any person may petition the commission within 30 days from the publication of the final regulation to request an opportunity for oral or written submittals on the changes to the regulation. If the commission receives requests from at least 25 persons for an opportunity to make

oral or written comments, then the commission shall suspend the regulatory process for 30 days to solicit additional public comment, unless the commission determines that the changes made are minor or inconsequential in their impact [or are exempt from the Administrative Process Act as defined by § 2.2-4006 of the Code of Virginia] .

If the Governor finds that one or more changes with substantial impact have been made to a proposed regulation, he may suspend the regulatory process for 30 days to require the commission to solicit further public comment on the changes to the regulation.

A draft of the commission's summary description of public comment shall be sent by the agency to all public commenters on the proposed regulation at least five days before final adoption of the regulation.

1 VAC50-10-140. Advisory committees.

The commission may appoint an ad hoc advisory committee as it deems necessary to provide adequate participation in the formation, promulgation, adoption, and review of regulations. The advisory committee shall only provide recommendations to the agency and shall not participate in any final decision-making actions on a regulation.

When identifying potential advisory committee members, the commission may use the lists of persons who have previously participated in public proceedings concerning this or a related issue.

1 VAC 50-10-150. Applicability.

1 VAC 50-10-80, 1 VAC 50-10-90, 1 VAC 50-10-100, 1 VAC 50-10-120, and 1 VAC 50-10-130 shall apply to all regulations promulgated and adopted in accordance with § 2.2-4012 of the Code of Virginia, except those regulations promulgated in accordance with §§ 2.2-4002, 2.2-4006, 2.2-4011, 2.2-4012.1, 2.2-4018, or 2.2-4025 of the Code of Virginia.

VA.R. Doc. No. R04-129; Filed August 10, 2006, 9:17 a.m.

Title of Regulation: 1 VAC 50-20. Organization and Regulations of Procedure (amending 1 VAC 50-20-10, 1 VAC 50-20-40, 1 VAC 50-20-50, [1 VAC 50-20-100,] 1 VAC 50-20-110, 1 VAC 50-20-140 through 1 VAC 50-20-180, 1 VAC 50-20-230, 1 VAC 50-20-270, 1 VAC 50-20-310, 1 VAC 50-20-350, 1 VAC 50-20-390, 1 VAC 50-20-540 through 1 VAC 50-20-670; adding 1 VAC 50-20-1, 1 VAC 50-20-5, 1 VAC 50-20-142, 1 VAC 50-20-382, 1 VAC 50-20-384, 1 VAC 50-20-601, 1 VAC 50-20-605, 1 VAC 50-20-612, 1 VAC 50-20-614, 1 VAC 50-20-616; repealing 1 VAC 50-20-20, 1 VAC 50-20-30, 1 VAC 50-20-60 through 1 VAC 50-20-90, 1 VAC 50-20-120, 1 VAC 50-20-130, 1 VAC 50-20-190 through 1 VAC 50-20-220, 1 VAC 50-20-240, 1 VAC 50-20-250, 1 VAC 50-20-260, 1 VAC 50-20-280, 1 VAC 50-20-290, 1 VAC 50-20-300, 1 VAC 50-20-320, 1 VAC 50-20-330, 1 VAC 50-20-340, 1 VAC 50-20-360, 1 VAC 50-20-370, 1 VAC 50-20-380, 1 VAC 50-20-400 through 1 VAC 50-20-530, 1 VAC 50-20-680, 1 VAC 50-20-690, 1 VAC 50-20-700.)

Statutory Authority: § 15.2-2903 of the Code of Virginia.

Effective Date: October 4, 2006.

Agency Contact: Ted McCormack, Associate Director, Commission on Local Government, 501 N. 2nd Street, Richmond, VA 23219-1321, telephone (804) 786-6508, FAX (804) 371-7090, e-mail ted.mccormack@dncd.virginia.gov.

Summary:

The amendments add language to reflect changes made to the Code of Virginia for property-owner initiated annexations, transition of city to town status, consolidations creating a new independent city, voluntary economic growth-sharing agreements, determination of city status, and additional public notice in the review of town-county agreements defining annexation rights. Provisions regarding the announcement and development of regulations are transferred to the public participation guidelines. Additional changes (i) increase the commission's authority in the conduct of its proceedings, (ii) allow for the electronic filing of exhibits and materials, and (iii) allow for the prefilling of direct testimony.

Changes from the proposed regulation include announcing the commission's special meeting changes in the schedule and location of the commission's regular meetings, and minutes of the public meetings on the Virginia Regulatory Town Hall and for special meetings also on the Commonwealth Calendar, and for the minutes of public meetings, also on the commission's website. The commission may also establish other dates as it deems appropriate affecting its review of an interlocal issue. Any projection of data is to be made for a 10-year period, unless otherwise requested by the commission or specified by the regulations. Also, the commission requires that all materials, data and exhibits be filed before the commencement of the onsite component of its review; the commission may accept late submission upon unanimous consent of the members present.

Summary of Public Comments and Agency's Response: No public comments were received by the promulgating agency.

PART I.
COMMISSION ON LOCAL GOVERNMENT.

1 VAC 50-20-1. Applicability.

The Commission on Local Government's regulations are promulgated pursuant to the authority of § 15.2-2903 of the Code of Virginia and are applicable to the proceedings of the Commission on Local Government. When necessary to fulfill its statutory responsibilities, the commission may grant, upon its own initiative, a waiver or modification of any of the provisions of these regulations, except those required by law, under terms and conditions and to the extent it deems appropriate.

1 VAC 50-20-5. Definitions.

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

"Chairman" means the Chairman of the Commission on Local Government.

Final Regulations

"Commission" means the Commission on Local Government.

"County or counties" means one or more than one county in the Commonwealth of Virginia.

"Local government or local governments" means one or more than one county, city, or town in the Commonwealth of Virginia.

"Locality or localities" means one or more than one county, city or town in the Commonwealth of Virginia.

"Municipality" means a city or town in the Commonwealth of Virginia.

"Party or parties" means a local government or local governments, voters or property owners initiating a proposed annexation, voters of any community requesting that their community be incorporated as a town, voters petitioning for the transition of a city to town status, or a committee appointed by the circuit court to act for and in lieu of a local government to perfect a consolidation agreement.

1 VAC 50-20-10. Principal duties.

The commission is charged with reviewing proposed annexations, other local boundary change issues, petitions for partial immunity, local government transitions, and ~~various interlocal agreements developed,~~ and with assisting other interlocal concerns for the purpose of maintaining the Commonwealth's ~~political subdivisions~~ local governments as viable communities in which their citizens can live.

1 VAC 50-20-20. Commission. (Repealed.)

~~The commission consists of five members appointed by the Governor and confirmed by the General Assembly. The members are appointed for five-year staggered terms, with the term of one member expiring each year. Members are eligible for reappointment.~~

1 VAC 50-20-30. Qualifications. (Repealed.)

~~Members at the time of appointment and during their terms of office must be qualified voters under the Constitution and laws of the Commonwealth of Virginia and must be qualified by knowledge and experience in local government. Members of the commission may not hold any other elective or appointive public office.~~

1 VAC 50-20-40. Officers.

The commission shall elect from its membership at its regular January meeting, or as soon thereafter as possible, a chairman and a vice chairman, who shall serve terms of one year, or until their successors are elected. In the event of a vacancy occurring in the office of chairman or vice chairman, for any cause, the commission shall fill the same by election for the unexpired term. The chairman shall preside at all meetings, presentations, and public hearings held by the commission unless absent. In the absence of the chairman, the vice chairman shall preside at any meeting or other assembly of the commission and shall exercise all powers and duties of the chairman. In the event that neither the chairman nor vice chairman is present for a meeting *or other assembly of the commission*, the remaining members of the commission shall elect a temporary chairman who shall exercise all

powers and duties of the chairman *for the duration of the meeting or assembly*.

1 VAC 50-20-50. Powers and duties of chairman.

In addition to any other powers or duties placed upon the chairman by law, ~~this chapter these regulations~~, or other action of the commission, the chairman shall be authorized to:

1. Request one or more members of the commission or its staff to represent the commission before local governing bodies, before state agencies and legislative committees, or before any other entity where the representation of the commission is requested or where the chairman deems ~~such~~ appropriate;
2. Select or change sites for oral presentations and public hearings;
3. Defer and reschedule issues the chairman deems appropriate upon consultation with the commission;
4. Act on behalf of the commission in efforts to resolve disputes between the parties to an issue relative to the production and sharing of data, or with respect to related concerns bearing on the commission's review of an issue; and
5. Establish upon consultation with the parties an equitable distribution of time for public presentations and to make other arrangements the chairman deems appropriate and consistent with the requirements of law and ~~this chapter these regulations~~ for the conduct of ~~such~~ the commission's oral presentations and public hearings.

1 VAC 50-20-60. Panels. (Repealed.)

~~The commission may appoint a panel of three members of the commission to conduct any hearing and investigation and to make any report required. Where panels are appointed under the authority of this chapter, any vote taken or report made with respect to the issue reviewed by the panel shall be restricted to the members of such panel. Any temporary absence of a panel member from a hearing shall not disqualify such member from voting on an issue nor from participating in the development of the report on the issue under review.~~

1 VAC 50-20-70. Meetings. (Repealed.)

~~The commission shall hold regular meetings at least once every two months. Special meetings may be called by any member and may be held when reasonably necessary to carry out the statutorily prescribed duties of the commission. The chairman shall cause to be mailed to all members, at least five days in advance of a special meeting, a written notice specifying the time, place, and purpose of such special meeting unless such special meeting was scheduled at a regular meeting of the commission or unless all commissioners file a written waiver of the notice.~~

1 VAC 50-20-80. Quorum; requisite vote for action. (Repealed.)

~~A majority of the members of the commission shall constitute a quorum. No action of the commission shall be valid unless authorized by a majority vote of those present.~~

1 VAC 50-20-90. Disqualification of commissioners. (Repealed.)

~~No member of the commission shall participate in the discussion, deliberation, drafting or approval of any report or finding required when any of the parties to the proceeding to which such report relates is a political subdivision in which such member presently or within the preceding five years has resided or has owned any interest in real property.~~

[1 VAC 50-20-100. Canons of conduct.

The commission shall adopt, and may from time to time amend, Canons of Conduct regarding members' conduct and their relations with parties and their agents. Officials and agents of parties with issues before the commission shall be expected to obtain and review a copy of ~~these~~ the Canons of Conduct.]

1 VAC 50-20-110. Staff.

The commission shall have a staff consisting of an executive director, who shall be appointed by the Governor and confirmed by the General Assembly, and ~~such~~ other employees as are needed and authorized by law.

PART II.
GENERAL ADMINISTRATION.

1 VAC 50-20-120. Offices. (Repealed.)

~~The Commission's offices are located in Room 702, Eighth Street Office Building, Richmond, VA 23219. The telephone number is (804) 786-6508.~~

1 VAC 50-20-130. Communications with commission. (Repealed).

~~Communications with the commission shall be conducted through its Richmond offices. These offices shall be regularly staffed during normal working hours on weekdays. Telephone messages may be left with the commission at its Richmond office after normal working hours via recording.~~

1 VAC 50-20-140. Schedule for Regular meetings.

The commission's regular meetings shall be held ~~on the second Tuesday~~ in January, March, May, July, September, and November ~~at its offices~~ in Richmond. Changes in the schedule *and location* of the regular meetings may be made by the commission, but ~~such the~~ changes shall be duly announced in the Virginia Register of Regulations published by the Virginia Code Commission [*and on the Virginia Regulatory Town Hall*]. ~~All special public meetings of the commission shall also be announced in the Virginia Register of Regulations or by other appropriate means.~~

1 VAC 50-20-142. Special meetings.

Special meetings of the commission may be called by any member on such occasions as may be reasonably necessary to carry out the duties of the commission. Except in instances where a special meeting is scheduled at a regular meeting, the chairman shall cause to be mailed to all members, at least five days in advance of a special meeting, a written notice specifying the time, place and purpose of the special meeting. [Written notice of special meetings shall not be required if all members of the commission file a written waiver of the notice

requirement. Notice of special meetings shall be announced appropriately on the Virginia Regulatory Town Hall and the Commonwealth Calendar.]

1 VAC 50-20-150. Minutes of meetings and hearings.

Minutes shall be recorded for each public meeting held by the commission. The minutes shall include a brief summary of comments on major issues under consideration and concise and specific statements of all action taken by the commission. The minutes shall be provided to each commission member for reading and editing prior to approval at a subsequent commission meeting. There need be no actual reading of the minutes at the meeting, but a vote shall be taken for the formal approval of the minutes as written or amended. Copies of the minutes of ~~such~~ public meetings shall be made available to any interested party *at a price sufficient to cover the expense incurred [or on the Virginia Regulatory Town Hall and the commission's Internet website]*.

1 VAC 50-20-160. Executive sessions or meetings.

The commission, its panels, or its members and staff may hold and conduct ~~such~~ executive sessions or meetings as may be necessary for mediation and negotiations, for deliberations, or for other appropriate purposes.

1 VAC 50-20-170. Confidentiality of proceedings and submissions.

All testimony, statements, exhibits, documents, or other evidence submitted to the commission by the parties in conjunction with its legally prescribed public meetings, presentations, or hearings shall be subject to disclosure by the commission under the provisions of the Virginia Freedom of Information Act. All other materials, including the testimony, statements, exhibits, documents, or other evidence submitted to the commission pursuant to executive deliberations, negotiations, or mediation which the commission is authorized by law to conduct, shall be treated as confidential and shall not be subject to disclosure by the commission nor by the parties involved in ~~such~~ executive proceedings except by agreement of the commission and all parties to ~~such the~~ proceedings.

PART III.
MANDATORY COMMISSION REVIEWS.

1 VAC 50-20-180. Notice to commission of proposed action as required by § 15.2-2907 of the Code of Virginia.

A. Notice of a proposed action as required by ~~§ 45.1-945.7~~ 15.2-2907 of the Code of Virginia to the commission shall be accompanied by resolution of the governing body of the ~~political subdivision~~ *locality* providing ~~such the~~ notice evidencing its support of such action. Notice to the commission [~~should shall~~] indicate the name, title, address, ~~and~~ phone number *and, where available, fax number and email address* of the individual who shall serve as designated contact with the commission regarding the issue presented. All notices required to be given the commission under the provisions of ~~§ 45.1-945.7~~ 15.2-2907 of the Code of Virginia shall also indicate the other local governments given notice of the proposed action pursuant to ~~1 VAC 50-20-200 subsection C of this section.~~

Final Regulations

1. Notice of a proposed annexation initiated by voters or property owners shall be accompanied by the original or certified petition signed by 51% of the voters of any territory adjacent to any municipality or 51% of the owners of real estate in number and land area in a designated area. Notice to the commission [~~should~~ shall] indicate the name, title, address, and phone number and, where available, fax number and email address of the individual who shall serve as designated contact with the commission regarding the issue presented. All notices required to be given to the commission under the provisions of § 15.2-2907 of the Code of Virginia shall also indicate the other local governments given notice of the proposed action pursuant to subsection C of this section.

2. Notice of a petition for the proposed transition of a city to town status that has been referred to the commission pursuant to § 15.2-4102 of the Code of Virginia [~~should~~ shall] indicate the name, title, address, phone number and, where available, fax number and email address of the individual who shall serve as designated contact with the commission regarding the issue referred. All notices required to be given the commission under the provisions of § 15.2-2907 of the Code of Virginia shall also indicate the other local governments given notice of the proposed action pursuant to subsection C of this section.

3. Notice to the commission by a committee of citizens that has been appointed by the circuit court to act for and in lieu of a governing body to perfect a consolidation agreement pursuant to § 15.2-3531 of the Code of Virginia [~~should~~ shall] indicate the name, title, address, phone number and, where available, fax number and email address of the individual who shall serve as designated contact with the commission regarding the proposed consolidation. All notices required to be given to the commission under the provisions of § 15.2-2907 of the Code of Virginia shall also indicate the other local governments given notice of the proposed action pursuant to subsection C of this section.

~~1 VAC 50-20-190. Submission of supporting materials by initiating party.~~

B. Any party giving notice to the commission of a proposed action pursuant to § ~~15.1-945.7~~ 15.2-2907 of the Code of Virginia may submit with ~~such~~ the notice as much data, exhibits, documents, or other supporting materials as it deems appropriate; however, ~~such~~ the submissions should be fully responsive to all relevant elements of the applicable section of Part IV (1 VAC 50-20-540 et seq.) of this chapter.

~~1 VAC 50-20-200. Notice to affected local governments.~~

C. Any ~~local government party~~ giving notice to the commission of a proposed action as required by § ~~15.1-945.7~~ 15.2-2907 of the Code of Virginia shall also give notice to each Virginia local government located within or contiguous to, or sharing functions, revenue, or tax sources with the local government proposing ~~such~~ the action. All ~~such~~ notices to the local governments shall include an annotated listing of all documents, exhibits, and other material submitted to the commission in support of the proposed action.

1. Any voters or property owners giving notice to the commission of a proposed annexation as required by

§ 15.2-2907 of the Code of Virginia shall also give notice to each Virginia local government located within or contiguous to, or sharing functions, revenue, or tax sources with the municipality to which annexation is sought. All notices to the immediately affected local governments shall include copies of all documents, exhibits, and other material submitted to the commission in support of the proposed action, and notice to other localities may include, in lieu of copies of the submissions, an annotated listing of the material.

2. Any voters whose petition for the proposed transition of a city to town status that has been referred to the commission pursuant to § 15.2-4102 of the Code of Virginia shall also give notice to each Virginia local government located within or contiguous to, or sharing functions, revenue, or tax sources with the city proposed for town status. All notices to the immediately affected local governments shall include copies of all documents, exhibits, and other material submitted to the commission in support of the proposed action, and notice to other localities may include, in lieu of copies of the submissions, an annotated listing of the material.

3. A committee of citizens that has been appointed by the circuit court to act for and in lieu of a governing body to perfect a consolidation agreement pursuant to § 15.2-3531 of the Code of Virginia shall also give notice to each Virginia local government located within or contiguous to, or sharing functions, revenue, or tax sources with the local governments that are proposed to be consolidated. All notices to the immediately affected local governments shall include copies of all documents, exhibits, and other material submitted to the commission in support of the proposed action, and notice to other localities may include, in lieu of copies of the submissions, an annotated listing of the material.

~~1 VAC 50-20-210. Submissions by other parties.~~

D. Any local government receiving notice pursuant to ~~1 VAC 50-20-200~~ subsection C of this section or any other affected party may submit ~~such~~ data, exhibits, documents, or other material for commission review and consideration as it deems appropriate. ~~Such~~ The submissions should, however, be responsive to all relevant elements of the applicable section of Part IV (1 VAC 50-20-540 et seq.) of this chapter. Any party submitting material to the commission for review pursuant to this section shall also designate an individual as principal contact for the commission and shall furnish the individual's title, address ~~and~~, phone number ~~and~~, where available, fax number and email address. An annotated listing of all documents, exhibits, or other material submitted to the commission pursuant to this section shall be provided to the party initiating the proceeding before the commission. The commission may establish a time by which all submissions by respondent parties must be received.

~~1 VAC 50-20-220. Commission scheduling of review.~~

E. Upon its receipt of notice of a proposed action pursuant to ~~1 VAC 50-20-180~~ subsection A of this section, the commission shall, subsequent to discussion with representatives of the party submitting ~~such~~ the notice and other appropriate parties, schedule a review of the proposed action. The commission

shall also concurrently extend the services of its office to the parties in an endeavor to promote a negotiated settlement of the issue and, further, may designate, with the agreement of the parties, an independent mediator to assist in the negotiations.

The commission's review of a notice of a proposed annexation as required by § 15.2-2907 of the Code of Virginia filed by voters or property owners shall be terminated upon receipt of an ordinance, duly adopted by a majority of the elected members of the governing body of the affected city or town, rejecting the annexation proposed by the notice.

1 VAC 50-20-230. Referral to commission of proposed voluntary settlement agreements.

A. Referral of a proposed *voluntary settlement* agreement to the commission under the provisions of § ~~15.1-1167.4~~ 15.2-3400 of the Code of Virginia shall be accompanied by ~~resolution~~ resolutions, joint or separate, of the governing bodies of the ~~political subdivisions which~~ localities that are parties to the proposed agreement requesting the commission to review ~~such the~~ agreement. The resolution or resolutions shall also state the intention of the governing bodies to adopt ~~such the~~ agreement subsequent to the commission's review and shall designate the individual (with [~~should shall~~] indicate the name, title, address, and [~~telephone phone~~] number [,] ,) and, where available, fax number and email address of the individual who shall serve as each locality's principal contact with the commission during the period of its review. Referrals to the commission pursuant to § ~~15.1-1167.4~~ 15.2-3400 of the Code of Virginia shall also be accompanied by a listing of local governments receiving notice of ~~such the~~ referral under ~~4 VAC 50-20-250 subsection C of this section.~~

~~1 VAC 50-20-240. Submission of supporting materials by parties making referral.~~

B. Any party or parties referring a proposed *voluntary settlement* agreement to the commission for review pursuant to § ~~15.1-1167.4~~ 15.2-3400 of the Code of Virginia may submit with ~~such the~~ proposed agreement as much data, exhibits, documents, or other supporting materials as deemed appropriate; however, ~~such the~~ submissions should be fully responsive to all relevant elements of the applicable section of Part IV (~~1 VAC 50-20-540 et seq.~~) 1 VAC 50-20-610.

~~1 VAC 50-20-250. Notice to affected local governments.~~

C. Whenever a proposed *voluntary settlement* agreement is referred to the commission for review pursuant to ~~4 VAC 50-20-230 subsection A of this section,~~ the parties to ~~such the~~ proposed agreement shall concurrently give notice of ~~such the~~ referral to each *Virginia* local government with which any of ~~such the~~ parties is contiguous, or with which any of ~~such the~~ parties shares any function, revenue, or tax source. All such notices of referral shall be accompanied by a copy of the proposed *voluntary settlement* agreement, or a descriptive summary thereof, and an annotated listing of all documents, exhibits, and other materials submitted to the commission in support of the proposed agreement.

~~1 VAC 50-20-260. Submissions by other parties.~~

D. Any local government receiving notice of referral pursuant to ~~4 VAC 50-20-250 subsection C of this section,~~ or any other

party, may submit ~~such~~ data, exhibits, documents, or other supporting materials relevant to the commission's review as it deems appropriate; however, ~~such the~~ submissions should be responsive to all relevant elements of the applicable section of Part IV (~~1 VAC 50-20-540 et seq.~~) 1 VAC 50-20-610. Any party submitting materials to the commission pursuant to this chapter shall also designate an individual (with title, address, and phone number) who shall serve as principal contact with the commission during the period of its review and shall furnish the individual's title, address, phone number and, where available, fax number and email address. The commission may establish a time by which all submissions by respondent parties must be received. Any party submitting materials to the commission pursuant to this chapter shall also provide an annotated listing of ~~such the~~ material to the parties to the proposed *voluntary settlement* agreement.

1 VAC 50-20-270. Referral to commission of proposed town-county agreement defining annexation rights.

A. Referral to the commission of a proposed town-county agreement defining annexation rights pursuant to § 15.2-3231 of the Code of Virginia shall be accompanied by [~~resolution~~ resolutions], joint, or separate, of the governing bodies of the town and county requesting the commission to review ~~such the~~ agreement. The ~~resolution or~~ resolutions shall also state the intention of the governing bodies to adopt ~~such the~~ agreement subsequent to the commission's review and shall designate the individual (with [~~should shall~~] indicate the name, title, address, and phone number [,] ,) and, where available, fax number and email address of the individual who shall serve as each locality's principal contact with the commission during the period of its review. Referrals to the commission pursuant to § ~~15.1-1058.2~~ 15.2-3231 of the Code of Virginia shall also be accompanied by a listing of local governments receiving notice of such referral under ~~4 VAC 50-20-290 subsection C of this section.~~

~~1 VAC 50-20-280. Submission of supporting materials by parties making referral.~~

B. Any party or parties referring a proposed agreement to the commission for review pursuant to § ~~15.1-1058.2~~ 15.2-3231 of the Code of Virginia may submit with ~~such the~~ proposed agreement as much data, exhibits, documents, or other supporting materials as deemed appropriate; however, ~~such~~ submissions should be fully responsive to all relevant elements of the applicable section of Part IV (~~1 VAC 50-20-540 et seq.~~) 1 VAC 50-20-560.

~~1 VAC 50-20-290. Notice to affected local governments.~~

C. Whenever a proposed agreement is referred to the commission for review pursuant to ~~4 VAC 50-20-270 subsection A of this section,~~ the parties to ~~such the~~ proposed agreement shall concurrently give notice of ~~such the~~ referral to each [*Virginia*] local government with which either party is contiguous or with which either party shares any function, revenue, or tax source. All ~~such~~ notices of referral shall be accompanied by a copy of the proposed agreement, or a descriptive summary thereof, and an annotated listing of all documents, exhibits, and other materials submitted to the commission in support of the proposed agreement.

Final Regulations

~~1 VAC 50-20-300. Submissions by other parties.~~

~~D. Any other local government receiving notice of referral pursuant to ~~1 VAC 50-20-290 subsection C of this section~~, or any other party, may submit ~~such~~ data, exhibits, documents, or other supporting materials relevant to the commission's review as they deem appropriate; however, ~~such the~~ submissions should be responsive to all relevant elements of ~~the applicable section of Part IV (1 VAC 50-20-540 et seq.)~~ ~~1 VAC 50-20-560~~. Any party submitting materials to the commission pursuant to these regulations shall also designate an individual ~~(with title, address, and phone number)~~ who shall serve as principal contact with the commission during the period of its review, ~~and shall furnish the individual's title, address, phone number and, where available, fax number and email address~~. The commission may establish a time by which all submissions by respondent parties must be received. Any party submitting materials to the commission pursuant to this chapter shall also provide an annotated listing of ~~such the~~ material to the parties to the proposed agreement.~~

~~1 VAC 50-20-310. Petition Referral to commission of town petition for order establishing annexation rights.~~

~~A. Any town unable to reach an agreement with its county as to future annexation rights may, pursuant to § ~~45.1-4058.4~~ ~~15.2-3234~~ of the Code of Virginia, adopt an ordinance petitioning the commission for an order establishing its rights to annex territory in such county. The petition to the commission shall include the terms of a proposed order establishing the town's annexation rights and ~~shall designate the individual (with [should shall] indicate the name, title, address, and phone number [} ,] and, where available, fax number and email address of the individual~~ who shall serve as the town's principal contact with the commission. Petitions to the commission pursuant to § ~~45.1-4058.4~~ ~~15.2-3234~~ of the Code of Virginia shall also be accompanied by a copy of the ordinance and by a listing of all local governments being served or receiving notice of the town's petition pursuant to ~~4 VAC 50-20-330 subsection C of this section~~.~~

~~1 VAC 50-20-320. Submission of supporting materials by town petitioning commission.~~

~~B. Any town petitioning the commission under the authority of § ~~45.1-4058.4~~ ~~15.2-3234~~ of the Code of Virginia may submit with ~~such the~~ petition as much data, exhibits, documents, or other supporting materials as deemed appropriate; however, ~~such the~~ submissions should be fully responsive to all relevant elements of ~~the applicable section of Part IV (1 VAC 50-20-540 et seq.)~~ ~~1 VAC 50-20-616~~.~~

~~1 VAC 50-20-330. Service or notice to affected local governments.~~

~~C. Any town petitioning for an order establishing its annexation rights under the authority of § ~~45.1-4058.4~~ ~~15.2-3234~~ of the Code of Virginia shall serve a copy of the petition and ordinance on the Commonwealth's attorney, or the county attorney if there be one, and on the chairman of the board of supervisors of the county whose territory would be affected by the town's proposed annexation order. The town shall also give notice of its petition to all other towns located within ~~such the affected~~ county and to each [*Virginia*] local government~~

adjoining such county. The service in the county and the notice to other localities shall be accompanied by an annotated listing of all materials submitted to the commission pursuant to ~~1 VAC 50-20-320 subsection B of this section~~.

~~1 VAC 50-20-340. Submissions by county and other parties.~~

~~D. A county served with a copy of a town's petition pursuant to ~~1 VAC 50-20-330 subsection C of this section~~ shall file its response to such petition with the commission within 60 days after receipt of [~~such the~~] service. Any other ~~locality party~~ receiving notice pursuant to ~~1 VAC 50-20-330~~, or ~~other party subsection C of this section~~, may also submit materials to the commission for consideration with respect to the town's petition within 60 days of their receipt of [~~such the~~] notice. Responses and submissions to the commission pursuant to this chapter may include ~~such~~ data, exhibits, documents, or other materials as the submitting party deems appropriate; however, such responses and submissions should be responsive to all relevant elements of ~~the applicable section of Part IV (1 VAC 50-50-540 et seq.)~~ ~~1 VAC 50-20-616~~. Any party submitting materials to the commission for review pursuant to this chapter shall also designate an individual ~~(with title, address, and phone number)~~ who shall serve as principal contact with the commission, ~~and shall furnish the individual's title, address, phone number and, where available, fax number and email address~~. Any party submitting materials to the commission pursuant to this chapter shall also provide an annotated listing of [~~such the~~] material to the town petitioning the commission.~~

~~1 VAC 50-20-350. Referral to commission of [minor adjustment of boundary lines boundary line adjustment].~~

~~A. Whenever a court refers a proposed boundary [*line*] adjustment to the commission pursuant to § ~~45.1-4031.4~~ ~~15.2-3109~~ of the Code of Virginia, the ~~jurisdictions~~ ~~localities~~ proposing the boundary *line* adjustment shall, upon receipt of notification of ~~such the~~ referral, provide the commission with a copy of their petition to the court and shall designate an individual for each ~~jurisdiction (with title, address, and phone number)~~ ~~locality~~ who shall serve as principal contact with the commission ~~and shall furnish the individual's title, address, phone number and, where available, fax number and email address~~. ~~The jurisdictions shall also advise the commission of those localities receiving notice of the proposed boundary adjustment pursuant to 1 VAC 50-20-370~~ ~~Referrals to the commission pursuant to § 15.2-3109 of the Code of Virginia shall also be accompanied by a listing of local governments receiving notice of the referral under subsection C of this section~~.~~

~~1 VAC 50-20-360. Submission of supporting materials by local governments proposing boundary adjustments.~~

~~B. The two ~~jurisdictions~~ ~~localities~~ proposing a boundary *line* adjustment pursuant to § ~~45.1-4031.4~~ ~~15.2-3109~~ of the Code of Virginia may, jointly or independently, submit to the commission with their petition as much data, exhibits, documents, or other supporting materials as they deem appropriate; however, such submissions should be fully responsive to all relevant elements of ~~the applicable section of Part IV (1 VAC 50-20-540 et seq.)~~ ~~1 VAC 50-20-600~~.~~

1 VAC 50-20-370. Notice to affected local governments.

C. Whenever a proposed boundary line adjustment, as authorized by ~~§ 15.1-1031.4 of the Code of Virginia~~, is referred to the commission for review pursuant to § 15.2-3109 of the Code of Virginia, the ~~local governments~~ localities proposing the adjustment shall concurrently give notice of the proposed adjustment as well as notice of the referral of the issue to the commission to each [Virginia] local government with which either party is contiguous and to any other locality [Virginia] local government deemed [by the localities proposing the adjustment] to be potentially affected by the proposed adjustment. [~~Such~~ The] notice shall include a copy of the petition requesting the boundary line adjustment, or an informative summary thereof, and an annotated listing of all documents, exhibits, and other materials submitted to the commission for review pursuant to ~~1 VAC 50-20-360 subsection B of this section.~~

1 VAC 50-20-380. Submissions by other parties.

D. Any local government receiving notice of a proposed boundary [line] adjustment pursuant to ~~1 VAC 50-20-370 subsection C of this section~~, or any other party, may submit [~~such~~] data, exhibits, documents, or other supporting materials relevant to the commission's review as they deem appropriate; however, such submissions should be responsive to all relevant elements of the applicable section of Part IV (~~1 VAC 50-20-540 et seq.~~) 1 VAC 50-20-600. Any party submitting materials to the commission pursuant to this chapter shall also designate an individual (~~with title, address, and phone number~~) who shall serve as principal contact with the commission during the period of its review , and shall furnish the individual's title, address, phone number and, where available, fax number and email address. The commission may establish a time by which all submissions by respondent parties must be received. Any party submitting materials to the commission pursuant to this chapter shall also provide an annotated listing of ~~such material~~ the materials to the ~~local governments~~ localities proposing the boundary line adjustment.

1 VAC 50-20-382. Referral to commission of proposed economic growth-sharing agreements.

A. Referral of a proposed economic growth-sharing agreement to the commission under the provisions of § 15.2-1301 of the Code of Virginia shall be accompanied by resolution, joint or separate, of the governing bodies of the localities that are parties to the proposed agreement requesting the commission to review the agreement. The resolution or resolutions shall also state the intention of the governing bodies to adopt the agreement subsequent to the commission's review and [~~should~~ shall] indicate the name, title, address, [and] phone number and, where available, fax number and email address of the individual who shall serve as each locality's principal contact with the commission during the period of its review. Referrals to the commission pursuant to § 15.2-1301 of the Code of Virginia shall also be accompanied by a listing of local governments receiving notice of the referral under subsection C of this section.

B. Any party or parties referring a proposed economic growth-sharing agreement to the commission for review pursuant to

§ 15.2-1301 of the Code of Virginia may submit with the proposed agreement as much data, exhibits, documents, or other supporting materials as deemed appropriate; however, the submissions should be fully responsive to all relevant elements of 1 VAC 50-20-612.

C. Whenever a proposed economic growth-sharing agreement is referred to the commission for review pursuant to subsection A of this section, the parties to the proposed agreement shall concurrently give notice of the referral to each Virginia local government with which any of the parties is contiguous, or with which any of the parties shares any function, revenue, or tax source. All notices of referral shall be accompanied by a copy of the proposed agreement, or a descriptive summary thereof, and an annotated listing of all documents, exhibits, and other materials submitted to the commission in support of the proposed agreement.

D. Any local government receiving notice of referral pursuant to subsection C of this section, or any other party, may submit data, exhibits, documents, or other supporting materials relevant to the commission's review as it deems appropriate; however, the submissions should be responsive to all relevant elements of 1 VAC 50-20-612. Any party submitting materials to the commission pursuant to this chapter shall also designate an individual who shall serve as principal contact with the commission during the period of its review, and shall furnish the individual's title, address, phone number and, where available, fax number and email address. Any party submitting materials to the commission pursuant to this chapter shall also provide an annotated listing of the material to the parties to the proposed agreement.

1 VAC 50-20-384. Determination of continued eligibility for city status.

A. The commission shall review each decennial census of population released by the United States Bureau of the Census to determine whether any city has failed to meet the criteria for city status established by Article VII, Section 1 of the Constitution of Virginia. In any instance where the census indicates that a city may not meet the constitutional criteria, the commission shall conduct an investigation of the city's population, assets, liabilities, rights and obligations and shall certify its findings to the governing body of such city.

B. In the conduct of its investigation, the commission shall request the assistance of the city in the provision of relevant data and information. The city may submit as much data, exhibits, documents or other material as it deems appropriate; however, the submissions should be responsive to all relevant elements of 1 VAC 50-20-614.

1 VAC 50-20-390. Counsel General provisions applicable to mandatory commission reviews.

A. Any local government or other party appearing before the commission relative to any mandatory review may be represented by counsel.

1 VAC 50-20-400. Order for consideration of issues.

B. The commission shall generally schedule for consideration issues in the order in which received; however, the commission reserves the right to consider issues in other sequence where it deems ~~such~~ appropriate. Where notices

Final Regulations

are received of related or competitive actions affecting the same ~~political subdivision or subdivisions~~ *locality or localities*, the commission may, where appropriate, consider ~~such the~~ issues and render ~~such the~~ reports or a consolidated report concurrently.

~~1 VAC 50-20-410. Scheduling of a commission review.~~

C. Subsequent to its receipt of an issue for a mandatory review the commission shall meet, or otherwise converse, with representatives of the principally affected ~~localities~~ *parties* for purposes of establishing a schedule for its review of the issue. ~~Such~~ The schedule shall include dates (i) for the submission of responsive materials from affected jurisdictions, (ii) for tours of affected areas and oral presentations, if any are desired by the commission, (iii) for a public hearing, and (iv) for the issuance of the commission's report [, as well as other dates the commission deems appropriate].

~~1 VAC 50-20-420. Continuances and deferrals.~~

D. The commission may continue or defer its proceedings with respect to an issue at any time it deems ~~such~~ appropriate; however, no ~~such~~ continuance or deferral shall result in an extension of the commission's reporting deadline beyond any time limit imposed by law, except by agreement of the parties or in accordance with other statutory procedures. The commission shall also accept requests for continuances or deferrals from any party at any time during its proceedings but shall not grant or deny any such requests until all parties have had an opportunity to comment on ~~such the~~ requests. In any instance where the commission grants a continuance or a deferral, ~~such the~~ continuance or deferral may be conditioned upon an appropriate extension of the commission's reporting deadline with respect to the issue under review.

E. *The commission may confront the necessity of continuing or deferring its proceedings as a result of statutory requirement or court order. In such instances, the commission shall reschedule its proceedings, upon consultation with the parties, in a manner that permits an expeditious conclusion of its review. The parties should anticipate, however, that the duration of the continuance or stay shall result in a commensurate delay in the issuance of the commission's report.*

~~1 VAC 50-20-430. Convening of other meetings with parties.~~

F. In addition to any meeting, presentation, public hearing, or other gathering of the parties specified by this chapter, the commission may, where it deems ~~such~~ necessary for an analysis of material or for a discussion or clarification of the issues before it, schedule other meetings of appropriate parties.

~~1 VAC 50-20-440. Restrictions on communications with commissioners.~~

G. No party or *parties* to a proceeding before the commission for mandatory review shall communicate in any manner with any member of the commission with respect to the merits of the issue under review except as is authorized by this chapter, or as may be otherwise authorized by the commission or its chairman.

~~1 VAC 50-20-450. Supplemental submissions.~~

H. In addition to the submissions authorized by ~~the preceding sections of Part III (1 VAC 50-20-180 et seq.) through 1 VAC 50-20-384~~, the commission may allow supplemental submissions ~~where such are~~ deemed necessary or appropriate by the commission for the provision of current and complete data. Where supplemental submissions are authorized pursuant to this ~~chapter subsection~~, copies of all ~~such~~ submissions shall be provided by the submitting party to all principal parties. The commission shall endeavor to establish dates for the filing of all ~~such~~ supplemental submissions which will allow an opportunity for their review and critical analysis by other affected parties. *However, the commission may accept supplemental submissions filed after any established dates if, in the commission's judgment, the submissions assist the commission in the discharge of its statutory responsibilities.*

~~1 VAC 50-20-460. Disclosure of submissions.~~

I. Any material submitted to the commission by the parties in conjunction with or relative to any notice filed pursuant to any mandatory review covered by ~~Part III (1 VAC 50-20-180 et seq.) through 1 VAC 50-20-384~~, except materials presented in the context of negotiations or mediation of a confidential nature as authorized by law, shall be considered public documents and made available by the submitting party for review by any other interested party or by the public. Any interested party or member of the public may request copies of any such material which shall be provided promptly by the party submitting ~~such the material to the commission~~ at a price sufficient to cover the [~~cost of reproduction expense incurred~~].

~~1 VAC 50-20-470. Identification and nature of materials submitted.~~

J. Each document, exhibit, or other material submitted to the commission shall bear a title, the date of preparation, a detailed citation of the sources from which all data are obtained, and the name of the entity which submitted ~~such the document, exhibit, or other material~~. All material submitted to the commission by a local government shall be, as nearly as practicable, in the same form as ~~such the~~ material would subsequently be submitted to the courts. The commission may ~~not refuse to~~ accept for review and consideration any exhibit, document, or other material unless the person preparing it, or a representative of the entity responsible for its submission, shall be willing to appear before the commission for purposes of answering questions concerning ~~such the~~ material.

~~1 VAC 50-20-480. Projections of data.~~

K. Unless otherwise requested, wherever the regulations of the commission call for the projection of data, ~~such the~~ projections should be made for [~~periods of time deemed appropriate and possible by the submitting party a 10-year period~~]. In each instance where projections are given, the method and bases of ~~such the~~ projections should be indicated.

~~1 VAC 50-20-490. Certification of submissions.~~

L. All data, exhibits, documents, or other material submitted to the commission on the initiative of a party or pursuant to a request from the commission shall be certified by the submitting party (i) as to source and (ii) as to the fact that ~~such~~ the material is correct within the knowledge of the submitting party.

~~1 VAC 50-20-500. Required copies of submissions.~~

M. Any ~~local government~~ party or parties filing notice or making submissions to the commission shall provide at least eight copies of all submissions, unless the commission agrees that a lesser number would be sufficient for its review and analysis. *The commission may make provisions for the electronic filing of submissions, including facsimile.*

~~1 VAC 50-20-510. Staff solicitation of data.~~

N. At any time during the course of the commission's review of any issue, the commission's staff may solicit ~~such~~ additional data, documents, records, or other materials from the parties as is deemed necessary for proper analysis of ~~such~~ any issue. Where such materials are solicited from a party, the commission's staff, where practicable, shall make ~~such~~ the request in writing, with copies of ~~such~~ the request being provided to other principal parties. Copies of all materials submitted to the commission pursuant to this chapter shall concurrently be provided to each principal party, or shall be made available to ~~such~~ the parties in a manner acceptable to the commission. The commission shall be given written notification by the submitting party of each principal party provided a copy of ~~such~~ the material or of arrangements proposed for making ~~such~~ the material available to the principal parties.

~~1 VAC 50-20-520. Independent research by commission.~~

O. The commission shall not be limited in its analysis of any issue to the materials submitted by the parties but shall undertake ~~such~~ independent research as it deems appropriate in order to assure a full and complete investigation of each issue.

~~1 VAC 50-20-530. Cooperation among parties in provision of data.~~

P. The commission shall request all parties to cooperate fully in the development and timely sharing of data relative to the issue under review. The commission considers ~~such~~ the cooperation among parties vital to the discharge of its responsibilities.

Q. *The commission may allow the parties to correct the data, exhibits, documents, or other material submitted to the commission prior to the date established for the closing of the record pursuant to 1 VAC 50-20-640 B. Where corrections are authorized pursuant to this chapter, copies of all corrections shall be provided by the submitting party to all principal parties. If, in the commission's judgment, the corrections are of a substantive nature as to significantly alter the scope or character of the issue under review, the commission may delay its proceedings for an appropriate amount of time to provide an opportunity for other parties to respond to the corrected data, exhibits, documents, or other material.*

R. *Following the receipt of a notice, the commission may request the party initiating the proposed action to prepare and file testimony in support of the proposed action. The testimony of the party initiating the proposed action may refer to all data, exhibits, documents, or other material previously submitted to the commission or filed with the testimony. In all proceedings in which the initiating party files testimony, the affected party or parties shall be permitted and may be requested by the commission to file, on or before a date established by the commission, testimony in response to the proposed action. The testimony of the affected party or parties may refer to all data, exhibits, documents, or other material previously submitted to the commission or filed with the testimony. Any affected party or parties that chooses not to file testimony by the date established by the commission may not thereafter present testimony except by permission of the commission, but may otherwise fully participate in the proceeding and engage only in cross-examination of the testimony of other parties. Failure to comply with the directions of the commission, without good cause shown, may result in rejection of the testimony by the commission. The commission may permit the parties to correct or supplement any prepared testimony before or during the oral presentations as called for in 1 VAC 50-20-620. Eight copies of prepared testimony shall be filed unless otherwise specified by the commission.*

PART IV.
INFORMATION, DATA, AND FACTORS RELATIVE TO
MANDATORY COMMISSION REVIEWS.

1 VAC 50-20-540. Annexation.

A. In developing its findings of fact and recommendations with respect to a proposed annexation, the commission shall consider the information, data, and factors listed in this ~~chapter~~ section. Any city or town filing notice with the commission that it proposes to annex territory shall submit with ~~such~~ the notice data and other evidence responsive to each element listed ~~herein~~ ~~which~~ ~~in this section~~ that it deems relevant to ~~its case~~ ~~the proposed annexation~~. Any voters or property owners filing notice pursuant to § 15.2-2907 of the Code of Virginia with the commission seeking annexation to a municipality shall submit with the notice data and other evidence responsive to each element listed in this section that [~~it deems they deem~~] relevant to the proposed annexation, except that subdivision 1 of this section is required to be included in the notice filed with the commission.

1. A written metes and bounds description of the boundaries of the area proposed ~~city~~ for annexation having, as a minimum, sufficient certainty to enable a layman to identify the proposed new boundary. ~~Such~~ The description may make reference to readily identifiable monuments such as public roads, rivers, streams, railroad rights of way, and similar discernible physical features.

2. A map or maps showing (i) the boundaries of the area proposed for annexation and their geographic relationship to existing political boundaries; (ii) identifiable unincorporated communities, (iii) major streets, highways, schools, and other major public facilities, (iv) significant geographic features, including mountains and bodies of water; (v) existing uses of the land, including residential, commercial, industrial, and agricultural; and (vi) information

Final Regulations

deemed relevant as to the possible future use of the property within the area sought for annexation.

3. A ~~tabular compilation~~ *land-use table* showing both the acreage and percentage of land currently devoted to the various categories of land use in the municipality, the county, and the area proposed for annexation.

4. The past, the estimated current, and the projected population of the municipality, the county affected by the proposed annexation, and the area of the county proposed for annexation.

5. The past, the estimated current, and the projected future number of public school students enrolled in the public schools and the number of school-age children living in the municipality, the county affected by the proposed annexation, and the area of the county proposed for annexation.

6. The assessed property values, by major classification ~~where a classification system is maintained~~, and if appropriate, the ratios of assessed values to true values for real property, personal property, machinery and tools, merchants' capital, and public service corporation property for the current year and the preceding 10 years for the municipality, and the county affected by the proposed annexation, and similar data for the current year for the area of the county proposed for annexation.

7. The current local property and nonproperty tax rates and ~~such~~ *the tax rates* for the preceding 10 years, applicable within the municipality, the county affected by the proposed annexation, and the area of the county proposed for annexation.

8. The estimated current local revenue collections and intergovernmental aid, ~~such~~ *the collections and aid* for the previous 10 years, and projections of ~~such~~ *the collections and aid* (including tax receipts from real property, personal property, machinery and tools, merchants' capital, business and professional license, consumer utility and sales taxes) within the municipality, and the county affected by the proposed annexation, and similar data for the past year for the area of the county proposed for annexation.

9. The amount of [~~long-term~~ *long-term*] indebtedness and the purposes for which all ~~such~~ *long-term debt* has been incurred by the municipality and the county affected by the proposed annexation.

10. The need in the area proposed for annexation for urban services, including but not limited to those listed below, the level of ~~such~~ *services* provided by the municipality and by the county affected by the proposed annexation, and the ability of the municipality and the county to provide ~~such~~ *the services* in the area proposed for annexation:

- a. Sewage treatment;
- b. Water;
- c. Solid waste collection and disposal;
- d. Public planning;
- e. Subdivision regulation and zoning;

f. Crime prevention and detection;

g. Fire prevention and protection;

h. Public recreational facilities;

i. Library facilities;

j. Curbs; , gutters; , and sidewalks;

k. Storm drains;

l. Street lighting;

m. Snow removal;

n. Street maintenance;

o. Schools;

p. Housing; and

q. Public transportation.

11. Efforts made by the municipality and the county affected by the proposed annexation to comply with applicable state policies with respect to environmental protection, public planning, education, public transportation, housing, and other state service policies promulgated by the General Assembly.

12. The community of interest which (i) may exist between the municipality and the area proposed for annexation and its citizens and which (ii) may exist between ~~such~~ *that* area and its citizens and the rest of the county; the term "community of interest" may include, but not be limited to, consideration of natural neighborhoods, natural and manmade boundaries, the similarity of service needs, and economic and social bonds.

13. Any arbitrary prior refusal to cooperate by the governing body of the municipality or of the county affected by the proposed annexation, if such has occurred, to enter into cooperative agreements providing for joint activities which would have benefited citizens of both ~~political subdivisions~~ *localities*.

14. The need for the municipality to expand its tax resources, including its real estate and personal property tax base.

15. The need of the municipality to obtain land for industrial, commercial, and residential development.

16. The adverse effect on the county affected by the proposed annexation resulting from the loss of areas suitable and developable for industrial, commercial, or residential use.

17. The adverse effect *on the county* of the loss of tax resources and public facilities ~~on the ability of the county necessary~~ to provide services to those persons in the remaining areas of the county after the proposed annexation.

18. *The adverse impact of the proposed annexation on agricultural operations located in the area proposed for annexation.*

19. The terms and conditions upon which the municipality proposes to annex, its plans for the improvement of the annexed territory during the 10-year period following annexation, including the extension of public utilities and other services, and the means by which the municipality shall finance the improvements and extension of services.

19. 20. Data pertinent to a determination of the appropriate financial settlement between the municipality and the affected county as required by ~~§ 15.1-1042~~ 15.2-3211 of the Code of Virginia and other applicable provisions of the Code of Virginia.

20. 21. The commission's staff shall endeavor to assist [~~localities parties~~] contemplating or involved in annexation proceedings by identifying additional data elements considered by the commission to be relevant in the disposition of annexation issues.

1 VAC 50-20-550. Partial county immunity.

In developing its findings of fact and recommendations with respect to a proposed petition for partial immunity, the commission shall consider the information, data, and factors listed in this ~~chapter~~ section. Any county filing notice with the commission that it proposes to seek immunity for a portion of its territory shall submit with ~~such~~ the notice data and other evidence responsive to each element listed ~~below which in this section that it deems relevant to its case; the proposed petition for partial immunity.~~

1. A written metes and bounds description of the area for which immunity is sought having, as a minimum, sufficient certainty to enable a layman to identify the proposed immunity areas. ~~Such~~ The description may make reference to readily identifiable monuments such as public roads, rivers, streams, railroad rights of way, and similar discernible physical features.

2. A map or maps showing: (i) the boundaries of the area proposed for immunity and their geographic relationship to existing political boundaries; (ii) identifiable unincorporated communities; (iii) major streets, highways, schools, and other major public facilities; (iv) significant geographic features, including mountains and bodies of water; (v) existing uses of the land, including residential, commercial, industrial, and agricultural; and (vi) information deemed relevant as to the possible future use of the property within the area for which immunity is sought.

3. A ~~tabular compilation~~ land-use table showing both the acreage and percentage of land currently devoted to the various categories of land use in the county, the affected city, and the area proposed for immunity.

4. The estimated current and projected population and population density of the areas for which immunity is sought.

5. The urban services, including but not limited to those listed below, provided in the area for which immunity is sought and the type and level of ~~such~~ services in relation to those furnished by the city from which immunity is sought:

- a. Sewage treatment;

- b. Water;
- c. Solid waste collection and disposal;
- d. Public planning;
- e. Subdivision regulation ~~of~~ and zoning;
- f. Crime prevention and detection;
- g. Fire prevention and protection;
- h. Public recreational facilities;
- i. Library facilities;
- j. Curbs, gutters, sidewalks;
- k. Storm drains;
- l. Street lighting;
- m. Snow removal;
- n. Street maintenance;
- o. Schools;
- p. Housing; and
- q. Public transportation.

6. Efforts made by the county to comply with applicable state policies with respect to environmental protection, public planning, education, public transportation, housing, and other state service policies promulgated by the General Assembly.

7. The community of interest ~~which that~~. (i) may exist between the area for which immunity is sought and the remainder of the county; (ii) the community of interest which may exist between ~~such that~~ area and the city from which immunity is sought; and (iii) the relative strength of ~~such the~~ community of interests.

8. Any instance in which either the county or the affected city has arbitrarily refused to cooperate in the joint provision of services.

9. Whether the proposed grant of immunity would substantially foreclose a city of 100,000 population or less from expanding its boundaries by annexation.

10. The commission's staff shall endeavor to assist localities contemplating or involved in partial immunity proceedings by identifying the additional data elements considered by the commission to be relevant in the disposition of partial immunity issues.

1 VAC 50-20-560. Town-county agreements defining annexation rights.

In developing its findings of fact and recommendations with respect to a proposed town-county annexation agreement, the commission shall consider the information, data, and factors listed in this ~~chapter~~ section. Any town or county presenting proposed annexation agreements to the commission under the provisions of ~~§ 15.1-1058.2 or § 15.1-1058.4~~ 15.2-3231 of the Code of Virginia shall submit with the proposed agreement data and other evidence responsive to each element listed ~~below which in this section that it deems relevant:~~ .

Final Regulations

1. A written metes and bounds description of those areas of the county made eligible for annexation under the proposed agreement having as a minimum, sufficient certainty to enable a layman to identify ~~such~~ those areas. ~~Such~~ The description may make reference to readily identifiable monuments such as public roads, rivers, streams, railroad rights of way, and similar discernible physical features.
2. A map or maps showing: (i) the boundaries of the various areas eligible for annexation under the proposed agreement and their relationship to existing political boundaries; (ii) identifiable unincorporated communities; (iii) major streets, highways, schools, and other major public facilities; (iv) significant geographic features, including mountains and bodies of water; (v) existing uses of the land, including residential, commercial, industrial and agricultural; and (vi) information deemed relevant as to the possible future use of the property in the areas affected by the proposed agreement.
3. A ~~tabular compilation~~ (land-use table) showing both the acreage and percentage of land currently devoted to the [~~37~~] various categories of land use in the town, the county, and the areas of the county affected by the agreement.
4. The past, the estimated current, and the projected population of the town, the county, and those areas of the county affected by the proposed agreement.
5. The past, the estimated current, and the projected number of public school students enrolled in the public schools and the number of school-age children living in the town, the county, and those areas of the county affected by the proposed agreement.
6. The assessed property values, by major classification ~~where a classification system is maintained~~, and, if appropriate, the ratios of assessed values to true values for real property, personal property, machinery and tools, merchants' capital, and public service corporation property for the current and preceding 10 years for the town, and the county, and similar data for the current year in those areas of the county affected by the proposed agreement.
7. The need of the municipality to expand its tax resources, including its real estate and personal property tax base.
8. The need of the municipality to obtain land for industrial, commercial, and residential development.
9. The current and prospective need for additional urban services in the areas of its county subject to annexation under the agreement.
10. Plans for the immediate and future improvement of areas annexed under the terms of the agreement, including the extension of public utilities and other services.
11. The commission's staff shall endeavor to assist localities contemplating or involved in town-county agreements defining annexation rights by identifying additional data elements considered by the commission to be relevant in the disposition of ~~such~~ the issues.

1 VAC 50-20-570. Town incorporation.

In developing its findings of fact and recommendations with respect to a proposed town incorporation, the commission shall consider the information, data, and factors listed in this ~~chapter~~ ~~section~~. Any party or parties filing notice with the commission that they propose to have a community incorporated as a town, or whose petition for incorporation has been referred to the commission by the court pursuant to ~~§ 15.1-966.4~~ 15.2-3601 of the Code of Virginia, shall submit with such notice or subsequent to ~~such~~ the court referral data and other evidence responsive to each element listed ~~below~~ ~~in this section~~ [~~which~~ ~~that~~] they deem relevant to the ~~issue~~: *proposed incorporation*.

1. A petition signed by not less than 100 duly qualified voters residing within the boundaries of the proposed town supporting the proposed incorporation.
2. A written metes and bounds description of the area proposed for incorporation as a town having, as a minimum, sufficient certainty to enable a layman to identify the proposed town boundary. ~~Such~~ The description may make reference to readily identifiable monuments such as public roads, rivers, streams, railroad rights of way, and similar discernible physical features.
3. A map or maps showing: (i) the boundaries of the proposed town and their relationship to existing political boundaries; (ii) identifiable unincorporated communities; (iii) major streets, highways, schools, and other major public facilities; (iv) significant geographic features, including mountains and bodies of water; and (v) existing uses of the land, including residential, commercial, industrial and agricultural.
4. A ~~tabular compilation~~ (land-use table) showing both the acreage and percentage of land currently devoted to the various categories of land use in the area proposed for incorporation.
5. The estimated past, the estimated current, and the projected population of the area proposed for incorporation and the county within which the town would be situated.
6. Information indicating: (i) why the proposed incorporation is desired and in the interest of the inhabitants; (ii) how the general good of the community is served by ~~such~~ the incorporation; and (iii) why the services needed within the proposed town cannot be provided by the establishment of a sanitary district, through the extension of existing county services, or by other arrangements provided by law.
7. The commission shall endeavor to assist communities contemplating or involved in proposed town incorporations by identifying additional data elements considered by the commission to be relevant in the disposition of ~~such~~ incorporation issues.

1 VAC 50-20-580. Town-city transitions.

In developing its findings of fact and recommendations with respect to a proposed town to city transition, the commission shall consider the information, data, and factors listed in ~~these regulations~~ ~~this section~~. Any town filing notice with the commission that it proposes to become a city shall submit with

~~such~~ the notice data and other evidence responsive to each element listed ~~below which in this section that~~ it deems relevant to ~~its case: the proposed transition.~~

1. A written metes and bounds description of the boundaries of the proposed city having, as a minimum, sufficient certainty to enable a layman to identify the proposed city boundary. ~~Such~~ The description may make reference to readily identifiable monuments such as public roads, rivers, streams, railroad rights of way, and similar discernible physical features.

2. A map or maps showing: (i) the boundaries of the proposed city and their geographic relationship to existing political boundaries; (ii) identifiable unincorporated communities; (iii) major streets, highways, schools, and other major public facilities; (iv) significant geographic features, including mountains and bodies of water; (v) existing uses of the land, including residential, commercial, industrial, and agricultural; and (vi) information deemed relevant as to the possible future use of the property within the proposed city.

3. A ~~tabular compilation~~ (land-use table) showing both the acreage and percentage of land currently devoted to the various categories of land use in the proposed city.

4. The past, the estimated current, and the projected population of the proposed city and the county affected by the proposed transition.

5. The past, the estimated current, and the projected future number of public school students enrolled in the public schools and the number of school-age children living in the proposed city and the county affected by the proposed transition.

6. The assessed values, by major classification ~~where a classification system is maintained~~, and, if appropriate, the ratios of assessed values to true values for real property, personal property, machinery and tools, merchants' capital, and public service corporation property for the current year and the preceding 10 years for the county and within the proposed city.

7. The current local property and nonproperty tax rates, and ~~such~~ the tax rates for the preceding 10 years, applicable within the county and the proposed city.

8. The estimated current local revenue collections and intergovernmental aid, ~~such~~ the collections and aid for the previous 10 years, and projections of ~~such~~ the collections and aid, including tax receipts from real property, personal property, machinery and tools, merchants' capital, business and professional license, consumer utility and sales taxes, within the county and the proposed city.

9. The amount of long-term indebtedness and the purposes for which ~~all such~~ that long-term debt has been incurred by the municipality and the county affected by the proposed transition.

10. The current type and level of urban services provided by the town, the additional services to be provided and the additional costs to be borne by the proposed city, and the

means by which the proposed city shall finance ~~such~~ the additional services and costs.

11. The fiscal capacity of the town to function as an independent city and to provide appropriate urban services.

12. The effect and impact of the proposed transition on the ability of the county to meet the service needs of its remaining population and the means by which any substantial impairment of the county's ability to meet ~~such~~ those needs shall be offset.

13. The effect of the proposed transition on compliance with and the promotion of applicable state policies with respect to environmental protection, public planning, education, public transportation, housing, and other state service policies declared by the General Assembly.

14. Data pertinent to a determination of the appropriate financial settlement as required by § ~~45.1-0003~~ 15.2-3829 and other applicable provisions of the Code of Virginia.

15. The commission's staff shall endeavor to assist localities contemplating or involved in town-city transition proceedings by identifying additional data elements considered by the commission to be relevant in disposition of ~~such~~ town to city transition issues.

1 VAC 50-20-590. County-city transitions.

In developing its findings of fact and recommendations with respect to a proposed county to city transition, the commission shall consider the information, data, and factors listed in this ~~chapter~~ section. Any county filing notice with the commission that it proposes to become a city shall submit with ~~such~~ the notice data and other evidence responsive to each element listed ~~below which in this section that~~ it deems relevant to ~~its case: the proposed transition.~~

1. A map, or maps, showing: (i) the location of all towns situated within the county; (ii) all adjoining and adjacent ~~political subdivisions~~ localities; (iii) identifiable unincorporated communities within the county; (iv) the population density of the various areas of the county; (v) the areas of the county served by urban services; (vi) major streets, highways, schools and other major public facilities; (vii) significant geographic features, including mountains and bodies of water; (viii) existing uses of the land, including residential, commercial, industrial, and agricultural; and (ix) information deemed relevant as to the possible future use of the property within the county.

2. A ~~tabular compilation~~ (land-use table) showing both the acreage and percentage of land currently devoted to the various categories of land use in the county.

3. The past, the estimated current, and the projected future population of the county, each town within the county, and of the major densely populated unincorporated communities within the county.

4. The past, the estimated current, and the projected future number of public school students enrolled in the public schools and the number of school-age children living in the county and in each town therein.

Final Regulations

5. The assessed values, by major classification ~~where a classification system is maintained~~, and if appropriate, the ratios of assessed values to true values for real property, personal property, machinery and tools, merchants' capital, and public service corporation property for the current year and the preceding 10 years for the county and each town within the county.

6. The current local property and nonproperty tax rates, and ~~such the~~ [tax] rates for the preceding 10 years, within the county and all towns within the county.

7. The estimated current local revenue collections and intergovernmental aid, ~~such the~~ collections and aid for the previous 10 years, and projections of ~~such the~~ collections and aid (including tax receipts from real property, personal property, machinery and tools, merchants' capital, business and professional license, consumer utility and sales taxes) within the county and within each town within the county.

8. The amount of long-term indebtedness of the county and each town within the county and the amount and purpose for which ~~all such that~~ debt has been incurred.

9. Data regarding: (i) the urban-type services presently provided by the county; (ii) the level of ~~such those~~ services; (iii) the areas of the county served by ~~such those~~ services; (iv) the additional services to be provided and the additional cost to be borne by the proposed city; and (v) the means by which the proposed city shall finance ~~such the~~ additional services and costs.

10. The fiscal capacity of the county to function as an independent city and to provide appropriate services.

11. The impact of the proposed transition on compliance with and the promotion of applicable state policies with respect to environmental protection, public planning, education, public transportation, housing, and other state service policies declared by the General Assembly.

12. The commission's staff shall endeavor to assist localities contemplating or involved in proposed county-city transitions by identifying additional data elements considered by the commission to be relevant in the disposition of ~~such county to city~~ transition issues.

1 VAC 50-20-600. [~~Minor adjustment of boundary lines~~ Boundary line adjustment].

In developing its findings of fact and recommendations with respect to a proposed boundary *line* adjustment, the commission shall consider the information, data, and factors listed in this section. The ~~local governments~~ localities petitioning for a boundary *line* adjustment under the provisions of § ~~45.1-1031.4~~ 15.2-3109 of the Code of Virginia shall, separately or jointly, at the time they initiate such petition to the court, submit to the commission data and other evidence responsive to each element listed ~~below which in this section that~~ is relevant to the ~~case~~: boundary *line* adjustment.

1. A written metes and bounds description of the precise segment of the boundary for which an adjustment is sought having, as a minimum, sufficient certainty to enable a layman to identify the boundary segment in question. ~~Such~~ The description may make reference to readily identifiable

monuments such as public roads, rivers, streams, railroad rights of way, and similar discernible physical features.

2. A map or maps showing: (i) the precise segment of the boundary ~~which that~~ the parties agree should be adjusted; (ii) identifiable unincorporated communities; (iii) major streets, highways, schools, and other major public facilities; (iv) significant geographic features, including mountains and bodies of water; (v) existing uses of the land, including residential, commercial, industrial, and agricultural; and (vi) information deemed relevant as to the possible future use of the land.

3. The estimated past, the estimated current, and the projected future population and population density of all areas adjacent to the segment of the boundary proposed for adjustment and of other areas possibly affected by the proposed boundary *line* adjustment.

4. A ~~tabular compilation~~ (land-use table) showing both the acreage and percentage of land currently devoted to the various categories of land use in all areas adjacent to the segment of the boundary proposed for adjustment and in other areas possibly affected by the proposed boundary *line* adjustment.

5. The past, the estimated current, and the projected future number of public school students enrolled in the public schools and the number of school-age children living in all areas adjacent to the segment of the boundary proposed for adjustment and in other areas possibly affected by the proposed [*boundary*] *line* adjustment.

6. The assessed and true real property values, by major classification ~~where a classification system is maintained~~, of those areas adjacent to the segment of the boundary proposed for adjustment and of any other area possibly affected by the proposed adjustment and other fiscal data relative to the issue.

7. Maps indicating the principal alternative boundary *line* adjustments which have been considered by the parties and a brief statement as to how each alternative adjustment would promote the effective and efficient provision of public services.

8. Information as to why the proposed boundary *line* adjustment is sought by the parties.

9. The commission's staff shall endeavor to assist localities contemplating or involved in proposed boundary *line* adjustments by identifying additional data elements considered by the commission to be relevant in the disposition of boundary *line* adjustment issues.

1 VAC 50-20-601. City-town transitions.

In developing its findings of fact and recommendations with respect to a proposed transition of a city to town status, the commission shall consider the information, data, and factors listed in this section. Any city filing notice with the commission that it proposes to become a town or any petition for the transition of a city to town status that has been referred to the commission by the court pursuant to § 15.2-4104 of the Code of Virginia should be accompanied by data and other evidence

responsive to each element listed in this section that [~~the city deems~~ is] relevant to the proposed transition.

1. Map or maps showing (i) the boundaries of the city proposed for transition and their geographic relationship to other political boundaries; (ii) identifiable unincorporated communities; (iii) major streets, highways, schools, and other major public facilities; (iv) significant geographic features, including mountains and bodies of water; (v) existing uses of the land within the city, including residential, commercial, industrial, and agricultural; and (vi) information deemed relevant as to the possible future use of the land within the city.

2. The past, the estimated current, and the projected future population and population of the city and the county affected by the proposed transition, and the estimated density of the city and the affected county.

3. A land-use table showing both the acreage and percentage of land currently devoted to the various categories of land use in the city and the county affected by the proposed transition.

4. The past, the estimated current, and a five-year projection of the future number of public school students enrolled in the public schools and the number of school-age children living in the city and the county affected by the proposed transition.

5. The assessed values, by major classification for real property, personal property, machinery and tools, merchants' capital, and public service corporation property for the current year and the preceding 10 years for the city and for the county affected by the proposed transition.

6. The current local property and nonproperty tax rates, and the rates for the preceding 10 years, applicable within the city and the county affected by the proposed transition.

7. The estimated current local revenue collections (including receipts from real property, personal property, machinery and tools, consumer utility, sales taxes, etc., and receipts from nontax sources) and intergovernmental aid, and the collections and aid for the preceding 10 years, for the city and the county affected by the proposed transition.

8. The identification of those services performed by the city that are proposed for assumption by the county as a result of the proposed transition, the number of customers or recipients of each service within the city that would be served by the county subsequent to the transition, and the aggregate annual cost to the county for the provision of services within the city.

9. The identification of those services that would be provided by the town subsequent to the proposed reversion, the number of recipients of each service within the municipality, and the aggregate annual cost to the proposed town for the provision of services.

10. The identification of those city-owned facilities that are proposed for transfer to the county, the identification of those that would be retained by the proposed town, and the current fair market value and the outstanding city debt attributable to each facility.

11. The current outstanding debt of the city, the applicable portion of debt stated as a percentage of the city's constitutional debt limit, and the current schedule for the retirement of all municipal debt.

12. The identification of that portion of the city's indebtedness that is proposed for transfer to the county and the purposes for which the debt has been incurred.

13. Estimates of the annual amount of tax and nontax revenues to be collected by the county within the municipality subsequent to the proposed transition.

14. Estimates of the annual additional amount of intergovernmental aid to be received by the county as a result of the proposed transition.

15. An estimate of the net aggregate fiscal impact of the proposed transition on the county during the initial year subsequent to the transition and during each of the ensuing five years.

16. An estimate of the adjustment required in the county's real property tax rate, assuming that the net aggregate fiscal impact on the county resulting from the transition is addressed solely by an adjustment in the rate.

17. An estimate of the net aggregate fiscal impact of the proposed transition on the city during the initial year subsequent to the transition and during each of the ensuing five years.

18. An estimate of the adjustment required in the municipality's real property tax rate, assuming that the net aggregate fiscal impact on the city resulting from the transition is addressed solely by an adjustment in the rate.

19. The effect of the proposed transition on compliance with and the promotion of applicable state policies with respect to environmental protection, public planning, education, public transportation, housing, and other state service policies declared by the General Assembly.

20. Specification of the terms and conditions that should be established by the court to balance the equities between the city and the county; protect the best interests of the affected localities, their residents, and the Commonwealth; and ensure an orderly transition of the city to town status.

21. The commission's staff shall endeavor to assist the parties involved in proceedings for the transition of a city to town status by identifying additional data elements considered by the commission to be relevant in the disposition of city to town transition issues.

1 VAC 50-20-605. County-city consolidations.

In developing its findings of fact and recommendations with respect to a proposed consolidation of a county and a city that would establish an independent city, the commission shall consider the information, data, and factors listed in this section. Local governments filing notice proposing the consolidation of a city and a county to establish an independent city [, or any committee of citizens that has been appointed by the circuit court to act for and in lieu of a governing body to perfect a consolidation agreement pursuant to § 15.2-3531 of the Code of Virginia] shall, separately or

Final Regulations

jointly, submit to the commission data and other evidence responsive to each element listed in this section that they deem relevant to the proposed consolidation.

1. Copy of the consolidation agreement.
2. A map or maps showing (i) the location of all municipalities situated within the proposed consolidated city; (ii) all adjoining and adjacent localities; (iii) identifiable unincorporated communities within the proposed consolidated city; (iv) major streets, highways, schools and other major public facilities; (v) significant geographic features, including mountains and bodies of water; (vi) existing uses of the land, including residential, commercial, industrial, and agricultural; and (vii) information deemed relevant as to the possible future use of the property within the proposed consolidated city and as to its future viability.
3. The past, the estimated current, and the projected population of each locality proposing to consolidate.
4. The population density of the proposed consolidated city based on the most recent U.S. census or as estimated by the Weldon Cooper Center for Public Service at the University of Virginia.
5. A land-use table showing both the acreage and percentage of land currently devoted to the various categories of land use in the proposed consolidated city.
6. The estimated current and a five-year projection of the future number of public school students enrolled in the public schools in each locality proposing to consolidate and the number of school-age children living in the proposed consolidated city.
7. The assessed values, by major classification for real property, personal property, machinery and tools, merchants' capital, and public service corporation property for the current year and the preceding 10 years for the county and the city proposing to consolidate and the proposed consolidated city.
8. The estimated local property and nonproperty tax rates that will be applicable within the proposed consolidated city.
9. The estimated local revenue collections including, but not limited to, tax receipts from real property, personal property, machinery and tools, merchants' capital, business and professional license, consumer utility and sales taxes and intergovernmental aid, such collections and aid for the preceding 10 years, and projections of the collections and aid within each of the localities proposing to consolidate.
10. The amount of long-term indebtedness of each of the localities proposing to consolidate and the amount and purpose for which that debt has been incurred.
11. Data regarding: (i) the urban-type services presently provided by each of the localities proposing to consolidate, (ii) the level of those services to be provided in the proposed consolidated city, (iii) the additional services to be provided and the additional cost to be borne by the proposed consolidated city, and (iv) the means by which the proposed consolidated city shall finance the additional services and costs.

12. The fiscal capacity of the proposed consolidated city to function as an independent city and to provide appropriate services.

13. The impact of the proposed consolidation on compliance with and the promotion of applicable state policies with respect to environmental protection, public planning, education, public transportation, housing, and other state service policies declared by the General Assembly.

14. The impact of the proposed consolidation on the interest of the Commonwealth in promoting strong and viable units of government in the area.

15. The commission's staff shall endeavor to assist the parties involved in proceedings for the consolidation of a county and a city that would establish an independent city by identifying additional data elements considered by the commission to be relevant in the disposition of city-county consolidation issues.

1 VAC 50-20-610. Interlocal Voluntary settlement agreements.

In developing its findings of fact and recommendations with respect to a proposed agreement developed under the authority of § 15.2-3400 of the Code of Virginia, the commission shall consider the information, data, and factors listed in this ~~chapter~~ section. Local governments submitting such a proposed agreement for review shall, separately or jointly, submit to the commission data and other evidence responsive to each element listed ~~below~~ in this section that they deem relevant to the proposed voluntary settlement agreement: .

1. If the agreement proposes a municipal boundary expansion, submissions should include data and evidence responsive to the relevant provisions of 1 VAC 50-20-540.
2. If the agreement proposes the immunization of areas of a county from annexation or the incorporation of new cities, submissions should include data and evidence responsive to the relevant provisions of 1 VAC 50-20-550.
3. If the agreement proposes the incorporation of a town, submissions should include data and evidence responsive to the relevant provisions of 1 VAC 50-20-570.
4. If the agreement proposes the transition of a town to city status, submissions should include data and evidence responsive to the relevant provisions of 1 VAC 50-20-580.
5. If the agreement proposes the transition of a county to city status, submissions should include data and evidence responsive to the relevant provisions of 1 VAC 50-20-590.
6. If the agreement proposes the transition of a city to town status, submissions should include data and evidence responsive to the relevant provisions of 1 VAC 50-20-601.
7. If the agreement proposes ~~an economic growth~~ a revenue-sharing plan or similar arrangement by which jurisdictions will share the tax or revenue sources of an area, submissions should include:
 - a. A description of the plan;

- b. Calculations indicating for each locality the projected future contributions to the plan for the next five-year period;
- c. Each locality's projected net annual receipts or net annual contributions to the plan for the next five-year period;
- d. Each locality's annual expenditures for the past five years and its projected annual expenditures for the next five years by general operating, school, and debt service categories;
- e. Each locality's real estate and public service corporation property assessed values for the past five years and projected for the next five-year period;
- f. Each locality's annual revenue for the past five years and projected for the next five-year period (exclusive of receipts from or payments to the economic growth sharing plan) by source and type;
- g. Each locality's anticipated major capital needs for the next five-year period; and
- h. Other information indicating the general equity of the proposed plan for each participating locality.

7- 8. The commission's staff shall endeavor to assist localities contemplating or involved in the development of ~~interlocal~~ *voluntary settlement* agreements under the authority of ~~§ 15.1-1167.1~~ 15.2-3400 of the Code of Virginia by identifying additional data elements considered by the commission to be relevant to the commission's review of such ~~agreement~~ *agreements*.

1 VAC 50-20-612. Voluntary economic growth-sharing agreements.

In developing its findings of fact and recommendations with respect to a proposed voluntary economic growth-sharing agreement developed under the authority of § 15.2-1301 of the Code of Virginia, the commission shall consider the information, data, and factors listed in this section. Local governments submitting such a proposed agreement for review shall, separately or jointly, submit to the commission data and other evidence responsive to each element listed in this section that they deem relevant to the proposed agreement.

- 1. A copy of the proposed agreement and a description of the economic growth-sharing plan.
- 2. A description of the financial investment or other contributions which each participating locality will make to the project(s) envisaged under the agreement.
- 3. Projections of each participating locality's net annual receipts or net annual contributions to the project(s) specified in the agreement for the next 10-year period, or for a lesser or greater period as deemed appropriate.
- 4. A description of any dedication or restriction on the use of funds generated by the project(s) specified in the agreement for the participating localities.
- 5. Calculations indicating the estimated impact of the project(s) proposed in the agreement on the annual

operating expenditures of each participating jurisdiction for the next 10-year period, or for a lesser or greater period as deemed appropriate.

6. *Calculations indicating the estimated impact of the project(s) proposed in the agreement on the current and prospective capital expenditures of each participating jurisdiction over the course of the next 10-year period, or over a lesser or greater period as deemed appropriate.*

7. *Calculations indicating the estimated impact of the project(s) proposed in the agreement on the debt and annual debt service of each participating jurisdiction over the course of the next ten 10-year period, or over the course of a lesser or greater period as deemed appropriate.*

8. *Information indicating the general equity of the proposed plan for each participating locality.*

9. *Other information which would assist the commission in analyzing the "probable effect on the people" in the participating jurisdictions of the proposed agreement.*

10. *The commission's staff shall endeavor to assist localities contemplating or involved in the development of voluntary economic growth-sharing agreements under the authority of § 15.2-1301 of the Code of Virginia by identifying additional data elements considered by the commission to be relevant to the commission's review of such agreements.*

1 VAC 50-20-614. Determination of continued eligibility for city status.

In undertaking its investigation with respect to whether a city continues to meet the requirements for city status as prescribed by Article VII, Section 1 of the Constitution of Virginia, the commission shall consider the information and data listed in this section. Any city subject to investigation as prescribed by Chapter 40 (§ 15.2-4000 et seq.) of Title 15.2 of the Code of Virginia shall be requested to submit information and data responsive to each element listed in this section and any other information and data as the city deems relevant to the continued eligibility for city status.

- 1. *Any official correspondence with the United States Bureau of the Census regarding the accuracy of the most recent United States decennial census of the population of the city under investigation.*
- 2. *Any data or other evidence produced by the city under investigation or any other entity bearing on the accuracy of the most recent United States decennial census of the population of the city under investigation.*
- 3. *Any data or other evidence produced by the city under investigation or any other entity indicating the current population and projected future population of the city under investigation.*
- 4. *Contingent upon the commission's findings with respect to the population of the city under investigation, a listing of all of the city's assets, liabilities, rights and obligations.*
- 5. *The commission's staff shall endeavor to assist the city under investigation by identifying additional data elements*

Final Regulations

considered by the commission to be relevant to the continued eligibility for city status.

1 VAC 50-20-616. Order defining a town's future annexation rights.

In developing its order defining the future annexation rights of a town pursuant to § 15.2-3234 of the Code of Virginia, the commission shall consider the information, data, and factors listed in this section. Any petition referred to the commission requesting an order establishing a town's future annexation rights should be accompanied by data and other evidence responsive to each element listed in this section that the town deems relevant to the issue.

- 1. Information regarding the inability of the town and the county to reach a voluntary agreement as to the future annexation rights of the town.*
- 2. Terms and conditions of a proposed order establishing the town's future annexation rights.*
- 3. Data and evidence responsive to the relevant provisions of 1 VAC 50-20-540.*
- 4. The commission's staff shall endeavor to assist localities involved in proceedings concerning an order defining a town's future annexation rights by identifying additional data elements considered by the commission to be relevant in the disposition of such issues.*

PART V. FORMAL COMMISSION REVIEWS.

1 VAC 50-20-620. Oral presentations by parties.

A. In the course of its analysis of any issue the commission may schedule oral presentations for purposes of permitting the parties to amplify their submissions, to critique and to offer comment upon the submissions and evidence offered by other parties, and to respond to questions relative to the issue from the commission. ~~Such~~ The presentations, if scheduled, shall extend for ~~such~~ a period of time as the commission may ~~determine~~ deem appropriate.

B. If oral presentations are scheduled by the commission, the chairman shall select, subsequent to the receipt of recommendations from the parties, an appropriate site for ~~such~~ the presentations. Recommendations by the parties regarding ~~such~~ the sites should be based upon the adequacy of space for the display and movement of exhibits; the adequacy of seating arrangements for the commission, its staff, representatives of the parties, a court reporter, and the public; the adequacy of security at the site to permit materials to be left unattended ~~for periods of time during the presentations~~ recesses; and the adequacy of the acoustical characteristics of the site to facilitate communications or the availability of a public address system.

C. Local governments or other parties desiring to present exhibits or data requiring special equipment should be prepared to provide such.

D. The commission may, ~~at its discretion~~ where it deems appropriate, consolidate two or more interlocal issues before it for purpose of oral presentations.

E. The commission shall, within the requirements of law, conduct the oral presentations in the manner it considers best suited for reaching a decision in the best interest of the parties and in the best interest of the Commonwealth.

F. The chairman, or other member the commission designated to preside during any oral presentations, may allocate time to the various parties as the chairman or presiding member deems appropriate. ~~Such~~ The allocation of time shall be based upon the needs of the commission to review data, to examine witnesses, and to obtain an understanding of the relevant factors affecting the issue under review.

G. The sequence in which testimony will be received by the commission during any oral presentations shall be established by the chairman or presiding member but shall generally be as follows:

1. A brief opening statement by each party, if desired;
2. Presentation by the ~~jurisdiction~~ party initiating the issue before the commission;
3. Presentations by the local governments immediately affected by the action proposed by the initiating ~~jurisdiction~~ party, in an order established by the chairman or presiding member;
4. Presentations by other parties, in an order established by the chairman or presiding member;
5. Rebuttal where requested by a party and agreed to by the chairman or presiding member.

H. The chairman or presiding member may, to the extent he deems ~~such~~ appropriate, permit parties to question witnesses regarding submissions, their testimony, or other facts relevant to the issues before the commission. Where a party is represented by counsel, such questioning may be conducted by counsel.

Where the parties have prefiled testimony at the commission's request pursuant to 1 VAC 50-20-390 R, the questioning of individuals whose testimony has been prefiled shall be limited to a cross-examination of such testimony. The commission may accept additional oral testimony from individuals whose testimony has been prefiled during the presentations where good cause is shown. Where additional oral testimony is accepted by the commission, the commission shall provide an opportunity for other parties to respond to the testimony and to cross-examine the individual offering such testimony.

I. The chairman or presiding member may, during or at the conclusion of the oral presentations, permit or request oral argument on the issues before the commission.

J. The commission, *and its staff*, may question any witness or representative of any party during the oral presentations regarding any submission, testimony, or other fact which the commission considers relevant to the issues before it. The chairman or presiding member shall endeavor to call for commission questioning in a manner designed to expedite the presentations.

K. The commission may accept depositions from persons unable to attend an oral presentation. Depositions shall only be accepted under conditions deemed acceptable by the

commission, including conditions assuring an opportunity for all affected local governments to be present and to examine adequately the witness during the taking of ~~such deposition depositions~~.

L. The parties or their counsel shall be expected to confer in advance of the time and date set for presentations in order to inform one another of their prospective witnesses and the order of their anticipated appearance. All material, data, or exhibits proposed for presentation to the commission during the oral presentations and not previously made available to the other parties shall be exchanged or made available to ~~such the~~ parties prior to presentation to the commission, subject to the qualifications in subsection M of this section.

M. The commission [~~desires~~ requires] that all materials, data, and exhibits be presented to it and made available to other parties in advance of the commencement of the [~~oral presentations onsite component of the commission's review~~]. The commission may accept additional materials, data, and exhibits during the [~~presentations where good cause is shown for~~] such [~~late submission onsite component of its review upon unanimous consent of the members present~~]. Where ~~such~~ late submissions are accepted by the commission, the commission shall provide an opportunity for other parties to respond to ~~such the~~ filings.

N. The commission may record by mechanical device, unless other recording arrangements are made by the parties, all testimony given during the oral presentations but shall prepare a transcript of ~~such testimony the recording only where it deems such when deemed~~ appropriate. The commission shall provide, upon request, any party a duplicate copy of ~~such the transcript or recording, if made, at a price sufficient to cover the expense incurred. In lieu of such recording by the commission, the parties may arrange to provide a court reporter at their expense if such is desired.~~ Where a court reporter is utilized, the commission shall ~~request~~ receive one copy of the transcript.

1 VAC 50-20-630. Public hearing.

A. In all cases where it receives a notice or referral of an issue pursuant to Part III (1 VAC 50-20-180 et seq.) a public hearing is required by law, the commission shall conduct a the public hearing at which any interested person or party may testify. The commission shall generally schedule ~~such the~~ public hearing in conjunction with the oral presentations held, if any, with respect to ~~such the~~ issue; however, public hearings regarding proposed town incorporations required pursuant to § ~~15.1-966.1~~ 15.2-3601 of the Code of Virginia shall be held no less sooner than 30 days after receipt of the court request for commission review.

B. Prior to holding ~~such the~~ public hearing the commission shall publish notice of the pending hearing ~~once a week for two successive weeks in a newspaper of general circulation in the affected jurisdictions as required by law. The second published notice shall appear not less than six nor more than 21 calendar days prior to the date of such hearing.~~

In addition to the notice of public hearing required by this subsection, a town that is a party to an agreement defining annexation rights negotiated pursuant to § 15.2-3231 of the Code of Virginia shall give written notice of the commission's

hearing at least 10 days before the hearing to the owner, owners, or their agent of each parcel of land included in the area proposed for annexation under the terms of the agreement. One notice sent by first-class mail to the last known address of the owner, owners, or their agent as shown on the current county real estate tax assessment books or current county real estate tax assessment records shall be deemed adequate compliance with this requirement, provided that the clerk of the town shall make an affidavit that the mailings have been made and file the affidavit with the commission.

C. The commission shall request the ~~jurisdiction party~~ initiating the issue before it and the other principally affected ~~locality or localities parties~~ to place on public display in or adjacent to the office of ~~their the~~ chief administrative officer of each principally affected local government copies of all materials which are available to them and which have been submitted to the commission for consideration with respect to the issue. ~~Such~~ The material should be made conveniently available to the public during normal working hours. The commission also encourages the parties to make available to the public other copies of [~~such the~~] material at libraries, educational facilities, or other public places in order that the public might have ample opportunity to study ~~such the~~ material prior to the public hearing. The commission's advertisements published under subsection B of this section shall announce the availability of ~~such the~~ material at the offices of the administrators and at ~~such~~ other facilities as may be selected by the parties for display purposes.

D. The commission shall request the chief administrative officer (or other official) of the ~~jurisdiction initiating the issue before it and the chief administrative officer (or other official) of the principally affected~~ each jurisdiction or jurisdictions principally affected by the issue before the commission to make suitable arrangements in or adjacent to their offices for the registration of speakers at the public hearing. The commission shall furnish appropriate registration forms for ~~such that~~ purpose. The commission's advertisements under subsection B of this section shall advise the public that registration to speak at the public hearing may be accomplished at the offices of the local administrators or, alternatively, through the offices of the commission in Richmond. The commission may also permit speakers to register at the site and at the time of the public hearing and shall request the assistance of the local administrative officers in making suitable arrangements for such registration.

E. The chairman or other member of the commission designated to preside over the proceedings shall select the site for the public hearing subsequent to the receipt of recommendations from the parties. Recommendations from the parties should be based upon a site's accessibility to residents of the areas and jurisdictions principally affected, its seating capacity, the adequacy of parking facilities, the availability of a public address system, and seating arrangements permitting the commission to have proper visual contact with the public.

F. The commission shall request the parties to cooperate in the preparation of the site for the public hearing and shall request that a minimum number of maps and exhibits be

Final Regulations

placed on display at the site in order that persons testifying may identify their residences, property, businesses, or other concerns in relation to the proposed issue.

G. The commission shall request the local jurisdiction within which the site for the public hearing is situated to make appropriate arrangements in order to assure the security and the orderliness of the proceedings.

H. The chairman or the presiding member shall determine the sequence of speakers at a public hearing, but ~~such the~~ sequence shall ordinarily conform to the sequence of their registration. The chairman or presiding member may, however, vary the sequence of speakers in order that persons from all affected jurisdictions and areas, and those representing different perspectives, might have equal opportunity for the timely presentation of their comments.

I. The commission shall endeavor to allow any person or party wishing to speak at a public hearing an opportunity to do so. The chairman or presiding member may establish time limits for the presentation of testimony as he ~~or she~~ deems appropriate. The chairman or presiding member may also rule testimony irrelevant, immaterial, or unduly repetitious. Proponents and opponents of a proposed action are encouraged to designate chief spokesman for economy of time and for the avoidance of repetitious comment.

J. Any person or party testifying before the commission at the public hearing may extend their remarks in written form for subsequent submission. During the course of the public hearing the commission shall establish a date by which ~~such the~~ extended written comment must be received for consideration.

K. The commission may record by mechanical device, unless other arrangements are made, all testimony given during the public hearing but shall prepare a transcript of [~~such the~~] recording only when it deems ~~such necessary~~ appropriate. The commission shall provide any person or party with a copy of ~~such the transcript or recording, if made,~~ at a price sufficient to cover the expense incurred. The parties may arrange to provide a court reporter, at their expense, ~~if such is desired.~~ Where a court reporter is utilized, the commission shall ~~request~~ receive one copy of the transcript.

L. The commission may, where it deems ~~such~~ appropriate, consolidate two or more interlocal issues for purposes of a public hearing.

1 VAC 50-20-640. Conclusion of mandatory reviews.

A. The commission may request or authorize the parties to an issue to submit, at a time established by the commission, a written concluding argument with proposed findings and recommendations.

B. The commission shall not accept for consideration or for inclusion in the record of a case any document, exhibit, or other material submitted after the date established by it for the close of the record. This regulation shall not preclude the commission's acceptance of data or information from any party at any time which has been solicited by the commission or its staff.

C. The commission shall prepare an official record of all proceedings before it of such a nature and in such a manner as it deems appropriate.

D. The commission shall submit a written report on the issues presented to it in the manner and at such time as provided by law. ~~Such~~ The reports shall set forth findings of fact and recommendations on both the merits of a proposed action and, where appropriate and feasible, the financial aspects thereof. Copies of reports shall be made available to the parties and to members of the public requesting such. The commission may charge a fee for copies of its reports in an amount sufficient to cover the cost of ~~providing such duplication, shipping, and handling.~~

E. Subsequent to its review of a petition submitted by a town under the authority of § ~~45.1-1058.4~~ 15.2-3234 of the Code of Virginia, and based upon the applicable statutory standards, the commission shall enter an order granting ~~such [town]~~ annexation rights [*to the town*]. ~~Such~~ The order may grant the town annexation rights upon the terms proposed by the town in its petition or upon some other basis as the commission deems appropriate and consistent with law. ~~Such~~ The order shall in no event grant the town the right to annex county territory by ordinance more frequently than once every five years.

PART VI. INVESTIGATIONS AND MEDIATION.

1 VAC 50-20-650. Statutorily invoked mediation in annexation immunity issues.

When any county, city, or town seeks to negotiate an agreement with one or more ~~political subdivisions~~ localities relative to annexation or partial immunity under the authority granted by § ~~45.1-945.7(E)~~ 15.2-2907 E of the Code of Virginia, it shall notify the commission, and copies of ~~such the~~ notice shall be served on all adjacent ~~political subdivisions~~ localities. ~~Such~~ The notice to the commission shall be accompanied by satisfactory evidence that the governing body of the locality giving notice supports ~~such the~~ negotiation. Local governments negotiating under the above referenced provision of law shall keep the commission advised of progress in ~~such the~~ negotiations. If, after a hearing, the commission finds that none of the parties is willing to continue to negotiate, or if it finds that three months have elapsed with no substantial progress, it shall declare the negotiations to be terminated. Unless the parties agree otherwise, negotiations shall in any event terminate 12 months from the date notice was first given to the commission of the desire to negotiate. Once the commission has declared negotiations terminated, or upon the expiration of the 12 month negotiating term or any agreed extension thereof, no new notice to negotiate shall be filed by any party. Upon the request of the local governments negotiating under the authority of § ~~45.1-945.7(E)~~ 15.2-2907 E of the Code of Virginia, the commission, or its designee, may be requested to serve as mediator, and, in addition, the commission's staff and resources shall be available to assist the negotiating local governments. All expenses incurred by the commission and its staff in assisting with ~~such~~ negotiations shall be borne by the parties initiating the negotiations unless otherwise agreed.

1 VAC 50-20-660. Mediation of other interlocal issues.

The commission shall, at its discretion, accept for mediation interlocal issues presented to it by mutual agreement of the affected ~~political subdivisions~~ *localities*. Requests for commission mediation under this section should be made to the commission's offices in Richmond and should be accompanied by satisfactory evidence that the governing bodies of the affected ~~political subdivisions~~ *localities* agree to the request for mediation assistance. ~~Such~~ *The* requests should include a statement indicating the issue for which mediation is sought and ~~such~~ *any* other information as would enable the commission to determine whether its mediation effort would be timely and appropriate. Where ~~such~~ *the* requests for mediation are presented to the commission prior to the submission of formal notice of pending action as required by § ~~15.1-945.7~~ *15.2-2907* of the Code of Virginia, ~~such~~ *the* requests need not be accompanied by any of the statistical data or material required under Part IV (1 VAC 50-20-540 et seq.) *of this chapter*. However, if the commission agrees to mediate interlocal issues under this section, the local governments requesting ~~such~~ *the* mediation shall assist the commission by providing ~~such~~ data, material, and other information as ~~may be deemed the commission or the parties deem~~ necessary.

1 VAC 50-20-670. Requested investigations and analyses.

The commission may, if it deems ~~such~~ appropriate and within the capability of its resources, accept requests from local governments for the undertaking of investigations and analyses. Requests for ~~such~~ investigations and analyses should be addressed to the commission's offices in Richmond and should include satisfactory evidence that the governing body of the locality initiating the request supports the proposed study. The request should also include a detailed statement of the issue giving rise to the request for the study, a statement of the extent to which the issue is of general interest to local governments in Virginia, a statement concerning the prospective benefits of ~~such~~ a study, and ~~such~~ other information as would aid the commission in its determination as to whether or not to undertake the requested study. Where the commission agrees to undertake a study under this section, the locality or localities requesting ~~such~~ *the* study shall assist the commission and provide, to the extent possible, the data and material ~~deemed the commission or the parties deem~~ necessary for ~~such~~ *the* study. The commission shall render reports on such studies at such a time and in such a manner as it deems appropriate.

**PART VII.
AMENDMENT OF RULES.**

1 VAC 50-20-680. Proposal of amendments. (Repealed.)

~~The commission may, by majority vote of its membership, announce a decision to propose amendments to its regulations of procedure at any regular or special meeting. The commission, however, shall develop and adopt amendments to its regulations only in accordance with the public participation process; 1 VAC 50-10-10 et seq.~~

1 VAC 50-20-690. Effective date of amendments. (Repealed.)

~~Amendments adopted to the commission's regulations shall have an effective date which shall be established in accordance with the requirements of law.~~

1 VAC 50-20-700. Emergency and nonsubstantive regulations. (Repealed.)

~~Notwithstanding any other provision of this chapter the commission may adopt emergency or nonsubstantive amendments in the manner provided by law.~~

VA.R. Doc. No. R04-130; Filed August 10, 2006, 9:19 a.m.

TITLE 2. AGRICULTURE

PESTICIDE CONTROL BOARD

Title of Regulation: **2 VAC 20-40. Rules and Regulations Governing Licensing of Pesticide Businesses by the Department of Agriculture and Consumer Services Operating Under Authority of the Virginia Pesticide Control Act (amending 2 VAC 20-40-10, 2 VAC 20-40-20, 2 VAC 20-40-40, 2 VAC 20-40-60 through 2 VAC 20-40-110; [adding 2 VAC 20-40-65;] repealing 2 VAC 20-40-120).**

Statutory Authority: § 3.1-249.30 of the Code of Virginia.

Effective Date: October 5, 2006.

Agency Contact: W. Wayne Surlles, Program Manager, Virginia Department of Agriculture and Consumer Services, P.O. Box 1163, Richmond, VA 23218, telephone (804) 371-6558, FAX (804) 371-8598, toll-free 1-800-552-9963, or e-mail wsurlles@vdacs.virginia.gov.

Summary:

The amendments (i) define a pesticide business location; (ii) modify the date for a late fee assessment in regards to pesticide business license renewal; (iii) modify the proof of financial responsibility; (iv) modify recordkeeping requirements for pesticide businesses; and (v) modify monetary minimums, reducing the requirements for property damage to \$100,000, for personal injury to or death of one person to \$100,000 and \$300,000 per occurrence.

Summary of Public Comment and Agency Response: A summary of comments made by the public and the agency's response may be obtained from the promulgating agency or viewed at the Office of the Registrar of Regulations.

2 VAC 20-40-10. Definition of terms.

The following words and terms, when used in this chapter, shall have the following meanings, unless the context clearly indicates otherwise. An asterisk following a definition denotes that the definition has been taken from Article 1 (§ 3.1-249.27 et seq.) of Chapter 14.1 of Title 3.1 of the Code of Virginia.

"Act" means the Virginia Pesticide Control Act.

"Board" means the Pesticide Control Board.*

Final Regulations

"~~Bond~~" means a written instrument issued or executed by a ~~bonding, surety, or insurance company licensed to do business in the Commonwealth, or otherwise approved by the board, guaranteeing the fulfillment of the agreement between the licensee and the customer.*~~

"Bulk pesticide" means any registered pesticide concentrate which is transported or held in an individual container in undivided quantities of greater than 55 U.S. gallons liquid measure or greater than 100 pounds net dry weight.

"Certification" or "certified" means the recognition granted by the Pesticide Control Board to an applicator upon satisfactory completion of board approved requirements.*

"Commercial applicator" means any ~~applicator person~~ who has completed the requirements for certification as determined by the board, ~~including appropriate training and time in service, to apply for a certification, and who uses to use or supervises~~ supervise the use of any pesticide for any purpose or on any property other than as provided in the definition of private applicator.*

"Commissioner" means the Commissioner of Agriculture and Consumer Services.*

"Department" means the Department of Agriculture and Consumer Services.*

"EPA" means the United States Environmental Protection Agency.

"FIFRA" means The Federal Insecticide, Fungicide, and Rodenticide Act as amended, and herein incorporated by reference.

"Licensed" or "licensee" means those businesses which, upon meeting the requirements established by the Pesticide Control Board, are issued a license to engage in the sale, storage, distribution, recommend the use, or application of pesticides in Virginia in exchange for compensation.*

"Limited quantities" means purchases, at cost, for resale, of less than \$50,000 annually per outlet of products containing nonrestricted use pesticide active ingredients.

"Pest management consultant" means any person, who may or may not apply pesticides himself, who has obtained a business license in accordance with the requirements listed below, and who is authorized by this chapter to provide technical advice, supervision or aid, or recommendations for ~~restricted use~~ pesticide application commercially in Virginia.

"Pesticide" means (i) any substance or mixture of substances intended for preventing, destroying, repelling, or mitigating any insects, rodents, fungi, bacteria, weeds, or other forms of plant or animal life or viruses ~~or bacteria~~, except viruses on or in living man or other animals, which the commissioner shall declare to be a pest, (ii) any substance or mixture of substances intended for use as a plant regulator, defoliant, or desiccant, and (iii) any substance which is intended to become an active ingredient ~~thereof~~ in any substance defined in clauses (i) and (ii) of this definition.*

"Pesticide business" means any person engaged in the business of distributing, applying, or recommending the use of a product; or storing, selling, or offering for sale pesticides for

distribution directly to the user. The term "pesticide business" does not include (i) wood treaters not for hire; (ii) seed treaters not for hire; (iii) operations that produce agricultural products unless the owners or operators of such operations described in clauses (i), (ii), and (iii) of this definition are engaged in the business of selling or offering for sale pesticides, or distributing pesticides to persons outside of that agricultural producing operation in connection with commercial transactions; or (iv) businesses exempted by regulations adopted by the board.*

"Pesticide business location" means any fixed location of a pesticide business with either a telephone that is used to transact business or give advice, or where products, supplies or business mail is delivered. Residences of service technicians who are employed by a licensed pesticide business are exempt, if no business solicitation is conducted from that location.

"Private applicator" means an applicator who uses or supervises the use of any pesticide which is classified for restricted use for purposes of producing any agricultural commodity on property owned or rented by him or his employer or, if applied without compensation other than trading of personal services between producers of agricultural commodities, on the property of another person.*

"Restricted use pesticide" or "pesticide classified for restricted use" means any pesticide classified as restricted by the Administrator of the United States Environmental Protection Agency.*

2 VAC 20-40-20. General requirements for all pesticide businesses; exemptions.

A. Any person or business operating in Virginia, which, in exchange for compensation, sells, stores, distributes, mixes, applies or recommends for use pesticides, shall obtain a valid pesticide business license pursuant to this chapter. Each ~~separate outlet or location of a~~ pesticide business location shall be licensed.

B. Exempted from the provisions of this chapter are the following:

1. Merchants of limited quantities of nonrestricted use pesticides who sell pesticides primarily intended for limited household use;
2. Federal, state and local governmental agencies;
3. Certified applicators not for hire; including, ~~but not limited to, employees of golf courses, hotels, apartment complexes, and office complexes~~ those who use or supervise the use of pesticides as part of their job duties only on property owned or leased by themselves or their employer; and
4. Providers of janitorial, cleaning or sanitizing services if the providers use no pesticides other than sanitizers, disinfectants and germicides.

C. Application for a pesticide business license is made by submitting to the department (i) a completed application form and (ii) a check or money order in the amount of the annual business license fee established by the board.

D. Each applicant for a pesticide business license, or an employee designated by the applicant, shall demonstrate to the commissioner his knowledge of (i) pesticide laws and regulations; (ii) potential hazards of pesticides to man and the environment; and (iii) safe distribution, use, and disposal of pesticides by passing a written examination prior to his being issued a business license. If the applicant is already certified as a commercial applicator, he shall be exempt from the initial examination requirement.

E. All licensed pesticide businesses shall maintain written records pertaining to their operations, as required in this chapter.

F. All licensed pesticide business locations or outlets which sell restricted use pesticides, or distribute restricted use pesticides for purposes of selling, shall have a certified commercial applicator present who shall bear immediate responsibility for the correct and safe operation of the location or outlet. Each business shall notify the department of the name of the commercial applicator assigned to each location or outlet, and shall also notify the department ~~promptly~~ *within three business days* of any change in the applicator assignments during the license period.

G. All licensed pesticide businesses ~~which~~ *that* store, repack and distribute bulk pesticides shall meet the requirements established by the board for the storage, repackaging and distribution of bulk pesticides.

H. All pesticide business licenses shall expire at midnight on March 31 of each year. Licensees shall renew their licenses annually by application to the department and payment of the annual fee on or before close of business ~~January~~ *March 31*. The department shall charge a 20% penalty in addition to the regular fee for renewal applications filed after ~~January~~ *March 31*.

2 VAC 20-40-40. Business licensing requirements for pest management consultants.

A. Any person or business which recommends any pesticide for use commercially in Virginia shall obtain a valid pesticide business license issued pursuant to 2 VAC 20-40-20 A ~~of this chapter~~. This provision shall exclude sales personnel of a licensed pesticide business, company training, technical and sales representatives certified in the demonstration pesticide applicator category, and governmental employees while performing in an official capacity.

B. The specialty categories for a pest management consultant shall conform to the commercial applicator categories established pursuant to the Act. The pest management consultant shall meet the requirements of the specific category or subcategory in which he is making recommendations for pesticide use prior to being issued a business license.

2 VAC 20-40-60. Recordkeeping of restricted use pesticide sales by licensed pesticide businesses.

[A.] Pesticide businesses ~~which~~ *that* sell restricted use pesticides shall maintain a record of each restricted use pesticide sold. Each sales record shall contain the following:

1. Name, address, certified applicator number or business license number, and certificate or license expiration date of the person to whom the restricted use pesticide was sold or delivered;
2. Date of sale;
3. Brand or common product name;
4. EPA registration number; and
5. Quantity of pesticide sold or delivered.

B. The restricted use pesticide sales record keeping requirement may be satisfied by invoices, if (i) such invoices are kept separate from the licensee's other sales records, and (ii) the invoices contain the above information.

[2 VAC 20-40-65. Recordkeeping of pesticide applications by licensed pesticide businesses.

Licensed pesticide businesses shall maintain a record of each pesticide applied. This shall apply to both general use and restricted use pesticides. Each record shall contain the:

1. Name, address, and telephone number of customer and address or location, if different, of site of application;
2. Name and certification number (or certification number of the supervising certified applicator) of the person making the application;
3. Day, month and year of application;
4. Type of plants, crop, animals, or sites treated and principal pests to be controlled;
5. Acreage, area, or number of plants or animals treated;
6. Brand name or common product name;
7. EPA registration number;
8. Amount of pesticide concentrate and amount of diluent used, by weight or volume, in mixture applied; and
9. Type of application equipment used.]

2 VAC 20-40-70. Recordkeeping of pesticide applications by ~~commercial applicators~~ pesticide businesses.

~~Commercial applicators~~ *Pesticide businesses shall maintain a record of each ~~restricted use~~ pesticide applied. This shall apply to both general use and restricted use pesticides. Each record shall contain the:*

1. Name, address, and telephone number of customer and address or location, if different, of site of application;
2. Name and certification number (or certification number of the supervising certified applicator) of the person making the application;
3. Day, month and year of application;
4. Type of plants, crop, animals, or sites treated and principal pests to be controlled;
5. Acreage, area, or number of plants or animals treated;
6. Brand name or common product name;

Final Regulations

7. EPA registration number;
8. Amount of pesticide concentrate and amount of diluent used, by weight or volume, in mixture applied; and
9. Type of application equipment used.

2 VAC 20-40-80. Evidence of financial responsibility required of a licensed pesticide business.

A. Prior to being issued a pesticide business license, a business shall furnish evidence of financial responsibility, consisting ~~either of: (i) a surety bond to the benefit of the board from a person authorized to do business in Virginia; (ii) a liability insurance policy from a person authorized to do business in Virginia, or a certification thereof, protecting persons who may suffer legal damages as a result of the use of any pesticide by the applicant; or (iii) a plan of self insurance which meets the requirements set forth below and is approved by the board.~~

~~B. If the evidence of financial responsibility consists of a surety bond, the bond shall be in an amount specified in subsection E of this section, and shall cover liability arising out of handling, storage, application, use or misuse, or disposal of any pesticide; it shall also cover liability relating to completed operations.~~

~~C. If the evidence of financial responsibility consists of a B. The liability insurance policy, the shall meet the following conditions shall be met:~~

1. The certificate of insurance shall include the name of the insurance company, policy number, insurance amount, type of coverage afforded, any exclusions relating to damage arising from the use of pesticides, and expiration date of the policy. The policy shall cover liability arising out of the handling, storage, application, use or misuse, or disposal of any pesticide; it shall also cover liability relating to completed operations.
2. The policy shall be in an amount specified in subsection ~~E~~ C of this section.
3. The licensee shall forward a current certificate of insurance to the board at each insurance renewal date.

~~D. If the evidence of financial responsibility consists of a plan of self insurance, the following conditions shall be met:~~

~~1. The self-insurer shall submit a written proposal of self insurance to the board for approval. The proposal shall include a master self insurance and security agreement and a balance sheet and income statement which reflects the actual financial condition of the business as of the last complete calendar or fiscal year preceding the date of the proposal. These documents shall be certified by a certified public accountant.~~

~~2. The self-insurer shall post collateral with the board in the amount of at least \$400,000. The collateral shall consist of the following: (i) negotiable instruments of the United States Government; (ii) escrow deposits established for the sole purpose of providing security for self insurance purposes; (iii) irrevocable letters of credit; or (iv) other security approved upon petition to the board.~~

~~3. If the self-insurer is unable to fulfill his obligations under the Act, he may petition the board to release the collateral posted. If such a withdrawal is necessary, the self-insurer shall replace the security within 72 hours from the time of withdrawal in order to retain his certificate as a self-insurer.~~

~~4. A certificate of self insurance, to be issued by the board, shall be renewed annually following appropriate review by the board. If his financial responsibility furnished no longer complies with this section, the self-insurer shall immediately provide other evidence of financial responsibility.~~

~~E. C. The amount of financial responsibility as provided for in this section shall be a minimum of [~~(i) \$200,000~~ \$100,000] for property damage [~~, subject to a \$1,000 deductible provision~~] in the case of licensees holding liability insurance policies, and [~~\$200,000~~ \$100,000] for personal injury [~~or death of one person~~]; [~~or (ii) a combined single limit of \$400,000 with a \$1,000 deductible and \$300,000 per occurrence~~]. The board may require additional evidence of financial responsibility based upon annual gross revenue of the applicant, if self-employed, or his employer's business, if not, and an assessment of the risks of the applicant or his employer's business to persons, property, and the environment. The licensee shall maintain at least the minimum coverage at all times during the license period, and shall notify the board at least 10 days prior to any reduction *at the request of the licensee* or cancellation of such financial responsibility by the ~~surety or~~ insurer. If the deductible of an applicant for a business license is greater than \$1,000, evidence of financial responsibility shall be furnished to the board to satisfy the difference between the applicant's deductible and the \$1,000 deductible. This evidence may consist of a financial statement ~~or a personal bond.~~~~

2 VAC 20-40-90. Revocation of a business license.

In addition to the violative acts listed under § 3.1-249.63 B of the Act, the following are grounds for revocation by the board of a business license:

1. Failure to (i) submit records to the commissioner upon written request; or (ii) to permit any person designated by the commissioner to have access to, and to copy such records of business transactions as may be essential to carrying out the purposes of the Act.

2. Operation of a pesticide business location or outlet without a certified commercial applicator assigned to the location or outlet as required by this chapter.

3. Failure of a self-insurer to provide, within 72 hours, other evidence of financial responsibility if the financial responsibility previously furnished no longer complies with the requirements of the Act or regulations promulgated thereunder.

- 4.—3. Interference with the commissioner or his duly authorized agents in carrying out the duties imposed by the Act.

- 5.—4. Conduct by a licensee, as determined during the course of a hearing, which has or might have resulted at any time in substantial danger to, or in unreasonable adverse effects on, the public health, safety, or the environment.

6- 5. Failure of a licensee to notify the department of any change in financial responsibility as specified in 2 VAC 20-40-80 ~~E of this chapter~~ C.

7- 6. Multiple violations of the Act or regulations pursuant thereto within a three-year period.

2 VAC 20-40-100. Summary suspension by commissioner.

A. The commissioner may suspend the pesticide business license of any person, without a hearing, simultaneously with the institution of proceedings for a hearing, if he finds there is a substantial danger to the public health, safety, or the environment ~~which that~~ warrants this action. Situations ~~which that~~ may warrant suspension include, but are not limited to, the following:

1. Operating a pesticide business or pesticide business outlet without a certified commercial applicator on site as required by this chapter, when absence of the applicator presents a substantial danger to the public health, safety, or the environment, as determined by the commissioner.
2. Refusal by a pesticide business, after receipt of a written request, to permit the commissioner or his agent access to and to copy records of business transactions, when such refusal presents a substantial danger to the public health, safety, or the environment, as determined by the commissioner.

B. The commissioner shall institute proceedings for a hearing pursuant to ~~§ 9-6-14:12~~ § 2.2-4020 of the Code of Virginia simultaneously with any summary suspension. Subject to any provision of procedure or chapter of the board for the processing of violations not inconsistent with this chapter:

1. The hearing shall be held within 60 days after the suspension; and
2. The hearing officer conducting the hearing shall have the authority to consider and address all matters relating to the summary suspension, including but not limited to the withdrawing, sustaining, or modifying thereof.

The commissioner or a conference officer appointed by the commissioner shall offer the person whose license has been summarily suspended (hereinafter "the respondent") an opportunity to appear in an informal conference, authorized by ~~§ 9-6-14:14~~ § 2.2-4019 of the Code of Virginia, to be held within three days after the summary suspension. The informal conference may consider, subject to any provision of the board for the processing of violations, all matters relating to the summary suspension, including but not limited to the withdrawal, sustaining, or modifying thereof. Nothing in this section authorizing consideration of matters by an informal conference shall be construed to deny a respondent's right to a hearing.

C. No person may operate a pesticide business at any time when his license is suspended.

2 VAC 20-40-110. Denial of license by the commissioner.

A. The commissioner shall deny a business license to any applicant who does not submit all the information required on the license application form, or who does not fully comply with all requirements for licensing set forth in this chapter.

B. The commissioner may, after notice to a pesticide business applicant and after opportunity for hearing, deny a pesticide business license to an applicant who has violated the pesticide law or regulations of any state or competent authority so as to evidence a disregard for proper and safe pesticide use; or if his license has been denied, suspended, nullified, withdrawn, revoked, or otherwise terminated by any state or other competent authority.

C. Any applicant for a pesticide business license shall not engage in the activity for which he is requesting a license until ~~it shall have been issued by the commissioner~~ shall have issued it.

2 VAC 20-40-120. Regulations superseded or repealed. (Repealed.)

~~The provisions of this chapter supersede 2 VAC 20-20-230, "Records," and 2 VAC 20-20-260, "Evidence of Financial Responsibility," of Chapter 20, Rules and Regulations for Enforcement of the Virginia Pesticide Law, which are hereby repealed.~~

NOTICE: The forms used in administering 2 VAC 20-40, Rules and Regulations Governing Licensing of Pesticide Businesses by the Department of Agriculture and Consumer Services Operating Under Authority of the Virginia Pesticide Control Act, are not being published; however, the name of each form is listed below. The forms are available for public inspection at the Virginia Department of Agriculture and Consumer Services, 102 Governor Street, Richmond, Virginia, or at the office of the Registrar of Regulations, General Assembly Building, 2nd Floor, Richmond, Virginia.

FORMS

Application for Virginia Pesticide Business License, Form VDACS-07209, ~~eff. 10/94~~ rev. [2/02 11/05].

Certificate of Insurance, Form VDACS-07214, ~~eff. 7/1/93~~ rev. 4/96.

Request to take the Virginia Pesticide Business License Examination, [~~eff. 11/98~~ rev. 8/06].

VA.R. Doc. No. R02-299; Filed August 9, 2006, 3:21 p.m.

TITLE 8. EDUCATION

STATE BOARD OF EDUCATION

REGISTRAR'S NOTICE: The State Board of Education 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 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 20-521. Regulations Governing Reduction of State Aid When Length of School Term

Final Regulations

Below 180 Teaching Days or 990 Teaching Hours (amending 8 VAC 20-521-30).

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

Effective Date: October 4, 2006.

Agency Contact: Dr. Margaret N. Roberts, Office of Policy and Communications, Department of Education, Post Office Box 2120, 101 N. 14th Street, 25th Floor, Richmond, VA 23219, telephone (804) 225-2924, FAX (804) 225-2524, or e-mail margaret.roberts@doe.virginia.gov.

Summary:

The amendments conform the regulation to changes made to § 22.1-98 of the Code of Virginia by Chapters 26 and 96 of the 2006 Acts of Assembly.

8 VAC 20-521-30. Completion of teaching hours.

A. When severe weather conditions or other emergency situations have resulted in the closing of a school or schools in a school division for ~~fewer than five or fewer~~ days, the school or schools shall make up all missed days by adding teaching days to the school calendar or extending the length of the teaching day.

B. When severe weather conditions or other emergency situations have resulted in the closing of a school or schools in a school division for ~~five~~ six or more days, the school or schools shall make up the missed days in accordance with § 22.1-98 of the Code of Virginia by adding teaching days to the school calendar or extending the length of the teaching day.

C. Nothing in these regulations shall preclude a school division from making up missed teaching days by providing students with teaching hours equivalent to such missed teaching days.

VA.R. Doc. No. R06-338; Filed August 18, 2006, 12:12 p.m.

TITLE 9. ENVIRONMENT

STATE AIR POLLUTION CONTROL BOARD

Titles of Regulations: **9 VAC 5-20. General Provisions (Rev. D04) (amending [9 VAC 5-20-21, and] 9 VAC 5-20-206).**

9 VAC 5-40. Existing Stationary Sources (Rev. D04) (amending 9 VAC 5-40-300, 9 VAC 5-40-5060, 9 VAC 5-40-5200, 9 VAC 5-40-5700, 9 VAC 5-40-5720, 9 VAC 5-40-5750, 9 VAC 5-40-6970, 9 VAC 5-40-7050, 9 VAC 5-40-7120, [9 VAC 5-40-7130,] 9 VAC 5-40-7140, 9 VAC 5-40-7210, 9 VAC 5-40-7240, 9 VAC 5-40-7250, 9 VAC 5-40-7260, 9 VAC 5-40-7270, 9 VAC 5-40-7300, 9 VAC 5-40-7330, 9 VAC 5-40-7360, 9 VAC 5-40-7800, and 9 VAC 5-40-7880).

Statutory Authority: § 10.1-1308 of the Code of Virginia; §§ 110 and 182 of the Clean Air Act; 40 CFR Part 51.

Effective Date: October 4, 2006.

Agency Contact: Gary Graham, Department of Environmental Quality, P.O. Box 10009, Richmond, VA 23240, telephone (804) 698-4103, FAX (804) 698-4510, or e-mail graham@deq.virginia.gov.

Summary:

Currently, Chapter 40 of the Regulations for the Control and Abatement of Air Pollution contains a number of rules used to enforce control measures designed to attain and maintain the ozone air quality standard. The geographic applicability of these rules is defined by establishing VOC and NO_x emissions control areas (in a list located in 9 VAC 5-20-206).

Most of the provisions of these rules are being expanded into the new eight-hour ozone nonattainment areas. Accordingly, 9 VAC 5-20-206 is being amended to establish new Fredericksburg NO_x and VOC Emissions Control Areas and to expand the Richmond and Hampton Roads VOC and NO_x Emissions Control Areas to include those counties and cities in the corresponding new eight-hour ozone nonattainment areas that were not previously listed in 9 VAC 5-20-206.

Most of these Chapter 40 rules contain, in the applicability section, the following statement: "The provisions of this article apply to sources of volatile organic compounds in volatile organic compound emissions control areas designated in 9 VAC 5-20-206." Therefore the provisions of these rules will automatically apply within all of the new VOC emissions control areas.

Some Chapter 40 rules (specifically, Articles 4, 36, 37 and 53) have provisions that apply only to certain existing VOC and NO_x emissions control areas. Each of these rules are being amended individually in order to manage the extension of applicability of these provisions to the additional VOC and NO_x emission control areas with coherence and consistency. Article 4 is being amended to ensure that VOC RACT is not required from large VOC sources in the new areas within the expanded Richmond VOC Emissions Control Area. Article 36 (Packaging and Publishing Rotogravure Printing, and Flexographic Printing) is being amended to add appropriate exemptions for small facilities in those VOC emissions control areas that currently have no such exemptions. Article 37 (Storage or Transfer of Petroleum Liquids) is being amended to ensure that Stage 11 Vapor recovery is not required at gasoline dispensing stations in the new areas within the expanded Richmond VOC Emissions Control Area. Article 37 (Storage or Transfer of Petroleum Liquids) is also being amended to remove applicability redundancies resulting from this change and a previous amendment that added the Western VOC Emissions Control Area. Article 53 (Lithographic Printing) is being amended to apply in all VOC emissions control areas instead of just in the Northern Virginia and Richmond VOC Emissions Control Areas. Article 53 is also being amended to provide appropriate exemptions for small facilities in the newly applicable VOC emissions control areas.

Other Chapter 40 regulations were originally adopted to apply only within the Northern Virginia VOC Emissions

Control Area. Most of these rules will be expanded to apply in the Fredericksburg eight-hour ozone nonattainment area. Accordingly, the following Chapter 40 regulations are being amended to apply within the new Fredericksburg VOC Emissions Control Area in addition to the Northern Virginia VOC Emissions Control Area: Article 42 (Portable Fuel Containers), Article 48 (Mobile Equipment Repair and Refinishing), Article 49 (Architectural and Industrial Maintenance Coatings), and Article 50 (Consumer Products).

For most of the facilities that will be subject to new or more stringent VOC emission standards as a result of this amendment, compliance is automatically required by 9 VAC 5-40-20 to be achieved either within 90 days or one year after the effective date of the amendment, depending on whether or not the source is required to make certain physical or process changes to the facility to comply. For affected facilities that will be subject to new or more stringent VOC emission standards under Article 53, compliance will be required no later than one year after the effective date of the amendment. Persons affected by the extension of the provisions of Articles 42, 48, 49 and 50 to the Richmond and Fredericksburg VOC Emission Control Areas must comply by January 1, 2008.

The proposal was changed to limit the expansion of Portable Fuel Containers (Article 42), Mobile Equipment Repair and Refinishing (Article 48), Architectural and Industrial Maintenance Coatings (Article 49), and Consumer Products (Article 50) to the Fredericksburg VOC Emissions Control Area, and to ensure that Stage II vapor recovery requirements are not extended into the new areas incorporated into the Richmond VOC Emissions Control Area. Additional changes were made to Chapter 40, Article 49 and to Chapter 20 (documents incorporated by reference) to add standards for six new specialty architectural and industrial maintenance coating categories that were inadvertently omitted from the original regulation. Changes were also made to Chapter 40, Article 50 to provide for the use of an additional form of automotive windshield washing fluid consumer product that was omitted from the original regulation and to correct some typographical errors.

Summary of Public Comments and Agency's Response: A summary of comments made by the public and the agency's response may be obtained from the promulgating agency or viewed at the office of the Registrar of Regulations.

[9 VAC 5-20-21. Documents incorporated by reference.

A. The Administrative Process Act and Virginia Register Act provide that state regulations may incorporate documents by reference. Throughout these regulations, documents of the types specified below have been incorporated by reference.

1. United States Code.
2. Code of Virginia.
3. Code of Federal Regulations.
4. Federal Register.
5. Technical and scientific reference documents.

Additional information on key federal regulations and nonstatutory documents incorporated by reference and their availability may be found in subsection E of this section.

B. Any reference in these regulations to any provision of the Code of Federal Regulations (CFR) shall be considered as the adoption by reference of that provision. The specific version of the provision adopted by reference shall be that contained in the CFR (2004) in effect July 1, 2004. In making reference to the Code of Federal Regulations, 40 CFR Part 35 means Part 35 of Title 40 of the Code of Federal Regulations; 40 CFR 35.20 means § 35.20 in Part 35 of Title 40 of the Code of Federal Regulations.

C. Failure to include in this section any document referenced in the regulations shall not invalidate the applicability of the referenced document.

D. Copies of materials incorporated by reference in this section may be examined by the public at the central office of the Department of Environmental Quality, Eighth Floor, 629 East Main Street, Richmond, Virginia, between 8:30 a.m. and 4:30 p.m. of each business day.

E. Information on federal regulations and nonstatutory documents incorporated by reference and their availability may be found below in this subsection.

1. Code of Federal Regulations.

a. The provisions specified below from the Code of Federal Regulations (CFR) are incorporated herein by reference.

(1) 40 CFR Part 50-National Primary and Secondary Ambient Air Quality Standards.

(a) Appendix A--Reference Method for the Determination of Sulfur Dioxide in the Atmosphere (Pararosaniline Method).

(b) Appendix B--Reference Method for the Determination of Suspended Particulate Matter in the Atmosphere (High-Volume Method).

(c) Appendix C--Measurement Principle and Calibration Procedure for the Continuous Measurement of Carbon Monoxide in the Atmosphere (Non-Dispersive Infrared Photometry).

(d) Appendix D--Measurement Principle and Calibration Procedure for the Measurement of Ozone in the Atmosphere.

(e) Appendix E--Reference Method for Determination of Hydrocarbons Corrected for Methane.

(f) Appendix F--Measurement Principle and Calibration Procedure for the Measurement of Nitrogen Dioxide in the Atmosphere (Gas Phase Chemiluminescence).

(g) Appendix G--Reference Method for the Determination of Lead in Suspended Particulate Matter Collected from Ambient Air.

(h) Appendix H--Interpretation of the National Ambient Air Quality Standards for Ozone.

Final Regulations

(i) Appendix I--Reserved.

(j) Appendix J--Reference Method for the Determination of Particulate Matter as PM₁₀ in the Atmosphere.

(k) Appendix K--Interpretation of the National Ambient Air Quality Standards for Particulate Matter.

(2) 40 CFR Part 51--Requirements for Preparation, Adoption, and Submittal of Implementation Plans.

Appendix M--Recommended Test Methods for State Implementation Plans.

Appendix S--Emission Offset Interpretive Ruling.

Appendix W--Guideline on Air Quality Models (Revised).

(3) 40 CFR Part 58--Ambient Air Quality Surveillance.

Appendix B--Quality Assurance Requirements for Prevention of Significant Deterioration (PSD) Air Monitoring.

(4) 40 CFR Part 60--Standards of Performance for New Stationary Sources.

The specific provisions of 40 CFR Part 60 incorporated by reference are found in Article 5 (9 VAC 5-50-400 et seq.) of Part II of Chapter 50, Rule 5-5, Environmental Protection Agency Standards of Performance for New Stationary Sources.

(5) 40 CFR Part 61--National Emission Standards for Hazardous Air Pollutants.

The specific provisions of 40 CFR Part 61 incorporated by reference are found in Article 1 (9 VAC 5-60-60 et seq.) of Part II of Chapter 60, Rule 6-1, Environmental Protection Agency National Emission Standards for Hazardous Air Pollutants.

(6) 40 CFR Part 63--National Emission Standards for Hazardous Air Pollutants for Source Categories.

The specific provisions of 40 CFR Part 63 incorporated by reference are found in Article 2 (9 VAC 5-60-90 et seq.) of Part II of Chapter 60, Rule 6-2, Environmental Protection Agency National Emission Standards for Hazardous Air Pollutants for Source Categories.

(7) 40 CFR Part 59, Subpart D--National Volatile Organic Compound Emission Standards for Architectural Coatings, Appendix A--"Determination of Volatile Matter Content of Methacrylate Multicomponent Coatings Used as Traffic Marking Coatings."

(8) 40 CFR Part 64, Compliance Assurance Monitoring.

(9) 40 CFR Part 72, Permits Regulation.

(10) 40 CFR Part 73, Sulfur Dioxide Allowance System.

(11) 40 CFR Part 74, Sulfur Dioxide Opt-Ins.

(12) 40 CFR Part 75, Continuous Emission Monitoring.

(13) 40 CFR Part 76, Acid Rain Nitrogen Oxides Emission Reduction Program.

(14) 40 CFR Part 77, Excess Emissions.

(15) 40 CFR Part 78, Appeal Procedures for Acid Rain Program.

(16) 40 CFR Part 59 Subpart C, National Volatile Organic Compound Emission Standards for Consumer Products.

b. Copies may be obtained from: Superintendent of Documents, P.O. Box 371954, Pittsburgh, Pennsylvania 15250-7954; phone (202) 783-3238.

2. U.S. Environmental Protection Agency.

a. The following documents from the U.S. Environmental Protection Agency are incorporated herein by reference:

(1) Reich Test, Atmospheric Emissions from Sulfuric Acid Manufacturing Processes, Public Health Service Publication No. PB82250721, 1980.

(2) Compilation of Air Pollutant Emission Factors (AP-42). Volume I: Stationary and Area Sources, stock number 055-000-00500-1, 1995; Supplement A, stock number 055-000-00551-6, 1996; Supplement B, stock number 055-000-00565, 1997; Supplement C, stock number 055-000-00587-7, 1997; Supplement D, 1998; Supplement E, 1999.

b. Copies of Volume I and Supplements A through C may be obtained from: U.S. Department of Commerce, National Technical Information Service, 5285 Port Royal Road, Springfield, Virginia 22161; phone 1-800-553-6847. Copies of Supplements D and E may be obtained online from EPA's Technology Transfer Network at <http://www.epa.gov/ttn/chief/ap42/index.html>.

3. U.S. government.

a. The following document from the U.S. government is incorporated herein by reference: Standard Industrial Classification Manual, 1987 (U.S. Government Printing Office stock number 041-001-00-314-2).

b. Copies may be obtained from: Superintendent of Documents, P.O. Box 371954, Pittsburgh, Pennsylvania 15250-7954; phone (202) 512-1800.

4. American Society for Testing and Materials (ASTM).

a. The documents specified below from the American Society for Testing and Materials are incorporated herein by reference.

(1) D323-99a, "Standard Test Method for Vapor Pressure of Petroleum Products (Reid Method)."

(2) D97-96a, "Standard Test Method for Pour Point of Petroleum Products."

(3) D129-00, "Standard Test Method for Sulfur in Petroleum Products (General Bomb Method)."

(4) D388-99, "Standard Classification of Coals by Rank."

(5) D396-98, "Standard Specification for Fuel Oils."

(6) D975-98b, "Standard Specification for Diesel Fuel Oils."

(7) D1072-90(1999), "Standard Test Method for Total Sulfur in Fuel Gases."

(8) D1265-97, "Standard Practice for Sampling Liquefied Petroleum (LP) Gases (Manual Method)."

(9) D2622-98, "Standard Test Method for Sulfur in Petroleum Products by Wavelength Dispersive X-Ray Fluorescence Spectrometry."

(10) D4057-95(2000), "Standard Practice for Manual Sampling of Petroleum and Petroleum Products."

(11) D4294-98, "Standard Test Method for Sulfur in Petroleum and Petroleum Products by Energy-Dispersive X-Ray Fluorescence Spectroscopy."

(12) D523-89, "Standard Test Method for Specular Gloss" (1999).

(13) D1613-02, "Standard Test Method for Acidity in Volatile Solvents and Chemical Intermediates Used in Paint, Varnish, Lacquer and Related Products" (2002).

(14) D1640-95, "Standard Test Methods for Drying, Curing, or Film Formation of Organic Coatings at Room Temperature" (1999).

(15) E119-00a, "Standard Test Methods for Fire Tests of Building Construction Materials" (2000).

(16) E84-01, "Standard Test Method for Surface Burning Characteristics of Building Construction Materials" (2001).

(17) D4214-98, "Standard Test Methods for Evaluating the Degree of Chalking of Exterior Paint Films" (1998).

(18) D86-01, "Standard Test Method for Distillation of Petroleum Products at Atmospheric Pressure" (2001).

(19) D4359-90, "Standard Test Method for Determining Whether a Material is a Liquid or a Solid" (reapproved 2000).

(20) E260-96, "Standard Practice for Packed Column Gas Chromatography" (reapproved 2001).

(21) D 3912-95, "Standard Test Method for Chemical Resistance of Coatings Used in Light-Water Nuclear Power Plant" (reapproved 2001).

(22) D 4082-02, "Standard Test Method for Effects of Gamma Radiation on Coatings for Use in Light-Water Nuclear Power Plants."

b. Copies may be obtained from: American Society for Testing Materials, 100 Barr Harbor Drive, West Conshohocken, Pennsylvania 19428-2959; phone (610) 832-9585.

5. American Petroleum Institute (API).

a. The following document from the American Petroleum Institute is incorporated herein by reference: Evaporative Loss from Floating Roof Tanks, API MPMS Chapter 19, April 1, 1997.

b. Copies may be obtained from: American Petroleum Institute, 1220 L Street, Northwest, Washington, D.C. 20005; phone (202) 682-8000.

6. American Conference of Governmental Industrial Hygienists (ACGIH).

a. The following document from the ACGIH is incorporated herein by reference: 1991-1992 Threshold Limit Values for Chemical Substances and Physical Agents and Biological Exposure Indices (ACGIH Handbook).

b. Copies may be obtained from: ACGIH, 1330 Kemper Meadow Drive, Suite 600, Cincinnati, Ohio 45240; phone (513) 742-2020.

7. National Fire Prevention Association (NFPA).

a. The documents specified below from the National Fire Prevention Association are incorporated herein by reference.

(1) NFPA 385, Standard for Tank Vehicles for Flammable and Combustible Liquids, 2000 Edition.

(2) NFPA 30, Flammable and Combustible Liquids Code, 2000 Edition.

(3) NFPA 30A, Code for Motor Fuel Dispensing Facilities and Repair Garages, 2000 Edition.

b. Copies may be obtained from the National Fire Prevention Association, One Batterymarch Park, P.O. Box 9101, Quincy, Massachusetts 02269-9101; phone (617) 770-3000.

8. American Society of Mechanical Engineers (ASME).

a. The documents specified below from the American Society of Mechanical Engineers are incorporated herein by reference.

(1) ASME Power Test Codes: Test Code for Steam Generating Units, Power Test Code 4.1-1964 (R1991).

(2) ASME Interim Supplement 19.5 on Instruments and Apparatus: Application, Part II of Fluid Meters, 6th edition (1971).

(3) Standard for the Qualification and Certification of Resource Recovery Facility Operators, ASME QRO-1-1994.

b. Copies may be obtained from the American Society of Mechanical Engineers, Three Park Avenue, New York, New York 10016; phone (800) 843-2763.

9. American Hospital Association (AHA).

a. The following document from the American Hospital Association is incorporated herein by reference: An Ounce of Prevention: Waste Reduction Strategies for Health Care Facilities, AHA Catalog no. W5-057007, 1993.

b. Copies may be obtained from: American Hospital Association, One North Franklin, Chicago, IL 60606; phone (800) 242-2626.

Final Regulations

10. Bay Area Air Quality Management District (BAAQMD).

a. The following documents from the Bay Area Air Quality Management District are incorporated herein by reference:

- (1) Method 41, "Determination of Volatile Organic Compounds in Solvent-Based Coatings and Related Materials Containing Parachlorobenzotrifluoride" (December 20, 1995).
- (2) Method 43, "Determination of Volatile Methylsiloxanes in Solvent-Based Coatings, Inks, and Related Materials" (November 6, 1996).

b. Copies may be obtained from: Bay Area Air Quality Management District, 939 Ellis Street, San Francisco, CA 94109, phone (415) 771-6000.

11. South Coast Air Quality Management District (SCAQMD).

a. The following documents from the South Coast Air Quality Management District are incorporated herein by reference:

- (1) Method 303-91, "Determination of Exempt Compounds," in Manual SSMLLABM, "Laboratory Methods of Analysis for Enforcement Samples" (1996).
- (2) Method 318-95, "Determination of Weight Percent Elemental Metal in Coatings by X-Ray Diffraction," in Manual SSMLLABM, "Laboratory Methods of Analysis for Enforcement Samples" (1996).
- (3) Rule 1174 Ignition Method Compliance Certification Protocol (February 28, 1991).

b. Copies may be obtained from: South Coast Air Quality Management District, 21865 E. Copley Drive, Diamond Bar, CA 91765, phone (909) 396-2000.

12. California Air Resources Board (CARB).

a. The following documents from the California Air Resources Board are incorporated herein by reference:

- (1) Test Method 510, "Automatic Shut-Off Test Procedure for Spill-Proof Systems and Spill-Proof Spouts" (July 6, 2000).
- (2) Test Method 511, "Automatic Closure Test Procedure for Spill-Proof Systems and Spill-Proof Spouts" (July 6, 2000).
- (3) Test Method 512, "Determination of Fuel Flow Rate for Spill-Proof Systems and Spill-Proof Spouts" (July 6, 2000).
- (4) Test Method 513, "Determination of Permeation Rate for Spill-Proof Systems" (July 6, 2000).
- (5) Test Method 310 (including Appendices A and B), "Determination of Volatile Organic Compounds (VOC) in Consumer Products and Reactive Organic Compounds in Aerosol Coating Products" (July 18, 2001).

(6) California Code of Regulations, Title 17, Division 3, Chapter 1, Subchapter 8.5, Article 1, § 94503.5 (2003).

(7) California Code of Regulations, Title 17, Division 3, Chapter 1, Subchapter 8.5, Article 2, §§ 94509 and 94511 (2003).

(8) California Code of Regulations, Title 17, Division 3, Chapter 1, Subchapter 8.5, Article 4, §§ 94540-94555 (2003).

b. Copies may be obtained from: California Air Resources Board, P.O. Box 2815, Sacramento, CA 95812, phone (906) 322-3260 or (906) 322-2990.

13. American Architectural Manufacturers Association.

a. The following documents from the American Architectural Manufacturers Association are incorporated herein by reference:

- (1) Voluntary Specification 2604-02, "Performance Requirements and Test Procedures for High Performance Organic Coatings on Aluminum Extrusions and Panels" (2002).
- (2) Voluntary Specification 2605-02, "Performance Requirements and Test Procedures for Superior Performing Organic Coatings on Aluminum Extrusions and Panels" (2002).

b. Copies may be obtained from: American Architectural Manufacturers Association, 1827 Walden Office Square, Suite 550, Schaumburg, IL 60173, phone (847) 303-5664.

14. American Furniture Manufacturers Association.

a. The following document from the American Furniture Manufacturers Association is incorporated herein by reference: Joint Industry Fabrics Standards Committee, Woven and Knit Residential Upholstery Fabric Standards and Guidelines (January 2001).

b. Copies may be obtained from: American Furniture Manufacturers Association, P.O. Box HP-7, High Point, NC 27261; phone (336) 884-5000.]

9 VAC 5-20-206. Volatile organic compound and nitrogen oxides emissions control areas.

Emissions control areas are geographically defined below by locality for the pollutants indicated.

1. Volatile organic compounds.

a. Northern Virginia Emissions Control Area.

Arlington County	Alexandria City
Fairfax County	Fairfax City
Loudoun County	Falls Church City
Prince William County	Manassas City
Stafford County	Manassas Park City

b. *Fredericksburg Emissions Control Area.*

<i>Spotsylvania County</i>	<i>Fredericksburg City</i>
----------------------------	----------------------------

b- c. Richmond Emissions Control Area.

Charles City County	Colonial Heights City
Chesterfield County	Hopewell City
Hanover County	Petersburg City
Henrico County	Richmond City
Prince George County	

e- d. Hampton Roads Emissions Control Area.

Gloucester County	Norfolk City
Isle of Wight County	Poquoson City [±]
James City County [±]	Portsmouth City
York County [±]	Suffolk City
Chesapeake City	Virginia Beach City
Hampton City	Williamsburg City
Newport News City	

e- e. Western Virginia Emissions Control Area.

Botetourt County	Roanoke City
Frederick County	Salem City
Roanoke County	Winchester City

2. Nitrogen oxides.

a. Northern Virginia Emissions Control Area.

Arlington County	Alexandria City
Fairfax County	Fairfax City
Loudoun County	Falls Church City
Prince William County	Manassas City
Stafford County	Manassas Park City

b. Fredericksburg Emissions Control Area.

Spotsylvania County	Fredericksburg City
---------------------	---------------------

b- c. Richmond Emissions Control Area.

Charles City County	Colonial Heights City
Chesterfield County	Hopewell City
Hanover County	Petersburg City
Henrico County	Richmond City
Prince George County	

e- d. Hampton Roads Emissions Control Area.

Gloucester County	Norfolk City
Isle of Wight County	Poquoson City
James City County	Portsmouth City
York County	Suffolk City
Chesapeake City	Virginia Beach City
Hampton City	Williamsburg City
Newport News City	

e- e. Western Virginia Emissions Control Area.

Botetourt County	Roanoke City
Frederick County	Salem City
Roanoke County	Winchester City

PART II.
EMISSION STANDARDS.

ARTICLE 4.
EMISSION STANDARDS FOR GENERAL PROCESS
OPERATIONS (RULE 4-4).

9 VAC 5-40-300. Standard for volatile organic compounds.

A. No owner or other person shall cause or permit to be discharged from any affected facility any volatile organic compound emissions in excess of that resultant from using reasonably available control technology.

B. The provisions of this section apply to all facilities that (i) are within a stationary source in the Northern Virginia or Richmond Emissions Control Area (see 9 VAC 5-20-206) and (ii) are within a stationary source that has a theoretical potential to emit 25 tons per year or greater in the Northern Virginia Emissions Control Area or 100 tons per year or greater in the Richmond Emissions Control Area. *For the purposes of this section only, the Richmond Emissions Control Area does not include Prince George County and Petersburg City.* Theoretical potential to emit shall be based on emissions at design capacity or maximum production and maximum operating hours (8,760 hours/year) before add-on controls, unless the facility is subject to state and federally enforceable permit conditions which limit production rates or hours of operation. Emissions from all facilities, including facilities exempt from any other emission standard for volatile organic compounds in this chapter, shall be added together to determine theoretical potential to emit.

C. For facilities subject to the provisions of this section, the owners shall within three months of the effective date of this emission standard (i) notify the board of their applicability status, (ii) commit to making a determination as to what constitutes reasonably available control technology for the facilities and (iii) provide a schedule acceptable to the board for making this determination and for achieving compliance with the emission standard as expeditiously as possible but not later than the following dates:

1. For facilities in the Northern Virginia Emissions Control Area with a theoretical potential to emit 50 tons per year or greater, May 31, 1995.
2. For facilities in the Northern Virginia Emissions Control Area with a theoretical potential to emit 25 tons per year or greater, but less than 50 tons per year, May 31, 1996.
3. For facilities in the Richmond Emissions Control Area with a theoretical potential to emit 100 tons per year or greater, May 31, 1995.

ARTICLE 36.
EMISSION STANDARDS FOR FLEXOGRAPHIC,
PACKAGING ROTOGRAVURE, AND PUBLICATION
ROTOGRAVURE PRINTING LINES (RULE 4-36).

9 VAC 5-40-5060. Applicability and designation of affected facility.

A. Except as provided in subsections C, D, and E of this section, the affected facility to which the provisions of this article apply is each flexographic, packaging rotogravure, or

Final Regulations

publication rotogravure printing line which uses a substrate other than a textile.

B. The provisions of this article apply only to sources of volatile organic compounds in volatile organic compound emissions control areas designated in 9 VAC 5-20-206.

C. Exempted from the provisions of this article are flexographic, packaging rotogravure, and publication rotogravure facilities in the Northern Virginia Volatile Organic Compound Emissions Control Area whose potential to emit is less than 25 tons per year of volatile organic compounds, provided the emission rates are determined in a manner acceptable to the board. All volatile organic compound emissions from printing inks and cleaning solutions shall be considered in applying the exemption levels specified in this subsection.

D. Exempted from the provisions of this article are flexographic, packaging rotogravure, and publication rotogravure facilities in the ~~Richmond and Hampton Roads~~ all volatile organic compound emissions control areas, *other than the Northern Virginia Volatile Organic Compound Emissions Control Area*, whose potential to emit is less than 100 tons per year of volatile organic compounds, provided the emission rates are determined in a manner acceptable to the board. All volatile organic compound emissions from printing inks and cleaning solutions shall be considered in applying the exemption levels specified in this subsection.

E. The provisions of this article do not apply to the following:

1. Printing processes used exclusively for determination of product quality and commercial acceptance provided:
 - a. The operation is not an integral part of the production process;
 - b. The emissions from all product quality printing processes do not exceed 400 pounds in any 30 day period; and
 - c. The exemption is approved by the board.
2. Lithography or letterpress printing.
3. Electrostatic duplication.

ARTICLE 37.

EMISSION STANDARDS FOR PETROLEUM LIQUID STORAGE AND TRANSFER OPERATIONS (RULE 4-37).

9 VAC 5-40-5200. Applicability and designation of affected facility.

A. Except as provided in subsection C of this section, the affected facility to which the provisions of this article apply is each operation involving the storage or transfer of petroleum liquids or both.

B. Except as provided in subdivisions 1, 2 and 3 through 4 of this subsection, the provisions of this article apply to sources of volatile organic compounds in volatile organic compound emissions control areas designated in 9 VAC 5-20-206.

1. The emission standards in 9 VAC 5-40-5220 C, D, E, F and G shall not apply to affected facilities in the following

localities: Botetourt County, Frederick County, and Winchester City.

2. The emission standard in 9 VAC 5-40-5220 F shall apply only to affected facilities in the Northern Virginia and Richmond Volatile Organic Compound Emissions Control Areas. [*For the purposes of applicability of 9 VAC 5-40-5220 F only, the Richmond Emissions Control Area does not include Prince George County and Petersburg City.*]

~~3. The emission standard in 9 VAC 5-40-5220 E shall apply only to affected facilities in the ozone nonattainment areas designated in 9 VAC 5-40-204, maintenance areas designated in 9 VAC 5-20-203, and the following localities: Roanoke County, Roanoke City, and Salem City.~~

4. 3. The emission standard in 9 VAC 5-40-5220 C shall apply to affected facilities in Bedford County.

C. The provisions of this article do not apply to affected facilities using petroleum liquids with a vapor pressure less than 1.5 pounds per square inch absolute under actual storage conditions or, in the case of loading or processing, under actual loading or processing conditions. (Kerosene and fuel oil have vapor pressures of less than 1.5 pounds per square inch absolute under actual storage conditions; therefore, kerosene and fuel oil are not subject to the provisions of this article when used or stored at ambient temperatures).

D. The burden of proof of eligibility for exemption from this article is on the owner. Owners seeking such an exemption shall maintain adequate records of average monthly throughput and furnish these records to the board upon request.

ARTICLE 42.

EMISSION STANDARDS FOR PORTABLE FUEL CONTAINER SPILLAGE IN THE NORTHERN VIRGINIA VOLATILE ORGANIC COMPOUND EMISSIONS CONTROL AREA (RULE 4-42).

9 VAC 5-40-5700. Applicability.

A. Except as provided in subsections C through H of this section, the provisions of this article apply to any person who sells, supplies, offers for sale, or manufactures for sale portable fuel containers or spouts.

B. The provisions of this article apply only to sources and persons in the Northern Virginia [; and] *Fredericksburg* [~~and Richmond~~] Volatile Organic [~~Compounds~~ Compound] Emissions Control ~~area~~ Areas designated in 9 VAC 5-20-206.

C. The provisions of this article do not apply to any portable fuel container or spout manufactured for shipment, sale, and use outside of the Northern Virginia [; and] *Fredericksburg* [~~and Richmond~~] Volatile Organic Compound Emissions Control ~~area~~ Areas.

D. This article does not apply to a manufacturer or distributor who sells, supplies, or offers for sale a portable fuel container or spout that does not comply with the emission standards specified in 9 VAC 5-40-5720, as long as the manufacturer or distributor can demonstrate that: (i) the portable fuel container or spout is intended for shipment and use outside of the Northern Virginia [; and] *Fredericksburg* [~~and Richmond~~]

Volatile Organic Compound Emissions Control ~~area~~ Areas; and (ii) that the manufacturer or distributor has taken reasonable prudent precautions to assure that the portable fuel container or spout is not distributed within the Northern Virginia [7 and] Fredericksburg [and Richmond] Volatile Organic Compound Emissions Control ~~area~~ Areas. This subsection does not apply to portable fuel containers or spouts that are sold, supplied, or offered for sale to retail outlets.

E. This article does not apply to safety cans meeting the requirements of 29 CFR Part 1926 Subpart F.

F. This article does not apply to portable fuel containers with a nominal capacity less than or equal to one quart.

G. This article does not apply to rapid refueling devices with nominal capacities greater than or equal to four gallons, provided such devices are designed either (i) to be used in officially sanctioned off-highway motorcycle competitions, (ii) to create a leak-proof seal against a stock target fuel tank, or (iii) to operate in conjunction with a receiver permanently installed on the target fuel tank.

H. This article does not apply to portable fuel tanks manufactured specifically to deliver fuel through a hose attached between the portable fuel tank and the outboard engine for the purpose of operating the outboard engine.

I. For purposes of this article, the terms "supply" or "supplied" do not include internal transactions within a business or governmental entity. These terms only apply to transactions between manufacturers/commercial distributors that sell, or otherwise provide, products to business/governmental entities/individuals.

9 VAC 5-40-5720. Standard for volatile organic compounds.

A. No person shall sell, supply, offer for sale, or manufacture for sale any portable fuel container that at the time of sale or manufacture does not meet all of the following standards for spill-proof systems:

1. Has an automatic shut-off that stops the fuel flow before the target fuel tank overflows.
2. Automatically closes and seals when removed from the target fuel tank and remains completely closed when not dispensing fuel.
3. Has only one opening for both filling and pouring.
4. Provides a fuel flow rate and fill level of:
 - a. Not less than one-half gallon per minute for portable fuel containers with a nominal capacity of:
 - (1) Less than or equal to 1.5 gallons and fills to a level less than or equal to one inch below the top of the target fuel tank opening; or
 - (2) Greater than 1.5 gallons but less than or equal to 2.5 gallons and fills to a level less than or equal to one inch below the top of the target fuel tank opening if the spill-proof system clearly displays the phrase "Low Flow Rate" in type of 34 point or greater on each spill-

proof system or label affixed thereto and on the accompanying package, if any; or

b. Not less than one gallon per minute for portable fuel containers with a nominal capacity greater than 1.5 gallons but less than or equal to 2.5 gallons and fills to a level less than or equal to 1.25 inches below the top of the target fuel tank opening; or

c. Not less than two gallons per minute for portable fuel containers with a nominal capacity greater than 2.5 gallons.

5. Does not exceed a permeation rate of 0.4 grams per gallon per day.

6. Is warranted by the manufacturer for a period of not less than one year against defects in materials and workmanship.

B. No person shall sell, supply, offer for sale, or manufacture for sale any spout that at the time of sale or manufacture does not meet all of the following standards for spill-proof spouts:

1. Has an automatic shut-off that stops the fuel flow before the target fuel tank overflows.

2. Automatically closes and seals when removed from the target fuel tank and remains completely closed when not dispensing fuel.

3. Provides a fuel flow rate and fill level of:

a. Not less than one-half gallon per minute for portable fuel containers with a nominal capacity of:

(1) Less than or equal to 1.5 gallons and fills to a level less than or equal to one inch below the top of the target fuel tank opening; or

(2) Greater than 1.5 gallons but less than or equal to 2.5 gallons and fills to a level less than or equal to one inch below the top of the target fuel tank opening if the spill-proof spout clearly displays the phrase "Low Flow Rate" in type of 34 point or greater on the accompanying package, or for spill-proof spouts sold without packaging, on either the spill-proof spout or a label affixed thereto; or

b. Not less than one gallon per minute for portable fuel containers with a nominal capacity greater than 1.5 gallons but less than or equal to 2.5 gallons and fills to a level less than or equal to 1.25 inches below the top of the target fuel tank opening; or

c. Not less than two gallons per minute for portable fuel containers with a nominal capacity greater than 2.5 gallons.

4. Is warranted by the manufacturer for a period of not less than one year against defects in materials and workmanship.

C. The test procedures for determining compliance with the standards in this section are set forth in 9 VAC 5-40-5760. The manufacturer of portable fuel containers or spouts shall perform the tests for determining compliance as set forth in 9 VAC 5-40-5760 to show that its product meets the standards

Final Regulations

of this section prior to allowing the product to be offered for sale. The manufacturer shall maintain records of these compliance tests for as long as the product is available for sale and shall make those test results available within 60 days of request.

D. Compliance with the standards in this section does not exempt spill-proof systems or spill-proof spouts from compliance with other applicable federal and state statutes and regulations such as state fire codes, safety codes, and other safety regulations, nor will the board test for or determine compliance with such other statutes or regulations.

E. Notwithstanding the provisions of subsections A and B of this section, a portable fuel container or spout manufactured before ~~January 1, 2005~~ the applicable compliance date specified in 9 VAC 5-40-5750 A, may be sold, supplied, or offered for sale after ~~January 1, 2005~~ the applicable compliance date, if the date of manufacture or a date code representing the date of manufacture is clearly displayed on the portable fuel container or spout.

9 VAC 5-40-5750. Compliance schedules.

A. Affected persons shall comply with the provisions of this article as expeditiously as possible but in no case later than:

1. January 1, 2005, in the Northern Virginia VOC Emissions Control Area; or
2. January 1, 2008, in the Fredericksburg [~~and Richmond~~] VOC Emissions Control [~~Areas Area~~].

B. Any person who cannot comply with the provisions of this article by the date specified in subsection A of this section, due to extraordinary reasons beyond that person's reasonable control, may apply in writing to the board for a waiver. The waiver application shall set forth:

1. The specific grounds upon which the waiver is sought;
2. The proposed date by which compliance with the provisions of this article will be achieved; and
3. A compliance report detailing the methods by which compliance will be achieved.

C. No waiver may be granted unless all of the following findings are made:

1. That, due to reasons beyond the reasonable control of the applicant, required compliance with this article would result in extraordinary economic hardship;
2. That the public interest in mitigating the extraordinary hardship to the applicant by issuing the waiver outweighs the public interest in avoiding any increased emissions of air contaminants that would result from issuing the waiver; and
3. That the compliance report proposed by the applicant can reasonably be implemented and shall achieve compliance as expeditiously as possible.

D. Any approval of a waiver shall specify a final compliance date by which compliance with the requirements of this article shall be achieved. Any approval of a waiver shall contain a condition that specifies the increments of progress necessary

to assure timely compliance and such other conditions that the board finds necessary to carry out the purposes of this article.

E. A waiver shall cease to be effective upon the failure of the party to whom the waiver was granted to comply with any term or condition of the waiver.

F. Upon the application of any person, the board may review, and for good cause, modify or revoke a waiver from requirements of this article.

ARTICLE 48.

EMISSION STANDARDS FOR MOBILE EQUIPMENT REPAIR AND REFINISHING OPERATIONS IN THE NORTHERN VIRGINIA VOLATILE ORGANIC COMPOUND EMISSION CONTROL AREA (RULE 4-48).

9 VAC 5-40-6970. Applicability and designation of affected facility.

A. Except as provided in subsection C of this section, the affected facility to which the provisions of this article apply is each mobile equipment repair and refinishing operation. Certain provisions also apply to each person providing or selling affected coatings.

B. The provisions of this article apply only to sources and persons in the Northern Virginia [~~and~~] Fredericksburg [~~and Richmond~~] Volatile Organic [~~Compounds Compound~~] Emissions Control ~~area~~ Areas designated in 9 VAC 5-20-206.

C. The provisions of this article do not apply under any of the following circumstances:

1. The mobile equipment repair and refinishing operation is subject to Article 28 (9 VAC 5-40-3860 et seq.) of 9 VAC 5 Chapter 40 (Emission Standards for Automobile and Light Duty Truck Coating Application Systems).
2. The mobile equipment repair and refinishing operation is subject to Article 34 (9 VAC 5-40-4760 et seq.) of 9 VAC 5 Chapter 40 (Emission Standards for Miscellaneous Metal Parts and Products Coating Application Systems).
3. The person applying the coatings does not receive compensation for the application of the coatings.
4. The mobile equipment repair and refinishing operations uses coatings required to meet military specifications (MILSPEC) where no other existing coating can be used that meets the provisions of this article.

9 VAC 5-40-7050. Compliance schedule.

Affected persons *and facilities* shall comply with the provisions of this article as expeditiously as possible but in no case later than:

1. January 1, 2005, in the Northern Virginia VOC Emissions Control Area; or
2. January 1, 2008, in the Fredericksburg [~~and Richmond~~] VOC Emissions Control [~~Areas Area~~].

ARTICLE 49.
EMISSION STANDARDS FOR ARCHITECTURAL AND
INDUSTRIAL MAINTENANCE COATINGS IN THE
~~NORTHERN VIRGINIA VOLATILE ORGANIC COMPOUND~~
EMISSIONS CONTROL AREA (RULE 4-49).

9 VAC 5-40-7120. Applicability.

A. Except as provided in subsection C of this section, the provisions of this article apply to any person who supplies, sells, offers for sale, or manufactures any architectural coating for use, as well as any person who applies or solicits the application of any architectural coating.

B. The provisions of this article apply only to ~~sources and~~ persons in the Northern Virginia [~~;~~ *and*] *Fredericksburg* [~~and~~ *Richmond*] Volatile Organic Compound Emissions Control ~~area~~ *Areas* designated in 9 VAC 5-20-206.

C. The provisions of this article do not apply to:

1. Any architectural coating that is sold or manufactured for use exclusively outside of the Northern Virginia [~~;~~ *and*] *Fredericksburg* [~~and~~ *Richmond*] Volatile Organic [~~Compounds~~ *Compound*] Emission Control ~~Area~~ *Areas* or for shipment to other manufacturers for reformulation or repackaging.
2. Any aerosol coating product.
3. Any architectural coating that is sold in a container with a volume of one liter (1.057 quart) or less.

D. For purposes of this article, the terms "supply" or "supplied" do not include internal transactions within a business or governmental entity. These terms only apply to transactions between manufacturers/commercial distributors that sell, or otherwise provide, products to businesses/governmental entities/individuals.

[9 VAC 5-40-7130. Definitions.

A. For the purpose of applying this article in the context of the Regulations for the Control and Abatement of Air Pollution and related uses, the words or terms shall have the meanings given them in subsection C of this section.

B. As used in this article, all terms not defined herein shall have the meanings given them in 9 VAC 5 Chapter 10 (9 VAC 5-10), unless otherwise required by context.

C. Terms defined.

"Adhesive" means any chemical substance that is applied for the purpose of bonding two surfaces together other than by mechanical means.

"Aerosol coating product" means a pressurized coating product containing pigments or resins that dispenses product ingredients by means of a propellant, and is packaged in a disposable can for hand-held application, or for use in specialized equipment for ground traffic/marketing applications.

"Antenna coating" means a coating labeled and formulated exclusively for application to equipment and associated structural appurtenances that are used to receive or transmit electromagnetic signals.

"Antifouling coating" means a coating labeled and formulated for application to submerged stationary structures and their appurtenances to prevent or reduce the attachment of marine or freshwater biological organisms. To qualify as an antifouling coating, the coating shall be registered with both the U.S. EPA under the Federal Insecticide, Fungicide and Rodenticide Act (7 USC § 136 et seq.) and with the Pesticide Control Board under the provisions of the Virginia Pesticide Control Act (Chapter 14.1 (§ 3.1-249.27 et seq.) of Title 3.1 of the Code of Virginia).

"Appurtenance" means any accessory to a stationary structure coated at the site of installation, whether installed or detached, including but not limited to bathroom and kitchen fixtures; cabinets; concrete forms; doors; elevators; fences; hand railings; heating equipment, air conditioning equipment, and other fixed mechanical equipment or stationary tools; lampposts; partitions pipes and piping systems; rain gutters and downspouts; stairways; fixed ladders; catwalks and fire escapes; and window screens.

"Architectural coating" means a coating to be applied to stationary structures or the appurtenances at the site of installation, to portable buildings at the site of installation, to pavements, or to curbs. Coatings applied in shop applications or to nonstationary structures such as airplanes, ships, boats, railcars, and automobiles, and adhesives are not considered architectural coatings for the purposes of this article.

"ASTM" means the American Society for Testing and Materials.

"Bitumens" means black or brown materials including, but not limited to, asphalt, tar, pitch, and asphaltite that are soluble in carbon disulfide, consist mainly of hydrocarbons, and are obtained from natural deposits of asphalt or as residues from the distillation of crude petroleum or coal.

"Bituminous roof coating" means a coating that incorporates bitumens that is labeled and formulated exclusively for roofing.

"Bituminous roof primer" means a primer that consists of a coating or mastic formulated and recommended for roofing, pavement sealing, or waterproofing that incorporates bitumens.

"Bond breaker" means a coating labeled and formulated for application between layers of concrete to prevent a freshly poured top layer of concrete from bonding to the layer over which it is poured.

"*Calcimine recoater*" means a flat solvent borne coating formulated and recommended specifically for recoating calcimine-painted ceilings and other calcimine-painted substrates.

"Clear brushing lacquers" means clear wood finishes, excluding clear lacquer sanding sealers, formulated with nitrocellulose or synthetic resins to dry by solvent evaporation without chemical reaction and to provide a solid, protective film, that are intended exclusively for application by brush and that are labeled as specified in subdivision 5 of 9 VAC 5-40-7150.

Final Regulations

"Clear wood coatings" means clear and semi-transparent coatings, including lacquers and varnishes, applied to wood substrates to provide a transparent or translucent solid film.

"Coating" means a material applied onto or impregnated into a substrate for protective, decorative, or functional purposes. Such materials include, but are not limited to, paints, varnishes, sealers, and stains.

"Colorant" means a concentrated pigment dispersion in water, solvent, or binder that is added to an architectural coating after packaging in sale units to produce the desired color.

"Concrete curing compound" means a coating labeled and formulated for application to freshly poured concrete to retard the evaporation of water.

"Concrete surface retarder" means a mixture of retarding ingredients such as extender pigments, primary pigments, resin, and solvent that interact chemically with the cement to prevent hardening on the surface where the retarder is applied, allowing the retarded mix of cement and sand at the surface to be washed away to create an exposed aggregate finish.

"Conversion varnish" means a clear acid curing coating with an alkyd or other resin blended with amino resins and supplied as a single component or two-component product. Conversion varnishes produce a hard, durable, clear finish designed for professional application to wood flooring. The film formation is the result of an acid-catalyzed condensation reaction, effecting a transesterification at the reactive ethers of the amino resins.

"Dry fog coating" means a coating labeled and formulated only for spray application such that overspray droplets dry before subsequent contact with incidental surfaces in the vicinity of the surface coating activity.

"Exempt compound" means a compound identified as exempt under the definition of Volatile Organic Compound (VOC) in 9 VAC 5-10-20. An exempt compound's content of a coating shall be determined by Reference Method 24 or South Coast Air Quality Management District (SCAQMD) Method for Determination of Exempt Compounds (see 9 VAC 5-20-21).

"Extreme durability coating" means an air-dried coating, including fluoropolymer-based coating, that is formulated and recommended for application to exterior metal surfaces and touch up, repair and overcoating of precoated metal surfaces, and that meets the weathering requirements of American Architectural Manufacturers Association Voluntary Specification - Performance Requirements and Test Procedures for High Performance Organic Coatings on Aluminum Extrusions and Panels (see 9 VAC 5-20-21).

"Faux finishing coating" means a coating labeled and formulated as a stain or a glaze to create artistic effects including, but not limited to, dirt, old age, smoke damage, and simulated marble and wood grain.

"Fire-resistive coating" means an opaque coating labeled and formulated to protect the structural integrity by increasing the fire endurance of interior or exterior steel and other structural materials, that has been fire tested and rated by a testing agency and approved by building code officials for use in

bringing assemblies of structural materials into compliance with federal, state, and local building code requirements. The fire-resistive coating shall be tested in accordance with American Society for Testing and Materials (ASTM) Standard Test Method for Fire Tests of Building Construction Materials (see 9 VAC 5-20-21).

"Fire-retardant coating" means a coating labeled and formulated to retard ignition and flame spread, that has been fire tested and rated by a testing agency and approved by building code officials for use in bringing building and construction materials into compliance with federal, state, and local building code requirements. The fire-retardant coating shall be tested in accordance with ASTM Standard Test Method for Surface Burning Characteristics of Building Construction Materials (see 9 VAC 5-20-21).

"Flat coating" means a coating that is not defined under any other definition in this article and that registers gloss less than 15 on an 85-degree meter or less than five on a 60-degree meter according to ASTM Standard Test Method for Specular Gloss (see 9 VAC 5-20-21).

"Floor coating" means an opaque coating that is labeled and formulated for application to flooring, including, but not limited to, decks, porches, steps, and other horizontal surfaces, that may be subjected to foot traffic.

"Flow coating" means a coating labeled and formulated exclusively for use by electric power companies or their subcontractors to maintain the protective coating systems present on utility transformer units.

"Form-release compound" means a coating labeled and formulated for application to a concrete form to prevent the freshly poured concrete from bonding to the form. The form may consist of wood, metal, or some material other than concrete.

"Graphic arts coating or sign paint" means a coating labeled and formulated for hand-application by artists using brush or roller techniques to indoor and outdoor signs (excluding structural components) and murals including letter enamels, poster colors, copy blockers, and bulletin enamels.

"High-temperature coating" means a high-performance coating labeled and formulated for application to substrates exposed continuously or intermittently to temperatures above 204 degrees Centigrade (400 degrees Fahrenheit).

"Impacted immersion coating" means a high performance maintenance coating formulated and recommended for application to steel structures subject to immersion in turbulent, debris-laden water. These coatings are specifically resistant to high-energy impact damage caused by floating ice or debris.

"Industrial maintenance coating" means a high-performance architectural coating, including primers, sealers, undercoaters, intermediate coats, and topcoats, formulated for application to substrates exposed to one or more of the following extreme environmental conditions, and labeled as specified in subdivision 4 of 9 VAC 5-40-7150:

1. Immersion in water, wastewater, or chemical solutions (aqueous and nonaqueous solutions), or chronic exposures of interior surfaces to moisture condensation;
2. Acute or chronic exposure to corrosive, caustic, or acidic agents, or to chemicals, chemical fumes, or chemical mixtures or solutions;
3. Repeated exposure to temperatures above 121 degrees Centigrade (250 degrees Fahrenheit);
4. Repeated (frequent) heavy abrasion, including mechanical wear and repeated (frequent) scrubbing with industrial solvents, cleansers, or scouring agents; or
5. Exterior exposure of metal structures and structural components.

“Lacquer” means a clear or opaque wood coating, including clear lacquer sanding sealers, formulated with cellulosic or synthetic resins to dry by evaporation without chemical reaction and to provide a solid, protective film.

“Low-solids coating” means a coating containing 0.12 kilogram or less of solids per liter (one pound or less of solids per gallon) of coating material.

“Magnesite cement coating” means a coating labeled and formulated for application to magnesite cement decking to protect the magnesite cement substrate from erosion by water.

“Mastic texture coating” means a coating labeled and formulated to cover holes and minor cracks and to conceal surface irregularities, and is applied in a single coat of at least 10 mils (0.010 inch) dry film thickness.

“Metallic pigmented coating” means a coating containing at least 48 grams of elemental metallic pigment, mica particles or any combination of metallic pigment or mica particles per liter of coating as applied (0.4 pounds per gallon), when tested in accordance with South Coast Air Quality Air Management District (SCAQMD) Method for Determination of Weight Percent Elemental Metal in Coatings by X-Ray Diffraction (see 9 VAC 5-20-21).

“Multi-color coating” means a coating that is packaged in a single container and that exhibits more than one color when applied in a single coat.

“Nonflat coating” means a coating that is not defined under any other definition in this article and that registers a gloss of 15 or greater on an 85-degree meter and five or greater on a 60-degree meter according to ASTM Standard Test Method for Specular Gloss (see 9 VAC 5-20-21).

“Nonflat high-gloss coating” means a nonflat coating that registers a gloss of 70 or above on a 60-degree meter according to ASTM Standard Test Method for Specular Gloss (see 9 VAC 5-20-21).

“Nonindustrial use” means any use of architectural coatings except in the construction or maintenance of any of the following: facilities used in the manufacturing of goods and commodities; transportation infrastructure, including highways, bridges, airports and railroads; facilities used in mining activities, including petroleum extraction; and utilities

infrastructure, including power generation and distribution, and water treatment and distribution systems.

“Nuclear coating” means a protective coating formulated and recommended to seal porous surfaces such as steel (or concrete) that otherwise would be subject to intrusions by radioactive materials. These coatings must be resistant to long-term (service life) cumulative radiation exposure as determined by ASTM Standard Test Method for Effects of Gamma Radiation on Coatings for Use in Light-Water Nuclear Power Plants (see 9 VAC 5-20-21), relatively easy to decontaminate, and resistant to various chemicals to which the coatings are likely to be exposed as determined by ASTM Standard Test Method for Chemical Resistance of Coatings Used in Light-Water Nuclear Power Plants (see 9 VAC 5-20-21).

“Post-consumer coating” means a finished coating that would have been disposed of in a landfill, having completed its usefulness to a consumer, and does not include manufacturing wastes.

“Pretreatment wash primer” means a primer that contains a minimum of 0.5 acid, by weight, when tested in accordance with ASTM Standard Test Method for Acidity in Volatile Solvents and Chemical Intermediates Used in Paint, Varnish, Lacquer and Related Products (see 9 VAC 5-20-21), that is labeled and formulated for application directly to bare metal surfaces to provide corrosion resistance and to promote adhesion of subsequent topcoats.

“Primer” means a coating labeled and formulated for application to a substrate to provide a firm bind between the substrate and subsequent coats.

“Quick-dry enamel” means a nonflat coating that is labeled as specified in subdivision 8 of 9 VAC 5-40-7150 and that is formulated to have the following characteristics:

1. Is capable of being applied directly from the container under normal conditions with ambient temperatures between 16 and 27 degrees Centigrade (60 and 80 degrees Fahrenheit);
2. When tested in accordance with ASTM Standard Methods for Drying, Curing, or Film Formation of Organic Coatings at Room Temperature (see 9 VAC 5-20-21), sets to touch in two hours or less, is tack-free in four hours or less, and dries hard in eight hours or less by the mechanical test method; and
3. Has a dried film gloss of 70 or above on a 60-degree meter.

“Quick-dry primer sealer and undercoater” means a primer, sealer, or undercoater that is dry to the touch in 30 minutes and can be recoated in two hours when tested in accordance with ASTM Standard Methods for Drying, Curing, or Film Formation of Organic Coatings at Room Temperature (see 9 VAC 5-20-21).

“Recycled coating” means an architectural coating formulated such that not less than 50% of the total weight consists of secondary and post-consumer coating, with not less than 10% of the total weight consisting of post-consumer coating.

Final Regulations

“Residence” means areas where people reside or lodge, including, but not limited to, single and multiple family dwellings, condominiums, mobile homes, apartment complexes, motels, and hotels.

“Roof coating” means a nonbituminous coating labeled and formulated exclusively for application to roofs for the primary purpose of preventing penetration of the substrate by water or reflecting heat and ultraviolet radiation. Metallic pigmented roof coatings, which qualify as metallic pigmented coatings, shall not be considered in this category, but shall be considered to be in the metallic pigmented coatings category.

“Rust-preventive coating” means a coating formulated exclusively for nonindustrial use to prevent the corrosion of metal surfaces and labeled as specified in subdivision 6 of 9 VAC 5-40-7150.

“Sanding sealer” means a clear or semi-transparent wood coating labeled and formulated for application to bare wood to seal the wood and to provide a coat that can be abraded to create a smooth surface for subsequent applications of coatings. A sanding sealer that also meets the definition of a lacquer is not included in this category, but it is included in the lacquer category.

“Sealer” means a coating labeled and formulated for application to a substrate for one or more of the following purposes: to prevent subsequent coatings from being absorbed by the substrate, or to prevent harm to subsequent coatings by materials in the substrate.

“Secondary coating (rework)” means a fragment of a finished coating or a finished coating from a manufacturing process that has converted resources into a commodity of real economic value, but does not include excess virgin resources of the manufacturing process.

“Shellac” means a clear or opaque coating formulated solely with the resinous secretions of the lac beetle (*Lacifer lacca*), thinned with alcohol, and formulated to dry by evaporation without a chemical reaction.

“Shop application” means the application of a coating to a product or a component of a product in or on the premises of a factory or a shop as part of a manufacturing, production, or repairing process (e.g., original equipment manufacturing coatings).

“Solicit” means to require for use or to specify, by written or oral contract.

“Specialty primer, sealer, and undercoater” means a coating labeled as specified in subdivision 7 of 9 VAC 5-40-7150 and that is formulated for application to a substrate to seal fire, smoke or water damage; to condition excessively chalky surfaces; or to block stains. An excessively chalky surface is one that is defined as having a chalk rating of four or less as determined by ASTM Standard Test Methods for Evaluating the Degree of Chalking of Exterior Paint Films (see 9 VAC 5-20-21).

“Stain” means a clear, semi-transparent, or opaque coating labeled and formulated to change the color of a surface but not conceal the grain pattern or texture.

“Swimming pool coating” means a coating labeled and formulated to coat the interior of swimming pools and to resist swimming pool chemicals.

“Swimming pool repair and maintenance coating” means a rubber-based coating labeled and formulated to be used over existing rubber-based coatings for the repair and maintenance of swimming pools.

“Temperature-indicator safety coating” means a coating labeled and formulated as a color-changing indicator coating for the purpose of monitoring the temperature and safety of the substrate, underlying piping, or underlying equipment, and for application to substrates exposed continuously or intermittently to temperatures above 204 degrees Centigrade (400 degrees Fahrenheit).

“Thermoplastic rubber coating and mastic” means a coating or mastic formulated and recommended for application to roofing or other structural surfaces and that incorporates no less than 40% by weight of thermoplastic rubbers in the total resin solids and may also contain other ingredients including, but not limited to, fillers, pigments, and modifying resins.

“Tint base” means an architectural coating to which colorant is added after packaging in sale units to produce a desired color.

“Traffic marking coating” means a coating labeled and formulated for marking and striping streets, highways, or other traffic surfaces including, but not limited to, curbs, berets, driveways, parking lots, sidewalks, and airport runways.

“Undercoater” means a coating labeled and formulated to provide a smooth surface for subsequent coatings.

“Varnish” means a clear or semitransparent wood coating, excluding lacquers and shellacs, formulated to dry by chemical reaction on exposure to air. Varnishes may contain small amounts of pigment to color a surface, or to control the fetal sheen or gloss of the finish.

“VOC content” means the weight of VOC per volume of coating, calculated according to the procedures specified in 9 VAC 5-40-7220 B.

“Waterproofing sealer” means a coating labeled and formulated for application to a porous substrate for the primary purpose of preventing the penetration of water.

“Waterproofing concrete/masonry sealer” means a clear or pigmented film-forming coating that is labeled and formulated for sealing concrete and masonry to provide resistance against water, alkalis, acids, ultraviolet light, and staining.

“Wood preservative” means a coating labeled and formulated to protect exposed wood from decay or insect attack that is registered with both the U.S. EPA under the Federal Insecticide, Fungicide, and Rodenticide Act (7 USC § 136 et seq.) and with the Pesticide Control Board under the provisions of the Virginia Pesticide Control Act (Chapter 14. 1 (§ 3.1-249.27 et seq.) of the Code of Virginia).]

9 VAC 5-40-7140. Standard for volatile organic compounds.

A. Except as provided in this section, no person shall (i) manufacture, blend, or repackage for sale, (ii) supply, sell, or

offer for sale, or (iii) solicit for application or apply any architectural coating with a VOC content in excess of the corresponding limit specified in Table 4-49A.

B. If anywhere on the container of any architectural coating, or any label or sticker affixed to the container, or in any sales, advertising, or technical literature supplied by a manufacturer or any person acting on behalf of a manufacturer, any representation is made that indicates that the coating meets the definition of or is recommended for use for more than one of the coating categories listed in Table 4-49A, then the most restrictive VOC content limit shall apply. This provision does not apply to the following coating categories:

- Lacquer coatings (including lacquer sanding sealers);
- Metallic pigmented coatings;
- Shellacs;
- Fire-retardant coatings;
- Pretreatment wash primers;
- Industrial maintenance coatings;
- Low-solids coatings;
- Wood preservatives;
- High-temperature coatings;
- Temperature-indicator safety coatings;
- Antenna coatings;
- Antifouling coatings;
- Flow coatings;
- Bituminous roof primers;
- [*Calcimine recoaters*;
- Impacted immersion coatings*;
- Nuclear coatings*;
- Thermoplastic rubber coating and mastic*;] and
- Specialty primers, sealers, and undercoaters.

Table 4-49A.
VOC Content Limits for Architectural Coatings

Limits are expressed in grams of VOC per liter¹ of coating thinned to the manufacturer's maximum recommendation, excluding the volume of any water, exempt compounds, or colorant added to tint bases. "Manufacturers maximum recommendation" means the maximum recommendation for thinning that is indicated on the label or lid of the coating container.

Coating Category	VOC Content Limit
Flat Coatings	100
Nonflat Coatings	150
Nonflat High Gloss Coatings	250
Specialty Coatings [:]	530
Antenna Coatings	530
Antifouling Coatings	400
Bituminous Roof Coatings	300
Bituminous Roof Primers	350
Bond Breakers	350
[<i>Calcimine Recoater</i>	475]
Clear Wood Coatings	

¹ Conversion factor: one pound of VOC per gallon (U.S.) = 119.95 grams per liter.

• Clear Brushing Lacquers	680
• Lacquers (including lacquer sanding sealers)	550
• Sanding Sealers (other than lacquer sanding sealers)	350
[• <i>Conversion Varnishes</i>	725]
• Varnishes [<i>other than conversion varnishes</i>]	350
Concrete Curing Compounds	350
[<i>Concrete Surface Retarder</i>	780]
Dry Fog Coatings	400
Extreme durability coating	400
Faux Finishing Coatings	350
Fire-Resistive Coatings	350
Fire-Retardant Coatings	
• Clear	650
• Opaque	350
Floor Coatings	250
Flow Coatings	420
Form-Release Compounds	250
Graphic Arts Coatings (Sign Paints)	500
High-Temperature Coatings	420
[<i>Impacted Immersion Coating</i>	780]
Industrial Maintenance Coatings	340
Low-Solids Coatings	120
Magnesite Cement Coatings	450
Mastic Texture Coatings	300
Metallic Pigmented Coatings	500
Multi-Color Coatings	250
[<i>Nuclear Coatings</i>	450]
Pretreatment Wash Primers	420
Primers, Sealers, and Undercoaters	200
Quick-Dry Enamels	250
Quick-Dry Primers, Sealers-and Undercoaters	200
Recycled Coatings	250
Roof Coatings	250
Rust Preventative Coatings	400
Shellacs	
• Clear	730
• Opaque	550
Specialty Primers, Sealers, and Undercoaters	350
Stains	250
Swimming Pool Coatings	340
Swimming Pool Repair and Maintenance Coatings	340
Temperature-Indicator Safety Coatings	550
[<i>Thermoplastic Rubber Coating and Mastic</i>	550]
Traffic Marking Coatings	150
Waterproofing Sealers	250
Waterproofing Concrete/Masonry Sealers	400
Wood Preservatives	350

C. A coating manufactured prior to ~~January 1, 2005~~ the applicable compliance date specified in 9 VAC 5-40-7210, may be sold, supplied, or offered for sale ~~until December 31, 2007~~ for two years following the applicable compliance date. In addition, a coating manufactured before ~~January 1, 2005~~ the applicable compliance date specified in 9 VAC 5-40-7210, may be applied at any time, both before and after ~~January 1, 2005~~ the applicable compliance date, so long as the coating

Final Regulations

complied with the standards in effect at the time the coating was manufactured. This subsection does not apply to any coating that does not display the date or date code required by subdivision 1 of 9 VAC 5-40-7150.

D. All architectural coating containers used to apply the contents therein to a surface directly from the container by pouring, siphoning, brushing, rolling, padding, ragging, or other means, shall be closed when not in use. These architectural coatings containers include, but are not limited to, drums, buckets, cans, pails, trays, or other application containers. Containers of any VOC-containing materials used for thinning and cleanup shall also be closed when not in use.

E. No person who applies or solicits the application of any architectural coating shall apply a coating that contains any thinning material that would cause the coating to exceed the applicable VOC limit specified in Table 4-49A.

F. No person shall apply or solicit the application of any rust preventive coating for industrial use, unless such a rust preventive coating complies with the industrial maintenance coating VOC limit specified in Table 4-49A.

G. For any coating that does not meet any of the definitions for the specialty coatings categories listed in Table 4-49A, the VOC content limit shall be determined by classifying the coating as a flat coating or a nonflat coating, based on its gloss, as defined in 9 VAC 5-40-7130 C, and the corresponding flat or nonflat coating limit shall apply.

H. Notwithstanding the provisions of subsection A of this section, up to 10% by volume of VOC may be added to a lacquer to avoid blushing of the finish during days with relative humidity greater than 70% and temperature below 65 degrees Fahrenheit, at the time of application, provided that the coating contains acetone and no more than 550 grams of VOC per liter of coating, less water and exempt compounds, prior to the addition of VOC.

9 VAC 5-40-7210. Compliance schedules.

Affected persons shall comply with the provisions of this article as expeditiously as possible but in no case later than:

1. January 1, 2005, in the Northern Virginia VOC Emissions Control Area; or

2. January 1, 2008, in the Fredericksburg [~~and Richmond~~] VOC Emissions Control [~~Areas~~ Area].

ARTICLE 50.

EMISSION STANDARDS FOR CONSUMER PRODUCTS IN ~~THE NORTHERN VIRGINIA VOLATILE ORGANIC COMPOUND EMISSIONS CONTROL AREA (RULE 4-50).~~

9 VAC 5-40-7240. Applicability.

A. Except as provided in 9 VAC 5-40-7250, the provisions of this article apply to those persons who sell, supply, offer for sale, or manufacture for sale any consumer product that contains volatile organic compounds (VOCs) as defined in 9 VAC 5-10-20.

B. The provisions of this article apply throughout the Northern Virginia [~~7~~ and] Fredericksburg [~~and Richmond~~] Volatile

Organic Compound Emissions Control ~~area~~ Areas designated in 9 VAC 5-20-206.

C. For purposes of this article, the term "supply" or "supplied" does not include internal transactions within a business or governmental entity. The term only applies to transactions between manufacturers/commercial distributors that sell, or otherwise provide, products to businesses/governmental entities/individuals.

9 VAC 5-40-7250. Exemptions.

A. This article shall not apply to any consumer product manufactured in the ~~Northern Virginia~~ applicable volatile organic compound emissions control ~~area~~ areas designated in 9 VAC 5-40-7240 for shipment and use outside of ~~this area~~ those areas.

B. The provisions of this article shall not apply to a manufacturer or distributor who sells, supplies, or offers for sale a consumer product that does not comply with the VOC standards specified in 9 VAC 5-40-7270 A, as long as the manufacturer or distributor can demonstrate both that the consumer product is intended for shipment and use outside of the ~~Northern Virginia~~ applicable volatile organic compound emissions control ~~area~~ areas designated in 9 VAC 5-40-7240, and that the manufacturer or distributor has taken reasonable prudent precautions to assure that the consumer product is not distributed to the ~~Northern Virginia~~ those applicable volatile organic compound emissions control [~~area~~ areas]. This subsection does not apply to consumer products that are sold, supplied, or offered for sale by any person to retail outlets in the ~~Northern Virginia~~ those applicable volatile organic compound emissions control ~~area~~ areas.

C. The medium volatility organic compound (MVOC) content standards specified in 9 VAC 5-40-7270 A for antiperspirants or deodorants shall not apply to ethanol.

D. The VOC limits specified in 9 VAC 5-40-7270 A shall not apply to fragrances up to a combined level of 2.0% by weight contained in any consumer product and shall not apply to colorants up to a combined level of 2.0% by weight contained in any antiperspirant or deodorant.

E. The requirements of 9 VAC 5-40-7270 A for antiperspirants or deodorants shall not apply to those volatile organic compounds that contain more than 10 carbon atoms per molecule and for which the vapor pressure is unknown, or that have a vapor pressure of 2 mm Hg or less at 20 degrees Centigrade.

F. The VOC limits specified in 9 VAC 5-40-7270 A shall not apply to any LVP-VOC.

G. The VOC limits specified in 9 VAC 5-40-7270 A shall not apply to air fresheners that are composed entirely of fragrance, less compounds not defined as VOCs or exempted under subsection F of this section.

H. The VOC limits specified in 9 VAC 5-40-7270 A shall not apply to air fresheners and insecticides containing at least 98% paradichlorobenzene.

I. The VOC limits specified in 9 VAC 5-40-7270 A shall not apply to adhesives sold in containers of one fluid ounce or less.

J. The VOC limits specified in 9 VAC 5-40-7270 A shall not apply to bait station insecticides. For the purpose of this section, bait station insecticides are containers enclosing an insecticidal bait that is not more than 0.5 ounce by weight, where the bait is designed to be ingested by insects and is composed of solid material feeding stimulants with less than 5.0% active ingredients.

K. A person who cannot comply with the requirements set forth in 9 VAC 5-40-7270 because of extraordinary reasons beyond the person's reasonable control may apply in writing to the board for a waiver.

1. The application shall set forth:

- a. The specific grounds upon which the waiver is sought, including the facts that support the extraordinary reasons that compliance is beyond the applicant's reasonable control;
- b. The proposed dates by which compliance with the provisions of 9 VAC 5-40-7270 will be achieved; and
- c. A compliance report reasonably detailing the methods by which compliance will be achieved.

2. Upon receipt of an application containing the information required in subdivision 1 of this subsection, the board will hold a public hearing to determine whether, under what conditions, and to what extent, a waiver from the requirements in 9 VAC 5-40-7270 is necessary and will be permitted. A hearing shall be initiated no later than 75 days after receipt of a waiver application. Notice of the time and place of the hearing shall be sent to the applicant by certified mail not less than 30 days prior to the hearing. Notice of the hearing shall also be submitted for publication in the Virginia Register. At least 30 days prior to the hearing, the waiver application shall be made available to the public for inspection. Information submitted to the board by a waiver applicant may be claimed as confidential, and such information will be handled in accordance with the procedures specified in §§ 10.1-1314 and 10.1-1314.1 of the Virginia Air Pollution Control Law and 9 VAC 5-170-60. The board may consider such confidential information in reaching a decision on an exemption application. Interested members of the public shall be allowed a reasonable opportunity to testify at the hearing and their testimony shall be considered.

3. No waiver shall be granted unless all of the following findings are made:

- a. That, because of reasons beyond the reasonable control of the applicant, requiring compliance with 9 VAC 5-40-7270 would result in extraordinary economic hardship;
- b. That the public interest in mitigating the extraordinary hardship to the applicant by issuing the waiver outweighs the public interest in avoiding any increased emissions of air contaminants which would result from issuing the waiver; and

c. That the compliance report proposed by the applicant can reasonably be implemented and will achieve compliance as expeditiously as possible.

4. Any waiver may be issued as an order of the board. The waiver order shall specify a final compliance date by which the requirements of 9 VAC 5-40-7270 will be achieved. Any waiver order shall contain a condition that specifies increments of progress necessary to assure timely compliance and such other conditions that the board, in consideration of the testimony received at the hearing, finds necessary to carry out the purposes of the Virginia Air Pollution Control Law and the regulations of the board.

5. A waiver shall cease to be effective upon failure of the party to whom the waiver was granted to comply with any term or condition of the waiver order.

6. Upon the application of anyone, the board may review and for good cause modify or revoke a waiver from requirements of 9 VAC 5-40-7270. Modifications and revocations of waivers are considered case decisions and will be processed using the procedures prescribed in 9 VAC 5-170 and Article 3 (§ 2.2-4018 et seq.) of the Administrative Process Act.

L. The requirements of 9 VAC 5-40-7300 A shall not apply to consumer products registered under FIFRA.

9 VAC 5-40-7260. Definitions.

A. For the purpose of applying this article in the context of the Regulations for the Control and Abatement of Air Pollution and related uses, the words or terms shall have the meaning given them in subsection C of this section.

B. As used in this article, all terms not defined herein shall have the meaning given them in 9 VAC 5 Chapter 10 (9 VAC 5-10), unless otherwise required by context.

C. Terms defined.

"ACP" or "alternative control plan" means any emissions averaging program approved by the board pursuant to the provisions of this article.

"ACP agreement" means the document signed by the board that includes the conditions and requirements of the board and that allows manufacturers to sell ACP products pursuant to the requirements of this article.

"ACP emissions" means the sum of the VOC emissions from every ACP product subject to an ACP agreement approving an ACP, during the compliance period specified in the ACP agreement, expressed to the nearest pound of VOC and calculated according to the following equation:

$$\text{ACP Emissions} = (\text{Emissions})_1 + (\text{Emissions})_2 + K + (\text{Emissions})_N$$

$$\text{Emissions} = \frac{(\text{VOC Content}) \times (\text{Enforceable Sales})}{100}$$

where

1,2,...N = each product in an ACP up to the maximum N.

Enforceable sales = (see definition in this section).

VOC content = one of the following:

Final Regulations

1. For all products except for charcoal lighter material products:

$$\text{VOC Standard} = \frac{(0.020 \text{ pound VOC per start} \times 100)}{\text{Certified Use Rate}}$$

where

$$\text{VOC Content} = \frac{((B - C) \times 100)}{A}$$

where

0.020 = the certification emissions level for the product, as specified in 9 VAC 5-40-7270 E.

where

A = total net weight of unit (excluding container and packaging).

B = total weight of all VOCs per unit.

C = total weight of all exempted VOCs per unit, as specified in 9 VAC 5-40-7250.

Certified use rate = (see definition in this section).

"Adhesive" means any product that is used to bond one surface to another by attachment. Adhesive does not include products used on humans and animals, adhesive tape, contact paper, wallpaper, shelf liners, or any other product with an adhesive incorporated onto or in an inert substrate. For contact adhesive only, adhesive also does not include units of product, less packaging, which consist of more than one gallon. In addition, for construction, panel, and floor covering adhesive and general purpose adhesive only, adhesive does not include units of product, less packaging, which consist of more than one pound and consist of more than 16 fluid ounces. The package size limitations do not apply to aerosol adhesives.

2. For charcoal lighter material products only:

$$\text{VOC Content} = \frac{(\text{Certified Emissions} \times 100)}{\text{Certified Use Rate}}$$

"Adhesive remover" means a product designed exclusively for the removal of adhesives, caulk, and other bonding materials from either a specific substrate or a variety of substrates.

where

Certified emissions = (see definition in this section).

Certified use rate = (see definition in this section).

"ACP limit" means the maximum allowable ACP emissions during the compliance period specified in an ACP agreement approving an ACP, expressed to the nearest pound of VOC and calculated according to the following equation:

$$\text{ACP Limit} = (\text{Limit})_1 + (\text{Limit})_2 + K + (\text{Limit})_N$$

"Aerosol adhesive" means an aerosol product in which the spray mechanism is permanently housed in a nonrefillable can designed for hand-held application without the need for ancillary hoses or spray equipment.

where

$$\text{Limit} = \frac{(\text{ACP Standard}) \times (\text{Enforceable Sales})}{100}$$

"Aerosol cooking spray" means any aerosol product designed either to reduce sticking on cooking and baking surfaces or to be applied on food or both.

where

Enforceable sales = (see definition in this section).

ACP standard = (see definition in this section).

1,2,...N = each product in an ACP up to the maximum N.

"Aerosol product" means a pressurized spray system that dispenses product ingredients by means of a propellant or mechanically induced force. Aerosol product does not include pump sprays.

"ACP product" means any consumer product subject to the VOC standards specified in 9 VAC 5-40-7270 A, except those products that have been exempted as innovative products under 9 VAC 5-40-7290.

"Agricultural use" means the use of any pesticide or method or device for the control of pests in connection with the commercial production, storage, or processing of any animal or plant crop. Agricultural use does not include the sale or use of pesticides in properly labeled packages or containers that are intended for home use, use in structural pest control, industrial use, or institutional use. For the purposes of this definition only:

"ACP reformulation" or "ACP reformulated" means the process of reducing the VOC content of an ACP product within the period that an ACP is in effect to a level that is less than the current VOC content of the product.

"ACP standard" means either the ACP product's pre-ACP VOC content or the applicable VOC standard specified in 9 VAC 5-40-7270 A, whichever is the lesser of the two.

"ACP VOC standard" means the maximum allowable VOC content for an ACP product, determined as follows:

1. The applicable VOC standard specified in 9 VAC 5-40-7270 A for all ACP products except for charcoal lighter material;

2. For charcoal lighter material products only, the VOC standard for the purposes of this article shall be calculated according to the following equation:

1. "Home use" means use in a household or its immediate environment.

2. "Structural pest control" means a use requiring a license under the applicable state pesticide licensing requirement.

3. "Industrial use" means use for or in a manufacturing, mining, or chemical process or use in the operation of factories, processing plants, and similar sites.

4. "Institutional use" means use within the perimeter of, or on property necessary for the operation of, buildings such as hospitals, schools, libraries, auditoriums, and office complexes.

"Air freshener" means any consumer product including, but not limited to, sprays, wicks, powders, and crystals, designed for the purpose of masking odors or freshening, cleaning, scenting, or deodorizing the air. Air fresheners do not include products that are used on the human body, products that function primarily as cleaning products, disinfectant products claiming to deodorize by killing germs on surfaces, or institutional or industrial disinfectants when offered for sale solely through institutional and industrial channels of distribution. Air fresheners do include spray disinfectants and other products that are expressly represented for use as air fresheners, except institutional and industrial disinfectants when offered for sale through institutional and industrial channels of distribution. To determine whether a product is an air freshener, all verbal and visual representations regarding product use on the label or packaging and in the product's literature and advertising may be considered. The presence of, and representations about, a product's fragrance and ability to deodorize (resulting from surface application) shall not constitute a claim of air freshening.

"All other carbon-containing compounds" means all other compounds that contain at least one carbon atom and are not an "exempt compound" or an "LVP-VOC."

"All other forms" means all consumer product forms for which no form-specific VOC standard is specified. Unless specified otherwise by the applicable VOC standard, all other forms include, but are not limited to, solids, liquids, wicks, powders, crystals, and cloth or paper wipes (towelettes).

"Alternative control plan" or "ACP" means any emissions averaging program approved by the board pursuant to the provisions of this article.

"Antimicrobial hand or body cleaner or soap" means a cleaner or soap which is designed to reduce the level of microorganisms on the skin through germicidal activity. Antimicrobial hand or body cleaner or soap includes, but is not limited to, antimicrobial hand or body washes or cleaners, food handler hand washes, healthcare personnel hand washes, preoperative skin preparations, and surgical scrubs. Antimicrobial hand or body cleaner or soap does not include prescription drug products, antiperspirants, astringent or toner, deodorant, facial cleaner or soap, general-use hand or body cleaner or soap, hand dishwashing detergent (including antimicrobial), heavy-duty hand cleaner or soap, medicated astringent or medicated toner, and rubbing alcohol.

"Antiperspirant" means any product including, but not limited to, aerosols, roll-ons, sticks, pumps, pads, creams, and squeeze bottles, that is intended by the manufacturer to be used to reduce perspiration in the human axilla by at least 20% in at least 50% of a target population.

"Architectural coating" means a coating applied to stationary structures and their appurtenances, to mobile homes, to pavements, or to curbs.

"ASTM" means the American Society for Testing and Materials.

"Astringent or toner" means any product not regulated as a drug by the United States Food and Drug Administration that is applied to the skin for the purpose of cleaning or tightening

pores. This category also includes clarifiers and substrate-impregnated products. This category does not include any hand, face, or body cleaner or soap product, medicated astringent or medicated toner, cold cream, lotion, or antiperspirant.

"Automotive brake cleaner" means a cleaning product designed to remove oil, grease, brake fluid, brake pad material, or dirt from motor vehicle brake mechanisms.

"Automotive hard paste wax" means an automotive wax or polish that is:

1. Designed to protect and improve the appearance of automotive paint surfaces;
2. A solid at room temperature; and
3. Contains no water.

"Automotive instant detailer" means a product designed for use in a pump spray that is applied to the painted surface of automobiles and wiped off prior to the product being allowed to dry.

"Automotive rubbing or polishing compound" means a product designed primarily to remove oxidation, old paint, scratches or swirl marks, and other defects from the painted surfaces of motor vehicles without leaving a protective barrier.

"Automotive wax, polish, sealant, or glaze" means a product designed to seal out moisture, increase gloss, or otherwise enhance a motor vehicle's painted surfaces. Automotive wax, polish, sealant, or glaze includes, but is not limited to, products designed for use in auto body repair shops and drive-through car washes, as well as products designed for the general public. Automotive wax, polish, sealant, or glaze does not include automotive rubbing or polishing compounds, automotive wash and wax products, surfactant-containing car wash products, and products designed for use on unpainted surfaces such as bare metal, chrome, glass, or plastic.

"Automotive windshield washer fluid" means any liquid designed for use in a motor vehicle windshield washer system either as an antifreeze or for the purpose of cleaning, washing, or wetting the windshield. [*Automotive windshield washer fluid also includes liquids that are (i) packaged as a pre-wetted, single-use manual wipe and (ii) designed exclusively for cleaning, washing or wetting automotive glass surfaces for the purpose of restoring or maintaining visibility for the driver. Glass cleaners that are intended for use on other glass surfaces are not included in this definition.*] Automotive windshield washer fluid does not include fluids placed by the manufacturer in a new vehicle.

"Bathroom and tile cleaner" means a product designed to clean tile or surfaces in bathrooms. Bathroom and tile cleaners do not include products specifically designed to clean toilet bowls or toilet tanks.

"Bug and tar remover" means a product designed to remove either or both of the following from painted motor vehicle surfaces without causing damage to the finish: (i) biological residues, such as insect carcasses and tree sap and (ii) road grime, such as road tar, roadway paint markings, and asphalt.

"CARB" means the California Air Resources Board.

Final Regulations

"Carburetor or fuel-injection air intake cleaners" means a product designed to remove fuel deposits, dirt, or other contaminants from a carburetor, choke, throttle body of a fuel-injection system, or associated linkages. Carburetor or fuel-injection air intake cleaners do not include products designed exclusively to be introduced directly into the fuel lines or fuel storage tank prior to introduction into the carburetor or fuel injectors.

"Carpet and upholstery cleaner" means a cleaning product designed for the purpose of eliminating dirt and stains on rugs, carpeting, and the interior of motor vehicles or on household furniture or objects upholstered or covered with fabrics such as wool, cotton, nylon, or other synthetic fabrics. Carpet and upholstery cleaners include, but are not limited to, products that make fabric protectant claims. Carpet and upholstery cleaners do not include general purpose cleaners, spot removers, vinyl or leather cleaners, dry cleaning fluids, or products designed exclusively for use at industrial facilities engaged in furniture or carpet manufacturing.

"Certified emissions" means the emissions level for products approved under 9 VAC 5-40-7270 E, as determined pursuant to South Coast Air Quality Management District Rule 1174 Ignition Method Compliance Certification Protocol (see 9 VAC 5-20-21), expressed to the nearest 0.001 pound VOC per start.

"Certified use rate" means the usage level for products approved under 9 VAC 5-40-7270 E, as determined pursuant to South Coast Air Quality Management District Rule 1174 Ignition Method Compliance Certification Protocol, expressed to the nearest 0.001 pound certified product used per start.

"Charcoal lighter material" means any combustible material designed to be applied on, incorporated in, added to, or used with charcoal to enhance ignition. Charcoal lighter material does not include any of the following:

1. Electrical starters and probes,
2. Metallic cylinders using paper tinder,
3. Natural gas,
4. Propane, or
5. Fat wood.

"Colorant" means any pigment or coloring material used in a consumer product for an aesthetic effect or to dramatize an ingredient.

"Compliance period" means the period of time, not to exceed one year, for which the ACP limit and ACP emissions are calculated and for which compliance with the ACP limit is determined, as specified in the ACP agreement approving an ACP.

"Construction, panel, and floor covering adhesive" means any one-component adhesive that is designed exclusively for the installation, remodeling, maintenance, or repair of:

1. Structural and building components that include, but are not limited to, beams, trusses, studs, paneling (drywall or drywall laminates, fiberglass reinforced plastic (FRP), plywood, particle board, insulation board, pre-decorated

hardboard or tileboard, etc.), ceiling and acoustical tile, molding, fixtures, countertops or countertop laminates, cove or wall bases, and flooring or subflooring; or

2. Floor or wall coverings that include, but are not limited to, wood or simulated wood covering, carpet, carpet pad or cushion, vinyl-backed carpet, flexible flooring material, nonresilient flooring material, mirror tiles and other types of tiles, and artificial grass.

Construction, panel, and floor covering adhesive does not include floor seam sealer.

"Consumer" means a person who purchases or acquires a consumer product for personal, family, household, or institutional use. Persons acquiring a consumer product for resale are not consumers for that product.

"Consumer product" means a chemically formulated product used by household and institutional consumers including, but not limited to, detergents; cleaning compounds; polishes; floor finishes; cosmetics; personal care products; home, lawn, and garden products; disinfectants; sanitizers; aerosol paints; and automotive specialty products, but does not include other paint products, furniture coatings, or architectural coatings.

"Contact adhesive" means an adhesive that:

1. Is designed for application to both surfaces to be bonded together,
2. Is allowed to dry before the two surfaces are placed in contact with each other,
3. Forms an immediate bond that is impossible, or difficult, to reposition after both adhesive-coated surfaces are placed in contact with each other, and
4. Does not need sustained pressure or clamping of surfaces after the adhesive-coated surfaces have been brought together using sufficient momentary pressure to establish full contact between both surfaces.

Contact adhesive does not include rubber cements that are primarily intended for use on paper substrates.

"Container or packaging" means the part or parts of the consumer or institutional product that serve only to contain, enclose, incorporate, deliver, dispense, wrap, or store the chemically formulated substance or mixture of substances which is solely responsible for accomplishing the purposes for which the product was designed or intended. Containers or packaging include any article onto or into which the principal display panel and other accompanying literature or graphics are incorporated, etched, printed, or attached.

"Contact person" means a representative that has been designated by the responsible ACP party for the purpose of reporting or maintaining information specified in the ACP agreement approving an ACP.

"Crawling bug insecticide" means an insecticide product that is designed for use against ants, cockroaches, or other household crawling arthropods, including, but not limited to, mites, silverfish or spiders. Crawling bug insecticide does not include products designed to be used exclusively on humans

or animals or a house dust mite product. For the purposes of this definition only:

1. "House dust mite product" means a product whose label, packaging, or accompanying literature states that the product is suitable for use against house dust mites, but does not indicate that the product is suitable for use against ants, cockroaches, or other household crawling arthropods.
2. "House dust mite" means mites that feed primarily on skin cells shed in the home by humans and pets and which belong to the phylum Arthropoda, the subphylum Chelicerata, the class Arachnida, the subclass Acari, the order Astigmata, and the family Pyroglyphidae.

"Date-code" means the day, month, and year on which the consumer product was manufactured, filled, or packaged, or a code indicating such a date.

"Deodorant" means a product including, but not limited to, aerosols, roll-ons, sticks, pumps, pads, creams, and squeeze bottles, that is intended by the manufacturer to be used to minimize odor in the human axilla by retarding the growth of bacteria which cause the decomposition of perspiration.

"Device" means an instrument or contrivance (other than a firearm) that is designed for trapping, destroying, repelling, or mitigating a pest or other form of plant or animal life (other than human and other than bacteria, virus, or other microorganism on or in living human or other living animals); but not including equipment used for the application of pesticides when sold separately therefrom.

"Disinfectant" means a product intended to destroy or irreversibly inactivate infectious or other undesirable bacteria, pathogenic fungi, or viruses on surfaces or inanimate objects and whose label is registered under the FIFRA. Disinfectant does not include any of the following:

1. Products designed solely for use on humans or animals,
2. Products designed for agricultural use,
3. Products designed solely for use in swimming pools, therapeutic tubs, or hot tubs, or
4. Products that, as indicated on the principal display panel or label, are designed primarily for use as bathroom and tile cleaners, glass cleaners, general purpose cleaners, toilet bowl cleaners, or metal polishes.

"Distributor" means a person to whom a consumer product is sold or supplied for the purposes of resale or distribution in commerce, except that manufacturers, retailers, and consumers are not distributors.

"Double phase aerosol air freshener" means an aerosol air freshener with the liquid contents in two or more distinct phases that require the product container to be shaken before use to mix the phases, producing an emulsion.

"Dry cleaning fluid" means a nonaqueous liquid product designed and labeled exclusively for use on:

1. Fabrics that are labeled "for dry clean only," such as clothing or drapery; or
2. S-coded fabrics.

Dry cleaning fluid includes, but is not limited to, those products used by commercial dry cleaners and commercial businesses that clean fabrics such as draperies at the customer's residence or work place. Dry cleaning fluid does not include spot remover or carpet and upholstery cleaner. For the purposes of this definition, "S-coded fabric" means an upholstery fabric designed to be cleaned only with water-free spot cleaning products as specified by the American Furniture Manufacturers Association Joint Industry Fabrics Standards Committee, Woven and Knit Residential Upholstery Fabric Standards and Guidelines (see 9 VAC 5-20-21).

"Dusting aid" means a product designed to assist in removing dust and other soils from floors and other surfaces without leaving a wax or silicone based coating. Dusting aid does not include products that consist entirely of compressed gases for use in electronic or other specialty areas.

"Electronic cleaner" means a product designed specifically for the removal of dirt, grease, or grime from electrical equipment such as electric motors, circuit boards, electricity panels, and generators.

"Enforceable sales" means the total amount of an ACP product sold for use in the ~~Northern Virginia~~ applicable volatile organic compound emissions control ~~area~~ areas designated in 9 VAC 5-40-7240 during the applicable compliance period specified in the ACP agreement approving an ACP, as determined through enforceable sales records (expressed to the nearest pound, excluding product container and packaging).

"Enforceable sales record" means a written, point-of-sale record or another board-approved system of documentation from which the mass, in pounds (less product container and packaging), of an ACP product sold to the end user in the ~~Northern Virginia~~ applicable volatile organic compound emissions control ~~area~~ areas designated in 9 VAC 5-40-7240 during the applicable compliance period can be accurately documented. For the purposes of this article, enforceable sales records include, but are not limited to, the following types of records:

1. Accurate records of direct retail or other outlet sales to the end user during the applicable compliance period;
2. Accurate compilations, made by independent market surveying services, of direct retail or other outlet sales to the end users for the applicable compliance period, provided that a detailed method that can be used to verify data composing such summaries is submitted by the responsible ACP party and approved by the board; and
3. Other accurate product sales records acceptable to the board.

"Engine degreaser" means a cleaning product designed to remove grease, grime, oil and other contaminants from the external surfaces of engines and other mechanical parts.

"Exempt compound" means acetone, ethane, methyl acetate, parachlorobenzotrifluoride (1-chloro-4-trifluoromethyl benzene), or perchloroethylene (tetrachloroethylene).

"Fabric protectant" means a product designed to be applied to fabric substrates to protect the surface from soiling from dirt

Final Regulations

and other impurities or to reduce absorption of liquid into the fabric's fibers. Fabric protectant does not include waterproofers, products designed for use solely on leather, or products designed for use solely on fabrics which are labeled "for dry clean only" and sold in containers of 10 fluid ounces or less.

"Facial cleaner or soap" means a cleaner or soap designed primarily to clean the face. Facial cleaner or soap includes, but is not limited to, facial cleansing creams, gels, liquids, lotions, and substrate-impregnated forms. Facial cleaner or soap does not include prescription drug products, antimicrobial hand or body cleaner or soap, astringent or toner, general-use hand or body cleaner or soap, medicated astringent or medicated toner, or rubbing alcohol.

"Fat wood" means pieces of wood kindling with high naturally-occurring levels of sap or resin that enhance ignition of the kindling. Fat wood does not include kindling with substances added to enhance flammability, such as wax-covered or wax-impregnated wood-based products.

"FIFRA" means the Federal Insecticide, Fungicide, and Rodenticide Act (7 USC § 136-136y).

"Flea and tick insecticide" means an insecticide product that is designed for use against fleas, ticks, their larvae, or their eggs. Flea and tick insecticide does not include products that are designed to be used exclusively on humans or animals and their bedding.

"Flexible flooring material" means asphalt, cork, linoleum, no-wax, rubber, seamless vinyl and vinyl composite flooring.

"Floor polish or wax" means a wax, polish, or other product designed to polish, protect, or enhance floor surfaces by leaving a protective coating that is designed to be periodically replenished. Floor polish or wax does not include spray buff products, products designed solely for the purpose of cleaning floors, floor finish strippers, products designed for unfinished wood floors, and coatings subject to architectural coatings regulations.

"Floor seam sealer" means a product designed and labeled exclusively for bonding, fusing, or sealing (coating) seams between adjoining rolls of installed flexible sheet flooring.

"Floor wax stripper" means a product designed to remove natural or synthetic floor polishes or waxes through breakdown of the polish or wax polymers or by dissolving or emulsifying the polish or wax. Floor wax stripper does not include aerosol floor wax strippers or products designed to remove floor wax solely through abrasion.

"Flying bug insecticide" means an insecticide product that is designed for use against flying insects or other flying arthropods, including but not limited to flies, mosquitoes, moths, or gnats. Flying bug insecticide does not include wasp and hornet insecticide, products that are designed to be used exclusively on humans or animals, or a moth-proofing product. For the purposes of this definition only, "moth-proofing product" means a product whose label, packaging, or accompanying literature indicates that the product is designed to protect fabrics from damage by moths, but does not indicate that the product is suitable for use against flying insects or other flying arthropods.

"Fragrance" means a substance or complex mixture of aroma chemicals, natural essential oils, and other functional components, the sole purpose of which is to impart an odor or scent, or to counteract a malodor.

"Furniture maintenance product" means a wax, polish, conditioner, or other product designed for the purpose of polishing, protecting or enhancing finished wood surfaces other than floors. Furniture maintenance products do not include dusting aids, products designed solely for the purpose of cleaning, and products designed to leave a permanent finish such as stains, sanding sealers, and lacquers.

"Furniture coating" means a paint designed for application to room furnishings including, but not limited to, cabinets (kitchen, bath and vanity), tables, chairs, beds, and sofas.

"Gel" means a colloid in which the disperse phase has combined with the continuous phase to produce a semisolid material, such as jelly.

"General purpose adhesive" means a nonaerosol adhesive designed for use on a variety of substrates. General purpose adhesive does not include:

1. Contact adhesives,
2. Construction, panel, and floor covering adhesives,
3. Adhesives designed exclusively for application on one specific category of substrates (i.e., substrates that are composed of similar materials, such as different types of metals, paper products, ceramics, plastics, rubbers, or vinyls), or
4. Adhesives designed exclusively for use on one specific category of articles (i.e., articles that may be composed of different materials but perform a specific function, such as gaskets, automotive trim, weather-stripping, or carpets).

"General purpose cleaner" means a product designed for general all-purpose cleaning, in contrast to cleaning products designed to clean specific substrates in certain situations. General purpose cleaner includes products designed for general floor cleaning, kitchen or countertop cleaning, and cleaners designed to be used on a variety of hard surfaces and does not include general purpose degreasers and electronic cleaners.

"General purpose degreaser" means a product designed to remove or dissolve grease, grime, oil and other oil-based contaminants from a variety of substrates, including automotive or miscellaneous metallic parts. General purpose degreaser does not include engine degreaser, general purpose cleaner, adhesive remover, electronic cleaner, metal polish or cleanser, products used exclusively in solvent cleaning tanks or related equipment, or products that are (i) sold exclusively to establishments which manufacture or construct goods or commodities; and (ii) labeled "not for retail sale." Solvent cleaning tanks or related equipment includes, but is not limited to, cold cleaners, vapor degreasers, conveyORIZED degreasers, film cleaning machines, or products designed to clean miscellaneous metallic parts by immersion in a container.

"General-use hand or body cleaner or soap" means a cleaner or soap designed to be used routinely on the skin to clean or remove typical or common dirt and soils. General-use hand or body cleaner or soap includes, but is not limited to, hand or body washes, dual-purpose shampoo-body cleaners, shower or bath gels, and moisturizing cleaners or soaps. General-use hand or body cleaner or soap does not include prescription drug products, antimicrobial hand or body cleaner or soap, astringent or toner, facial cleaner or soap, hand dishwashing detergent (including antimicrobial), heavy-duty hand cleaner or soap, medicated astringent or medicated toner, or rubbing alcohol.

"Glass cleaner" means a cleaning product designed primarily for cleaning surfaces made of glass. Glass cleaner does not include products designed solely for the purpose of cleaning optical materials used in eyeglasses, photographic equipment, scientific equipment, and photocopying machines.

"Gross sales" means the estimated total sales of an ACP product in the ~~Northern Virginia~~ *applicable volatile organic compound emissions control area areas designated in 9 VAC 5-40-7240* during a specific compliance period (expressed to the nearest pound), based on either of the following methods, whichever the responsible ACP party demonstrates to the satisfaction of the board will provide an accurate sales estimate:

1. Apportionment of national or regional sales of the ACP product to sales, determined by multiplying the average national or regional sales of the product by the fraction of the national or regional population, respectively, that is represented by the ~~Northern Virginia volatile organic compound emissions control area's~~ *current population of the applicable volatile organic compound emissions control areas designated in 9 VAC 5-40-7240*; or
2. Another documented method that provides an accurate estimate of the total current sales of the ACP product.

"Hair mousse" means a hairstyling foam designed to facilitate styling of a coiffure and provide limited holding power.

"Hair shine" means a product designed for the primary purpose of creating a shine when applied to the hair. Hair shine includes, but is not limited to, dual-use products designed primarily to impart a sheen to the hair. Hair shine does not include hair spray, hair mousse, hair styling gel or spray gel, or products whose primary purpose is to condition or hold the hair.

"Hair styling gel" means a high viscosity, often gelatinous, product that contains a resin and is designed for the application to hair to aid in styling and sculpting of the hair coiffure.

"Hair spray" means a consumer product designed primarily for the purpose of dispensing droplets of a resin on and into a hair coiffure that will impart sufficient rigidity to the coiffure to establish or retain the style for a period of time.

"Heavy-duty hand cleaner or soap" means a product designed to clean or remove difficult dirt and soils such as oil, grease, grime, tar, shellac, putty, printer's ink, paint, graphite, cement, carbon, asphalt, or adhesives from the hand with or without the use of water. Heavy-duty hand cleaner or soap does not

include prescription drug products, antimicrobial hand or body cleaner or soap, astringent or toner, facial cleaner or soap, general-use hand or body cleaner or soap, medicated astringent or medicated toner, or rubbing alcohol.

"Herbicide" means a pesticide product designed to kill or retard a plant's growth, but excludes products that are (i) for agricultural use, or (ii) restricted materials that require a permit for use and possession.

"High volatility organic compound" or "HVOC" means a volatile organic compound that exerts a vapor pressure greater than 80 millimeters of mercury (mm Hg) when measured at 20 degrees Centigrade.

"Household product" means a consumer product that is primarily designed to be used inside or outside of living quarters or residences that are occupied or intended for occupation by people, including the immediate surroundings.

"Insecticide" means a pesticide product that is designed for use against insects or other arthropods, but excluding products that are:

1. For agricultural use;
2. For a use which requires a structural pest control license under applicable state laws or regulations; or
3. Restricted materials that require a permit for use and possession.

"Insecticide fogger" means an insecticide product designed to release all or most of its content as a fog or mist into indoor areas during a single application.

"Institutional product" or "industrial and institutional (I&I) product" means a consumer product that is designed for use in the maintenance or operation of an establishment that:

1. Manufactures, transports, or sells goods or commodities, or provides services for profit; or
2. Is engaged in the nonprofit promotion of a particular public, educational, or charitable cause.

Establishments include, but are not limited to, government agencies, factories, schools, hospitals, sanitariums, prisons, restaurants, hotels, stores, automobile service and parts centers, health clubs, theaters, or transportation companies. Institutional product does not include household products and products that are incorporated into or used exclusively in the manufacture or construction of the goods or commodities at the site of the establishment.

"Label" means written, printed, or graphic matter affixed to, applied to, attached to, blown into, formed, molded into, embossed on, or appearing upon a consumer product or consumer product package, for purposes of branding, identifying, or giving information with respect to the product or to the contents of the package.

"Laundry prewash" means a product that is designed for application to a fabric prior to laundering and that supplements and contributes to the effectiveness of laundry detergents or provides specialized performance.

Final Regulations

"Laundry starch product" means a product that is designed for application to a fabric, either during or after laundering, to impart and prolong a crisp, fresh look and may also act to help ease ironing of the fabric. Laundry starch product includes, but is not limited to, fabric finish, sizing, and starch.

"Lawn and garden insecticide" means an insecticide product designed primarily to be used in household lawn and garden areas to protect plants from insects or other arthropods.

"Liquid" means a substance or mixture of substances that is capable of a visually detectable flow as determined under ASTM "Standard Test Method for Determining Whether a Material is a Liquid or a Solid" (see 9 VAC 5-20-21). Liquid does not include powders or other materials that are composed entirely of solid particles.

"Lubricant" means a product designed to reduce friction, heat, noise, or wear between moving parts, or to loosen rusted or immovable parts or mechanisms. Lubricant does not include automotive power steering fluids; products for use inside power generating motors, engines, and turbines, and their associated power-transfer gearboxes; two-cycle oils or other products designed to be added to fuels; products for use on the human body or animals; or products that are:

1. Sold exclusively to establishments which manufacture or construct goods or commodities, and
2. Labeled "not for retail sale."

"LVP content" means the total weight, in pounds, of LVP-VOC in an ACP product multiplied by 100 and divided by the product's total net weight (in pounds, excluding container and packaging), expressed to the nearest 0.1.

"LVP-VOC" means a chemical compound or mixture that contains at least one carbon atom and meets one of the following:

1. Has a vapor pressure less than 0.1 mm Hg at 20 degrees Centigrade, as determined by CARB Method 310 (see 9 VAC 5-20-21);
2. Is a chemical compound with more than 12 carbon atoms, or a chemical mixture composed solely of compounds with more than 12 carbon atoms, and the vapor pressure is unknown;
3. Is a chemical compound with a boiling point greater than 216 degrees Centigrade, as determined by CARB Method 310 (see 9 VAC 5-20-21); or
4. Is the weight percent of a chemical mixture that boils above 216 degrees Centigrade, as determined by CARB Method 310 (see 9 VAC 5-20-21).

For the purposes of the definition of LVP-VOC, "chemical compound" means a molecule of definite chemical formula and isomeric structure, and "chemical mixture" means a substrate composed of two or more chemical compounds.

"Manufacturer" means a person who imports, manufactures, assembles, produces, packages, repackages, or relabels a consumer product.

"Medicated astringent or medicated toner" means a product regulated as a drug by the United States Food and Drug

Administration that is applied to the skin for the purpose of cleaning or tightening pores. Medicated astringent or medicated toner includes, but is not limited to, clarifiers and substrate-impregnated products. Medicated astringent or medicated toner does not include hand, face, or body cleaner or soap products, astringent or toner, cold cream, lotion, antiperspirants, or products that must be purchased with a doctor's prescription.

"Medium volatility organic compound" or "MVOC" means a volatile organic compound that exerts a vapor pressure greater than 2 mm Hg and less than or equal to 80 mm Hg when measured at 20 degrees Centigrade.

"Metal polish or cleanser" means a product designed primarily to improve the appearance of finished metal, metallic, or metallized surfaces by physical or chemical action. To "improve the appearance" means to remove or reduce stains, impurities, or oxidation from surfaces or to make surfaces smooth and shiny. Metal polish or cleanser includes, but is not limited to, metal polishes used on brass, silver, chrome, copper, stainless steel and other ornamental metals. Metal polish or cleanser does not include automotive wax, polish, sealant, or glaze, wheel cleaner, paint remover or stripper, products designed and labeled exclusively for automotive and marine detailing, or products designed for use in degreasing tanks.

"Missing data days" means the number of days in a compliance period for which the responsible ACP party has failed to provide the required enforceable sales or VOC content data to the board, as specified in the ACP agreement.

"Mist spray adhesive" means an aerosol that is not a special purpose spray adhesive and which delivers a particle or mist spray, resulting in the formation of fine, discrete particles that yield a generally uniform and smooth application of adhesive to the substrate.

"Multi-purpose dry lubricant" means a lubricant that is:

1. Designed and labeled to provide lubricity by depositing a thin film of graphite, molybdenum disulfide ("moly"), or polytetrafluoroethylene or closely related fluoropolymer ("teflon") on surfaces, and
2. Designed for general purpose lubrication, or for use in a wide variety of applications.

"Multi-purpose lubricant" means a lubricant designed for general purpose lubrication, or for use in a wide variety of applications. Multi-purpose lubricant does not include multi-purpose dry lubricants, penetrants, or silicone-based multi-purpose lubricants.

"Multi-purpose solvent" means an organic liquid designed to be used for a variety of purposes, including cleaning or degreasing of a variety of substrates, or thinning, dispersing, or dissolving other organic materials. Multi-purpose solvent includes solvents used in institutional facilities, except for laboratory reagents used in analytical, educational, research, scientific, or other laboratories. Multi-purpose solvent does not include solvents used in cold cleaners, vapor degreasers, conveyORIZED degreasers or film cleaning machines, or solvents that are incorporated into, or used exclusively in the

manufacture or construction of, the goods or commodities at the site of the establishment.

"Nail polish" means a clear or colored coating designed for application to the fingernails or toenails and including but not limited to, lacquers, enamels, acrylics, base coats, and top coats.

"Nail polish remover" means a product designed to remove nail polish and coatings from fingernails or toenails.

"Nonaerosol product" means a consumer product that is not dispensed by a pressurized spray system.

"Noncarbon containing compound" means a compound that does not contain carbon atoms.

"Nonresilient flooring" means flooring of a mineral content that is not flexible. Nonresilient flooring includes but is not limited to terrazzo, marble, slate, granite, brick, stone, ceramic tile, and concrete.

"Nonselective terrestrial herbicide" means a terrestrial herbicide product that is toxic to plants without regard to species.

"One-product business" means a responsible ACP party that sells, supplies, offers for sale, or manufactures for use in the ~~Northern Virginia~~ applicable volatile organic compound emissions control area areas designated in 9 VAC 5-40-7240:

1. Only one distinct ACP product, sold under one product brand name, which is subject to the requirements of 9 VAC 5-40-7270; or
2. Only one distinct ACP product line subject to the requirements of 9 VAC 5-40-7270, in which all the ACP products belong to the same product category and the VOC contents in the products are within 98.0% and 102.0% of the arithmetic mean of the VOC contents over the entire product line.

"Oven cleaner" means a cleaning product designed to clean and to remove dried food deposits from oven walls.

"Paint" means a pigmented liquid, liquefiable, or mastic composition designed for application to a substrate in a thin layer which is converted to an opaque solid film after application and is used for protection, decoration or identification, or to serve some functional purpose such as the filling or concealing of surface irregularities or the modification of light and heat radiation characteristics.

"Paint remover or stripper" means a product designed to strip or remove paints or other related coatings, by chemical action, from a substrate without markedly affecting the substrate. Paint remover or stripper does not include multi-purpose solvents, paint brush cleaners, products designed and labeled exclusively to remove graffiti, and hand cleaner products that claim to remove paints and other related coatings from skin.

"Penetrant" means a lubricant designed and labeled primarily to loosen metal parts that have bonded together due to rusting, oxidation, or other causes. Penetrant does not include multi-purpose lubricants that claim to have penetrating qualities but are not labeled primarily to loosen bonded parts.

"Pesticide" means and includes a substance or mixture of substances labeled, designed, or intended for use in preventing, destroying, repelling, or mitigating a pest, or a substance or mixture of substances labeled, designed, or intended for use as a defoliant, desiccant, or plant regulator, provided that the term "pesticide" will not include a substance, mixture of substances, or device that the U.S. Environmental Protection Agency does not consider to be a pesticide.

"Pre-ACP VOC content" means the lowest VOC content of an ACP product between January 1, 1990, and the date on which the application for a proposed ACP is submitted to the board, based on the data obtained from accurate records available to the board that yields the lowest VOC content for the product.

"Principal display panel" means that part of a label that is so designed as to most likely be displayed, presented, shown, or examined under normal and customary conditions of display or purchase. Whenever a principal display panel appears more than once, all requirements pertaining to the principal display panel shall pertain to all such principal display panels.

"Product brand name" means the name of the product exactly as it appears on the principal display panel of the product.

"Product category" means the applicable category that best describes the product as listed in this section.

"Product line" means a group of products of identical form and function belonging to the same product category.

"Propellant" means a liquefied or compressed gas that is used in whole or in part, such as a cosolvent, to expel a liquid or other material from the same self-pressurized container or from a separate container.

"Pump spray" means a packaging system in which the product ingredients within the container are not under pressure and in which the product is expelled only while a pumping action is applied to a button, trigger, or other actuator.

"Reconcile or reconciliation" means to provide sufficient VOC emission reductions to completely offset shortfalls generated under the ACP during an applicable compliance period.

"Reconciliation of shortfalls plan" means the plan to be implemented by the responsible ACP party when shortfalls have occurred, as approved by the board pursuant to 9 VAC 5-40-7280 B 1 g (10).

"Responsible party" means the company, firm, or establishment which is listed on the product's label. If the label lists two companies, firms, or establishments, the responsible party is the party that the product was "manufactured for" or "distributed by," as noted on the label.

"Responsible ACP party" means the company, firm, or establishment which is listed on the ACP product's label. If the label lists two or more companies, firms, or establishments, the responsible ACP party is the party that the ACP product was "manufactured for" or "distributed by," as noted on the label.

"Restricted materials" means pesticides established as restricted materials under the Virginia Pesticide Control Act (§ 3.1-249.27 et seq. of the Code of Virginia).

Final Regulations

"Retailer" means a person who sells, supplies, or offers consumer products for sale directly to consumers.

"Retail outlet" means an establishment at which consumer products are sold, supplied, or offered for sale directly to consumers.

"Roll-on product" means an antiperspirant or deodorant that dispenses active ingredients by rolling a wetted ball or wetted cylinder on the affected area.

"Rubber and vinyl protectant" means a product designed to protect, preserve or renew vinyl, rubber, and plastic on vehicles, tires, luggage, furniture, and household products such as vinyl covers, clothing, and accessories. Rubber and vinyl protectant does not include products primarily designed to clean the wheel rim, such as aluminum or magnesium wheel cleaners, and tire cleaners that do not leave an appearance-enhancing or protective substance on the tire.

"Rubbing alcohol" means a product containing isopropyl alcohol (also called isopropanol) or denatured ethanol and labeled for topical use, usually to decrease germs in minor cuts and scrapes, to relieve minor muscle aches, as a rubefacient, and for massage.

"Sealant and caulking compound" means a product with adhesive properties that is designed to fill, seal, waterproof, or weatherproof gaps or joints between two surfaces. Sealant and caulking compound does not include roof cements and roof sealants; insulating foams; removable caulking compounds; clear or paintable or water resistant caulking compounds; floor seam sealers; products designed exclusively for automotive uses; or sealers that are applied as continuous coatings. Sealant and caulking compound also does not include units of product, less packaging, which weigh more than one pound and consist of more than 16 fluid ounces. For the purposes of this definition only, "removable caulking compounds" means a compound that temporarily seals windows or doors for three- to six-month time intervals; and "clear or paintable or water resistant caulking compounds" means a compound that contains no appreciable level of opaque fillers or pigments, transmits most or all visible light through the caulk when cured, is paintable, and is immediately resistant to precipitation upon application.

"Semisolid" means a product that, at room temperature, will not pour, but will spread or deform easily, including gels, pastes, and greases.

"Shaving cream" means an aerosol product which dispenses a foam lather intended to be used with a blade or cartridge razor or other wet-shaving system, in the removal of facial or other bodily hair.

"Shortfall" means the ACP emissions minus the ACP limit when the ACP emissions were greater than the ACP limit during a specified compliance period, expressed to the nearest pound of VOC. Shortfall does not include emissions occurring prior to the date that the ACP agreement approving an ACP is signed by the board.

"Silicone-based multi-purpose lubricant" means a lubricant that is:

1. Designed and labeled to provide lubricity primarily through the use of silicone compounds including, but not limited to, polydimethylsiloxane, and

2. Designed and labeled for general purpose lubrication, or for use in a wide variety of applications.

Silicone-based multi-purpose lubricant does not include products designed and labeled exclusively to release manufactured products from molds.

"Single phase aerosol air freshener" means an aerosol air freshener with the liquid contents in a single homogeneous phase and which does not require that the product container be shaken before use.

"Small business" means any stationary source that: is owned or operated by a person that employs 100 or fewer individuals; is a small business concern as defined in the federal Small Business Act; is not a major stationary source; does not emit 50 tons or more per year of any regulated pollutant; and emits less than 75 tons per year of all regulated pollutants.

"Solid" means a substance or mixture of substances which, either whole or subdivided (such as the particles composing a powder), is not capable of visually detectable flow as determined under ASTM "Standard Test Method for Determining Whether a Material is a Liquid or a Solid" (see 9 VAC 5-20-21).

"Special purpose spray adhesive" means an aerosol adhesive that meets any of the following definitions:

1. "Mounting adhesive" means an aerosol adhesive designed to permanently mount photographs, artwork, or other drawn or printed media to a backing (paper, board, cloth, etc.) without causing discoloration to the artwork.

2. "Flexible vinyl adhesive" means an aerosol adhesive designed to bond flexible vinyl to substrates. "Flexible vinyl" means a nonrigid polyvinyl chloride plastic with at least 5%, by weight, of plasticizer content. A plasticizer is a material, such as a high boiling point organic solvent, that is incorporated into a plastic to increase its flexibility, workability, or distensibility, and may be determined using ASTM "Standard Practice for Packed Column Gas Chromatography" (see 9 VAC 5-20-21) or from product formulation data.

3. "Polystyrene foam adhesive" means an aerosol adhesive designed to bond polystyrene foam to substrates.

4. "Automobile headliner adhesive" means an aerosol adhesive designed to bond together layers in motor vehicle headliners.

5. "Polyolefin adhesive" means an aerosol adhesive designed to bond polyolefins to substrates.

6. "Laminate repair or edgebanding adhesive" means an aerosol adhesive designed for:

- a. The touch-up or repair of items laminated with high pressure laminates (e.g., lifted edges, delaminates, etc.); or

- b. The touch-up, repair, or attachment of edgebonding materials, including but not limited to, other laminates,

synthetic marble, veneers, wood molding, and decorative metals.

For the purposes of this definition, "high pressure laminate" means sheet materials that consist of paper, fabric, or other core material that have been laminated at temperatures exceeding 265 degrees Fahrenheit and at pressures between 1,000 and 1,400 psi.

7. "Automotive engine compartment adhesive" means an aerosol adhesive designed for use in motor vehicle under-the-hood applications which require oil and plasticizer resistance, as well as high shear strength, at temperatures of 200-275 degrees Fahrenheit.

"Spot remover" means a product designed to clean localized areas or remove localized spots or stains on cloth or fabric, such as drapes, carpets, upholstery, and clothing, that does not require subsequent laundering to achieve stain removal. Spot remover does not include dry cleaning fluid, laundry prewash, carpet and upholstery cleaner, or multi-purpose solvent.

"Spray buff product" means a product designed to restore a worn floor finish in conjunction with a floor buffing machine and special pad.

"Stick product" means an antiperspirant or a deodorant that contains active ingredients in a solid matrix form, and that dispenses the active ingredients by frictional action on the affected area.

"Structural waterproof adhesive" means an adhesive whose bond lines are resistant to conditions of continuous immersion in fresh or salt water and that conforms with the definition in the federal consumer products regulation, 40 CFR Part 59, Subpart C.

"Surplus reduction" means the ACP limit minus the ACP emissions when the ACP limit was greater than the ACP emissions during a given compliance period, expressed to the nearest pound of VOC. Except as provided in 9 VAC 5-40-7280 F 3, surplus reduction does not include emissions occurring prior to the date that the ACP agreement approving an ACP is signed by the board.

"Surplus trading" means the buying, selling, or transfer of surplus reductions between responsible ACP parties.

"Terrestrial" means to live on or grow from land.

"Tire sealant and inflation" means a pressurized product that is designed to temporarily inflate and seal a leaking tire.

"Total maximum historical emissions" or "TMHE" means the total VOC emissions from all ACP products for which the responsible ACP party has failed to submit the required VOC content or enforceable sales records. The TMHE shall be calculated for each ACP product during each portion of a compliance period for which the responsible ACP party has failed to provide the required VOC content or enforceable sales records. The TMHE shall be expressed to the nearest pound and calculated according to the following calculation:

$$TMHE = (MHE)_1 + (MHE)_2 + K + (MHE)_N$$

$$MHE = \frac{(\text{Highest VOC Content} \times \text{Highest Sales}) \times \text{Missing Data Days}}{100 \times 365}$$

where

Highest VOC content = the maximum VOC content which the ACP product has contained in the previous five years, if the responsible ACP party has failed to meet the requirements for reporting VOC content data (for any portion of the compliance period), as specified in the ACP agreement approving the ACP, or the current actual VOC content, if the responsible ACP party has provided all required VOC Content data (for the entire compliance period), as specified in the ACP agreement.

Highest sales = the maximum one-year gross sales of the ACP product in the previous five years, if the responsible ACP party has failed to meet the requirements for reporting enforceable sales records (for any portion of the compliance period), as specified in the ACP agreement approving the ACP, or the current actual one-year enforceable sales for the product, if the responsible ACP party has provided all required enforceable sales records (for the entire compliance period), as specified in the ACP agreement approving the ACP.

Missing Data Days = (see definition in this section).

1, 2, ..., N = each product in an ACP, up to the maximum N, for which the responsible ACP party has failed to submit the required enforceable sales or VOC content data as specified in the ACP agreement.

"Type A propellant" means a compressed gas such as CO sub2 , N sub2 , N sub2 O, or compressed air that is used as a propellant and is either incorporated with the product or contained in a separate chamber within the product's packaging.

"Type B propellant" means a halocarbon that is used as a propellant including chlorofluorocarbons (CFCs), hydrochlorofluorocarbons (HCFCs), and hydrofluorocarbons (HFCs).

"Type C propellant" means a propellant that is not a Type A or Type B propellant, including propane, isobutane, n-butane, and dimethyl ether (also known as dimethyl oxide).

"Undercoating" means an aerosol product designed to impart a protective, nonpaint layer to the undercarriage, trunk interior, or firewall of motor vehicles to prevent the formation of rust or to deaden sound. Undercoating includes, but is not limited to, rubberized, mastic, or asphaltic products.

"Usage directions" means the text or graphics on the product's principal display panel, label, or accompanying literature which describes to the end user how and in what quantity the product is to be used.

"VOC content" means, except for charcoal lighter products, the total weight of VOC in a product expressed as a percentage of the product weight (exclusive of the container or packaging), as determined pursuant to 9 VAC 5-40-7340 B and C.

For charcoal lighter material products only,

$$VOC \text{ Content} = \frac{(\text{Certified Emissions} \times 100)}{\text{Certified Use Rate}}$$

where

Final Regulations

Certified emissions = (see definition in this section).

Certified use rate = (see definition in this section).

"Volatile organic compound" or "VOC" means volatile organic compound as defined in 9 VAC 5-10-20.

"Wasp and hornet insecticide" means an insecticide product that is designed for use against wasps, hornets, yellow jackets or bees by allowing the user to spray from a distance a directed stream or burst at the intended insects or their hiding place.

"Waterproofer" means a product designed and labeled exclusively to repel water from fabric or leather substrates. Waterproofer does not include fabric protectants.

"Wax" means a material or synthetic thermoplastic substance generally of high molecular weight hydrocarbons or high molecular weight esters of fatty acids or alcohols, except glycerol and high polymers (plastics). Wax includes, but is not limited to, substances derived from the secretions of plants and animals such as carnauba wax and beeswax, substances of a mineral origin such as ozocerite and paraffin, and synthetic polymers such as polyethylene.

"Web spray adhesive" means an aerosol adhesive which is not a mist spray or special purpose spray adhesive.

"Wood floor wax" means wax-based products for use solely on wood floors.

"Working day" means a day between Monday through Friday, inclusive, except for federal holidays.

9 VAC 5-40-7270. Standard for volatile organic compounds.

A. Except as provided in 9 VAC 5-40-7250, 9 VAC 5-40-7280, and 9 VAC 5-40-7290, no person shall (i) sell, supply, or offer for sale a consumer product manufactured on or after ~~July 1, 2005~~ *the applicable compliance date specified in 9 VAC 5-40-7330*, or (ii) manufacture for sale a consumer product on or after ~~July 1, 2005~~ *the applicable compliance date specified in 9 VAC 5-40-7330*, that contains volatile organic compounds in excess of the limits specified in Table 4-50A.

TABLE 4-50A

Product Category: Percent VOC by Weight

Adhesives

Aerosol

Mist spray: 65%

Web spray: 55%

Special purpose spray adhesives

Mounting, automotive engine compartment, and flexible vinyl: 70%

Polystyrene foam and automotive headliner: 65%

Polyolefin and laminate repair/Edgebanding: 60%

Contact: 80%

Construction, panel, and floor covering: 15%

General purpose: 10%

Structural waterproof: 15%

Air fresheners

Single-phase aerosols: 30%

Double-phase aerosols: 25%

Liquids/Pump sprays: 18%

Solids/Gels: 3%

Antiperspirants

Aerosol: 40% HVOC/10% MVOC

Nonaerosol: 0% HVOC/ [~~40%~~ 0%] MVOC

Automotive brake cleaners: 45%

Automotive rubbing or polishing compound: 17%

Automotive wax, polish, sealant, or glaze

Hard paste waxes: 45%

Instant detailers: 3%

All other forms: 15%

Automotive windshield washer fluids: 35%

Bathroom and tile cleaners

Aerosols: 7%

All other forms: 5%

Bug and tar remover: 40%

Carburetor or fuel-injection air intake cleaners: 45%

Carpet and upholstery cleaners

Aerosols: 7%

Nonaerosols (dilutables): 0.1%

Nonaerosols (ready-to-use): 3.0%

Charcoal lighter material: see subsection E of this section.

Cooking spray, aerosols: 18%

Deodorants

Aerosol: 0% HVOC/10% MVOC

Nonaerosol: 0% HVOC/0% MVOC

Dusting aids

Aerosols: 25%

All other forms: 7%

Engine degreasers

Aerosol: 35%

Nonaerosol: 5%

Fabric protectants: 60%

Floor polishes/Waxes

Products for flexible flooring materials: 7%

Products for nonresilient flooring: 10%

Wood floor wax: 90%

Floor wax strippers, nonaerosol: see 9 VAC 5-40-7270 G

Furniture maintenance products

Aerosols: 17%

All other forms except solid or paste: 7%

General purpose cleaners

Aerosols: 10%

Nonaerosols: 4%

General purpose degreasers

Aerosols: 50%

Nonaerosols: 4%

Glass cleaners

Aerosols: 12%

Nonaerosols: 4%

Hair mousses: 6%
Hair shines: 55%
Hair sprays: 55%
Hair styling gels: 6%
Heavy-duty hand cleaner or soap: 8%

Insecticides
Crawling bug (aerosol): 15%
Crawling bug (all other forms): 20%
Flea and tick: 25%
Flying bug (aerosol): 25%
Flying bug (all other forms): 35%
Foggers: 45%
Lawn and garden (all other forms): 20%
Lawn and garden (nonaerosol): 3%
Wasp and hornet: 40%

Laundry prewash
Aerosols/Solids: 22%
All other forms: 5%

Laundry starch products: 5%

Metal polishes and cleansers: 30%

Multi-purpose lubricant (excluding solid or semi-solid products): 50%

Nail polish remover: 75%

Nonselective terrestrial herbicide, nonaerosols: 3%

Oven cleaners
Aerosols/Pump sprays: 8%
Liquids: 5%

Paint remover or strippers: 50%

Penetrants: 50%

Rubber and vinyl protectants
Nonaerosols: 3%
Aerosols: 10%

Sealants and caulking compounds: 4%

Shaving creams: 5%

Silicone-based multi-purpose lubricants (excluding solid or semi-solid products): 60%

Spot removers
Aerosols: 25%
Nonaerosols: 8%

Tire sealants and inflators: 20%

Undercoatings, aerosols: 40%

B. No person shall sell, supply, offer for sale, or manufacture for sale an antiperspirant or a deodorant that contains a compound that has been defined as a toxic pollutant in 9 VAC 5-60-210 C.

C. Provisions follow concerning products that are diluted prior to use.

1. For consumer products for which the label, packaging, or accompanying literature specifically states that the product should be diluted with water or non-VOC solvent prior to use, the limits specified in Table 4-50A shall apply to the product only after the minimum recommended dilution has taken place. For purposes of this subsection, "minimum recommended dilution" shall not include recommendations for incidental use of a concentrated product to deal with limited special applications such as hard-to-remove soils or stains.

2. For consumer products for which the label, packaging, or accompanying literature states that the product should be diluted with a VOC solvent prior to use, the limits specified in Table 4-50A shall apply to the product only after the maximum recommended dilution has taken place.

D. For those consumer products that are registered under FIFRA, the effective date of the VOC standards is ~~July 1, 2006~~ *one year after the applicable compliance date specified in 9 VAC 5-40-7330.*

E. The following requirements shall apply to all charcoal lighter material products:

1. Effective ~~July 1, 2005~~ *as of the applicable compliance date specified in 9 VAC 5-40-7330*, no person shall (i) sell, supply, or offer for sale a charcoal lighter material product manufactured on or after ~~July 1, 2005~~ *the applicable compliance date* or (ii) manufacture for sale a charcoal lighter material product unless at the time of the transaction:

a. The manufacturer can demonstrate to the board's satisfaction that they have been issued a currently effective certification by CARB under the Consumer Products provisions under Subchapter 8.5, Article 2, § 94509(h), of Title 17 of the California Code of Regulations (see 9 VAC 5-20-21). This certification remains in effect for as long as the CARB certification remains in effect. A manufacturer claiming such a certification on this basis must submit to the board a copy of the certification decision (i.e., the Executive Order), including all conditions established by CARB applicable to the certification.

b. The manufacturer or distributor of the charcoal lighter material has been issued a currently effective certification pursuant to subdivision 2 of this subsection.

c. The charcoal lighter material meets the formulation criteria and other conditions specified in the applicable ACP agreement issued pursuant to subdivision 2 of this subsection.

d. The product usage directions for the charcoal lighter material are the same as those provided to the board pursuant to subdivision 2 c of this subsection.

2. Provisions follow concerning certification requirements.

a. No charcoal lighter material formulation shall be certified under this subdivision unless the applicant for certification demonstrates to the board's satisfaction that the VOC emissions from the ignition of charcoal with the charcoal lighter material are less than or equal to 0.020 pound of VOC per start, using the procedures specified in

Final Regulations

the South Coast Air Quality Management District Rule 1174 Ignition Method Compliance Certification Protocol (see 9 VAC 5-20-21). The provisions relating to LVP-VOC in 9 VAC 5-40-7250 F and 9 VAC 5-40-7260 C shall not apply to a charcoal lighter material subject to the requirements of 9 VAC 5-40-7270 A and E.

b. The board may approve alternative test procedures which are shown to provide equivalent results to those obtained using the South Coast Air Quality Management District Rule 1174 Ignition Method Compliance Certification Protocol (see 9 VAC 5-20-21).

c. A manufacturer or distributor of charcoal lighter material may apply to the board for certification of a charcoal lighter material formulation in accordance with this subdivision. The application shall be in writing and shall include, at a minimum, the following:

(1) The results of testing conducted pursuant to the procedures specified in South Coast Air Quality Management District Rule 1174 Testing Protocol (see 9 VAC 5-20-21); and

(2) The exact text or graphics that will appear on the charcoal lighter material's principal display panel, label, or accompanying literature. The provided material shall clearly show the usage directions for the product. These directions shall accurately reflect the quantity of charcoal lighter material per pound of charcoal that was used in the South Coast Air Quality Management District Rule 1174 Testing Protocol (see 9 VAC 5-20-21) for that product, unless:

(a) The charcoal lighter material is intended to be used in fixed amounts independent of the amount of charcoal used, such as certain paraffin cubes, or

(b) The charcoal lighter material is already incorporated into the charcoal, such as certain "bag light," "instant light" or "match light" products.

(3) For a charcoal lighter material which meets the criteria specified in subdivision 2 c (2) (a) of this subsection, the usage instructions provided to the board will accurately reflect the quantity of charcoal lighter material used in the South Coast Air Quality Management District Rule 1174 Testing Protocol (see 9 VAC 5-20-21) for that product.

(4) Physical property data, formulation data, or other information required by the board for use in determining when a product modification has occurred and for use in determining compliance with the conditions specified on the ACP agreement issued pursuant to subdivision 2 e of this subsection.

d. Within 30 days of receipt of an application, the board will advise the applicant in writing either that it is complete or that specified additional information is required to make it complete. Within 30 days of receipt of additional information, the board will advise the applicant in writing either that the application is complete, or that specified additional information or testing is still required before it can be deemed complete.

e. If the board finds that an application meets the requirements of subdivision 2 of this subsection, then an ACP agreement shall be issued certifying the charcoal lighter material formulation and specifying such conditions as are necessary to insure that the requirements of this subsection are met. The board will act on a complete application within 90 days after the application is deemed complete.

3. For charcoal lighter material for which certification has been granted pursuant to subdivision 2 of this subsection, the applicant for certification shall notify the board in writing within 30 days of: (i) a change in the usage directions, or (ii) a change in product formulation, test results, or other information submitted pursuant to subdivision 2 of this subsection which may result in VOC emissions greater than 0.020 pound of VOC per start.

4. If the board determines that a certified charcoal lighter material formulation results in VOC emissions from the ignition of charcoal which are greater than 0.020 pound of VOC per start, as determined by the South Coast Air Quality Management District Rule 1174 Testing Protocol (see 9 VAC 5-20-21) and the statistical analysis procedures contained therein, the board will revoke or modify the certification as is necessary to assure that the charcoal lighter material will result in VOC emissions of less than or equal to 0.020 pound of VOC per start. Modifications and revocations of certifications are considered case decisions and will be processed using the procedures prescribed in 9 VAC 5-170 and Article 3 (§ 2.2-4018 et seq.) of the Administrative Process Act.

F. Requirements for aerosol adhesives.

1. The standards for aerosol adhesives apply to all uses of aerosol adhesives, including consumer, industrial, and commercial uses. Except as otherwise provided in 9 VAC 5-40-7250 and 9 VAC 5-40-7290, no person shall sell, supply, offer for sale, use or manufacture for sale an aerosol adhesive which, at the time of sale, use, or manufacture, contains VOCs in excess of the specified standard.

2. a. In order to qualify as a "special purpose spray adhesive," the product must meet one or more of the definitions specified in 9 VAC 5-40-7260 C, but if the product label indicates that the product is suitable for use on a substrate or application not listed in 9 VAC 5-40-7260 C, then the product shall be classified as either a "web spray adhesive" or a "mist spray adhesive."

b. If a product meets more than one of the definitions specified in 9 VAC 5-40-7260 C for "special purpose spray adhesive," and is not classified as a "web spray adhesive" or "mist spray adhesive" under subdivision 2 a of this subsection, then the VOC limit for the product shall be the lowest applicable VOC limit specified in 9 VAC 5-40-7270 A.

3. Effective ~~July 1, 2005~~ as of the applicable compliance date specified in 9 VAC 5-40-7330, no person shall (i) sell, supply, or offer for sale an aerosol adhesive manufactured on or after ~~July 1, 2005~~ the applicable compliance date, or (ii) manufacture for sale an aerosol adhesive that contains

any of the following compounds: methylene chloride, perchloroethylene, or trichloroethylene.

4. All aerosol adhesives must comply with the labeling requirements specified in 9 VAC 5-40-7300 D.

G. *Effective as of the applicable compliance date specified in 9 VAC 5-40-7330*, no person shall sell, supply, offer for sale, or manufacture for use a floor wax stripper unless the following requirements are met:

1. The label of each nonaerosol floor wax stripper must specify a dilution ratio for light or medium build-up of polish that results in an as-used VOC concentration of 3.0% by weight or less.

2. If a nonaerosol floor wax stripper is also intended to be used for removal of heavy build-up of polish, the label of that floor wax stripper must specify a dilution ratio for heavy build-up of polish that results in an as-used VOC concentration of 12% by weight or less.

3. The terms "light build-up," "medium build-up" or "heavy build-up" are not specifically required, as long as comparable terminology is used.

H. For a consumer product for which standards are specified under subsection A of this section, no person shall sell, supply, offer for sale, or manufacture for sale a consumer product which contains any of the following ozone-depleting compounds:

CFC-11 (trichlorofluoromethane), CFC-12 (dichlorodifluoromethane);

CFC-113 (1,1,1-trichloro-2,2,2-trifluoroethane);

CFC-114 (1-chloro-1,1-difluoro-2-chloro-2,2-difluoroethane);

CFC-115 (chloropentafluoroethane), halon 1211 (bromochlorodifluoromethane);

halon 1301 (bromotrifluoromethane), halon 2402 (dibromotetrafluoroethane);

HCFC-22 (chlorodifluoromethane), HCFC-123 (2,2-dichloro-1,1,1-trifluoroethane);

HCFC-124 (2-chloro-1,1,1,2-tetrafluoroethane);

HCFC-141b (1,1-dichloro-1-fluoroethane), HCFC-142b (1-chloro-1,1-difluoroethane);

1,1,1-trichloroethane; or

carbon tetrachloride.

I. The requirements of subsection H of this section shall not apply to an existing product formulation that complies with Table 4-50A or an existing product formulation that is reformulated to meet Table 4-50A, provided the ozone-depleting compound content of the reformulated product does not increase.

J. The requirements of subsection H of this section shall not apply to ozone-depleting compounds that may be present as impurities in a consumer product in an amount equal to or less than 0.01% by weight of the product.

9 VAC 5-40-7300. Administrative requirements.

A. Each manufacturer of a consumer product subject to 9 VAC 5-40-7270 shall clearly display on each consumer product container or package, the day, month, and year on which the product was manufactured or a code indicating such date. The date or code shall be located on the container or inside the cover or cap so that it is readily observable or obtainable (by simply removing the cap or cover) without disassembling a part of the container or packaging. This date or code shall be displayed on each consumer product container or package no later than the effective date of the applicable standard specified in 9 VAC 5-40-7270 A. No person shall erase, alter, deface, or otherwise remove or make illegible a date or code from a regulated product container without the express authorization of the manufacturer. The requirements of this provision shall not apply to products containing no VOCs or containing VOCs at 0.10% by weight or less.

B. If a manufacturer uses a code indicating the date of manufacture for a consumer product subject to 9 VAC 5-40-7270, an explanation of the code must be filed with the board upon request by the board.

C. Notwithstanding the definition of "product category" in 9 VAC 5-40-7260 C, if anywhere on the principal display panel of a consumer product, a representation is made that the product may be used as or is suitable for use as a consumer product for which a lower VOC limit is specified in 9 VAC 5-40-7270 A, then the lowest VOC limit shall apply. This requirement does not apply to general purpose cleaners and antiperspirant or deodorant products.

D. Provisions follow concerning additional labeling requirements for aerosol adhesives.

1. In addition to the requirements specified in subsections A and C of this section and in 9 VAC 5-40-7360, both the manufacturer and responsible party for each aerosol adhesive product subject to this article shall ensure that all products clearly display the following information on each product container which is manufactured on or after ~~July 4, 2005~~ *the applicable compliance date specified in 9 VAC 5-40-7330*.

a. The aerosol adhesive category as specified in 9 VAC 5-40-7270 A or an abbreviation of the category shall be displayed;

b. (1) The applicable VOC standard for the product that is specified in 9 VAC 5-40-7270 A, expressed as a percentage by weight, shall be displayed unless the product is included in an alternative control plan approved by the board, as provided in 9 VAC 5-40-7280;

(2) If the product is included in an alternative control plan approved by the board, and the product exceeds the applicable VOC standard specified in 9 VAC 5-40-7270 A, the product shall be labeled with the term "ACP" or "ACP product";

(3) If the product is classified as a special purpose spray adhesive, the applicable substrate or application or an abbreviation of the substrate or application that qualifies the product as special purpose shall be displayed;

Final Regulations

(4) If the manufacturer or responsible party uses an abbreviation as allowed by this subsection, an explanation of the abbreviation must be filed with the board before the abbreviation is used.

2. The information required in subdivision [A] 1 of this [section subsection] shall be displayed on the product container such that it is readily observable without removing or disassembling a portion of the product container or packaging. For the purposes of this subsection, information may be displayed on the bottom of a container as long as it is clearly legible without removing product packaging.

3. No person shall remove, alter, conceal, or deface the information required in subdivision 1 of this subsection prior to final sale of the product.

9 VAC 5-40-7330. Compliance schedules.

Affected persons shall comply with the provisions of this article as expeditiously as possible but in no case later than:

1. July 1, 2005, in the Northern Virginia VOC Emissions Control Area; or

2. January 1, 2008, in the Fredericksburg [~~and Richmond~~] VOC Emissions Control [Areas Area].

9 VAC 5-40-7360. Notification, records and reporting.

A. The provisions of subsections D, E, F, and H of 9 VAC 5-40-50 (Notification, records and reporting) apply. The other provisions of 9 VAC 5-40-50 do not apply.

B. Upon 90 days written notice, the board may require a responsible party to report information for a consumer product the board may specify, including, but not limited to, all or part of the following information:

1. The name of the responsible party and the party's address, telephone number, and designated contact person;

2. A claim of confidentiality made pursuant to applicable state confidentiality requirements;

3. The product brand name for each consumer product subject to registration and, upon request by the board, the product label;

4. The product category to which the consumer product belongs;

5. The applicable product forms listed separately;

6. An identification of each product brand name and form as a "Household Product," "I&I Product," or both;

7. Separate sales in pounds per year, to the nearest pound, and the method used to calculate sales for each product form;

8. For registrations submitted by two companies, an identification of the company which is submitting relevant data separate from that submitted by the responsible party. All registration information from both companies shall be submitted by the date specified in this subsection;

9. For each product brand name and form, the net percent by weight of the total product, less container and packaging, composed of the following, rounded to the nearest one-tenth of a percent (0.1%):

a. Total exempt compounds;

b. Total LVP-VOCs that are not fragrances;

c. Total all other carbon-containing compounds that are not fragrances;

d. Total all noncarbon-containing compounds;

e. Total fragrance;

f. For products containing greater than 2.0% by weight fragrance:

(1) The percent of fragrances that are LVP-VOCs; and

(2) The percent of fragrances that are all other carbon-containing compounds;

g. Total paradichlorobenzene;

10. For each product brand name and form, the identity, including the specific chemical name and associated Chemical Abstract Services (CAS) number, of the following:

a. Each exempt compound; and

b. Each LVP-VOC that is not a fragrance;

11. If applicable, the weight percent composed of propellant for each product;

12. If applicable, an identification of the type of propellant.

C. In addition to the requirements of subdivision B 10 of this section, the responsible party shall report to the board the net percent by weight of each ozone-depleting compound which is:

1. Listed in 9 VAC 5-40-7270 H; and

2. Contained in a product subject to registration under subsection A of this section in an amount greater than 1.0% by weight.

D. All information submitted by responsible parties pursuant to this section shall be handled in accordance with the procedures specified in §§ 10.1-1314 and 10.1-1314.1 of the Virginia Air Pollution Control Law and 9 VAC 5-170-60.

E. Provisions follow concerning special reporting requirements for consumer products that contain perchloroethylene or methylene chloride.

1. The requirements of this subsection shall apply to all responsible parties for consumer products that are subject to 9 VAC 5-40-7270 A and contain perchloroethylene or methylene chloride. For the purposes of this subsection, a product contains perchloroethylene or methylene chloride if the product contains 1.0% or more by weight (exclusive of the container or packaging) of either perchloroethylene or methylene chloride.

2. For each consumer product that contains perchloroethylene or methylene chloride, the responsible party shall report the following information for products sold

during each calendar year, beginning with the year ~~2005~~ of the applicable compliance date specified in 9 VAC 5-40-7330, and ending with the year 2010:

- a. The product brand name and a copy of the product label with legible usage instructions;
- b. The product category to which the consumer product belongs;
- c. The applicable product form, listed separately;
- d. For each product form listed in subdivision 2 c of this subsection, the total sales during the calendar year, to the nearest pound (exclusive of the container or packaging), and the method used for calculating sales;
- e. The weight percent, to the nearest [~~40%~~ 0.10%], of perchloroethylene and methylene chloride in the consumer product;

3. The information specified in subdivision 2 of this subsection shall be reported for each calendar year by March 1 of the following year. The first report shall be due on March 1, ~~2006, for calendar year 2005 of the calendar year following the year of the applicable compliance date specified in 9 VAC 5-40-7330.~~ A new report is due on March 1 of each year thereafter, until March 1, 2011, when the last report is due.

ARTICLE 53.

EMISSION STANDARDS FOR LITHOGRAPHIC PRINTING PROCESSES (RULE 4-53).

9 VAC 5-40-7800. Applicability and designation of affected facility.

A. Except as provided in subsections C, D, and E of this section, the affected facility to which the provisions of this article apply is each lithographic printing process which uses a substrate other than a textile.

B. The provisions of this article apply only to sources of volatile organic compounds in ~~the Northern Virginia or Richmond~~ volatile organic compound emissions control Area areas designated in 9 VAC 5-20-206.

C. Exempted from the provisions of this article are facilities in the Northern Virginia Volatile Organic Compound Emissions Control Area whose potential to emit is less than 10 tons per year of volatile organic compounds, provided the emission rates are determined in a manner acceptable to the board. All volatile organic compound emissions from printing inks, coatings, cleaning solutions, and fountain solutions shall be considered in applying the exemption levels specified in this subsection.

D. Exempted from the provisions of this article are facilities in ~~the Richmond~~ all volatile organic compound emissions control Area areas, other than the Northern Virginia Volatile Organic Compound Emissions Control Area, whose potential to emit is less than 100 tons per year of volatile organic compounds, provided the emission rates are determined in a manner acceptable to the board. All volatile organic compound emissions from printing inks, coatings, cleaning solutions, and fountain solutions shall be considered in applying the exemption levels specified in this subsection.

E. The provisions of this article do not apply to the following:

- 1. Printing processes used exclusively for determination of product quality and commercial acceptance provided:
 - a. The operation is not an integral part of the production process;
 - b. The emissions from all product quality printing processes do not exceed 400 pounds in any 30 day period; and
 - c. The exemption is approved by the board.
- 2. Photoprocessing, typesetting, or imagesetting equipment using water-based chemistry to develop silver halide images.
- 3. Platemaking equipment using water-based chemistry to remove unhardened image-producing material from an exposed plate.
- 4. Equipment used to make blueprints.
- 5. Any sheet-fed offset lithographic press with a cylinder width of 26 inches or less.

9 VAC 5-40-7880. Compliance.

A. The provisions of 9 VAC 5-40-20 (Compliance) apply.

B. All affected facilities in the Northern Virginia and Richmond VOC Emissions Control Areas shall be in compliance with the provisions of this rule ~~within two years following by~~ April 1, ~~1996~~ 1998.

C. All affected facilities in VOC emission control areas, other than the Northern Virginia and Richmond VOC Emissions Control Areas, shall be in compliance with the provisions of this rule by [~~insert date one year after the effective date October 4, 2007~~].

VA.R. Doc. No. R05-66; Filed August 14, 2006, 1:36 p.m.

STATE WATER CONTROL BOARD

Title of Regulation: **9 VAC 25-260. Water Quality Standards (amending 9 VAC 25-260-30).**

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

Effective Date: Upon filing notice of EPA approval with the Registrar of Regulations.

Agency Contact: David C. Whitehurst, Department of Environmental Quality, P.O. Box 10009, Richmond, VA 23240, telephone (804) 698-4121, FAX (804) 698-4116, or e-mail dcwhitehurst@deq.virginia.gov.

Summary:

The amendments designate five surface waters and a segment of a sixth surface water for special protection as Exceptional State Waters.

Summary of Public Comments and Agency's Response: No public comments were received by the promulgating agency.

Final Regulations

9 VAC 25-260-30. Antidegradation policy.

A. All surface waters of the Commonwealth shall be provided one of the following three levels, or tiers, of antidegradation protection. This antidegradation policy shall be applied whenever any activity is proposed that has the potential to affect existing surface water quality.

1. As a minimum, existing instream water uses and the level of water quality necessary to protect the existing uses shall be maintained and protected.

2. Where the quality of the waters exceed water quality standards, that quality shall be maintained and protected unless the board finds, after full satisfaction of the intergovernmental coordination and public participation provisions of the Commonwealth's continuing planning process, that allowing lower water quality is necessary to accommodate important economic or social development in the area in which the waters are located. In allowing such degradation or lower water quality, the board shall assure water quality adequate to protect existing uses fully. Further, the board shall assure that there shall be achieved the highest statutory and regulatory requirements applicable to all new or existing point source discharges of effluent and all cost-effective and reasonable best management practices for nonpoint source control.

3. Surface waters, or portions of these, which provide exceptional environmental settings and exceptional aquatic communities or exceptional recreational opportunities may be designated and protected as described in subdivisions 3 a, b and c of this subsection.

a. Designation procedures.

(1) Designations shall be adopted in accordance with the provisions of the Administrative Process Act (§ 2.2-4000 et seq. of the Code of Virginia) and the board's public participation guidelines.

(2) Upon receiving a nomination of a waterway or segment of a waterway for designation as an exceptional state water pursuant to the board's antidegradation policy, as required by 40 CFR 131.12, the board shall notify each locality in which the waterway or segment lies and shall make a good faith effort to provide notice to impacted riparian property owners. The written notice shall include, at a minimum: (i) a description of the location of the waterway or segment; (ii) the procedures and criteria for designation as well as the impact of the designation; (iii) the name of the person making the nomination; and (iv) the name of a contact person at the Department of Environmental Quality who is knowledgeable about the nomination and the waterway or segment. Notice to property owners shall be based on names and addresses taken from local tax rolls. Such names and addresses shall be provided by the Commissioners of the Revenue or the tax assessor's office of the affected jurisdiction upon request by the board. After receipt of the notice of the nomination, localities shall be provided 60 days to comment on the consistency of the nomination with the locality's comprehensive plan. The comment period established by subdivision 3 a (2) of this subsection

shall in no way impact a locality's ability to comment during any additional comment periods established by the board.

b. Implementation procedures.

(1) The quality of waters designated in subdivision 3 c of this subsection shall be maintained and protected to prevent permanent or long-term degradation or impairment.

(2) No new, additional, or increased discharge of sewage, industrial wastes or other pollution into waters designated in subdivision 3 c of this subsection shall be allowed.

(3) Activities causing temporary sources of pollution may be allowed in waters designated in subdivision 3 c of this subsection even if degradation may be expected to temporarily occur provided that after a minimal period of time the waters are returned or restored to conditions equal to or better than those existing just prior to the temporary source of pollution.

c. Surface waters designated under this subdivision are as follows:

(1) Little Stony Creek in Giles County from the first footbridge above the Cascades picnic area, upstream to the 3,300-foot elevation.

(2) Bottom Creek in Montgomery County and Roanoke County from Route 669 (Patterson Drive) downstream to the last property boundary of the Nature Conservancy on the southern side of the creek.

(3) Lake Drummond, located on U.S. Fish and Wildlife Service property, is nominated in its entirety within the cities of Chesapeake and Suffolk excluding any ditches and/or tributaries.

(4) North Creek in Botetourt County from the first bridge above the United States Forest Service North Creek Camping Area to its headwaters.

(5) Brown Mountain Creek, located on U.S. Forest Service land in Amherst County, from the City of Lynchburg property boundary upstream to the first crossing with the national forest property boundary.

(6) Laurel Fork, located on U.S. Forest Service land in Highland County, from the national forest property boundary below Route 642 downstream to the Virginia/West Virginia state line.

(7) North Fork of the Buffalo River, located on U.S. Forest Service land in Amherst County, from its confluence with Rocky Branch upstream to its headwaters.

(8) Pedlar River, located on U.S. Forest Service land in Amherst County, from where the river crosses FR 39 upstream to the first crossing with the national forest property boundary.

(9) Ramseys Draft, located on U.S. Forest Service land in Augusta County, from its headwaters (which includes

Right and Left Prong Ramseys Draft) downstream to the Wilderness Area boundary.

(10) Whitetop Laurel Creek, located on U.S. Forest Service land in Washington County, from the national forest boundary immediately upstream from the second railroad trestle crossing the creek above Taylors Valley upstream to the confluence of Green Cove Creek.

(11) Ragged Island Creek in Isle of Wight County from its confluence with the James River at a line drawn across the creek mouth at N36°56.306'/W76°29.136' to N36°55.469'/W76°29.802' upstream to a line drawn across the main stem of the creek at N36°57.094'/W76°30.473' to N36°57.113'/W76°30.434', excluding wetlands and impounded areas and including only those tributaries completely contained within the Ragged Island Creek Wildlife Management Area on the northeastern side of the creek.

(12) Big Run in Rockingham County from its headwaters downstream to the first crossing with the Shenandoah National Park boundary and all tributaries to this segment of Big Run within the confines of Shenandoah National Park.

(13) Doyles River in Albemarle County from its headwaters to the first crossing with the Shenandoah National Park boundary and Jones Falls Run from its headwaters to its confluence with Doyles River and all tributaries to these segments of Doyles River and Jones Fall Run within the confines of Shenandoah National Park.

(14) East Hawksbill Creek in Page County from its headwaters downstream to the first crossing with the Shenandoah National Park boundary and all tributaries to this segment of East Hawksbill Creek within the confines of Shenandoah National Park.

(15) Jeremys Run in Page County from its headwaters downstream to the first crossing with the Shenandoah National Park boundary and all tributaries to this segment of Jeremys Run within the confines of Shenandoah National Park.

(16) East Branch Naked Creek in Page County from its headwaters downstream to the first crossing with the Shenandoah National Park boundary and all tributaries to this segment of East Branch Naked Creek within the confines of Shenandoah National Park.

(17) Piney River in Rappahannock County from its headwaters downstream to the first crossing with the Shenandoah National Park boundary and all tributaries to this segment of the Piney River within the confines of Shenandoah National Park.

(18) North Fork Thornton River in Rappahannock County from its headwaters downstream to the first crossing with the Shenandoah National Park boundary and all tributaries to this segment of the North Fork Thornton River within the confines of Shenandoah National Park.

(19) *(Reserved.)*

(20) *(Reserved.)*

(21) *(Reserved.)*

(22) [~~(Reserved.)~~ (23)] *Roberts Creek from its confluence with the Pedlar River upstream to its first crossing with the National Forest boundary.*

[~~(24)~~ (23)] *Shady Mountain Creek from its headwaters downstream to its confluence with the Pedlar River.*

[~~(25)~~ (24)] *Cove Creek from its headwaters downstream to the National Forest boundary.*

[~~(26)~~ (25)] *Little Cove Creek and its tributaries from the headwaters downstream to the National Forest boundary.*

[~~(27)~~ (26)] *Rocky Branch from its headwaters downstream to its confluence with the North Fork of the Buffalo River.*

[~~(28)~~ (27)] *North Fork of the Buffalo River from its confluence with Rocky Branch downstream to the National Forest Boundary.*

B. Any determinations concerning thermal discharge limitations made under § 316(a) of the Clean Water Act will be considered to be in compliance with the antidegradation policy.

VA.R. Doc. No. R05-103; Filed August 14, 2006, 1:35 p.m.



TITLE 11. RACING

VIRGINIA RACING COMMISSION

REGISTRAR'S NOTICE: The Virginia Racing Commission is exempt from the Administrative Process Act pursuant to subdivision A 18 of § 2.2-4002 of the Code of Virginia when acting by and through its duly appointed stewards or in matters related to any specific race meeting.

The Virginia Racing Commission adopted the regulations to apply to the thoroughbred meet scheduled to begin on September 4, 2006, and end on November 3, 2006.

Titles of Regulations: 11 VAC 10-70. **Stewards (amending 11 VAC 10-70-20, 11 VAC 10-70-30, 11 VAC 10-70-40, 11 VAC 10-70-60, 11 VAC 10-70-70, 11 VAC 10-70-80, 11 VAC 10-70-90 and 11 VAC 10-70-170; repealing 11 VAC 10-70-50).**

11 VAC 10-90. Appeals to the Commission (amending 11 VAC 10-90-10, 11 VAC 10-90-30, and 11 VAC 10-90-50).

Statutory Authority: § 59.1-369 of the Code of Virginia.

Effective Dates: September 4, 2006, through November 3, 2006.

Agency Contact: David S. Lermond, Jr., Regulatory Coordinator, Virginia Racing Commission, 10700 Horsemen's Lane, New Kent, VA 23024, telephone (804) 966-7404, FAX (804) 966-7418 or e-mail david.lermond@vrc.virginia.gov.

Final Regulations

Summary:

The amendments clarify the authority of the stewards appointed by the Virginia Racing Commission to enforce and interpret the commission's regulations. The definition of "participant" has been added, which provides that certain individuals associated with a horse that is entered to run in Virginia shall be considered as participants and come under the jurisdiction of the commission. Additionally, the amendments provide the authority of the commission to take disciplinary actions through stewards or at a meeting at which a quorum is present and clarify that such disciplinary actions must be determined by a preponderance of the evidence. These amendments are made to conform the regulation to Chapter 700 of the 2005 Acts of Assembly.

11 VAC 10-70-20. Appointment.

~~Three~~ The commission shall appoint stewards, all of whom shall be employees of the commission, ~~shall be appointed for each race meeting licensed by the commission. The commission, in its discretion, may appoint one or more stewards for the satellite facilities licensed by the commission. To qualify for appointment as a steward, the appointee shall meet the experience, education and examination requirements necessary to be accredited by the Racing Officials Accreditation Program administered by the Universities of Arizona and Louisville, or in the case of harness racing, be licensed as a judge by the United States Trotting Association.~~

11 VAC 10-70-30. Senior Commonwealth Steward.

One of the ~~three~~ stewards employed by the commission ~~for each race meeting~~ shall be designated as the Senior Commonwealth Steward. The Senior Commonwealth Steward shall preside at all hearings conducted by the stewards ~~at the race meetings that do not pertain to the operation of the satellite wagering facilities. In matters pertaining to the operation of satellite facilities, a single~~ Any steward shall ~~preside at all~~ may conduct hearings pertaining to the operation of satellite wagering facilities.

11 VAC 10-70-40. General powers and authority.

~~The~~ A steward or the stewards ~~for each race meeting or satellite facility licensed by the commission~~ shall be responsible to the commission ~~for the conduct of the race meeting or for the operation of the satellite facilities in accordance with the Code of Virginia and the regulations of the commission. The steward or stewards, shall have authority over all holders of permits, and shall have authority to resolve conflicts or disputes that are related to the conduct of racing or operation of the satellite facilities in accordance with the Code of Virginia and the regulations of the commission.~~

11 VAC 10-70-50. General powers. (Repealed.)

~~The~~ A steward or the stewards shall exercise immediate supervision, control and regulation of horse racing at each race meeting ~~or and at a all satellite facility facilities~~ licensed by the commission ~~and shall be responsible to the commission.~~ The powers of the stewards shall include:

1. *Reviewing the conduct of all racing officials, track management, permitted personnel, other persons*

responsible for the conduct of racing and simulcasting, and patrons as necessary, to ensure compliance with these regulations and the Code of Virginia;

2. Determining all questions, disputes, protests, complaints, ~~or~~ and objections concerning live horse racing ~~which arise during a race meeting or at a satellite facility~~ and simulcast horse racing and enforcing their rulings;

~~2-~~ 3. Taking disciplinary action against any holder of a permit ~~or participant~~ found violating federal laws, state laws, local ordinances or regulations of the commission;

~~3-~~ 4. Reviewing applications for permits and either granting or denying the permits to participate in horse racing at race meetings or satellite facilities. *Nothing in these regulations shall be construed to prohibit the granting of a permit with such conditions as the stewards may deem appropriate;*

~~4-~~ 5. Enforcing the regulations of the commission in all matters pertaining to horse racing ~~or and~~ satellite facilities;

~~5-~~ 6. Issuing rulings pertaining to the conduct of horse racing ~~or and~~ satellite facilities;

~~6-~~ 7. Varying any arrangement for the conduct of a race meeting including but not limited to postponing a race or races, canceling a race, or declaring a race "no contest";

~~7-~~ 8. Requesting assistance from other commission employees, *law-enforcement officials*, racing officials, members of the horse-racing industry or the licensee's security service in the investigation of possible ~~statutory or rule~~ *infractions violations*;

~~8-~~ 9. Conducting hearings on all questions, disputes, protests, complaints, or objections concerning racing matters ~~or and~~ satellite facilities; ~~and~~

9- 10. Substituting another qualified person where any racing official is unable to perform his duties-;

11. *Issuing subpoenas for the attendance of witnesses to appear before them, administering oaths and compelling the production of any of the books, documents, records, or memoranda of any licensee or permit holder. In addition, the stewards may issue subpoenas to compel the production of an annual balance sheet and operating statement of any licensee or permit holder and may require the production of any contract to which such person is or may be a party. The stewards may also issue subpoenas to compel production of records or other documents or relevant things and the testimony of witnesses whenever, in their judgment, it is necessary to do so for the effectual discharge of their duties;*

12. *Placing horses on the Stewards' List for unsatisfactory performance; and*

13. *Interpreting the regulations and deciding all questions of racing not specifically covered by the regulations.*

11 VAC 10-70-60. Duties.

In addition to the duties necessary and pertinent to the general supervision, control and regulation of race meetings or satellite facilities, the stewards shall have the following specific duties:

1. Causing investigations to be made in all instances of possible violations of federal laws, state laws, local ordinances and regulations of the commission;
2. Being present within the enclosure at a race meeting no less than 90 minutes before post time of the first race and remaining until 15 minutes after the last race is declared "official";
3. Being present in the stewards' stand during the running of all races at race meetings;
4. Administering examinations for applicants applying for permits as trainers, jockeys, apprentice jockeys or farriers to determine the applicants' qualifications for the permits;
5. Determining the identification of horses;
6. Determining eligibility of horses for races restricted to Virginia bred;
7. Determining eligibility of a horse or person to participate in a race;
8. Supervising the taking of entries and the drawing of post positions;
9. Approving or denying requests for horses to be excused from racing;
10. Locking the totalizator at the start of the race so that no more pari-mutuel tickets may be sold;
11. Determining alleged violations of these regulations in the running of any race through their own observation or by patrol judges and posting the "inquiry" sign ~~on the infield results board~~ when there are alleged violations;
12. Determining alleged violations of these regulations in the running of any race brought to their attention by any participant and posting the "objection" sign ~~on the infield results board~~ when there are alleged violations;
13. Causing the "official" sign to be posted ~~on the infield results board~~ after determining the official order of finish for the purposes of the pari-mutuel payout;
14. Reviewing the video tapes of the previous day's races and determining the jockeys ~~whom the stewards feel~~ who should review the films for instructional purposes;
15. Making periodic inspections of the facilities within the enclosure at race meetings, including but not limited to the stable area, paddock, and jockeys' room;
16. Reporting their findings of their periodic inspections of the facilities to the commission;
17. Filing with the commission a written daily report ~~at during race meetings which~~. Such report shall contain a detailed written record of all questions, disputes, protests, complaints or objections brought to the attention of the stewards, a summary of any interviews relating to these actions, copies of any rulings issued by the stewards, and any emergency actions taken and the basis for the actions;
18. Submitting to the commission after the conclusion of the race meeting a written report setting out their findings on the conduct of the race meeting, the condition of the facilities

and any recommendation for improvement that they deem appropriate; and

~~19. Observing the conduct of simulcast horse racing at satellite facilities.~~ Imposing any of the following penalties on a licensee, participant or permit holder for a violation of these regulations:

- a. Issue a reprimand;
- b. Assess a fine;
- c. Require forfeiture or redistribution of a purse or award;
- d. Place a permit holder or participant on probation with or without conditions;
- e. Suspend a permit holder or participant with or without conditions;
- f. Revoke a permit;
- g. Exclude from the grounds under the jurisdiction of the commission; or
- h. Any combination of the above.

11 VAC 10-70-70. Objections and protests.

The stewards receive and hear all objections lodged by *trainers, owners, jockeys or drivers* after the completion of a race, and all protests lodged by holders of a permit before or after the completion of a race under the following provisions:

1. The stewards shall keep a written record of all objections and protests;
2. Jockeys shall indicate their intention of lodging an objection in a manner prescribed by the stewards;
3. Drivers shall indicate their intention of lodging an objection immediately after the race by reporting to the patrol judge;
4. If the placement of the starting gate or line is in error, a protest must be made prior to the time that the first horse enters the starting gate or line;
5. Protests, other than those arising out of the running of a race, shall be in writing, clearly stating the nature of the protest, signed by the holder of a permit making the protest, and filed with the stewards at least one hour before post time of the race out of which the protest arises;
6. Protests, arising out of the running of a race, must be made to the stewards as soon as possible after the completion of the race but before the race is declared official ~~and~~. The stewards may call and examine any witness *regarding the protest*;
7. Until a final determination is made on an objection or protest and any administrative remedies and all appeals thereof are exhausted, the purse money for the race shall be retained by the horsemen's bookkeeper or licensee and paid only upon the approval of the stewards or commission; and
8. A *participant or* holder of a permit may not withdraw a protest without the permission of the stewards.

Final Regulations

11 VAC 10-70-80. Period of authority.

The period of authority *for each steward* shall ~~commence at a period of time prior to the race meeting and shall terminate at a period of time after the end of the race meeting as designated by the commission. The period of authority for the steward or stewards at satellite facilities shall commence and terminate at a period of time designated by the~~ be established by contractual arrangement between each steward and the commission.

11 VAC 10-70-90. Appointment of substitute.

If any steward is absent at the time of the running of the race or is otherwise unable to perform his duties, the other ~~two~~ stewards shall agree on the appointment of a substitute to act for the absent steward. If a substitute is appointed, the commission shall be notified immediately followed by a written report, stating the name of the ~~deputy~~ substitute steward, the reason for his appointment, and the races over which the substitute officiated.

11 VAC 10-70-170. Orders following disciplinary actions.

Any disciplinary action taken by the steward or stewards or by the commission shall be provided in writing to the ~~holder of a permit person being disciplined,~~ setting forth the federal or state law, local ordinance or regulation that was violated, the date of the violation, the factual or procedural basis of the finding, the extent of the disciplinary action taken, and the date when the disciplinary action is to take effect. The order following disciplinary action may be hand delivered or mailed to the ~~holder of the permit person being disciplined,~~ but in either case, *the mode of delivery* shall be duly ~~acknowledged~~ certified by the ~~holder of a permit sender.~~ The sender shall use reasonable efforts to obtain acknowledgement of receipt by the recipient.

11 VAC 10-90-10. Generally Request for review; stay.

A holder of ~~or applicant for~~ a license or permit or a participant who wishes to contest a denial of a permit or disciplinary action of the stewards may request a review by the commission. A denial of a license or permit or disciplinary action taken by the steward or stewards shall not be stayed or superseded by the filing of a request for a review unless the commission so orders. *At the written request of an aggrieved party,* a stay in the implementation of a disciplinary action may be granted by the ~~executive secretary chairman~~ of the commission or a commissioner designated by the chairman. *Such request shall be acted upon within 72 hours of the delivery of the written request to the executive secretary. Any granting or denial of a stay shall be effective until the next regularly scheduled meeting of the commission at which time the granting or denial or further stay shall be decided by the commission.*

11 VAC 10-90-30. Content of request.

The request shall state:

1. The disciplinary action ~~of or denial of a permit~~ by the steward or stewards being contested;
2. The basis for the request; and

3. Any additional information the ~~applicant for or holder of a licensee, permit holder or participant~~ may wish to include concerning the request.

11 VAC 10-90-50. Procedures for conducting a commission review.

Reviews of stewards' decisions involving the outcome of a race or riding/driving infractions shall be conducted on the record of the stewards' proceedings. Riding/driving infractions are defined as any violations of the commission's regulations while riding or driving a horse in any race.

All other reviews will be de novo.

The commission shall conduct its review within 45 days of receipt of a request for a review of a denial of a permit or a disciplinary action taken by the steward or stewards. The following provisions shall apply to reviews by the commission:

1. If any commissioner determines that he has a conflict of interest or cannot accord a fair and impartial review, that commissioner shall not take part in the review.

2. The commissioners, in their discretion, may appoint an independent hearing officer to preside at the review and prepare a ~~proposed~~ recommended written decision for their consideration. *The commission, at its discretion, may accept the recommendation in its entirety, amend it or reject it.*

3. Unless the parties otherwise agree, a notice setting the date, time and location of the review shall be sent to the ~~holder of or applicant for a permit person requesting the review and all other owners, trainers, jockeys and drivers who may be affected by the resulting decision~~ at least 10 days before the date set for the review.

a. *The written notice shall describe the charges, basis thereof and possible penalties.*

b. *The written notice shall inform each party of the right to counsel, the right to present a defense including witnesses for that purpose and the right to cross-examine any witness.*

4. The proceedings shall be open to the public.

a. The proceedings shall be electronically recorded.

b. A court reporter may be used. The court reporter shall be paid by the person who requests him. If the ~~applicant for or holder of a permit person requesting the review~~ elects to have a court reporter, a transcript shall be provided to the commission. The transcript shall become part of the commission's records.

5. The proceedings shall include the following:

a. The commission or hearing officer may issue subpoenas to compel the attendance of witnesses or ~~for~~ the production of ~~reports, books, papers, registration documents or any other materials and other relevant evidence~~ it deems appropriate. However, nothing in this section shall be taken to authorize discovery proceedings;

b. Oaths shall be administered to all witnesses;

- c. The commission may examine any witnesses;
- d. Written notice shall be given to the holder of or applicant for a permit in a reasonable time prior to the review;
- e. The written notice shall inform the holder of a permit of the charges against him, the basis thereof and possible penalties;
- f. The holder of a permit shall be informed of his right to counsel, the right to present a defense including witnesses for that purpose, and the right to cross-examine any witnesses; and
- g. The commission may grant a continuance of any review for good cause; and.
- ~~h. A record of the proceedings shall be made.~~

6. ~~The Review proceeding is a hearing~~ *proceedings regarding riding or driving infractions shall be on the record of the stewards hearing and not a new hearing; therefore, presentations by both sides will be limited to arguments and comments regarding the record of the stewards hearing.*

7. *In conducting a review of rulings of the stewards regarding riding or driving infractions, the commission, in its discretion, may allow new evidence to be introduced which, through the exercise of reasonable diligence, could not have been found obtained at the time of the stewards hearing. If the commission determines additional evidence to be introduced may affect the outcome of the case, the commission, in its discretion, may remand the case to the stewards for further review. The stewards shall consider such additional evidence as directed by the commission and, if necessary, in the stewards' discretion, will conduct a new, additional or supplemental hearing. The stewards shall then issue a new decision and order subject to commission review as herein provided.*

VA.R. Doc. No. R06-304; Filed August 10, 2006, 8:54 a.m.

◆ ————— ◆

TITLE 12. HEALTH

DEPARTMENT OF MEDICAL ASSISTANCE SERVICES

Title of Regulation: 12 VAC 30-141. **Family Access to Medical Insurance Security Plan (amending 12 VAC 30-141-10, 12 VAC 30-141-40, 12 VAC 30-141-100, 12 VAC 30-141-160, and 12 VAC 30-141-200; adding 12 VAC 30-141-175; repealing 12 VAC 30-141-170).**

Statutory Authority: § 32.1-351 of the Code of Virginia.

Effective Date: October 4, 2006.

Agency Contact: Linda Nablo, Maternal and Child Health Division, Department of Medical Assistance Services, 600 East Broad Street, Suite 1300, Richmond, VA 23219, telephone (804) 225-4212, FAX (804) 786-1680, or e-mail linda.nablo@dmass.virginia.gov.

Summary:

Pursuant to Chapters 584 and 951 (Item 324 L) of the 2005 Acts of Assembly, the regulations contain a number of simplifying amendments to the Employer-Sponsored Health Insurance (ESHI) component of the Family Access to Medical Insurance Security (FAMIS) plan. The major modifications include (i) providing a flat monthly premium assistance amount per child as opposed to calculating premium assistance amounts and determining cost effectiveness on a case-by-case basis, (ii) no longer restricting eligibility based on employer's contribution to the cost of the coverage, (iii) no longer reimbursing copayments that may be required by the employers' health plan, and (iv) no longer providing wrap-around services for the services that are not covered in the employer's plan.

The intent of the changes is to simplify the administration of the premium assistance program and consequently increase enrollment. The changes have been in effect since August 1, 2005, under emergency regulations.

Summary of Public Comments and Agency's Response: No public comments were received by the promulgating agency.

12 VAC 30-141-10. Definitions.

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

"Act" means the Social Security Act.

"Adult caretaker relative" or "caretaker relative" means an individual who is age 18 or older, who is not the parent of, but who is related to, the child by blood or marriage, and who lives with and assumes responsibility for day-to-day care of the child in a place of residence maintained as his or their own home.

"Adverse action" means the denial of eligibility; failure to make a timely determination of eligibility; suspension or termination of enrollment; or delay, denial, reduction, suspension, or termination of health services, in whole or in part; provided, however, that determination of eligibility to participate in and termination of participation in the ~~employer-sponsored health insurance coverage (ESHI)~~ FAMIS Select program shall not constitute an adverse action.

"Agency" means a local department of social services, the central processing unit, or other entity designated by DMAS to make eligibility determinations for FAMIS.

"Agency error" means a person or persons received benefits to which they were not entitled as a result of an error on the part of an eligibility worker at a local department of social services or the central processing unit.

"Agent" means an individual designated in writing to act on behalf of a FAMIS Plan applicant or enrollee during the administrative review process.

"Applicant" means a child who has filed an application (or who has an application filed on his behalf) for child health insurance and is awaiting a determination of eligibility. A child is an applicant until his eligibility has been determined.

Final Regulations

"Authorized representative" means a person who is authorized to conduct the personal or financial affairs for an individual who is 18 years of age or older.

"Board" or "BMAS" means that policy board created by § 32.1-324 of the Code of Virginia to administer the plans established by the Social Security Act.

"CMSIP" means that original child health insurance program that preceded FAMIS.

"Central processing unit" or "CPU" means the private contractor that will determine eligibility for and administer part of the Family Access to Medical Insurance Security Plan or FAMIS.

"Child" means an individual under the age of 19 years.

~~"Child health insurance application" means the form or forms developed and approved by the Department of Medical Assistance Services that is used by local departments of social services and the FAMIS CPU for determining eligibility for Medicaid for poverty level children and for the Family Access to Medical Insurance Security Plan (FAMIS).~~

"Competent individual" means a person who has not been judged by a court to be legally incapacitated.

"Comprehensive health insurance coverage" means health benefits coverage, which includes the following categories of services at a minimum: inpatient and outpatient hospital services; physician's surgical and medical services; and laboratory and radiological services.

"Conservator" means a person appointed by a court of competent jurisdiction to manage the estate and financial affairs of an incapacitated individual.

"Continuation of enrollment" means ensuring an enrollee's benefits are continued until completion of the review process, with the condition that should the enrollee not prevail in the review process, the enrollee shall be liable for the repayment of all benefits received during the review process.

"Director" means the individual, or his designee, specified in § 32.1-324 of the Code of Virginia with all of the attendant duties and responsibilities to administer the State Plan for Medical Assistance and the State Plan for FAMIS.

"DMAS" or "department" means the Department of Medical Assistance Services.

~~"Employer sponsored health insurance coverage" or "ESHI" means comprehensive employer sponsored health insurance offered by an employer. This component of FAMIS refers to the ability of DMAS to provide coverage to FAMIS children by providing premium assistance to families who enroll the FAMIS children in their employer's health plan.~~

"Enrollee" means a child who has been determined eligible to participate in FAMIS and is enrolled in the FAMIS program.

"External Quality Review Organization" means the independent contractor assigned by DMAS to handle quality reviews and to conduct final review of MCHIP adverse actions for FAMIS.

"Family" means parents, including adoptive and stepparents, and their children under the age of 19, who are living in the same household. Family shall not mean grandparents, other relatives, or legal guardians.

"Family," when used in the context of the ~~ESH~~ *FAMIS Select* component, means a unit or group that has access to an employer's group health plan. Thus, it includes the employee and any dependents who can be covered under the employer's plan.

"Family income" means the total income of all family members in a household. Income includes, but is not necessarily limited to, before-tax earnings from a job, including cash, wages, salary, commissions, tips, self-employment net profits, Social Security, Retirement Survivor Disability Insurance (RSDI), veterans benefits, Railroad Retirement, disability workers' compensation, unemployment benefits, child support, alimony, spousal support, pensions, retirement benefits, settlement benefits, rental income, and lottery/bingo winnings. Income excludes public assistance program benefits such as SSI and TANF payments, foster care payments, general relief, loans, grants, or scholarships for educational expenses or earned income of a child who is a student.

"FAMIS" means the Family Access to Medical Insurance Security Plan.

"FAMIS Select" means an optional program available to children determined eligible for FAMIS, whereby DMAS provides premium assistance to the family to cover the child through a private or employer-sponsored health plan instead of directly through the FAMIS program.

"Federal poverty level" or "FPL" means that income standard as published annually by the U.S. Department of Health and Human Services in the Federal Register.

"Fee-for-service" means the traditional Medicaid health care delivery and payment system in which physicians and other providers receive a payment for each unit of service they provide.

"Fixed premium assistance amount" means a predetermined amount of premium assistance that DMAS will pay per child to a family who chooses to enroll its FAMIS eligible child in a private or employer-sponsored health plan. The fixed premium assistance amount will be determined annually by DMAS to ensure that the FAMIS Select program is cost-effective as compared to the cost of covering a child directly through the FAMIS program.

"Fraud" means an intentional deception or misrepresentation made by a person with the knowledge that the deception could result in some unauthorized benefit to himself or some other person. It includes any act that constitutes fraud under applicable federal or state laws.

"Group health plan" or "health insurance coverage" means that health care coverage as defined in § 2791 of the Public Health Services Act (42 USC § 300gg-91(a) and (b)(1).

"Guardian" means a person appointed by a court of competent jurisdiction to be responsible for the affairs of an incapacitated individual, including responsibility for making decisions regarding the person's support, care, health, safety,

habilitation, education, and therapeutic treatment, and if not inconsistent with an order of commitment, residence.

"Incapacitated individual" means a person who, pursuant to an order of a court of competent jurisdiction, has been found to be incapable of receiving and evaluating information effectively or responding to people, events, or environments to such an extent that the individual lacks the capacity to (i) meet the essential requirements of his health, care, safety, or therapeutic needs without the assistance or protection of a guardian, or (ii) manage property or financial affairs or provide for his support or for the support of his legal dependents without the assistance or protection of a conservator.

"Legally emancipated" means that the parents and child have gone through the court and a judge has declared that the parents have surrendered the right to care, custody, and earnings of the child and have renounced parental duties. A married minor is not emancipated unless a court has declared the married minor emancipated from his parents.

"LDSS" or "local department" means the local department of social services.

"Managed care health insurance plan" or "MCHIP" as defined in § 32.1-137.1 of the Code of Virginia means an arrangement for the delivery of health care in which a health carrier means under contract with DMAS for Title XXI delivery systems, undertakes to provide, arrange and pay for, or reimburse any of the costs of health care services for a covered person on a prepaid or insured basis, which contains one or more incentive arrangements, including any credential requirements intended to influence the cost of the health care services between the health carrier and one or more providers and requires or creates benefit payment differential incentives for covered persons to use providers that are directly or indirectly managed, owned, under contract with or employed by the health carrier.

"Maternal and child health insurance application" means the form or forms developed and approved by the Department of Medical Assistance Services that are used by local departments of social services and the FAMIS CPU for determining eligibility for Medicaid for poverty-level children and for the Family Access to Medical Insurance Security Plan (FAMIS).

"Member of a family," for purposes of determining whether the child is eligible for coverage under a state employee health insurance plan, means a parent or parents, including stepparents with whom the child is living if the stepparent claims the child as a dependent on the employee's federal tax return.

"Premium assistance" means the portion of the family's cost of participating in ~~the a private~~ employer's health plan that DMAS will pay ~~to the family~~ to cover the FAMIS-eligible children under the *private or employer-sponsored* plan if DMAS determines it is cost effective to do so.

"Primary care case management (PCCM)" means a system under which a physician acting as a primary care case manager furnishes case management services to FAMIS enrollees pursuant to a contract with DMAS.

"Primary care provider" or "PCP" means a physician enrolled in the PCCM program as a primary case manager.

"Private or employer-sponsored health insurance coverage means a health insurance policy that is either purchased by an individual directly or through an employer. This component of FAMIS refers to the ability of DMAS to provide coverage to FAMIS-eligible children by providing premium assistance to families who enroll the FAMIS-eligible children in a private or employer-sponsored health plan.

"Provider" means the individual, facility or other entity registered, licensed, or certified, as appropriate, and enrolled by an MCHIP, a PCCM, or in fee-for-service to render services to FAMIS enrollees eligible for services.

"Supplemental coverage" means ~~additional~~ coverage provided to FAMIS-eligible children covered under the ~~ESH~~ FAMIS Select component so that they can receive all of the *childhood immunizations included in FAMIS benefits and they are not required to pay any more cost sharing than they would have under FAMIS.*

"Title XXI" means the federal State Children's Health Insurance Program as established by Subtitle J of the Balanced Budget Act of 1997.

"Virginia State Employee Health Insurance Plan" means a health insurance plan offered by the Commonwealth of Virginia to its employees and includes the Local Choice Program whereby local governmental entities elect to provide local employees' enrollment in the State Employee Health Insurance Plan.

12 VAC 30-141-40. Review of adverse actions.

A. Upon written request, all FAMIS Plan applicants and enrollees shall have the right to a review of an adverse action made by the MCHIP, local department of social services, CPU or DMAS.

B. During review of a suspension or termination of enrollment or a reduction, suspension, or termination of services, the enrollee shall have the right to continuation of coverage if the enrollee requests review prior to the effective date of the suspension or termination of enrollment or suspension, reduction, or termination of services.

C. Review of an adverse action made by the local department of social services, CPU or DMAS shall be heard and decided by an agent of DMAS who has not been directly involved in the adverse action under review.

D. Review of an adverse action made by the MCHIP must be conducted by a person or agent of the MCHIP who has not been directly involved in the adverse action under review.

E. After final review by the MCHIP, there shall also be opportunity for final independent external review by the external quality review organization.

F. There will be no opportunity for review of an adverse action to the extent that such adverse action is based on a determination by the director that funding for FAMIS has been terminated or exhausted. There will be no opportunity for review based on which type of delivery system (i.e., fee-for-service, MCHIP) is assigned. There will be no opportunity for

Final Regulations

review if the sole basis for the adverse action is a state or federal law or regulation requiring an automatic change that affects all applicants or enrollees or a group of applicants or enrollees without regard to their individual circumstances.

G. The burden of proof shall be upon the applicant or enrollee to show that an adverse action is incorrect.

H. At no time shall the MCHIP's, local department's of social services, the CPU's, or DMAS' failure to meet the time frames set in this chapter or set in the MCHIP's or DMAS' written review procedures constitute a basis for granting the applicant or enrollee the relief sought.

I. Adverse actions related to health benefits covered ~~under an employer sponsored health insurance (ESHI) plan~~ through the FAMIS Select program shall be resolved between the insurance company or employer's plan and the ~~ESHI~~ FAMIS Select enrollee, and are not subject to further review by DMAS or its contractors. Adverse actions made by an MCHIP, the local department of social services, the CPU, or DMAS shall be subject to the review process set forth in Part II (12 VAC 30-141-40 et seq.) of this chapter.

12 VAC 30-141-100. Eligibility requirements.

A. This section shall be used to determine eligibility of children for FAMIS.

B. FAMIS shall be in effect statewide.

C. Eligible children must:

1. Be determined ineligible for Medicaid by a local department of social services or be screened by the FAMIS central processing unit and determined not Medicaid likely;
2. Be under 19 years of age;
3. Be residents of the Commonwealth;
4. Be either U.S. citizens, U.S. nationals or qualified noncitizens;
5. Be uninsured, that is, not have comprehensive health insurance coverage;
6. Not be a member of a family eligible for subsidized dependent coverage, as defined in 42 CFR 457.310(c)(1)(ii) under any Virginia state employee health insurance plan on the basis of the family member's employment with a state agency;
7. Not be a member of a family eligible for subsidized dependent coverage, as defined in 42 CFR 457.310(c)(1)(ii), on the basis of a family member's employment with an agency that participates in the local choice program;
8. Not be an inpatient in an institution for mental diseases (IMD), or an inmate in a public institution that is not a medical facility.

D. Income.

1. Screening. All child health insurance applications received at the FAMIS central processing unit must be screened to identify applicants who are potentially eligible for Medicaid. Children screened and found potentially

eligible for Medicaid cannot be enrolled in FAMIS until there has been a finding of ineligibility for Medicaid. Children who do not appear to be eligible for Medicaid shall have their eligibility for FAMIS determined. Children determined to be eligible for FAMIS will be enrolled in the FAMIS program. Child health insurance applications received at a local department of social services shall have a full Medicaid eligibility determination completed. Children determined to be ineligible for Medicaid due to excess income will have their eligibility for FAMIS determined. If a child is found to be eligible for FAMIS, the local department of social services will enroll the child in the FAMIS program.

2. Standards. Income standards for FAMIS are based on a comparison of countable income to 200% of the federal poverty level for the family size, as defined in the State Plan for Title XXI as approved by the Centers for Medicare & Medicaid. Children who have income at or below 200% of the federal poverty level, but are ineligible for Medicaid due to excess income, will be income eligible to participate in FAMIS.

3. Grandfathered CMSIP children. Children who were enrolled in the Children's Medical Security Insurance Plan at the time of conversion from CMSIP to FAMIS and whose eligibility determination was based on the requirements of CMSIP shall continue to have their income eligibility determined using the CMSIP income methodology. If their income exceeds the FAMIS standard, income eligibility will be based on countable income using the same income methodologies applied under the Virginia State Plan for Medical Assistance for children as set forth in 12 VAC 30-40-90. Income that would be excluded when determining Medicaid eligibility will be excluded when determining countable income for the former CMSIP children. Use of the Medicaid income methodologies shall only be applied in determining the financial eligibility of former CMSIP children for FAMIS and for only as long as the children meet the income eligibility requirements for CMSIP. When a former CMSIP child is determined to be ineligible for FAMIS, these former CMSIP income methodologies shall no longer apply and income eligibility will be based on the FAMIS income standards.

4. Spenddown. Deduction of incurred medical expenses from countable income (spenddown) shall not apply in FAMIS. If the family income exceeds the income limits described in this section, the individual shall be ineligible for FAMIS regardless of the amount of any incurred medical expenses.

E. Residency. The requirements for residency, as set forth in 42 CFR 435.403, will be used when determining whether a child is a resident of Virginia for purposes of eligibility for FAMIS. A child who is not emancipated and is temporarily living away from home is considered living with his parents, adult relative caretaker, legal guardian, or person having legal custody if the absence is temporary and the child intends to return to the home when the purpose of the absence (such as education, medical care, rehabilitation, vacation, visit) is completed.

F. Qualified noncitizen. The requirements for qualified aliens set out in Public Law 104-193, as amended, and the

requirements for noncitizens set out in subdivisions 3 b and c of 12 VAC 30-40-10 will be used when determining whether a child is a qualified noncitizen for purposes of FAMIS eligibility.

G. Coverage under other health plans.

1. Any child covered under a group health plan or under health insurance coverage, as defined in § 2791 of the Public Health Services Act (42 USC § 300gg-91(a) and (b)(1)), shall not be eligible for FAMIS.

2. No substitution for private insurance.

a. Only uninsured children shall be eligible for FAMIS. A child is not considered to be insured if the health insurance plan covering the child does not have a network of providers in the area where the child resides. Each application for child health insurance shall include an inquiry about health insurance the child currently has or had within the past four months. If the child had health insurance coverage that was terminated in the past four months, inquiry as to why the health insurance was terminated is made. Each redetermination of eligibility shall also document inquiry about current health insurance or health insurance the child had within the past four months. If the child has been covered under a health insurance plan other than through the ~~ESH~~ *FAMIS Select* component of FAMIS within four months of application for or receipt of FAMIS services, the child will be ineligible, unless the child, if age 18 or if under the age of 18, the child's parent, caretaker relative, guardian, legal custodian or authorized representative demonstrates good cause for discontinuing the coverage.

b. Health insurance does not include *Medicare*, Medicaid nor insurance for which DMAS paid premiums under Title XIX through the Health Insurance Premium Payment (HIPP) Program.

c. Good cause. A child shall not be ineligible for FAMIS if health insurance was discontinued within the four-month period prior to the month of application if one of the following good cause exceptions is met.

(1) The family member who carried insurance, changed jobs, or stopped employment, and no other family member's employer contributes to the cost of family health insurance coverage.

(2) The employer stopped contributing to the cost of family coverage and no other family member's employer contributes to the cost of family health insurance coverage.

(3) The child's coverage was discontinued by an insurance company for reasons of uninsurability, e.g., the child has used up lifetime benefits or the child's coverage was discontinued for reasons unrelated to payment of premiums.

(4) Insurance was discontinued by a family member who was paying the full cost of the insurance premium under a COBRA policy and no other family member's employer contributes to the cost of family health insurance coverage.

(5) Insurance on the child was discontinued by someone other than the child (if 18 years of age) or if under age 18, the child's parent or stepparent living in the home, e.g., the insurance was discontinued by the child's absent parent, grandparent, aunt, uncle, godmother, etc.

(6) Insurance on the child was discontinued because the cost of the premium exceeded 10% of the family's monthly income or exceeded 10% of the family's monthly income at the time the insurance was discontinued.

(7) Other good cause reasons may be established by the DMAS director.

12 VAC 30-141-160. Copayments for families not participating in employer-sponsored health insurance (ESH) FAMIS Select.

A. Copayments shall apply to all enrollees in an MCHIP.

B. These cost-sharing provisions shall be implemented with the following restrictions:

1. Total cost sharing for each 12-month eligibility period shall be limited to (i) for families with incomes equal to or less than 150% of FPL, the lesser of (a) \$180 and (b) 2.5% of the family's income for the year (or 12-month eligibility period); and (ii) for families with incomes greater than 150% of FPL, the lesser of \$350 and 5.0% of the family's income for the year (or 12-month eligibility period).

2. DMAS or its designee shall ensure that the annual aggregate cost sharing for all FAMIS enrollees in a family does not exceed the aforementioned caps.

3. Families will be required to submit documentation to DMAS or its designee showing that their maximum copayment amounts are met for the year.

4. Once the cap is met, DMAS or its designee will issue a new eligibility card excluding such families from paying additional copays.

C. Exceptions to the above cost-sharing provisions:

1. Copayments shall not be required for well-child, *and* well baby services, ~~and for families participating in ESH~~. This shall include:

a. All healthy newborn inpatient physician visits, including routine screening (inpatient or outpatient);

b. Routine physical examinations, laboratory tests, immunizations, and related office visits;

c. Routine preventive and diagnostic dental services (i.e., oral examinations, prophylaxis and topical fluoride applications, sealants, and x-rays); and

d. Other preventive services as defined by the department.

2. Enrollees are not held liable for any additional costs, beyond the standard copayment amount, for emergency services furnished outside of the individual's managed care

Final Regulations

network. Only one copayment charge will be imposed for a single office visit.

3. No cost sharing will be charged to American Indians and Alaska Natives.

12 VAC 30-141-170. Employer-sponsored health insurance (ESHI). (Repealed.)

~~A. Enrollees in FAMIS who have access to employer sponsored health insurance coverage may, but shall not be required to, enroll in an employer's health plan if DMAS or its designee determines that such enrollment is cost effective, as defined in this section.~~

~~B. Eligibility determination. FAMIS children who have access to health insurance coverage under an employer-sponsored plan may elect to receive coverage under the employer plan and DMAS may elect to provide coverage by paying a portion of the premium if all of the following conditions are met:~~

- ~~1. The children are enrolled in FAMIS;~~
- ~~2. The employer's plan provides comprehensive health insurance coverage;~~
- ~~3. The employer contributes to the cost of dependent or family coverage as defined in the Virginia Plan for Title XXI of the Social Security Act, or as otherwise approved by the Centers for Medicare & Medicaid Services in the U.S. Department of Health and Human Services;~~
- ~~4. The cost of coverage for the child or children under ESHI is equal to or less than the Commonwealth's cost of obtaining coverage under FAMIS only for the eligible targeted low income children involved. The cost-effectiveness determination methodology is described in subsection F of this section;~~
- ~~5. The family receives the full premium contribution from the employer; and~~
- ~~6. The applicant agrees to assign rights to benefits under the employer's plan to DMAS to assist the Commonwealth in pursuing these third party payments. When a child is provided coverage under an employer's plan, that plan becomes the primary payer for the services covered under that plan.~~

~~C. When more than one employer plan is available to the family, the family shall enroll in the plan that DMAS has determined to be the most cost effective for the Commonwealth.~~

~~D. DMAS will continually verify the child's or children's coverage under the employer's plan and will redetermine the eligibility of the child or children for the ESHI component when it receives information concerning an applicant's or enrollee's circumstances that may affect eligibility.~~

~~E. Application requirements.~~

~~1. DMAS shall furnish the following information in written form and orally, as appropriate, to the families of FAMIS children who have access to ESHI:~~

~~a. The eligibility requirements;~~

~~b. Summary of covered benefits and supplementation of employer benefits;~~

~~c. Cost-sharing requirements; and~~

~~d. The rights and responsibilities of applicants and enrollees.~~

~~2. DMAS may elect to provide health insurance coverage to FAMIS children by having FAMIS children and their families enroll in ESHI. DMAS will provide interested families with applications for ESHI.~~

~~3. A written application for the ESHI component shall be required from interested families.~~

~~4. DMAS shall determine eligibility for the ESHI component promptly, within 45 calendar days from the date of receiving an application which contains all information and verifications necessary to determine eligibility, except in unusual circumstances beyond the agency's control. Actual enrollment into the ESHI component may not occur for extended periods of time, depending on the ability of the family to enroll in the employer's plan.~~

~~5. Incomplete ESHI applications shall be held for a period of 30 calendar days to enable applicants to provide outstanding information needed for an ESHI eligibility determination. Any applicant who, within 30 calendar days of the receipt of the initial application, fails to provide information or verifications necessary to determine, ESHI eligibility shall have his application denied.~~

~~6. DMAS must send each applicant a written notice of the agency's decision on his application for ESHI, and, if approved, his obligations under the program. If eligibility is denied, notice will be given concerning the reasons for the denial.~~

~~F. Cost effectiveness. DMAS may elect to provide coverage to FAMIS children by paying a portion of the family's employer-sponsored health insurance premium if the cost of family coverage under ESHI is equal to or less than the Commonwealth's cost of obtaining coverage under FAMIS only for the eligible, targeted, low income child or children involved. To the extent readily determinable by DMAS from the employer's plan documents, the portion of the premium associated with covering the FAMIS child only under the employer's plan will be used in determining the cost effectiveness. If DMAS is not able to fully isolate the cost of covering only the FAMIS child, premium assistance may result in the coverage of an adult or other relative/dependant; however, this coverage shall be solely incidental to covering the FAMIS child. The cost effectiveness determination will be conducted for individual families on a case-by-case basis.~~

~~1. To determine whether it is cost effective to cover the family, DMAS will compare the following two amounts:~~

~~(a) The sum of the premium assistance amount, plus the cost of supplemental coverage, plus the administrative cost; and~~

~~(b) The cost of covering the FAMIS child or children under FAMIS. The cost will be determined by using~~

the capitated payment rate paid to MCHIPs, or an average cost amount developed by DMAS.

2. If (a) is less than or equal to (b), covering the child or children under the ESHI component is cost effective.

G. Enrollment and disenrollment.

1. FAMIS children with access to employer-sponsored health insurance will receive coverage under FAMIS until their eligibility for coverage under the ESHI component is established and until they are able to enroll in the employer-sponsored health plan.

2. The timing and procedures employed to transfer FAMIS children's coverage to the ESHI component will be coordinated between DMAS and the CPU to ensure continuation of health plan coverage.

3. Participation by families in the ESHI component shall be voluntary. Families may disenroll their child or children from the ESHI component as long as the proper timing and procedures established by DMAS are followed to ensure continued health coverage.

H. Premium assistance. When a child is determined eligible for coverage under the ESHI component, premium assistance payments shall become effective the month in which the FAMIS child or children are enrolled in the employer's plan. Payment of premium assistance shall end:

1. On the last day of the month in which FAMIS eligibility ends;
2. The last day of the month in which the child or children lose eligibility for coverage under the employer's plan;
3. The last day of the month in which the family notifies DMAS that they wish to disenroll their child or children from the ESHI component; or
4. The last day of the month in which adequate notice period expires (consistent with federal requirements) when DMAS has determined that the employer's plan is no longer cost effective.

I. Supplemental health benefits coverage will be provided to ensure that FAMIS children enrolled in the ESHI component receive all of the FAMIS benefits. FAMIS children can obtain these supplemental benefits through DMAS providers.

J. Cost sharing. ESHI families will not be responsible for copayments for FAMIS Title XXI benefits. DMAS will instruct providers to submit billings to DMAS or its designee for payment of applicable copayments. In situations where the provider under the ESHI component refuses to bill DMAS for the copayment amount, DMAS will reimburse the enrollee directly.

1. FAMIS children will have to pay copayments for any services covered under the employer's plan that are not FAMIS benefits. The cost sharing paid by families for these benefits do not count towards the cost sharing cap.

2. ESHI families will pay deductibles, coinsurance, and enrollment fee amounts under their employers' plans up to the cost sharing caps allowed for non-ESHI FAMIS families (\$180 annually for those equal to or less than 150% FPL

and \$350 annually for those over 150% FPL). After the family has reached its cost sharing cap, DMAS will reimburse the family for any additional deductibles or coinsurance they incur for the FAMIS-enrolled children in the family for FAMIS Title XXI benefits received. Families will need to track their deductibles and coinsurance. Once the cost-sharing cap is reached for a family, that family will submit explanation of benefits forms, or other forms approved by DMAS, for reimbursement each time the family incurs a deductible or coinsurance amount for a FAMIS child for a FAMIS Title XXI benefit.

12 VAC 30-141-175. FAMIS Select.

A. Enrollees in FAMIS may, but shall not be required to, enroll in a private or employer-sponsored health plan if DMAS or its designee determines that such enrollment is cost effective, as defined in this section.

B. Eligibility determination. FAMIS children may elect to receive coverage under a health plan purchased privately or through an employer and DMAS may elect to provide coverage by paying all or a portion of the premium if all of the following conditions are met:

1. The children are determined to be eligible for FAMIS;
2. The cost of coverage for the child or children under FAMIS Select is equal to or less than the Commonwealth's cost of obtaining coverage under FAMIS only for the eligible targeted low-income children involved. The cost-effectiveness determination methodology is described in subsection E of this section;
3. The policyholder agrees to assign rights to benefits under the private or employer's plan to DMAS to assist the Commonwealth in pursuing these third-party payments for childhood immunizations. When a child is provided coverage under a private or employer's plan, that plan becomes the payer for all other services covered under that plan; and
4. The policyholder is not under a court order to provide medical support for the applicant child.

C. DMAS will continually verify the child's or children's coverage under the private or employer's plan and will redetermine the eligibility of the child or children for the FAMIS Select component when it receives information concerning an applicant's or enrollee's circumstances that may affect eligibility.

D. Application requirements.

1. DMAS shall furnish the following information in written form and orally, as appropriate, to the families of FAMIS children who have indicated an interest in FAMIS Select:
 - a. The eligibility requirements for FAMIS Select;
 - b. A description of how the program operates, the amount of premium assistance available, and how children can move from FAMIS Select into FAMIS if requested;
 - c. A summary of the covered benefits and cost-sharing requirements available through FAMIS;

Final Regulations

d. A guide to help families make an informed choice by comparing the FAMIS plan to their private or employer-sponsored health plan. Such guide shall include a notice to the effect that children covered by FAMIS Select will not receive FAMIS-covered services, but only those health services covered by their private or employer-sponsored health plan, and that the FAMIS Select enrollee shall be responsible for any and all costs associated with their chosen health plan;

e. Information on coverage for childhood immunizations through FAMIS; and

f. The rights and responsibilities of applicants and enrollees.

2. DMAS will provide interested families with applications for FAMIS Select.

3. A written application for the FAMIS Select component shall be required from interested families.

4. DMAS shall determine eligibility for the FAMIS Select component promptly, within 45 calendar days from the date of receiving an application that contains all information and verifications necessary to determine eligibility, except in unusual circumstances beyond the agency's control. Actual enrollment into the FAMIS Select component may not occur for extended periods of time, depending on the ability of the family to enroll in the employer's plan.

5. Incomplete FAMIS Select applications shall be held for a period of 30 calendar days to enable applicants to provide outstanding information needed for a FAMIS Select eligibility determination. Any applicant who, within 30 calendar days of the receipt of the initial application, fails to provide information or verifications necessary to determine FAMIS Select eligibility shall have his application denied.

6. DMAS must send each applicant a written notice of the agency's decision on his application for FAMIS Select and, if approved, his obligations under the program. If eligibility is denied, notice will be given concerning the reasons for the denial.

E. Cost effectiveness. DMAS may elect to provide coverage to FAMIS children by paying all or a portion of the family's private or employer-sponsored health insurance premium if the cost of such premium assistance under FAMIS Select is equal to or less than the Commonwealth's cost of obtaining coverage under FAMIS only for the eligible, targeted, low-income child or children involved. Providing premium assistance for the FAMIS-eligible children may result in the coverage of an adult or other relative/dependent; however, this coverage shall be solely incidental to covering the FAMIS child.

1. To ensure that the FAMIS Select program remains cost effective, DMAS will establish a fixed premium assistance amount per child that will be paid to a family choosing to enroll their FAMIS-eligible child in FAMIS Select. The fixed premium assistance amount will be determined annually by:

a. Determining the cost of covering a child under FAMIS. The cost will be determined by using the capitated payment rate paid to MCHIPs, or an average cost amount developed by DMAS;

b. Determining the administrative costs associated with the FAMIS Select program; and

c. Establishing a fixed premium assistance amount that includes administrative costs and is less than or equal to the cost of covering the FAMIS child or children under FAMIS.

DMAS will ensure that the total of the fixed premium assistance amounts for all the FAMIS-eligible children per family do not exceed the total cost of the family's health insurance premium payment for the private or employer-sponsored coverage. If the total fixed premium assistance amounts do exceed the family's premium payment, then the family premium assistance will be reduced by an amount necessary to ensure the premium assistance payment is less than or equal to the family's premium payment.

F. Enrollment and disenrollment.

1. FAMIS children applying for FAMIS Select will receive coverage under FAMIS until their eligibility for coverage under the FAMIS Select component is established and until they are able to enroll in the private or employer-sponsored health plan.

2. The timing and procedures employed to transfer FAMIS children's coverage to the FAMIS Select component will be coordinated between DMAS and the CPU to ensure continuation of health plan coverage.

3. Participation by families in the FAMIS Select component shall be voluntary. Families may disenroll their child or children from the FAMIS Select component as long as the proper timing and procedures established by DMAS are followed to ensure continued health coverage.

G. Premium assistance. When a child is determined eligible for coverage under the FAMIS Select component, premium assistance payments shall become effective the month in which the FAMIS child or children are enrolled in the employer's plan. Payment of premium assistance shall end:

1. On the last day of the month in which FAMIS eligibility ends;

2. The last day of the month in which the child or children lose eligibility for coverage under the private or employer's plan;

3. The last day of the month in which the family notifies DMAS that it wishes to disenroll its child or children from the FAMIS Select component; or

4. On the next business day following a request by the family to immediately transfer the child from FAMIS Select into the FAMIS program. The request must include notification that the child's private or employer-sponsored coverage has been terminated as of the date of transfer and an agreement by the family to return to DMAS the premium assistance payment prorated for that portion of the month in which the child was not enrolled in the private or employer-sponsored plan.

H. Supplemental health benefits coverage will be provided to ensure that FAMIS children enrolled in the FAMIS Select component receive all childhood immunizations available

under the FAMIS benefits. FAMIS children can obtain these supplemental benefits through Medicaid providers.

I. Cost sharing. FAMIS Select families will be responsible for all copayments, deductibles, coinsurance, fees, or other cost-sharing requirements of the private or employer-sponsored health plan in which they enroll their children. There is no Title XXI family cost-sharing cap applied to families with children enrolled in FAMIS Select.

There is no copayment required for the supplemental immunization benefits provided through FAMIS.

12 VAC 30-141-200. Benefit packages.

A. The Commonwealth's Title XXI State Plan utilizes two benefit packages within FAMIS as set forth in the FAMIS State Plan, as may be amended from time to time. One package is a modified Medicaid look-alike component offered through a fee-for-service program and a primary care case management (PCCM) program; the other package is modeled after the state employee health plan and delivered by contracted MCHIPs.

~~B. The Medicaid look-alike plan is also used as a benchmark for the ESHI of FAMIS.~~

VA.R. Doc. No. R05-259; Filed August 9, 2006, 10:11 a.m.

TITLE 18. PROFESSIONAL AND OCCUPATIONAL LICENSING

AUCTIONEERS BOARD

REGISTRAR'S NOTICE: The following regulatory action is exempt from the Administrative Process Act in accordance with § 2.2-4006 A 7 of the Code of Virginia, which excludes regulations of the regulatory boards served by the Department of Professional and Occupational Regulation pursuant to Title 54.1 that are limited to reducing fees charged to regulants and applicants. The Auctioneers Board will receive, consider and respond to petitions by any interested person at any time with respect to reconsideration or revision.

Title of Regulation: 18 VAC 25-21. Rules and Regulations of the Virginia Auctioneers Board (amending 18 VAC 25-21-70).

Statutory Authority: §§ 54.1-113 and 54.1-602 of the Code of Virginia.

Effective Date: November 1, 2006.

Agency Contact: Marian H. Brooks, Board Administrator, Department of Professional and Occupational Regulation, 3600 West Broad Street, Richmond, VA 23230, telephone (804) 367-8514, FAX (804) 367-0795 or e-mail auctioneers@dpor.virginia.gov.

Summary:

At the close of each biennium, § 54.1-113 of the Code of Virginia requires a review for each board's financial position

to determine whether fees need to be adjusted to ensure that revenues are sufficient, but not excessive, to cover the board's operating expenses. The agency reviews each board's financial position after the close of the first year of the biennium. The board is currently carrying a cash balance that is more than its operating needs, and projections indicate that the balance is likely to remain high for the next four or five biennia. For this reason, the board voted to reduce its fees to a level to sustain its projected operations. It is projected that this fee adjustment will provide adequate funding for the next three or four biennia without additional fee increases.

18 VAC 25-21-70. Fees.

Fees are nonrefundable and shall not be prorated. The following fees shall apply:

1. Individual auctioneer license	\$ 40 \$25
2. Auctioneer firm license	\$ 70 \$55
3. Examination	\$40
4. Reexamination fee	\$40
5. Renewal for individual auctioneer's license	\$ 70 \$55
6. Renewal for firm or corporation license	\$ 80 \$65
7. Late renewal for an individual auctioneer's license	\$ 95 \$80
8. Late renewal for an auction firm or corporate license	\$105 \$90
9. Reinstatement of the individual auctioneer's license	\$120 \$105
10. Reinstatement of the firm or corporate license	\$130 \$115

NOTICE: The forms used in administering 18 VAC 25-21, Rules and Regulations of the Virginia Auctioneers Board, are not being published; however, the name of each form is listed below. The forms are available for public inspection at the Department of Professional and Occupational Regulation, 3600 West Broad Street, Richmond, Virginia, or at the office of the Registrar of Regulations, General Assembly Building, 2nd Floor, Richmond, Virginia.

FORMS

License By Examination Application, 29EXLIC (4/18/00 11/06).

~~License By Reciprocity & Reinstatement Application, 29R&RLIC (4/18/00).~~

Auctioneer Surety Bond Form, 29IBOND (rev. 4/18/00 1/04).

Firm License Application, 29FIRM (rev. 4/18/00 11/06).

Auction Firm Surety Bond Form, 29FBOND (rev. 4/18/00 1/04).

Application Supplement (States with Approved Reciprocal Agreements and Virginia Approved Auctioneering Schools), 29ST&SCL (rev. 8/27/04 7/06).

Final Regulations

Application for Training Course Approval, 29CRS (3/2/04 1/04).

License By Reciprocity Application, 29REC (11/06).

License Reinstatement Application, 29FEI (11/06).

VA.R. Doc. No. R06-335; Filed August 16, 2006, 9:52 a.m.

BOARD FOR GEOLOGY

REGISTRAR'S NOTICE: The following regulatory action is exempt from the Administrative Process Act in accordance with § 2.2-4006 A 7 of the Code of Virginia, which excludes regulations of the regulatory boards served by the Department of Professional and Occupational Regulation pursuant to Title 54.1 that are limited to reducing fees charged to regulants and applicants. The Board for Geology will receive, consider and respond to petitions by any interested person at any time with respect to reconsideration or revision.

Title of Regulation: 18 VAC 70-20. Rules and Regulations for the Virginia Board for Geology (amending 18 VAC 70-20-30 and 18 VAC 70-20-50).

Statutory Authority: §§ 54.1-201 and 54.1-1402 of the Code of Virginia.

Effective Date: November 1, 2006.

Agency Contact: David E. Dick, Executive Director, Board for Geology, 3600 West Broad Street, Richmond, VA 23230, telephone (804) 367-2648, FAX (804) 367-6128 or e-mail geology@dpor.virginia.gov.

Summary:

At the close of each biennium, § 54.1-113 of the Code of Virginia requires a review of each board's financial position to determine whether fees need to be adjusted to ensure that revenues are sufficient, but not excessive, to cover the board's operating expenses. The board is currently carrying a cash balance that is more than its operating needs, and projections indicate that the balance is likely to remain high for the next four to five biennia. For this reason, the board voted to reduce its fees to a level to sustain its projected operations. The fee for certification renewal is reduced from \$80 to \$35 and the fee for a certification reinstatement is reduced from \$160 to \$40. It is projected that this fee adjustment will provide adequate funding until 2010 when a fee increase will be necessary to fund board operations during the 2012-2014 biennium.

18 VAC 70-20-30. Fees.

All fees for application, examination, renewal, and reinstatement shall be established by the board pursuant to § 54.1-201 of the Code of Virginia. All fees are nonrefundable and shall not be prorated.

1. The application fee for certification shall be \$40.
2. The fee for renewal of certification shall be ~~\$80~~ \$35.
3. The fee for examination or reexamination is subject to contracted charges to the department by an outside vendor. These contracts are competitively negotiated and bargained for in compliance with the Virginia Public Procurement Act

(§ 2.2-4300 et seq. of the Code of Virginia). Fees may be adjusted and charged to the candidate in accordance with this contract.

4. The penalty fee for late renewal shall be \$25 in addition to the renewal fee.

5. The reinstatement fee shall be ~~\$160~~ \$40.

6. The fee for duplicate wall certificates shall be \$25.

18 VAC 70-20-50. Reinstatements.

If the certificate holder fails to renew the certificate within six months following the expiration date, the certificate holder will be required to apply for reinstatement of the certificate. The board may grant reinstatement of the certificate, or require requalification or reexamination, or both. The application fee for reinstatement of a certificate shall be ~~an~~ *the amount equal to twice the renewal fee established in 18 VAC 70-20-30.*

NOTICE: The forms used in administering 18 VAC 70-20, Rules and Regulations for the Virginia Board for Geology, are not being published; however, the name of each form is listed below. The forms are available for public inspection at the Department of Professional and Occupational Regulation, 3600 West Broad Street, Richmond, Virginia, or at the office of the Registrar of Regulations, General Assembly Building, 2nd Floor, Richmond, Virginia.

FORMS

Certification Application, 28CERT (rev. 6/00).

Experience Log, 28EXP (~~off. 5/02~~ rev. 1/05).

VA.R. Doc. No. R06-329; Filed August 11, 2006, 12:21 p.m.

BOARD OF MEDICINE

Title of Regulation: 18 VAC 85-20. Regulations Governing the Practice of Medicine, Osteopathic Medicine, Podiatry, and Chiropractic (amending 18 VAC 85-20-122).

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

Effective Date: October 4, 2006.

Agency Contact: William L. Harp, M.D., Executive Director, Department of Health Professions, Alcoa Building, 6603 West Broad Street, 5th Floor, Richmond, VA 23230-1712, telephone (804) 662-9908, FAX (804) 662-9943, or e-mail william.harp@dhp.virginia.gov.

Summary:

The amendment changes the educational requirements for graduates and former students of institutions not approved by an accrediting agency recognized by the board to specify that at least one of the required two years of postgraduate training or study in the United States or Canada must be as an intern or resident in a hospital or health care facility.

Summary of Public Comments and Agency's Response: No public comments were received by the promulgating agency.

18 VAC 85-20-122. Educational requirements: Graduates and former students of institutions not approved by an accrediting agency recognized by the board.

A. A graduate of an institution not approved by an accrediting agency recognized by the board shall present documentary evidence that he:

1. Was enrolled and physically in attendance at the institution's principal site for a minimum of two consecutive years and fulfilled at least half of the degree requirements while enrolled two consecutive academic years at the institution's principal site.
2. Has fulfilled the applicable requirements of § 54.1-2930 of the Code of Virginia.
3. Has obtained a certificate from the Educational Council of Foreign Medical Graduates (ECFMG), or its equivalent. Proof of licensure by the board of another state or territory of the United States or a province of Canada may be accepted in lieu of ECFMG certification.
4. Has had supervised clinical training as a part of his curriculum in an approved hospital, institution or school of medicine offering an approved residency program in the specialty area for the clinical training received, if such training was received in the United States.
5. Has completed two years of satisfactory postgraduate training as an intern or resident in a hospital or health care facility offering an approved internship or residency training program when such a program is approved by an accrediting agency recognized by the board for internship and residency.

a. The board may substitute other postgraduate training or study for *one year* of the two-year requirement when such training or study has occurred in the United States or Canada and is:

- (1) An approved fellowship program; or
- (2) A position teaching medical students, interns, or residents in a medical school program approved by an accrediting agency recognized by the board for internship and residency training.

b. The board may substitute continuous full-time practice of five years or more with a limited professorial license in Virginia and one year of postgraduate training in a foreign country in lieu of two years of postgraduate training.

6. Has received a degree from the institution.

B. A former student who has completed all degree requirements except social services and postgraduate internship at a school not approved by an accrediting agency recognized by the board shall be considered for licensure provided that he:

1. Has fulfilled the requirements of subdivisions A 1 through 5 of this ~~subsection~~ section;
2. Has qualified for and completed an appropriate supervised clinical training program as established by the American Medical Association; and

3. Presents a document issued by the school certifying that he has met all the formal requirements of the institution for a degree except social services and postgraduate internship.

VA.R. Doc. No. R05-235; Filed August 10, 2006, 4:01 p.m.

BOARD OF LONG-TERM CARE ADMINISTRATORS

Title of Regulation: **18 VAC 95-20. Regulations Governing the Practice of Nursing Home Administrators (amending 18 VAC 95-20-220, 18 VAC 95-20-310, 18 VAC 95-20-330, 18 VAC 95-20-340, 18 VAC 95-20-380, 18 VAC 95-20-390; adding 18 VAC 95-20-221).**

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

Effective Date: October 4, 2006.

Agency Contact: Sandra Reen, Executive Director, Board of Long-Term Care Administrators, 6603 West Broad Street, 5th Floor, Richmond, VA 23230-1712, telephone (804) 662-7457, FAX (804) 662-9943, or e-mail sandra.reen@dhp.virginia.gov.

Summary:

The amendments eliminate the field "nursing home administration," add a new section that specifies the content areas that must be included within a degree program in a health care-related field, and specify the content of the internship required for licensure.

Summary of Public Comments and Agency's Response: No public comments were received by the promulgating agency.

18 VAC 95-20-220. Qualifications for initial licensure.

One of the following sets of qualifications is required for licensure as a nursing home administrator:

1. Degree and practical experience. The applicant shall (i) hold a baccalaureate or higher degree in ~~nursing home administration~~ or a health care ~~administration~~ -related field that meets the requirements of 18 VAC 95-20-221 from an accredited college or university; (ii) have completed not less than a 320-hour internship that addresses the *Domains of Practice* as specified in 18 VAC 95-20-390 in a licensed nursing home as part of the degree program under the supervision of a preceptor; and (iii) have received a passing grade on the state examination and the national examination;

2. Certificate program. The applicant shall (i) hold a baccalaureate or higher degree from an accredited college or university; (ii) successfully complete a program with a minimum of 21 semester hours study in ~~nursing home administration~~ or a health care ~~administration~~ -related field that meets the requirements of 18 VAC 95-20-221 from an accredited college or university; (iii) successfully complete not less than a 400-hour internship that addresses the *Domains of Practice* as specified in 18 VAC 95-20-390 in a licensed nursing home as part of the certificate program under the supervision of a preceptor; and (iv) have received a passing grade on the state examination and the national examination; or

Final Regulations

3. Administrator-in-training program. The applicant shall have (i) successfully completed an A.I.T. program which meets the requirements of Part IV (18 VAC 95-20-300 et seq.) of this chapter and (ii) received a passing grade on the state examination and the national examination.

18 VAC 95-20-221. Required content for coursework.

To meet the educational requirements for a degree in a health care-related field, an applicant must provide a transcript from an accredited college or university that documents successful completion of a minimum of 21 semester hours of coursework concentrated on the administration and management of health care services to include a minimum of three semester hours in each of the content areas in subdivisions 1 through 4 of this section, six semester hours in the content area set out in subdivision 5 of this section, and three semester hours for an internship.

1. *Resident care and quality of life:* Course content shall address program and service planning, supervision and evaluation to meet the needs of patients, such as (i) nursing, medical and pharmaceutical care; (ii) rehabilitative, social, psycho-social and recreational services; (iii) nutritional services; (iv) safety and rights protections; (v) quality assurance; and (vi) infection control.

2. *Human resources:* Course content shall focus on personnel leadership in a health care management role and must address organizational behavior and personnel management skills such as (i) staff organization, supervision, communication and evaluation; (ii) staff recruitment, retention, and training; (iii) personnel policy development and implementation; and (iv) employee health and safety.

3. *Finance:* Course content shall address financial management of health care programs and facilities such as (i) an overview of financial practices and problems in the delivery of health care services; (ii) financial planning, accounting, analysis and auditing; (iii) budgeting; (iv) health care cost issues; and (v) reimbursement systems and structures.

4. *Physical environment and atmosphere:* Course content shall address facility and equipment management such as (i) maintenance; (ii) housekeeping; (iii) safety; (iv) inspections and compliance with laws and regulations; and (v) emergency preparedness.

5. *Leadership and management:* Course content shall address the leadership roles in health delivery systems such as (i) government oversight and interaction; (ii) organizational policies and procedures; (iii) principles of ethics and law; (iv) community coordination and cooperation; (v) risk management; and (vi) governance and decision making.

18 VAC 95-20-310. Required hours of training.

A. The A.I.T. program shall consist of 2,000 hours of continuous training in a facility as prescribed in 18 VAC 95-20-330 to be completed within 24 months. An extension may be granted by the board on an individual case basis. The board may reduce the required hours for applicants with certain

qualifications as prescribed in subsection B and C of this section.

B. An A.I.T. applicant with prior health care work experience may request approval to receive a maximum 1,000 hours of credit toward the total 2,000 hours as follows:

1. *The applicant shall have been employed full time for four of the past five consecutive years immediately prior to application as an assistant administrator or director of nursing in a training facility as prescribed in 18 VAC 95-20-330;*

2. ~~Applicants~~ *The applicant with experience as a hospital administrator shall have been employed full time for three of the past five years immediately prior to application as a hospital administrator-of-record or an assistant hospital administrator in a hospital setting having responsibilities in all of the following areas:*

- a. Regulatory;
- b. Fiscal;
- c. Supervisory;
- d. Personnel; and
- e. Management; or

3. ~~Applicants~~ *The applicant who held holds a license as a registered nurse shall have held an administrative level supervisory position for at least four of the past five consecutive years, in a training facility as prescribed in 18 VAC 95-20-330.*

C. An A.I.T. applicant with the following educational qualifications shall meet these requirements:

1. An applicant with a master's or a baccalaureate degree in a health care ~~administration or a comparable~~ -related field that meets the requirements of 18 VAC 95-20-221 with no internship shall complete 320 hours in an A.I.T. program;

2. An applicant with a master's degree in an ~~unrelated~~ a field other than health care shall complete 1,000 hours in an A.I.T. program;

3. An applicant with a baccalaureate degree in an ~~unrelated~~ a field other than health care shall complete 1,500 hours in an A.I.T. program; or

4. An applicant with 60 semester hours of education in an accredited college or university shall complete 2,000 hours in an A.I.T. program.

D. An A.I.T. shall be required to serve weekday, evening, night and weekend shifts and to receive training in all areas of nursing home operation.

18 VAC 95-20-330. Training facilities.

Training in an A.I.T. program shall be conducted only in:

1. A nursing home licensed by the Virginia Board of Health or by a similar licensing body in another jurisdiction;

2. An institution operated by the Virginia State Mental Health, Mental Retardation and Substance Abuse Services Board in which long-term care is provided;

BOARD OF OPTOMETRY

REGISTRAR'S NOTICE: The following regulatory action is exempt from the Administrative Process Act in accordance with § 2.2-4006 A 7 of the Code of Virginia, which excludes regulations of the regulatory boards served by the Department of Health Professions pursuant to Title 54.1 that are limited to reducing fees charged to regulants and applicants. The Board of Optometry will receive, consider and respond to petitions by any interested person at any time with respect to reconsideration or revision.

Title of Regulation: 18 VAC 105-20. Regulations Governing the Practice of Optometry (amending 18 VAC 105-20-20).

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

Effective Date: October 4, 2006.

Agency Contact: Elizabeth A. Carter, Ph.D., Executive Director, Board of Optometry, 6603 West Broad Street, 5th Floor, Richmond, VA 23230-1712, telephone (804) 662-9910, FAX (804) 662-7098, or e-mail elizabeth.carter@dhp.virginia.gov.

Summary:

In order to reduce an accumulated surplus in the budget of the Board of Optometry, a reduction in the application fees and a two-year reduction in renewal fees have been adopted. The application fee for initial application and licensure is reduced from \$300 to \$250, and the application fee for reinstatement is reduced from \$450 to \$400. Renewal fee for optometrists is reduced by at least half for the two annual renewal cycles (from \$150 to \$75 for optometrists without TPA certification and from \$200 to \$90 for optometrists with TPA certification); late fees are reduced proportionately.

18 VAC 105-20-20. Fees.

A. Required fees.

Initial application and licensure (including TPA certification)	\$300 \$250
Application for TPA certification	\$200
Annual licensure renewal without TPA certification	\$150
Annual licensure renewal with TPA certification	\$200
Late renewal without TPA certification	\$50
Late renewal with TPA certification	\$65
Returned check	\$35
Professional designation application	\$100
Annual professional designation renewal (per location)	\$50
Late renewal of professional designation	\$20
Reinstatement application fee (including renewal and late fees)	\$450 \$400
Reinstatement application after disciplinary action	\$500
Duplicate wall certificate	\$25
Duplicate license	\$10
Licensure verification	\$10

B. Unless otherwise specified, all fees are nonrefundable.

C. From October 4, 2006, to October 3, 2008, the following fees shall be in effect:

3. A certified nursing home owned or operated by an agency of any city, county, or the Commonwealth or of the United States government; or

4. A certified nursing home unit *that is* located in and operated by a licensed hospital as defined in § 32.1-123 of the Code of Virginia, a state-operated hospital, or a hospital licensed in another jurisdiction.

18 VAC 95-20-340. Supervision of trainees.

A. Training shall be under the supervision of a preceptor who is registered or recognized by a licensing board.

B. A preceptor may supervise no more than two A.I.T.'s at any one time.

C. A preceptor shall:

1. Provide direct instruction, planning and evaluation *in the training facility*;

2. Shall be routinely present with the trainee in the training facility; and

3. Shall continually evaluate the development and experience of the A.I.T. to determine specific areas ~~needed for concentration in the Domains of Practice that need to be addressed.~~

18 VAC 95-20-380. Qualifications of preceptors.

To be registered by the board as a preceptor, a person shall:

1. Hold a current, unrestricted Virginia nursing home administrator license and be employed full time as an administrator *of record* in a training facility for a minimum of two of the past three years immediately prior to registration; and

2. Meet the application requirements in 18 VAC 95-20-230.

18 VAC 95-20-390. Training plan.

Prior to the beginning of the A.I.T. program, the preceptor shall develop and submit for board approval a training plan ~~which~~ *that* shall include and be designed around the specific training needs of the administrator-in-training. The training plan shall ~~include~~ *address* the ~~1996~~ Domains of Practice approved by the National Association of Boards of Examiners for Long Term Care Administrators ~~and incorporated by reference into these regulations that is in effect at the time the training program is submitted for approval.~~ An A.I.T. program shall include training in each of the learning areas in the Domains of Practice.

DOCUMENTS INCORPORATED BY REFERENCE

~~The 1996 Domains of Practice structured as an Administrator-in-Training internship program, 1997, J. E. Allen and National Association of Boards of Examiners for Long Term Care Administrators.~~

VA.R. Doc. No. R05-104; Filed August 10, 2006, 3:56 p.m.

Final Regulations

Initial application and licensure (including TPA certification)	\$250
Application for TPA certification	\$200
Annual licensure renewal without TPA certification	\$75
Annual licensure renewal with TPA certification	\$90
Late renewal without TPA certification	\$25
Late renewal with TPA certification	\$30
Returned check	\$35
Professional designation application	\$100
Annual professional designation renewal (per location)	\$50
Late renewal of professional designation	\$20
Reinstatement application fee (including renewal and late fees)	\$400
Reinstatement application after disciplinary action	\$500
Duplicate wall certificate	\$25
Duplicate license	\$10
Licensure verification	\$10

VA.R. Doc. No. R06-322; Filed August 10, 2006, 3:57 p.m.

BOARD FOR WASTE MANAGEMENT FACILITY OPERATORS

Title of Regulation: 18 VAC 155-20. Waste Management Facility Operators Regulations (amending 18 VAC 155-20-10, 18 VAC 155-20-110, 18 VAC 155-20-120, 18 VAC 155-20-160, 18 VAC 155-20-220 and 18 VAC 155-20-280).

Statutory Authority: §§ 54.1-201 and 54.1-2211 of the Code of Virginia.

Effective Date: November 1, 2006.

Agency Contact: David Dick, Executive Director, Board for Waste Management Facility Operators, 3600 West Broad Street, Richmond, VA 23230, telephone (804) 367-0219, FAX (804) 367-6128, or e-mail wastemgt@dpor.virginia.gov.

Summary:

The amendments (i) clarify that a waste management facility for which the board has not established training and licensure requirements may be operated by a Class I licensee; (ii) require applicants using experience to substitute for a high school diploma to have obtained that experience during the seven years immediately preceding the date of application; (iii) require applicants to document at least one year of operational experience with a waste management facility in order to qualify for licensure; (iv) repeal language requiring facility specific training to have been completed after January 1, 1989, and language concerning the first renewal after May 1, 2000, that assigned a single expiration date to all classes of license held by a single individual; (v) require license renewal applicants to state that they are in compliance with all Virginia and federal laws and regulations; (vi) amend the training course curriculum section to be more reflective of current technology and training needs, to amend Class II training to remove MSW composting requirements and (vii) amend the "grounds for denial of application, denial of renewal or discipline" section to make renewing a license through fraudulent means or misrepresentation grounds for license denial and disciplinary action and to cite the

provisions of § 54.1-204 of the Code of Virginia pertinent to applicants with criminal convictions.

Summary of Public Comments and Agency's Response: A summary of comments made by the public and the agency's response may be obtained from the promulgating agency or viewed at the office of the Registrar of Regulations.

18 VAC 155-20-10. Definitions.

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

"Board" means the Board for Waste Management Facility Operators.

"Board-approved training course" means a course which that has been approved by the board to provide appropriate training to an applicant in accordance with this chapter.

"Class I license" means the authorization from the board to act as a waste management facility operator of a transfer station, a material recovery facility receiving mixed waste, an experimental facility, or a composting facility receiving yard waste.

"Class II license" means the authorization from the board to act as a waste management facility operator of [a facility which that composts municipal solid waste,] a sanitary [landfill], [an] industrial [landfill], [a] construction [landfill] or [a] debris landfill.

"Class III license" means the authorization from the board to act as a waste management facility operator of an infectious waste incinerator or autoclave.

"Class IV license" means the authorization from the board to act as a waste management facility operator of a municipal waste combustor.

["~~Class V license~~" means the authorization from the board to act as a waste management facility operator of a facility that composts municipal solid waste.]

"Closed facility" means a solid waste management facility which that has been properly secured in accordance with an approved facility closure plan.

"Closure" means an act of securing a solid waste management facility pursuant to the requirements established by the Virginia Department of Environmental Quality or appropriate regulatory authority.

"Contact hour" means 50 minutes of participation in a group program or 60 minutes of completion time for a project.

"Continuing professional education/training (CPE/T)" means an integral part of the lifelong learning process that enables a licensed solid waste management facility operator to maintain and increase the competence required to assure the public's protection, which shall be pursued through an organized program or project in compliance with this chapter.

"Department" means the Department of Professional and Occupational Regulation.

"Full-time employment" means 1,760 hours per year or 220 work days per year.

"In charge" means the designation of any person by the owner to have duty and authority to operate or modify the operation of a waste management facility.

"License" means an authorization issued by the board to an individual to practice as a waste management facility operator who meets the provisions of this chapter.

"Municipal solid waste (MSW)" means that waste that is defined as "municipal solid waste" in 9 VAC 20-80-10.

"Municipal waste combustor" means a mass burn or a refuse derived fuel incinerator or facility designed or modified for the purpose of noninfectious solid waste combustion.

"Operation" means any waste management facility ~~which that~~ is under construction, treating, processing, storing or disposing of solid waste, or in the act of securing a facility for closure.

"Organized program" means a formal learning process designed to permit a participant to learn a given subject or subjects through interaction with an instructor in a formal course, seminar or conference.

"Owner" means the person who owns a solid waste management facility or part of a solid waste management facility.

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

"Project" means a learning process designed to permit a participant to perform work assigned by the owner, operator or manager of a waste management facility under the supervision of a knowledgeable person that results in a specific, predetermined end result and that increases the participant's competence to practice as a waste management facility operator.

"Site" means within the vicinity of all land and structures, other appurtenances, and improvements thereon used for treating, storing, and disposing of solid waste. This term includes adjacent land within the property boundary used for the utility systems such as repair, storage, shipping or processing areas, or other areas incident to the management of solid waste.

"Solid waste" means any of those materials defined as nonhazardous solid waste in regulations promulgated by the Virginia Department of Environmental Quality.

"Storage" means housing a solid waste as consistent with the regulations of the Virginia Waste Management Board.

"Substantial change" means a deviation from a specific course that decreases the approved time of the course by more than 30 minutes or modifies the topics of the approved course to below the target levels of knowledge, as stated in the course application.

**"Waste management facility" means a site used for planned treatment, storage, or disposal of nonhazardous solid waste.

**"Waste management facility operator" means any person, including an owner, who is in charge of the actual, on-site operation of a waste management facility during any period of operation.

* As defined by Chapter 22.1 (§ 54.1-2209 et seq.) of Title 54.1 of the Code of Virginia.

18 VAC 155-20-110. License classification.

A. The applicant shall apply for at least one classification of license as outlined below:

1. An individual operating a facility ~~which that~~ is defined by the Department of Environmental Quality as a transfer station, a material recovery facility receiving mixed waste, an experimental facility, or a composting facility receiving yard waste shall hold a Class I license. An individual who has obtained a Class II, III or [;] IV [~~or V~~] license may also operate a facility listed under Class I, if the individual has completed the board-approved basic training course.

2. An individual operating a facility ~~which that~~ composts municipal solid waste, or is defined by the Department of Environmental Quality as a sanitary, industrial, construction or debris landfill, shall hold a Class II license.

3. An individual operating a facility defined by the Department of Environmental Quality as an infectious waste incinerator or an autoclave shall hold a Class III license.

4. An individual operating a facility defined by the Department of Environmental Quality as a municipal waste combustor shall hold a Class IV license.

~~[5. An individual operating a facility that is defined by the Department of Environmental Quality as a composting facility receiving municipal solid waste shall hold a Class V license.]~~

B. A licensee may not operate a facility outside of his classification other than that defined by subdivision A 1 of this section.

C. An individual operating a solid waste management facility that has been issued a permit by the Department of Environmental Quality but for which the board has not established training and licensure requirements shall hold a Class I license until the board establishes the training and licensing requirements by regulation.

18 VAC 155-20-120. Qualifications for licensure.

A. The board shall issue a license only after an individual has met, through a completed application and addendum, all training, testing, and experience requirements for at least one specific class as set forth in this chapter.

B. The applicant shall meet the following requirements for licensure for all classes of licenses:

1. The applicant shall be at least 18 years of age.

2. The applicant shall provide proof of high school or college graduation, or of having a General Equivalency Diploma (GED).

Final Regulations

3. An applicant who cannot fulfill the requirement outlined in subdivision 2 of this subsection shall document at least five years of verified experience with a waste management facility *during the preceding seven years*, with at least three years of experience in at least one of the following activities:

- a. Supervision;
- b. Research;
- c. Construction;
- d. Project development;
- e. Site development;
- f. Compliance and enforcement of a permit or regulations;
- g. Operation; or
- h. Review of materials for permitting purposes.

4. *Except for applicants that qualify pursuant to subdivision 3 of this subsection, each applicant shall document one year of verified [operational] experience with a waste management facility.*

~~4.~~ 5. All applicants shall successfully complete the basic training course as defined in 18 VAC 155-20-220 B.

~~5.~~ 6. An applicant may use employment responsibilities in lieu of facility specific training as defined in subsections D through F of this section provided that:

- a. The applicant has been a full-time employee at a waste facility specific to the desired license classification for at least three of the past seven years.
- b. The employment responsibilities include at least one of those activities enumerated in subdivision 3 of this subsection.

~~6.~~ ~~The board will accept facility specific training provided that (i) the training has been approved by the board pursuant to 18 VAC 155-20-230 and (ii) the training was successfully completed after January 1, 1989.~~

7. Experience requirements claimed on the application for licensure shall be verified by the individual's supervisor(s) or personnel officer. Individuals who are under contract with a facility owner may obtain a letter from the facility owner to verify experience.

8. Education requirements claimed on the application for licensure shall be verified by the attendee's educational institution or authorizing jurisdiction on the provided form or in the form of an official transcript or letter. Diplomas will not be accepted for verification of degree or graduation.

9. The applicant holding a valid license from another state or jurisdiction may qualify by reciprocity under the provisions of 18 VAC 155-20-150.

C. The specific requirements for Class I licensure are as follows:

1. Complete a board-approved basic training course; and
2. Pass the board-approved examination for Class I.

D. The specific requirements for Class II licensure are as follows:

1. Complete a board-approved basic training course and an approved training course specific to Class II facilities; and
2. Pass the board-approved examination for Class II.

E. The specific requirements for Class III licensure are as follows:

1. Complete a board-approved basic training course and an approved training course specific to Class III facilities and pass the board-approved examination for Class III; or
2. Complete the training and examination requirement of a federal or state agency under the federal Clean Air Act, as amended, as of the date applicable to an interpretation of a regulation or adjudication of a case decision and complete the board-approved basic training course within one year after licensure.

F. The specific requirements for Class IV licensure are as follows:

1. Complete a board-approved basic training course and an approved training course specific to Class IV facilities and pass the board-approved examination for Class IV; or
2. Complete the training and examination requirement of a federal or state agency under the federal Clean Air Act, as amended, as of the date applicable to an interpretation of a regulation or adjudication of a case decision and complete the board-approved basic training course within one year after licensure.

~~[G. The specific requirements for Class V licensure are as follows:~~

- ~~1. Complete a board-approved basic training course and an approved training course specific to Class V facilities and pass the board-approved examination for Class V.~~
- ~~2. Individuals holding a valid and unexpired Class II license on the effective date of this chapter shall be issued a Class V license without meeting the requirements of subdivision 1 of this subsection.]~~

18 VAC 155-20-160. Procedures for renewal.

A. Licenses issued under this chapter shall expire biennially. Licensees shall be notified by mail of the fee and the procedures for license renewal. Each licensee desiring to renew his license shall ensure that the department receives the renewal notice; evidence of completion of continuing professional education/training; a statement that the license renewal applicant is in compliance with all facility specific operator training and examination requirements of federal and Virginia law and regulations, and of the facility operating permit(s); and the appropriate fee before the license expires.

~~B. For the purposes of the first renewal after May 1, 2000, the expiration date of all licenses issued to a single individual shall be the expiration date on the license most recently issued to or renewed for that individual. Each license issued after May 1, 2000, shall indicate the class or classes of licensure held by the licensee.~~

~~G.~~ B. Licenses shall be renewed for a period of 24 months from the date of the expiring license.

~~D.~~ C. Failure to receive written notice from the department does not relieve the regulant from the requirement to renew his license. If the license holder fails to receive the renewal notice, a copy of the license may be submitted with evidence of completion of the continuing education/training and the appropriate fee.

~~E.~~ D. The date the required fee is received by the department or its agent will be used to determine whether a penalty fee or the requirement for reinstatement of a license is applicable.

~~F.~~ E. Revoked or suspended licenses are not renewable until reinstated by the board.

18 VAC 155-20-220. Training course curriculum.

A. The board shall approve only training courses ~~which~~ that document that their instruction meets the minimum curriculum standards contained in this section.

B. A board-approved basic training course shall at a minimum include the following topics as they relate to nonhazardous solid waste management facilities:

1. Definitions.
2. Authority for regulations.
3. Purpose of regulations.
4. Administration of regulations.
5. Applicability of regulations.
6. Prohibitions.
7. Open dumps.
8. Unpermitted facilities.
9. Enforcement and appeal.
10. Penalties and enforcement.
11. Public participation.
12. Relationship with other regulations promulgated by the Virginia Waste Management Board, *the State Water Control Board*, and *the Virginia State Air Pollution Control Board*.
13. Identification of solid waste.
 - a. Purpose and scope.
 - b. Definitions of solid waste.
 - c. Special wastes.
 - d. Exclusions.
 - e. Conditional exemptions.
14. *Identification of unauthorized waste.*
- ~~44.~~ 15. Overview of open dumps and unpermitted facilities.
- ~~45.~~ 16. Permitting of solid waste management facilities.
- ~~46.~~ 17. Review of Department of Environmental Quality Inspection Form.

~~47.~~ 18. Overview of permitted solid waste management facilities.

- a. Transfer stations.
- b. Material recovery facilities.
- c. Experimental facilities.
- d. Sanitary landfills.
- e. Infectious waste incinerators.
- f. Mass burn facilities.
- g. Refuse derived fuel facilities.
- h. Yard waste composting facilities.*
- ~~h.~~ *i. Autoclaves.*

~~48.~~ 19. Overview of general OSHA requirements.

~~49.~~ 20. Neighbor relations.

~~20.~~ 21. Recordkeeping and financial assurance.

C. A board-approved training course specific to Class II facilities shall include at a minimum the following topics:

1. Definitions.
2. Special wastes.
 - a. General.
 - b. Asbestos wastes.
 - c. Wastes containing polychlorinated biphenyls.
 - d. Liquids.
 - e. Tires.
 - f. Drums.
 - g. White goods.
 - h. Soil contaminated with petroleum products.
 - i. Lead acid batteries.
 - j. Other prohibited wastes.
 - k. Hazardous wastes.
 - l. Screening for prohibited wastes.
 - m. Handling procedures for special or hazardous wastes.
 - n. Recordkeeping and notification requirements.
- ~~3. Solid waste disposal standards. Sanitary landfills.~~
 - ~~a. General standards for sanitary landfills.~~
 - ~~b.~~ a. Design/construction.
 - ~~e.~~ b. Operation.
 - ~~d.~~ c. Groundwater monitoring.
 - ~~e.~~ Closure.
 - ~~f.~~ Post-closure care requirements.

Final Regulations

- ~~g.~~ *d. Control of decomposition gases and landfill gas recovery systems.*
- ~~h.~~ *e. Leachate control system and monitoring.*
- ~~i.~~ *f. Leachate control system appurtenances.*
- ~~j.~~ ~~Corrective action program.~~
- g. Large landfill air operating permits.*
- 4. Construction/demolition debris standards.
- 5. Industrial waste disposal standards.
- 6. Other solid waste management facility standards.
 - [a. Compost facilities.]
 - [b. a.] Surface impoundments and lagoons.
 - [c. ~~b.~~] Waste piles.
 - [d. ~~e.~~] Miscellaneous units.
- 7. Permitting of solid waste management facilities.
 - a. Solid waste.*
 - b. Virginia Pollution Discharge Elimination System (VPDES) permits and related water and wastewater permits.*
 - c. Air.*
- 8. Financial assurance documentation.
 - a. Closure regulations.*
 - b. Post-closure regulations.*
 - c. Corrective action.*
- 9. Rulemaking petitions and procedures.
- D. A board-approved training course specific to Class III facilities shall include at a minimum the following topics:
 - 1. Identification and listing of infectious waste.
 - a. General.
 - b. Exemption to regulations.
 - c. Exclusions.
 - d. Characteristics of infectious waste.
 - e. Controlled infectious waste.
 - 2. General requirements.
 - a. Permits and permits by rule.
 - ~~b. Financial assurance requirements.~~
 - ~~e.~~ *b. Packaging and labeling requirements.*
 - ~~d.~~ *c. Management of spills.*
 - ~~e.~~ ~~Closure requirements.~~
 - f. d. Methods of treatment and disposal.*
 - ~~g.~~ *e. Approved test method.*
 - ~~h.~~ *f. Recordkeeping requirements.*
 - 3. Requirements for storage facilities.
 - a. Sanitation.
 - b. Access.
 - c. Temperature control and storage period.
 - d. Drainage and ventilation.
 - 4. Requirements for transportation.
 - a. Sanitation.
 - b. Access.
 - c. Temperature and storage period.
 - d. Drainage.
 - e. Packaging, labeling and placards.
 - f. Management of spills.
 - g. Loading and unloading.
 - h. Registration of transportation.
 - 5. Requirements for incineration.
 - a. Performance standards.
 - b. Analysis and management of ash residue.
 - c. Unloading operation.
 - d. Facility air operating permits.*
 - ~~e.~~ *e. Compliance with other regulatory requirements.*
 - 6. Requirements for steam sterilization.
 - a. Performance standards.
 - b. Compliance with other regulatory requirements.
 - 7. Medical waste combustor regulations.*
 - 8. Financial assurance documentation.*
 - a. Closure regulations.*
 - b. Corrective action.*
- E. A board-approved training course specific to Class IV facilities shall include at a minimum the following topics:
 - 1. Solid Waste Management Regulations.
 - a. Siting.
 - b. Design and construction.
 - c. Operation.
 - d. Waste characteristics.
 - 2. Emissions formation and control.
 - a. Type of emissions.
 - b. Environmental effect.
 - c. Control techniques.
 - 3. Emissions monitoring.
 - a. Parameters monitored.

- b. Types of monitors.
 - c. Data acquisition.
 - d. Monitor calibration, certification and testing.
4. Combustion and gas reactions.
- a. Combustion components.
 - b. Optimizing solid waste combustion.
 - c. Gas reactions related to combustor construction materials.
5. Solid waste materials handling.
- a. Front end processing equipment.
 - b. Combustion enhancement.
 - c. Back end processing.
 - d. Recycling benefits.
6. Waste combustion residue handling and disposal.
- a. Types of residue.
 - b. Characteristics.
 - c. Regulations.
 - d. Monitoring.
 - e. Handling and transportation.
 - f. Disposal.
 - g. Alternative uses.
7. Safety.
- a. Employer/employee obligations.
 - b. OSHA.
 - c. Hazard communication.
 - d. Equipment tagout.
 - e. Respiratory protection.
8. Recordkeeping.
- a. Engineering log keeping.
 - b. Maintenance.
 - c. Solid waste.
9. Virginia pressure vessel regulation.
10. Air pollution control regulations for waste combustors.
11. Facility air operating permits.
12. Plant operations.
- a. Thermal fluids theory.
 - b. Boiler plant operations.
13. Financial assurance documentation.
- a. Closure regulations.
 - b. Corrective action.

~~[F. A board approved training course specific to Class V facilities shall include at a minimum the following topics:~~

- ~~1. Land use, siting, facility design and operation.~~
- ~~2. Applicable Department of Environmental Quality regulations:
 - ~~a. The Virginia Waste Management Board, 9 VAC 20-80 (Solid Waste Management Regulations) and 9 VAC 20-101 (Vegetative Waste Management and Yard Waste Composting Regulations);~~
 - ~~b. The Virginia State Water Control Board, 9 VAC 25-31 (Virginia Pollutant Discharge Elimination System (VPDES) Permit Regulation), 9 VAC 25-32 (Virginia Pollution Abatement (VPA) Permit Regulation), and 9 VAC 25-151 (Virginia Pollutant Discharge Elimination System (VPDES) Permit for Discharges of Stormwater Associated with Industrial Activity); and~~
 - ~~c. The Virginia State Air Pollution Control Board, 9 VAC 5-40-130 through 9 VAC 5-40-150 (Emission Standards for Odor (Rule 4-2)) and 9 VAC 5-50-130 through 9 VAC 5-50-150 (Standards of Performance for Odorous Emissions (Rule 5-2)).~~~~
- ~~3. Overview of biological decomposition of organic materials.~~
- ~~4. Characteristics of aerobic and anaerobic composting.~~
- ~~5. Municipal solid wastes suitable for composting.~~
- ~~6. Preparation of MSW for composting.
 - ~~a. Particle size.~~
 - ~~b. Pile size.~~
 - ~~c. Temperature range.~~
 - ~~d. Temperature retention.~~
 - ~~e. Microorganisms.~~
 - ~~f. Oxygen.~~
 - ~~g. Moisture.~~
 - ~~h. Chemical environment.~~~~
- ~~7. Nutrients:
 - ~~a. Biodegradable carbon.~~
 - ~~b. Nitrogen.~~
 - ~~c. Carbon to nitrogen ratios.~~~~
- ~~8. Composting systems.
 - ~~a. Windrow.~~
 - ~~b. Aerated static piles.~~
 - ~~c. In-vessel.~~~~
- ~~9. Compost applications.
 - ~~a. Economic and market considerations.~~
 - ~~b. Landfill cover.~~~~

Final Regulations

~~e. Application uses.~~

~~10. Problem solving.~~

~~a. Odor control and odor control action plan.~~

~~b. Leachate control.~~

~~c. Contamination control.]~~

18 VAC 155-20-280. Grounds for denial of application, denial of renewal, or discipline.

A. The board shall have the authority to deny an application for and to deny renewal of a license or training course approval, and to revoke or suspend the license or training course approval as well as to discipline a licensee or an approved training provider for the following reasons:

1. Violating or inducing another to violate any provisions of Chapters 1 (§ 54.1-100 et seq.), 2 (§ 54.1-200 et seq.), 3 (§ 54.1-300 et seq.) or 22.1 (§ 54.1-2209 et seq.) of Title 54.1 of the Code of Virginia, or any ~~provisions~~ provision of this chapter.

2. Obtaining or renewing a license or training course approval through fraudulent means or misrepresentation.

3. Having been found guilty by the board, an administrative body or by a court of any material misrepresentation in the course of performing his operating duties.

4. *Subject to the provisions of § 54.1-204 of the Code of Virginia*, having been convicted or found guilty, regardless of jurisdiction, of any felony, or of any violation which that resulted in the significant harm or the imminent and substantial threat of significant harm to human health or the environment, there being no appeal pending therefrom or the time of appeal having elapsed. Any plea of nolo contendere shall be considered a conviction for the purposes of this chapter. A certified copy of the final order, decree or case decision by a court or regulatory agency with lawful authority to issue such order, decree or case decision shall be admissible as prima facie evidence of such conviction.

5. Failing to inform the board in writing within 30 days of pleading guilty or nolo contendere or being convicted or found guilty of any felony, or of any violation which that resulted in the significant harm or the imminent and substantial threat of significant harm to human health or the environment.

6. Gross negligence, or a continued pattern of incompetence, in the practice as a waste management facility operator.

7. Violating the permit conditions for the facility, or violating any federal, state or local laws or regulations which results that resulted in the significant harm or ~~an~~ the imminent and substantial threat of significant harm to human health or the environment.

B. Any individual whose license is revoked under this section shall not be eligible to apply for licensure for a period of one year from the effective date of the final order of revocation. After the one-year period, the individual shall meet all education, examination, experience and training requirements,

complete the application and submit the required fee for consideration as a new applicant.

C. The board shall conduct disciplinary procedures in accordance with the Administrative Process Act (§ ~~9-6.14:4~~ 2.2-4000 et seq. of the Code of Virginia).

NOTICE: The forms used in administering 18 VAC 155-20, Waste Management Facility Operators Regulations, are not being published; however, the name of each form is listed below. The forms are available for public inspection at the Board for Waste Management Facility Operators, 3600 West Broad Street, Richmond, Virginia, or at the office of the Registrar of Regulations, General Assembly Building, 2nd Floor, Richmond, Virginia.

FORMS

License Application, [~~46LIC~~ (rev. 3/10/00 [~~8/17/04~~ 46LICPKG (rev. 5/05)].

Experience Verification Form, 46EXP (rev. [~~3/10/00~~ 5/00]).

Education Verification Form, 46ED (rev. [~~3/10/00~~ 5/00]).

Application for Training Course Approval, 46CRS (rev. ~~3/10/00~~ [~~8/03/04~~ 5/00]).

[~~Examination Schedule and Location Request Form,~~ 46EXLOC (rev. 12/16/99).]

VA.R. Doc. No. R03-113; Filed August 11, 2006, 12:21 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 30-110. Eligibility and Appeals (amending 12 VAC 30-110-90 and 12 VAC 30-110-370).

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 November 3, 2006.

(See Calendar of Events section for additional information)

Effective Date: November 20, 2006.

Agency Contact: Mahalia McGill-Arnold, Project Coordinator, Department of Medical Assistance Services, 600 East Broad Street, Suite 1300, Richmond, VA 23219, telephone (804) 786-1531, FAX (804) 786-1680 or e-mail mahalia.arnold@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 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 was established by § 1902 (a) of the Social Security Act (42 U.S.C. 1396a), which provides the governing authority for DMAS to administer the state's Medicaid system.

42 CFR Part 431, Subpart E contains the procedural safeguards to which DMAS must adhere when conducting hearings of applicants or recipients. Section 2.2-4017 of the Administrative Process Act and the Governor's Executive Order 21 (2002) provide for periodic review of regulations.

Purpose: The purpose of this regulatory action is threefold:

1. To reflect the appeals procedures currently in use and conform the descriptions of these procedures to federal requirements.
2. To clarify current Appeals Division procedures; and
3. To correct grammatical errors in the regulations.

This action is the result of a recent periodic review of these regulations.

The agency intends this action to enhance public health and welfare by making the Medicaid appeal regulations more user-friendly and making the appeal process less subject to error for recipients.

Substance: While conducting a periodic review of the appeals regulations, DMAS became aware that the agency's appeal regulations did not fully and accurately reflect the procedural safeguards described in the Code of Federal Regulations.

Although in practice DMAS currently provides all federally required fair hearing procedures, the regulations currently in place do not reflect all of these procedures. These amended regulations conform DMAS appeals regulations with the agency's appeals practice.

Specifically, DMAS is amending 12 VAC 30-110-90 (Right to appeal) to reflect the fact that appeal rights are available when DMAS attempts to recover Medicaid payments from a deceased Medicaid recipient's estate, when DMAS seeks to recover Medicaid payments made on behalf of an individual ineligible for Medicaid, and when DMAS seeks to recover Medicaid payments made on behalf of an individual whose Medicaid coverage was continued during an appeal. DMAS is also expanding the description of appeal rights for services denied to include not simply denial, but also where services are suspended, reduced or terminated.

Issues: The primary advantage of this action is to harmonize DMAS' client appeal regulations with current practice and federal requirements. DMAS anticipates that this action will reduce the potential for confusion for Medicaid clients wishing to appeal agency actions. There are no disadvantages to the public, the department, or the Commonwealth in the implementation of these suggested changes.

Rationale for Using Fast-Track Process: DMAS is proposing this action as a fast-track action as the most expedient way to address discrepancies between current appeals practice and the description of those practices in DMAS appeals regulations. In addition to complying with the federal regulations, this action will also allow DMAS to clarify regulatory language and correct grammatical errors noticed during a periodic review. DMAS does not definitively expect objections to this proposed action.

Department of Planning and Budget's Economic Impact Analysis:

Summary of the proposed regulation. The proposed changes will make the regulatory language consistent with the federal regulations as well as the procedures followed in practice.

Result of analysis. The benefits likely exceed the costs for all proposed changes.

Estimated economic impact. These regulations provide a framework for Medicaid appeals procedures. In a given year, approximately 1,900 appeals are reviewed according to the procedures established in these regulations. The proposed changes will simply clarify the current language so that the procedures followed in practice in accordance with the federal regulations are accurately reflected in the regulations. Because most of the proposed changes are clarifications, no significant economic effect is expected other than reducing the likelihood for confusion among the recipients.

One of the proposed changes, however, could have some small, but nonnegligible economic effects. With the proposed changes, a notification will be added to the recovery claim letters sent to the estates of deceased recipients in order to

Fast-Track Regulations

inform them that they can appeal the claim. This will be done to comply with the state and federal requirements. Adding the notification to the claim letter may encourage some letter recipients to appeal the recovery claim. Thus, there is likely to be an increase in the appeal requests. The average administrative cost of an appeal including staff time is estimated to be \$625. If the notification prompts several additional appeals requests, we would see a corresponding increase in the administrative appeal costs. Also, an increase in appeal requests does not necessarily imply a decrease in moneys recovered as the outcome of an appeal depends strictly on the merits of the appeal. Thus, no significant effect is expected on the amounts recovered from recipients.

Businesses and entities affected. The proposed regulations may affect a relatively small number of recipients as the number of claim letters sent is approximately 10 to 20 in a month.

Localities particularly affected. The proposed regulations are not likely to affect any particular locality more than others.

Projected impact on employment. The proposed regulations are not likely to create a significant effect on employment.

Effects on the use and value of private property. The proposed regulations are not likely to create any significant effect on the use and value of private property.

Small businesses: costs and other effects. The proposed regulations are not likely to have any effect on small businesses.

Small businesses: alternative method that minimizes adverse impact. The proposed regulations are not likely to have any effect on small businesses.

Legal mandate. The Department of Planning and Budget (DPB) has analyzed the economic impact of this proposed regulation in accordance with Section 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. Further, if the proposed regulation has adverse effect on small businesses, Section 2.2-4007 H requires that such economic impact analyses include (i) an identification and estimate of the number of small businesses subject to the regulation; (ii) the projected reporting, recordkeeping, and other administrative costs required for small businesses to comply with the regulation, including the type of professional skills necessary for preparing required reports and other documents; (iii) a statement of the probable effect of the regulation on affected small businesses; and (iv) a description of any less intrusive or less costly alternative methods of achieving the purpose of the regulation. The analysis presented above represents DPB's best estimate of these economic impacts.

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 and Appeals: Revisions to Appeals Regulations as a Result of a Periodic Review (12 VAC 30-110-90 and 12 VAC 30-110-370). The agency concurs with the analysis prepared by the Department of Planning and Budget.

Summary:

The amendments (i) reflect the appeals procedures currently in use and conform the descriptions of these procedures to federal requirements, (ii) clarify current Appeals Division procedures, and (iii) correct grammatical errors in the regulations.

12 VAC 30-110-90. Right to appeal.

An individual has the right to file an appeal when:

1. His application for benefits administered by the department is denied. However, if an application for State and Local Hospitalization coverage is denied because of a lack of funds which is confirmed by the hearing officer, there is no right to appeal;
2. The agency takes action or proposes to take action ~~which~~ *that* will adversely affect, reduce, or terminate his receipt of benefits;
3. His request for a particular medical service is denied, *suspended, reduced, or terminated*, in whole or in part;
4. The agency ~~does not~~ *fails to take an application and/or fails to act with reasonable promptness on his application for benefits or request for a particular medical service;* ~~or~~
5. *The agency takes action or proposes to take action regarding the recovery of applicable medical assistance payments from a decedent's estate;*
6. *The agency takes action or proposes to take action regarding the recovery of expenditures for services received by ineligible individuals;*
7. *The agency takes action or proposes to take action regarding the recovery of expenditures paid on behalf of individuals whose coverage was continued during the appeals process;* or
- ~~5.~~ 8. Federal regulations require that a fair hearing be granted.

12 VAC 30-110-370. Final decision.

After conducting the hearing, reviewing the record, and deciding questions of law, the hearing officer shall issue a written final decision which either sustains or reverses the agency action or remands the case to the agency for further action consistent with his written instructions. The hearing officer's final decision shall be considered as the agency's final administrative action pursuant to 42 CFR, 431.244(f). The final decision shall include:

1. A description of the procedural development of the case;

2. Findings of fact ~~which that~~ identify supporting evidence;
3. Conclusions of law ~~which that~~ identify supporting regulations and law;
4. Conclusions and reasoning;
5. The specific action to be taken by the agency to implement the decision; ~~and~~
6. *The deadline date by which further action must be taken; and*
- ~~6. The notice shall state that a~~ 7. *A cover letter stating that the hearing officer's decision is final, and stating that the final decision may be appealed directly to circuit court as provided in § 9-6.14:16 B of the Code of Virginia and 12 VAC 30-110-40.*

VA.R. Doc. No. R06-336; Filed August 16, 2006, 10:33 a.m.

* * * * *

Title of Regulation: 12 VAC 30-120. Waivered Services (amending 12 VAC 30-120-280, 12 VAC 30-120-290, 12 VAC 30-120-310 and 12 VAC 30-120-320).

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 November 4, 2006.

(See Calendar of Events section for additional information)

Effective Date: November 20, 2006.

Agency Contact: Vivian Horn, Project Manager, Department of Medical Assistance Services, 600 East Broad Street, Suite 1300, Richmond, VA 23219, telephone (804) 225-4593, FAX (804) 786-1680, or e-mail vivian.horn@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 the Plan for Medical Assistance. Section 32.1-324 of the Code of Virginia authorizes the Director of the Department of Medical Assistance Services to administer and amend the Plan for Medical Assistance according to the board's requirements. The Medicaid authority was established by § 1902 (a) of the Social Security Act (42 USC 1396a) that provides the governing authority for DMAS to administer the state's Medicaid system. Section 2.2-4017 of the Administrative Process Act and the Governor's Executive Order 21 (2002) provide for periodic review of regulations.

Purpose: The purpose of this regulatory action is to clarify the existing MEDALLION regulations and revise and update the MEDALLION regulations to address several operational and waiver changes in the MEDALLION program. This action is the result of a recent periodic review of these regulations. Clarifying the regulatory text regarding the various processes used in administering the MEDALLION program has a positive impact on the health and welfare of the citizens of the Commonwealth by reducing potential confusion among Medicaid clients and providers, ensuring that enrollees receive the medical care they require without unnecessary administrative delay.

Substance: While conducting a periodic review of the MEDALLION regulations, DMAS became aware that the regulations did not reflect current program operations. The amended regulations will enable the Virginia Administrative Code to reflect the operational reality of the MEDALLION program. With the implementation of this regulatory change, the integrity of the MEDALLION program will be upheld. Recipients will continue to receive the needed services and providers will continue to be reimbursed for these services.

This fast-track regulatory package clarifies that clients should notify DMAS of their primary care provider (PCP) selection within 45 days; a 30-day period is restored in the proposed regulations. The regulations state that the PCP authorizes most specialty services and that clients obtain an authorization from their PCP. The fast-track regulatory action changes "authorizes" to "refers" and "authorization" to "referral." The section on prior authorization has been changed to the PCP referral process in the regulations; references to an "authorization" and a "prior authorization" have both been changed to a "referral."

The current regulations state that DMAS shall review applications. The amended regulations state that DMAS "or its designee" shall review applications." The fast-track regulatory action removes the requirement that each site that has two or more separately identifiable provider groups be divided into separate regions.

The section on changing PCPs has been changed to apply only in areas without managed care organizations. DMAS changed the time period a client remains with his PCP after the initial 90-day assignment period from "at least 12 months" to "up to 12 months." The regulations state that the client has the option to select another PCP; the proposed regulations would make this option available "during open enrollment."

In 12 VAC 30-120-310 A 4, the current regulation references "Routine newborn services when billed under the mother's Medicaid number." The fast-track regulatory action deletes the phrase "when billed under the mother's Medicaid number." It also deletes dental services (under age 21) as being exempted from MEDALLION services in 12 VAC 30-120-310 A 6.

In 12 VAC 30-120-320 C, this amendment raises the maximum number of MEDALLION clients that can be in a PCP's panel from 1,500 to 2,000.

In 12 VAC 30-120-320 D (PCP payments) DMAS added similar language to clarify that the "clinics" enrolled as Medicaid providers" refers to federally Qualified Health Centers, Rural Health Clinics and Department of Health Clinics. DMAS added language that PCPs in Department of Health Clinics may serve a maximum of 2,000 MEDALLION clients. Several other minor changes were made to the text of various regulations to enhance clarity.

This fast-track regulatory action reflects several types of changes to the MEDALLION primary care case management (PCCM) system. The amended regulations revise and update the MEDALLION regulations to address several operational and waiver changes in the MEDALLION program.

Fast-Track Regulations

Additionally, “client” and “recipient” are used interchangeably throughout the current regulations. For consistency, the amended regulations refer to those individuals who receive Medicaid benefits as “clients.”

Issues: No disadvantages to the public have been identified in connection with these regulations. The agency projects no negative issues involved in implementing this regulatory change. There are no specific advantages for the Commonwealth’s citizens regarding the change in these regulations. The advantage to the Commonwealth is that this regulatory change enhances the efficiency of MEDALLION program operations.

Rationale for Using Fast-Track Process: This regulatory action will update the MEDALLION regulations to make them reflect operational reality. This will increase efficiency in the delivery of Medicaid managed care services. Individuals will continue to receive the medically necessary services while protecting the integrity of the MEDALLION program. Objections are not anticipated. The agency is using the fast-track process in order to complete the needed regulatory changes as soon as possible so as to protect the integrity of the MEDALLION program.

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 Section 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. Most of the proposed changes are clarifications in order to better reflect the implementation of the regulation in practice. In addition to the clarifying changes, one of the changes will shorten the time a recipient must notify the Department of Medical Assistance Services of their primary care provider selection from 45 days to 30 days. Another change will correct that a maximum number of Medallion clients that can be in a primary care provider panel is 2,000 as opposed to 1,500.

Estimated economic impact. These regulations contain rules for the Medallion managed care program operating within the Commonwealth’s Medicaid program. Most of the proposed changes are clarifications of the current language or updating of operational changes that occurred as a result of other independent regulatory changes. None of the changes in this category are expected to create any significant economic impact other than reducing the potential for confusion and the costs that may arise from unclear or outdated language.

One of the changes is the proposal to shorten the time a recipient must notify the Department of Medical Assistance

Services of their primary care provider (PCP) selection from 45 days to 30 days. According to the Department of Medical Assistance Services, 30-day notification time frame is the industry standard. Considering that if a selection is not made within the specified time frame, an individual is automatically assigned a PCP and that an individual can always change their PCP if they wish, this particular change is not expected to create any significant economic impact.

Another proposed change will correct that a maximum number of Medallion clients that can be in a primary care provider panel is 2,000 as opposed to 1,500. According to DMAS, this particular change will correct an erroneous change made before. Because the current erroneous limit has not been enforced in practice, no significant economic effect is expected from this change.

Businesses and entities affected. The proposed regulations apply to approximately 1,125 Medallion providers and 61,000 recipients.

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

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

Effects on the use and value of private property. No significant effect is expected on the use and value of private property.

Small businesses: costs and other effects. The proposed regulations are not expected to create any costs or other effects on small businesses.

Small businesses: alternative method that minimizes adverse impact. The proposed regulations are not expected to affect small businesses.

Agency 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 12 VAC 30-120-280, 12 VAC 30-120-310, 12 VAC 30-120-320 – Waivered Services: Revisions to MEDALLION Regulations as a Result of a Periodic Review. The agency raises no issues with this analysis.

Summary:

This regulatory action reflects several changes to the MEDALLION Primary Care Case Management system. These regulations revise and update the MEDALLION regulations to address several operational and waiver changes in the MEDALLION program. This action also allows DMAS to achieve greater clarity in the regulations to minimize confusion and interpretation and to correct grammatical errors in the regulations that were noticed during the review.

12 VAC 30-120-280. MEDALLION clients.

A. DMAS shall determine enrollment in MEDALLION. Enrollment in MEDALLION is not a guarantee of continuing eligibility for services and benefits under the Virginia Medical Assistance Services Program. Clients of MEDALLION shall be individuals receiving Medicaid as ABD, AFDC or AFDC-

related categorically needy and medically needy (except those becoming eligible through spend-down) and except for foster care children, whether or not receiving cash assistance grants.

B. Exclusions.

1. The following individuals shall be excluded from participation in MEDALLION, or excluded from continued enrollment if any of the following apply:

a. Individuals who are inpatients in state mental hospitals and skilled nursing facilities, or reside in an Intermediate Care Facility for the Mentally Retarded (ICF/MR) or a long-stay hospital;

b. Individuals who are enrolled in § 1915 c home and community-based waivers, the family planning waiver, or the Family Access to Medical Insurance Security Plan (FAMIS);

c. Individuals who are participating in foster care or subsidized adoption programs, who are members of spend-down cases, or who are refugees or who receive client medical management services;

d. Individuals receiving Medicare;

e. Individuals who are enrolled in DMAS-authorized residential treatment or treatment foster care programs; ~~and~~

f. Individuals whose coverage is retroactive only; *and*

g. *Birth Injury Fund (BIF)*.

2. A client may be excluded from participating in MEDALLION if any of the following apply:

a. The client is not accepted to the caseload of any participating PCP.

b. The client's enrollment in the caseload of assigned PCP has been terminated, and other PCPs have declined to enroll the client.

c. The individual receives hospice services in accordance with DMAS criteria.

C. Client enrollment process.

1. All ABD, AFDC or AFDC-related recipients excepting those meeting one of the exclusions of subsection B of this section shall be enrolled in MEDALLION.

2. Newly eligible individuals shall not participate in MEDALLION until completion of the Medicaid enrollment process. This shall include initial enrollment in the Medicaid program at the time of eligibility determination by Department of Social Services staff, or any subsequent reenrollment in the Medicaid program that may occur.

3. During the preassignment period and registration as MEDALLION clients, recipients shall be provided Medicaid-covered services via the fee-for-service delivery mechanism administered by DMAS.

4. Once clients are fully registered as MEDALLION clients, they will receive MEDALLION identification material in addition to the Medicaid card.

D. PCP selection. Clients shall be given the opportunity to select the PCP of their choice.

1. Clients shall notify DMAS of their PCP selection within ~~45~~ 30 days of receiving their MEDALLION enrollment notification letter. If notification is not received by DMAS within that timeframe, DMAS shall select a PCP for the client.

2. The selected PCP shall be a MEDALLION enrolled provider.

3. The PCP will provide 24-hour, seven day/week access, which shall include as a minimum a 24-hour, seven day/week telephone number to be provided to each MEDALLION client.

4. DMAS shall review client requests in choosing a specific PCP for appropriateness and to ensure client accessibility to all required medical services.

5. Individuals who lose then regain eligibility for MEDALLION within 60 days will be reassigned to their previous PCP without going through the preassignment and selection process.

E. Mandatory assignment of PCP.

1. The MEDALLION program enrolls clients with a primary care provider (PCP) who acts as a care coordinator, provides primary and preventive care, and ~~authorizes~~ *refers* most specialty services. The client is required to select a PCP from a list of available PCPs in his service area. If the client does not select a PCP, the client defaults to the department's pre-assignment option. Clients can access any program provider for specialty services if they obtain the necessary ~~authorization~~ *referral* from their PCP.

~~2. Each site having two or more separately identifiable provider groups shall be divided into separate regions for client assignment.~~ Clients shall initially be assigned to a PCP according to the region in which they reside. Should insufficient PCPs exist within the client's specific region, clients shall be assigned a PCP in an adjacent region.

3. Each PCP shall be assigned a client, or family group if appropriate, until the maximum number of clients the PCP has elected to serve or the PCP/client limit has been reached or until there are no more clients suitable for assignment to that PCP, or all clients have been assigned.

F. Changing PCPs. MEDALLION clients *in areas without managed care organizations (MCO)* will have the initial 90 calendar days following the effective date of enrollment with a MEDALLION PCP to change PCPs without cause. After the initial 90-day assignment period, ~~the recipient will remain with the PCP for at least 12 months~~ unless cause to change PCPs is shown pursuant to subdivision 1 or 2 of this subsection, *the recipient will remain with the PCP for up to 12 months, or until the next open enrollment period.* ~~After 12 months~~ *During open enrollment,* the recipient will have the option to select another PCP. Recipients will be given at least 60 days notice prior to the end of ~~this~~ the current enrollment period (and all future enrollment periods) during which time recipients can select another PCP. Open enrollment periods will occur annually.

Fast-Track Regulations

1. Requests for change of PCP "for cause" are not subject to the 12-month limitation, but shall be reviewed and approved by DMAS staff on an individual basis. Examples of changing providers "for cause" may include but shall not be necessarily limited to:

- a. Client has a special medical need which cannot be met in his service area or by his PCP.
- b. Client has a pre-existing relationship with a Medicaid provider rendering care for a special medical need.
- c. Mutual decision by both client and provider to sever the relationship.
- d. Provider or client moves to a new residence, causing transportation difficulties for the client.
- e. Provider cannot establish a rapport with the client.
- f. Performance or nonperformance of service to the ~~recipient~~ *client* by a provider that is deemed by the department's external quality review organizations to be below the generally accepted community practice of health care. This may include poor quality care.
- g. Other reasons as determined by DMAS through written policy directives.

2. The existing PCP shall continue to retain the client in the caseload, and provide services to the client until a new PCP is assigned or selected.

3. PCPs may elect to release MEDALLION clients from their caseloads for cause with review and approval by DMAS on a case-by-case basis. In such circumstances, subdivision F 2 of this section shall apply.

G. ~~Prior authorization~~ PCP referral process.

1. Clients shall contact their assigned PCP or designated covering provider to obtain ~~authorization~~ a *referral* prior to seeking nonemergency care.

2. Emergency services and family planning services shall be provided without delay or ~~prior authorization~~ *referral*. However, the emergency nature of the treatment shall be documented by the provider providing treatment and should be reported to the PCP after treatment is provided. Clients should inform the PCP of any emergency treatment received.

H. Enrollee rights.

1. Each primary care provider must comply with any and all applicable federal and state laws and regulations regarding enrollee rights including, but not limited to, the applicable sections of 42 CFR 438.100 et seq., Title VI of the Civil Rights Act of 1964, and other applicable laws regarding privacy and confidentiality, and ensure that their staff and affiliated providers take those rights into account when furnishing services to enrollees.

2. Each enrollee shall be free to exercise his rights, and the exercise of those rights shall not adversely affect the way the primary care provider or DMAS treats the enrollee.

12 VAC 30-120-290. Providers of services.

Providers who may enroll to provide MEDALLION services include, but are not limited to, physicians of the following primary care specialties: general practice, family practice, internal medicine, and pediatrics. Federally qualified health centers and rural health clinics as defined in 42 CFR 405.2401), and certain clinics (as defined by 12VAC5-90-10) administered by local health departments may also serve as primary care providers. Exceptions may be as follows:

1. Providers specializing in obstetric/gynecologic care may enroll as MEDALLION providers if selected by clients as PCPs but only if the providers agree to provide or refer clients for primary care.

2. Physicians with subspecialties may enroll as MEDALLION providers if selected by clients as PCPs but only if the providers agree to provide or refer clients for primary care.

3. Other specialty physicians may enroll as PCPs under extraordinary, client-specific circumstances when DMAS determines with the provider's and recipient's concurrence that the assignment would be in the client's best interests. Such circumstances may include, but are not limited to, the usual-and-customary practice of general medicine by a board-certified specialist, maintenance of a pre-existing patient-physician relationship, or support of the special medical needs of the client.

4. DMAS *or its designee* shall review applications from physicians and other health care professionals to determine appropriateness of their participating as a MEDALLION PCP.

5. The PCP must have admitting privileges at a local hospital or must make arrangements acceptable to DMAS for admissions by a physician who does have admitting privileges.

12 VAC 30-120-310. Services exempted from MEDALLION referral requirements.

A. The following services shall be exempt from the referral requirements of MEDALLION:

1. Obstetrical and gynecological services (pregnancy and pregnancy related);

2. Psychiatric and psychological services, to include but not be limited to mental health, mental retardation services;

3. Family planning services;

4. Routine newborn services ~~when billed under the mother's Medicaid number~~;

5. Annual or routine vision examinations (under age 21);

~~6. Dental services (under age 21);~~

~~7.~~ 6. Emergency services;

~~8.~~ 7. EPSDT well-child exams;

~~9.~~ 8. Immunizations (health departments only);

40- 9. All school health services provided pursuant to the Individuals with Disabilities Education Act (IDEA);

44- 10. Services for the treatment of sexually transmitted diseases;

42- 11. Targeted case management services;

43- 12. Transportation services;

44- 13. Pharmacy services;

45- 14. Substance abuse treatment for pregnant women; and

46- 15. MR waiver services and MH community rehabilitation services.

B. While reimbursement for these services ~~does~~ may not require ~~the a~~ referral ~~from or~~, an authorization, or a referral and an authorization by the PCP, the PCP must continue to track and document them to ensure continuity of care.

12 VAC 30-120-320. PCP payments.

A. DMAS shall pay for services rendered to MEDALLION clients through the existing fee-for-service methodology and a case management fee.

B. MEDALLION providers shall receive a monthly case management fee of \$3.00 per client.

C. Individual PCPs and PCPs in Department of Health clinics may serve a maximum of ~~4,500~~ 2,000 MEDALLION clients. *Exceptions to this will be considered on a case-by-case basis predicated upon client needs.*

D. Federally qualified health centers, rural health clinics, and Department of Health clinics enrolled as Medicaid providers are limited to no more than 10,000 enrolled recipients per clinic. Exceptions to this will be considered on a case-by-case basis predicated upon client needs.

VA.R. Doc. No. R06-315; Filed August 9, 2006, 10:13 a.m.

TITLE 18. PROFESSIONAL AND OCCUPATIONAL LICENSING

BOARD OF DENTISTRY

Title of Regulation: 18 VAC 60-20. Regulations Governing the Practice of Dentistry and Dental Hygiene (amending 18 VAC 60-20-108).

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

Public Hearing Date: N/A -- Public comments may be submitted until 5 p.m. on November 3, 2006.

(See Calendar of Events section for additional information)

Effective Date: November 18, 2006.

Agency 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) 662-7246, (804) 662-7197/TTY, e-mail sandra.reen@dhp.virginia.gov.

Basis: Regulations are promulgated under the general authority of Chapter 24 of Title 54.1 of the Code of Virginia. Section 54.1-2400 of the Code of Virginia provides the Board of Dentistry the authority to promulgate regulations to administer the regulatory system.

Purpose: The board has received numerous comments in writing and during board meetings from dentists who assert that the requirement for monitoring administration of inhalation analgesia (nitrous oxide) is overly burdensome and unnecessary for patient safety. Effective June 29, 2005, the requirement to have a second person in the operatory with the patient to assist, monitor and observe the patient during the administration of nitrous was intended to provide an extra measure of patient safety and to protect the dentist from charges of improper conduct while the patient was under the influence of nitrous.

Subsequently, testimony to the board has indicated that an additional person to monitor is not essential to ensure patient safety. Dentists contend that they have used nitrous safely for decades and that the additional monitoring is unnecessary. The dentist or hygienist performing a dental procedure would be observing the patient throughout that procedure, and once the administration of nitrous is discontinued, the patient can recover from its effects very quickly. Therefore, it may not be necessary to have close observation of the patient by a second person in the operatory. Many dentists do not employ an assistant who could serve that function, so the current regulation is burdensome to both the regulants and their patients. Several dentists have stated that the rule has caused them to quit offering their patients nitrous oxide; others may be continuing the practice without a second person to observe or using untrained office staff as monitors.

Without the availability of nitrous oxide, there are a number of people who will neglect their dental care or refuse to have a needed dental procedure. The board believes the proposed change does not compromise the public health and safety in the administration of nitrous, but will enable and encourage more patients to seek dental care.

Substance: The proposed action will eliminate the requirement for a second person to be in the operatory with the dentist to monitor the patient during the administration of inhalation analgesia or nitrous oxide.

Issues: There are no disadvantages to the public of this amendment. Consumers of dental services will be better protected by having access to inhalation analgesia in dental offices where there is not a second person available to monitor the patient during administration. Even in offices where such a person is available, the use for such a purpose potentially takes away time that such a person (hygienist or dental assistant) could be providing care or treatment for another patient. Consumers are also better served by having access to a full range of analgesia, provided it can be administered and monitored safely.

There are no disadvantages to the agency or the Commonwealth; a revised regulation should reduce the number of comments and potential violations of the rule.

Fast-Track Regulations

Rationale for Using Fast-Track Process: The board has received numerous comments and complaints about the current regulation; there was unanimous support among board members for the change. If dental patients are being denied access to nitrous oxide in dental offices and are thereby avoiding routine or interventional treatments, it is necessary to revise the requirement as soon as possible.

Department of Planning and Budget's Economic Impact Analysis:

Summary of the proposed amendments to regulation. The Board of Dentistry (board) proposes to eliminate the requirement for a second person to be in the operatory with the dentist to monitor the patient during the administration of inhalation analgesia.

Result of analysis. The benefits likely exceed the costs for all proposed changes.

Estimated economic impact. The current regulations require that "The treatment team for anxiolysis or inhalation analgesia shall consist of the dentist and a second person in the operatory with the patient to assist, monitor and observe the patient." Anxiolysis is defined as "the diminution or elimination of anxiety through the use of pharmacological agents in a dosage that does not cause depression of consciousness." *Inhalation analgesia* is defined as "the inhalation of nitrous oxide and oxygen to produce a state of reduced sensibility to pain without the loss of consciousness."

The board proposes to no longer require that a second person be in the operatory with the patient to assist, monitor and observe the patient for inhalation analgesia. The proposed regulations do continue to require that dentists who utilize inhalation analgesia ensure that there is continuous visual monitoring of the patient to determine the level of consciousness.

Prior to 2005, the board had not required that a second person be in the operatory to assist, monitor and observe the patient. According to the Department of Health Professions (department), this requirement became effective June 29, 2005, with the intent to provide an extra measure of patient safety and to protect the dentist from charges of improper conduct while the patient was under the influence of nitrous oxide.

Subsequently dentists have overwhelmingly contended that an additional person in the operatory is not necessary for patient safety. Testimony to the board pointed out that nitrous oxide has been administered safely for decades without additional monitoring. The dentist or hygienist performing a dental procedure would be observing the patient throughout that procedure, and once the administration of nitrous oxide is discontinued, the patient can recover from its effects very quickly. Peer-reviewed research articles such as those by Kanagasundaram, Lane, Cavalletto, Keneally, and Cooper (2000), and Ekblom, Jakobsson, and Marcus (2005), and Frampton, Browne, Lam, Cooper, and Lane (2003) support the contention that the short-term administering of nitrous oxide is a low-risk procedure for patients.

Yagiela (1991) points out that bone marrow depression has been found in patients administered nitrous oxide for extended

periods of time and that retrospective surveys of dental and medical personnel have linked occupational exposure to nitrous oxide with a number of health problems. Yagiela's review of animal and human studies indicate that the toxic effects of nitrous oxide are concentration- and time-dependent. Thus, dental patients are unlikely to be at great risk. Dental staff should be wary of prolonged exposure, though.

According to the department, many dentists do not employ an assistant who could serve as a second person in the operatory with the patient to assist, monitor and observe the patient for inhalation analgesia. The cost of hiring someone for this purpose apparently is large enough to discourage the use of inhalation analgesia. Several dentists have stated to the board and department that the rule has caused them to quit offering their patients nitrous oxide; others may be continuing the practice without a second person to observe or using untrained office staff as monitors. Some potential dental patients could postpone or neglect their dental care or refuse to have a needed dental procedure if there is reduced access to nitrous oxide. Thus, eliminating the requirement that a second person be in the operatory with the patient to assist, monitor and observe the patient for inhalation analgesia will likely produce significant benefits. Dentists would incur lower costs, inhalation analgesia would be available more frequently, and an undetermined number of patients will be more likely to undergo procedures beneficial to their dental health.

Given the low risk of nitrous oxide administration and the apparent low incidence of problems with one individual monitoring the patient rather than two, the benefits of eliminating the requirement that a second person be in the operatory with the patient to assist, monitor and observe the patient for inhalation analgesia will likely exceed the costs of a minimal increase in health risks.

Businesses and Entities Affected. The proposed regulations affect the Commonwealth's 5,567 licensed dentists, their staff, and their patients.¹ All or most dental practices qualify as small businesses.

Localities particularly affected. The proposed regulations do not disproportionately affect particular Virginia localities.

Projected impact on employment. There may be a small reduction in employment due to the proposed elimination of the requirement that a second person in the operatory with the patient to assist, monitor and observe the patient for inhalation analgesia.

Effects on the use and value of private property. The proposed amendment will likely result in more frequent use of inhalation analgesia by dentists. The value of some practices may moderately rise.

Small businesses: costs and other effects. All or most dental practices likely qualify as small businesses. The proposed amendment will not increase costs.

¹ Figure provided by the Department of Health Professions.

BOARD OF NURSING

Small businesses alternative method that minimizes adverse impact. All or most dental practices likely qualify as small businesses. The proposed amendment will not increase costs.

Agency's Response to the Department of Planning and Budget's Economic Impact Analysis: The Board of Dentistry concurs with the analysis of the Department of Planning and Budget for the proposed regulation, 18 VAC 60-20, Regulations Governing the Practice of Dentistry and Dental Hygiene, relating to elimination of the requirement for a second person to be present in the operatory during the administration of inhalation analgesia.

Summary:

The proposed action eliminates the requirement for a second person to be in the operatory with the dentist to monitor the patient during the administration of inhalation analgesia or nitrous oxide.

18 VAC 60-20-108. Administration of anxiolysis or inhalation analgesia.

A. Education and training requirements. A dentist who utilizes anxiolysis or inhalation analgesia shall have training in and knowledge of:

1. Medications used, the appropriate dosages and the potential complications of administration.
2. Physiological effects of nitrous oxide and potential complications of administration.

B. Equipment requirements. A dentist who utilizes anxiolysis or inhalation analgesia shall maintain the following equipment in his office and be trained in its use:

1. Blood pressure monitoring equipment.
2. Positive pressure oxygen.
3. Mechanical (hand) respiratory bag.

C. Monitoring requirements.

1. The treatment team for anxiolysis or ~~inhalation analgesia~~ shall consist of the dentist and a second person in the operatory with the patient to assist, monitor and observe the patient. One member of the team shall be in the operatory monitoring the patient at all times once the administration has begun.
2. A dentist who utilizes anxiolysis or inhalation analgesia shall ensure that there is continuous visual monitoring of the patient to determine the level of consciousness.
3. If inhalation analgesia is used, monitoring shall include making the proper adjustments of nitrous oxide machines at the request of *or by* the dentist during administration of the sedation and observing the patient's vital signs.

D. Discharge requirement. The dentist shall ensure that the patient is not discharged to his own care until he exhibits normal responses.

VA.R. Doc. No. R06-321; Filed August 10, 2006, 3:58 p.m.

Title of Regulation: **18 VAC 90-30. Regulations Governing the Licensure of Nurse Practitioners (amending 18 VAC 90-30-80).**

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

Public Hearing Date: N/A -- Public comments may be submitted until 5 p.m. on November 3, 2006.

(See Calendar of Events section for additional information)

Effective Date: November 18, 2006.

Agency 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, or e-mail jay.douglas@dhp.virginia.gov.

Basis: This regulation is jointly promulgated by the Boards of Nursing and Medicine under the general authority of Title 54.1 of the Code of Virginia. Section 54.1-2400 of the Code of Virginia establishes the general powers and duties of health regulatory board including the responsibility to promulgate regulations, levy fees, administer a licensure and renewal program, and discipline regulated professionals. The statute authorizing temporary or provisional licensure for licensed nurse practitioners is in § 54.1-2957 of the Code of Virginia.

Purpose: The purpose of the proposed amendment is to clarify and specify the duration of time for which an applicant for licensure as a nurse practitioner may practice with a provisional license. Currently, there is no specific provision for the license to become invalid if the applicant fails the certifying examination, which could allow someone to continue practicing with a provisional license even though they are not eligible for licensure. Also, the current regulation does not allow a provisional license to remain in effect after the applicant has received the results and passed the examination until the full license can be issued, which usually occurs within a couple of weeks. That has the potential of forcing a nurse practitioner to quit his practice and refrain from delivering patient care while awaiting issuance of the license. Either scenario is not in the best interest of the health and safety of patients who are receiving care from a nurse practitioner. The goal of the proposal is to specify that the provisional license is valid for up to six months or until the applicant passes the examination and receives a full license or until the applicant receives notice that he has failed the examination, whichever comes first.

Substance: The amended regulation will specify that provisional licensure can be granted provided the board has received evidence of the applicant's eligibility to sit for the examination directly from the national certifying body. An applicant may practice with a provisional license for either six months from date of issuance or until issuance of a permanent license or until he receives notice that he has failed the certifying examination, whichever occurs first.

Issues: The primary advantages to the public are the availability of nurse practitioners with provisional licenses who have demonstrated competency and eligibility for licensure

Fast-Track Regulations

and the assurance that an applicant who has not demonstrated competency is not authorized to continue practicing. There are no disadvantages to the public.

The primary advantage to the agency is the clarification and specificity of the rule, which enables board staff to clearly interpret its intent and scope. There are no disadvantages.

Rationale for Using Fast-Track Process. The fast-track action is being used because the amendment is a restatement of the provision for consistency with current practice of electronic testing by national credentialing bodies for nurse practitioners and current policy of the board. The amended regulation should be clarifying for candidates and less problematic for the agency in attempting to interpret the 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 Section 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 specify that a provisional license for a nursing practitioner expire after six months from the date of issuance, or when a permanent license is issued, or when the practitioner receives the results of an unsuccessful certification exam, whichever occurs first.

Estimated economic impact. These regulations contain rules for initial certification of nurse practitioners. The current regulatory language provides that a provisional license may be granted until the release of the results of the first national certifying examination for which an applicant is eligible following the application. Based on the current language, it is difficult to determine when a provisional license expires. According to the Department of Health Professionals (DHP), applicants now have the option of taking computerized exams at a time of their choosing. Thus, it is difficult for DHP to determine when the certification test must have been and/or may have been taken by a provisional licensee.

Because of the difficulty in enforcing the current language, it is possible for an individual with a provisional license to continue to practice, even though he or she may have failed the certification exam. The possibility of unqualified individuals practicing the tasks of a nursing practitioner poses health and safety risks for the public. However, there is no available data to identify how many times, if any, an individual with a provisional license continued to practice following an unsuccessful certification exam.

Also, the current language does not allow a provisional license to remain in effect between the time the result of the certification test is obtained and the time a permanent license is issued. A literal interpretation of this language could prohibit qualified nursing practitioners practicing their profession for a couple of weeks. Even though DHP have not been enforcing this language in practice, it could cause some confusion.

In order to address the two problems embedded in the current language, the Boards of Nursing and Medicine are proposing to establish that a provisional license for a nursing practitioner expire after six months from the date of issuance, or when a permanent license is issued, or when the practitioner receives the results of an unsuccessful certification exam, whichever occurs first.

The main benefit of the proposed change is reducing the possibility of unqualified individuals practicing the tasks of a nursing practitioner and consequently reducing the potential health and safety risks. The fact that it is not in the best interest of a provisional licensee who failed a certification exam to notify DHP adds to the benefits expected from this proposed change. Another benefit associated with the proposed changes is clarifying a potentially confusing language and avoiding costs that may result from that confusion.

The main costs of the proposed changes will fall on the provisional licensees who would not otherwise notify DHP of an unsuccessful certification exam. These costs are expected to be primarily in terms of lost or lower wages.

Businesses and entities affected. The proposed regulations apply to individuals holding a provisional nursing practitioner license. In fiscal year 2005, 75 individuals were issued a provisional license.

Localities particularly affected. The proposed regulations should not affect any locality more than others.

Projected impact on employment. The proposed regulations are not expected to have any direct effect on employment.

Effects on the use and value of private property. No significant effect is expected on the use and value of private property.

Small businesses: costs and other effects. The proposed regulations should not introduce any direct costs or other effects on small businesses.

Small businesses: alternative method that minimizes adverse impact. The proposed regulations are not expected to create an adverse effect on small businesses.

Agency's Response to the Department of Planning and Budget's Economic Impact Analysis: The Boards of Nursing and Medicine concur with the analysis of the Department of Planning and Budget for the proposed action on regulations for provisional licensure for 18 VAC 90-30, Regulations Governing the Practice of Nurse Practitioners.

Summary:

The proposed amendment clarifies the duration of a provisional license granted to an applicant for licensure as a nurse practitioner pending the results of the required

national certifying examination for consistency with the current practice of electronic testing.

18 VAC 90-30-80. Qualifications for initial licensure.

A. An applicant for initial licensure as a nurse practitioner shall:

1. Be currently licensed as a registered nurse in Virginia or hold a current multistate licensure privilege as a registered nurse;
2. Submit evidence of completion of an educational program designed to prepare nurse practitioners that is an approved program as defined in 18 VAC 90-30-10;
3. Submit evidence of professional certification by an agency identified in 18 VAC 90-30-90 as an agency accepted by the boards;
4. File the required application; and
5. Pay the application fee prescribed in 18 VAC 90-30-50.

B. Provisional licensure may be granted to an applicant who satisfies all requirements of this section with the exception of subdivision A 3 of this section ~~only until the release of the results of the first national certifying examination for which he is eligible following his application~~, *provided the board has received evidence of the applicant's eligibility to sit for the certifying examination directly from the national certifying body. An applicant may practice with a provisional license for either six months from the date of issuance or until issuance of a permanent license or until he receives notice that he has failed the certifying examination, whichever occurs first.*

VA.R. Doc. No. R06-324; Filed August 10, 2006, 3:53 p.m.

BOARD FOR WATERWORKS AND WASTEWATER WORKS OPERATORS

Title of Regulation: 18 VAC 160-20. Board for Waterworks and Wastewater Works Operators (amending 18 VAC 160-20-76 and 18 VAC 160-20-90).

Statutory Authority: §§ 54.1-201 and 54.1-2301 of the Code of Virginia.

Public Hearing Date: N/A -- Public comments may be submitted until November 3, 2006.

(See Calendar of Events section for additional information)

Effective Date: December 1, 2006.

Agency Contact: David E. Dick, Executive Director, Board for Waterworks and Wastewater Works Operators, 3600 West Broad Street, Richmond, VA 23230-4917, telephone (804) 367-2648, FAX (804) 367-6128 or e-mail waterwasteoper@dpor.virginia.gov.

Basis: Section 54.1-2301 B of the Code of Virginia states that the board shall examine operators and issue licenses. The licenses may be issued in specific operator classifications to attest to the competency of an operator to supervise and operate waterworks and wastewater works while protecting

the public health, welfare and property and conserving and protecting the water resources of the Commonwealth.

Section 54.1-201 (5) of the Code of Virginia empowers regulatory boards to promulgate regulations in accordance with the Administrative Process Act (§ 2.2-4000 et seq. of the Code of Virginia) necessary to assure continued competency, to prevent deceptive or misleading practices by practitioners and to effectively administer the regulatory system administered by the regulatory board.

The imperative form of the verb "shall" is used, making the board's authority to regulate mandatory rather than discretionary.

Purpose: The language in the current regulations provides for an examination to be given at least twice a year, and requires the application to be received by the board at least 60 days before the examination date. Board staff has approximately 30 days to process all of the applications and order the correct number of each of the 10 separate examinations and assure they are delivered to the correct examination site. Those who meet the experience requirement and have no record of disciplinary action or criminal conviction will be approved to sit for the examination and issued a license when a passing grade is electronically posted to their record by the examination vendor. Those with a record of disciplinary action or a criminal conviction may be required to participate in an Informal Fact Finding Conference (IFF) under the Virginia Administrative Process Act (§ 2.2-4000 et seq. of the Code of Virginia) and obtain approval by a majority vote of the board before being approved to sit for the examination. Those failing the examination are allowed two additional opportunities to pass the examination during the two years following approval. In addition, any individual who will meet the experience requirement no more than three months after the date of the examination may request to sit for the examination as a conditional candidate to avoid the long wait until the next examination. Conditional candidates who pass the examination will not be issued a license until they document to DPOR that they have the remaining three months of qualifying experience.

The purpose of the proposed amendments is to repeal provisions no longer necessary, and which are, in fact, cumbersome for a computer-administered examination. Beginning in 2006, applications will be submitted to the board's vendor. Those found to have met the experience requirements will arrange an appointment with the vendor to sit for the examination at one of the vendor's locations. The examination will be available five to six days a week and most will be scheduled within seven to 10 days after the request of an appointment. Records on those who pass the examination will be transmitted electronically to DPOR. Those failing the examination may take the examination an unlimited number of times during the one-year period that follows the date they were approved to sit for the examination. Those passing the examination will then apply to DPOR for a license. At this time, those with a disciplinary record or a criminal record will be afforded an IFF and the board will decide whether the license is to be issued or denied.

It is no longer necessary to require the application to be received at least 60 days before the examination date as the

Fast-Track Regulations

examination is available virtually daily. Nor is it necessary to allow those within three months of completing the experience requirement to sit for the examination as the examination will be available immediately after they meet the experience requirement and submit a complete examination application. It is no longer necessary to limit the number of times an individual may take the examination and the one year provided to pass will allow an individual to take the examination a dozen or more times.

Language is added to enable examination administration and application processing by an examination vendor. The board still maintains the authority to administer the examination and process examination applications should the vendor be unable to perform or there be no vendor available.

Licenses are issued in specific operator classifications to attest to the competency of an operator to supervise and operate waterworks and wastewater works while protecting the public health, welfare and property and conserving and protecting the water resources of the Commonwealth.

Substance: The new substantive provisions provide for an examination administered by a vendor. The vendor may also process applications to sit for the examination. Those passing the examination will apply to DPOR to become licensed. Those failing the examination may retake the examination an unlimited number of times during the year following their examination application approval date.

The requirement to apply 60 days before the examination date and the provision allowing conditional candidates to sit as much as three months before they have the required qualifying experience are repealed as no longer necessary and, in fact, now cumbersome. An unlimited number of opportunities to pass the examination during a one-year period replaces the two reexaminations during a two-year period provision and provides much more opportunity to pass the examination.

Issues: The primary advantage to the public is that those operating waterworks and wastewater works facilities will be able to qualify to sit for the examination and become licensed according to a schedule convenient to them or their employer rather than a schedule convenient to the Commonwealth. No disadvantages have been identified. The primary advantage to the agency and the Commonwealth is that application and examination services will be delivered more quickly utilizing modern technology. No disadvantage has been identified. No other pertinent matters of interest to the regulated community, government officials, or the public have been identified.

Rationale for Using Fast-Track Process: All of these amendments make it easier and faster for a qualified person to become licensed. No person is likely to object to being able to take the examination at a day and time of his choosing rather than during one of the two annual dates required by the current regulations. No person is likely to object to having his examination application approved very shortly after he completes his qualifying experience and submits a complete application.

Department of Planning and Budget's Economic Impact Analysis:

Summary of the proposed regulation. The Board for Waterworks and Wastewater Works Facilities Operators (board) proposes to amend its regulations to accommodate electronic competency examinations for its regulants.

Result of analysis. The benefits likely exceed the costs for all proposed changes encompassed by this regulatory action.

Estimated economic impact. Currently, individuals who seek to be licensed as waterworks operators or wastewater works operators must apply at least 60 days before a paper examination which, by regulatory mandate, is scheduled by the board at least twice annually. Because any examination is only given twice or, at most, three times a year, applicants are able to take the exam if they have met all educational and experience requirements or if they will meet these requirements within three months of the examination. An applicant may not apply for and receive his license until he has passed the relevant examination and gained all required education and experience. Currently, applicants who do not pass the competency exam may take it again no more than two times within two years. If an applicant either fails his exam two more times within two years or allows two years to elapse without retaking his exam the allowed number of times, he would have to submit a new application for examination, and pay the requisite fee, before being allowed to re-test. Applicants currently complete a single application for both examination and licensure. This application goes to the board and must be accompanied by a \$100 licensing fee and a \$48.15 fee for testing.

The proposed regulation institutes rules that are more sensible given that the Department of Professional and Occupational Regulation has replaced paper examinations with electronic examinations that can be given any time with little advanced notice from the testing applicant. Going forward, regulants will submit a test application and fee directly to the testing vendor. The \$84 test fee is slightly higher than the \$48 that applicants have been paying; the board reports, however, that applicants feel the added convenience of the new testing system is worth the additional amount paid for testing. Examinations will be by appointment and may be scheduled at the convenience of the applicant and in as few as seven days after application. Testers who fail may retake their examination as many times as they like within a one-year period.

The board feels it is appropriate to halve the time frame within which failed tests may be retaken because applicants may take a test many more times in a year than they would have been able to under the old testing scheme. These provisions will allow regulants to take examinations at a time that is more convenient to them and may even allow them to begin working in their chosen field more quickly. Given that, these provisions are likely to provide a net benefit for regulants.

The board also proposes to eliminate the provision of this regulation that allowed applicants who had not completed educational or experience requirements to sit for examinations. Again, the board feels that greatly increasing examination opportunities eliminate the need for this provision. Given the new testing system, this regulatory provision is not likely to harm regulants.

Under provisions of the proposed regulation, regulants who pass their examinations will receive a separate application for licensure that they will submit to the board along with the fee for licensure. This fee is unchanged at \$100. Although separate applications for testing and licensure may represent a slight inconvenience for regulants, this system will ensure that the board is only considering license applications for those individuals who meet all requirements for licensure. This should ensure that those who are eventually licensed by the board are, indeed, qualified.

Businesses and entities affected. The board currently regulates approximately 5,400 waterworks and wastewater works operators; the board reports that most of these individuals work for municipal governments or public entities charged with supplying water and sewage treatment services.

Localities particularly affected. The proposed regulation will affect all localities in the Commonwealth.

Projected impact on employment. The proposed regulation will allow regulants to become licensed more expeditiously and, so, will allow them to begin work in their chosen field sooner. Total employment for waterworks operators and wastewater works operators is unlikely to be affected, however.

Effects on the use and value of private property. To the extent that the proposed regulation allows regulants to begin work in their chosen field more quickly, their lifetime earnings may increase by some marginal amount. The proposed regulation is unlikely to affect the use and value of private property in any other way.

Small businesses: costs and other effects. The board reports that most, if not all, of its regulated entities work in the public sector.

Small businesses: alternative method that minimizes adverse impact. This proposed regulation allows regulants to take competency exams more frequently and at times that are individually more convenient.

Legal mandate. The Department of Planning and Budget (DPB) has analyzed the economic impact of this proposed regulation in accordance with Section 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. Further, if the proposed regulation has adverse effect on small businesses, Section 2.2-4007 H requires that such economic impact analyses include (i) an identification and estimate of the number of small businesses subject to the regulation; (ii) the projected reporting, recordkeeping, and other administrative costs required for small businesses to comply with the regulation, including the type of professional skills necessary for preparing required reports and other documents; (iii) a statement of the probable effect of the regulation on affected small businesses; and (iv) a description of any less intrusive

or less costly alternative methods of achieving the purpose of the regulation. The analysis presented above represents DPB's best estimate of these economic impacts.

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

Summary:

The amendments delete current language providing for a paper and pencil examination and add language that provides for a computer-administered examination as well as language enabling applicants to apply directly to the examination vendor rather than to the board to sit for the examination. The vendor will, in consultation with board staff, determine applicant eligibility to sit for the examination. Those passing the examination must apply to the board for licensure.

The amendments will replace the current single application to sit for the examination and become licensed with a separate application to sit for the examination and a separate application for license. Under the proposed amendments, applicants will be able to qualify to sit for the examination and become licensed in a much shorter period of time.

18 VAC 160-20-76. Application.

~~A. Individuals desiring to be issued a license shall apply on forms supplied by the board. The application shall be completed according to the instructions provided with the application. Incomplete applications will be returned to the applicant. Fees shall remain valid for 90 days and shall not be refunded.~~

A. Application shall be made as follows:

- 1. Individuals desiring to sit for the board's examination shall apply on forms made available by the board or by an examination vendor approved by the board.*
- 2. Individuals who have passed the board's examination shall apply for a license on forms made available by the board or by an examination vendor approved by the board.*
- 3. All applications shall be completed in accordance with the accompanying instructions and shall have all required documentation attached.*
- 4. The examination fee established in 18 VAC 160-20-102 shall accompany each examination application and the application fee established in 18 VAC 160-20-102 shall accompany each license application.*

B. The receipt of an application and the deposit of fees in no way indicates approval of an application.

C. All fees shall be nonrefundable.

~~B~~ *D. Individual applicants shall be at least 18 years of age.*

~~C~~ *E. The Each applicant for a license shall have passed the board's examination and shall disclose the following information about himself:*

Fast-Track Regulations

1. Any conviction by a court in any jurisdiction of any felony or of any misdemeanor involving lying, cheating or stealing, or of any misrepresentation while engaged in waterworks or wastewater works activities. Any plea of nolo contendere shall be considered a conviction for purposes of this subsection. A certified copy of a final order, decree or case decision by a court or regulatory agency with the lawful authority to issue such order, decree or case decision shall be prima facie evidence of such conviction or discipline.

2. Any disciplinary action taken by the board or another jurisdiction in connection with the applicant's activities as a waterworks or wastewater works operator, including but not limited to, monetary penalties, fines, suspension, revocation, or surrender of a license in connection with a disciplinary action.

3. His physical address. A post office box shall not be accepted in lieu of a physical address.

~~D. The fee established by 18 VAC 160-20-102 shall accompany the application and shall not be refunded.~~

~~E. The receipt of an application and the deposit of fees in no way indicates approval of the application by the board.~~

18 VAC 160-20-90. Licensure by experience and examination.

Licensure is based upon having applicable experience and demonstrating minimum required knowledge, skills and abilities through an examination. Education, training, and experience in the other category may be substituted for the required experience as specified in this section.

A. Experience. For purposes of this chapter, experience requirements are expressed in terms of calendar periods of full-time employment as an operator or as an operator-in-training at a waterworks or wastewater works in the same category as the license being applied for. All experience claimed on the application for licensure must be certified by the individual's immediate supervisor.

1. A year of full-time employment is defined as a minimum of 1,760 hours during a 12-month period or a minimum of 220 workdays in a 12-month period. A workday is defined as attendance at a waterworks or wastewater works to the extent required for proper operation. More than 1,760 hours or 220 work days during a 12-month period will not be considered as more than one year of full-time employment.

2. Experience gained as an operator-in-training must be obtained under the supervision of an operator holding a valid license of the same category and of a classification equal to or higher than the classification of the waterworks or wastewater works at which the experience is gained. The supervising operator shall certify the experience on the application form as accurate and relevant to the classification and category of license for which the application is being submitted.

3. Partial credit may be given for actual hours of work or workdays experience if the applicant works as an operator or as an operator-in-training less than full time.

4. Experience solely limited to the operation and maintenance of wastewater collection systems and water distribution systems, laboratory work, plant maintenance, and other nonoperating duties shall not be counted as experience as an operator or as an operator-in-training.

5. Experience limited to water distribution system operation and maintenance shall be considered only when applying for a Class V or Class VI waterworks operator license.

B. Specific requirements for licenses.

1. Specific requirements for a Class VI license. Applicants for licensure as a Class VI waterworks operator shall meet one of the following requirements and pass a board-approved examination:

a. Have (i) a high school diploma or GED and (ii) at least six months of experience as an operator-in-training in a Class VI, Class V, Class IV, Class III, Class II, or Class I waterworks; or

b. Have (i) no high school diploma and (ii) at least one year of experience as an operator-in-training in a Class VI, Class V, Class IV, Class III, Class II, or Class I waterworks.

2. Specific requirements for a Class V license. Applicants for licensure as a Class V waterworks operator shall meet one of the following requirements and pass a board-approved examination:

a. Have (i) a high school diploma or GED and (ii) at least six months of experience as an operator-in-training in a Class V, Class IV, Class III, Class II, or Class I waterworks; or

b. Have (i) no high school diploma and (ii) at least one year of experience as an operator-in-training in a Class V, Class IV, Class III, Class II, or Class I waterworks.

3. Specific requirements for a Class IV license. Applicants for licensure as either a Class IV waterworks or wastewater works operator shall meet one of the following requirements and pass a board-approved examination:

a. Have (i) a high school diploma or GED and (ii) at least six months of experience as an operator-in-training in a Class IV, Class III, Class II, or Class I waterworks or wastewater works (as appropriate); or

b. Have (i) no high school diploma and (ii) at least one year of experience as an operator-in-training in a Class IV, Class III, Class II, or Class I waterworks or wastewater works (as appropriate).

4. Specific requirements for a Class III license. Applicants for licensure as either a Class III waterworks or wastewater works operator shall meet one of the following requirements and pass a board-approved examination:

a. Have (i) a bachelor's degree in engineering or engineering technology, or in physical, biological or chemical science; and (ii) at least one year of experience as an operator-in-training in a Class IV, Class III, Class II, or Class I waterworks or wastewater works (as appropriate); or

- b. Have (i) a bachelor's degree in engineering or engineering technology, or in physical, biological or chemical science; (ii) a Class IV license; and (iii) a total of at least one year of experience as an operator or operator-in-training in a Class IV waterworks or wastewater works (as appropriate) or as an operator-in-training in a Class III, Class II, or Class I waterworks or wastewater works (as appropriate); or
- c. Have (i) a high school diploma or GED and (ii) at least two years of experience as an operator-in-training in a Class IV, Class III, Class II, or Class I waterworks or wastewater works (as appropriate); or
- d. Have (i) a high school diploma or GED, (ii) a Class IV license, and (iii) a total of at least two years of experience as an operator or operator-in-training in a Class IV waterworks or wastewater works (as appropriate) or as an operator-in-training in a Class III, Class II, or Class I waterworks or wastewater works (as appropriate); or
- e. Have (i) no high school diploma, (ii) a Class IV license, and (iii) a total of at least four years of experience as an operator or operator-in-training in a Class IV waterworks or wastewater works (as appropriate) or as an operator-in-training in a Class III, Class II, or Class I waterworks or wastewater works (as appropriate).
5. Specific requirements for a Class II license. Applicants for licensure as either a Class II waterworks or wastewater works operator shall meet one of the following requirements and pass a board-approved examination:
- a. Have (i) a bachelor's degree in engineering or engineering technology, or in physical, biological or chemical science; and (ii) a total of at least 1-1/2 years of experience, of which at least six months without substitutions shall be as an operator-in-training in a Class III, Class II or Class I waterworks or wastewater works (as appropriate); or
- b. Have (i) a bachelor's degree in engineering or engineering technology, or in physical, biological or chemical science; (ii) a Class IV license; and (iii) a total of at least 1-1/2 years of experience, of which at least six months without substitutions shall be as an operator-in-training in a Class III, Class II or Class I waterworks or wastewater works (as appropriate); or
- c. Have (i) a bachelor's degree in engineering or engineering technology, or in physical, biological or chemical science; (ii) a Class III license; and (iii) a total of at least 1-1/2 years of experience, of which at least six months, without substitutions shall be as an operator or operator-in-training in a Class III waterworks or wastewater works (as appropriate) or as an operator-in-training in a Class II or Class I waterworks or wastewater works (as appropriate); or
- d. Have (i) a high school diploma or GED, (ii) a Class III license, and (iii) a total of at least four years of experience of which at least two years without substitutions shall be as an operator or operator-in-training in a Class III waterworks or wastewater works (as appropriate) or as an operator-in-training in a Class II or Class I waterworks or wastewater works (as appropriate); or
- e. Have (i) no high school diploma, (ii) a Class III license, and (iii) a total of at least seven years of experience of which at least three years without substitutions shall be as an operator or operator-in-training in a Class III waterworks or wastewater works (as appropriate) or as an operator-in-training in a Class II or Class I waterworks or wastewater works (as appropriate).
6. Specific requirements for a Class I license. Applicants for licensure as either a Class I waterworks or wastewater works operator shall meet one of the following requirements and pass a board-approved examination:
- a. Have (i) a bachelor's degree in engineering or engineering technology, or in physical, biological or chemical science; (ii) a Class II license; and (iii) a total of at least 2-1/2 years of experience, of which at least one year without substitutions shall be as an operator or operator-in-training in a Class II waterworks or wastewater works (as appropriate) or as an operator-in-training in a Class I waterworks or wastewater works (as appropriate); or
- b. Have (i) a high school diploma or GED, (ii) a Class II license and (iii) a total of at least six years of experience of which at least two years without substitutions shall be as an operator or operator-in-training in a Class II waterworks or wastewater works (as appropriate) or as an operator-in-training in a Class I waterworks or wastewater works (as appropriate); or
- c. Have (i) no high school diploma, (ii) a Class II license, and (iii) a total of at least 10 years of experience of which at least three years without substitutions shall be as an operator or operator-in-training in a Class II waterworks or wastewater works (as appropriate) or as an operator-in-training in a Class I waterworks or wastewater works (as appropriate).
- C. Substitutions for required experience. For the purpose of meeting the experience requirements for Class III, Class II, and Class I licenses, experience in the other category, relevant training in waterworks and wastewater works operation, and formal education may be substituted for actual hands-on experience in the category being applied for.
1. Category experience substitution. One half of the actual experience gained in the other category may be substituted for required experience in the category of the license being applied for.
2. Education substitution. Education may be substituted for part of the required experience in the category of the license being applied for, subject to the following limitations:
- a. Education used to meet the educational requirements for any class of license may not be substituted for experience.
- b. Formal education courses at a post-secondary level in physical, biological or chemical science; engineering or engineering technology; waterworks or wastewater works

Fast-Track Regulations

operation; or public health may be substituted for part of the required experience.

(1) All education substituted for experience must be relevant to the category and classification of the license being applied for.

(2) Education may be substituted for experience at a rate of up to one month experience for each semester hour of college credit approved by the board. One quarter hour of college credit will be considered equal to two thirds of a semester hour.

(3) Substitution of formal education experience will be approved by the board only for applicants who submit a transcript from the institution where the course was taken.

c. Training substitution. Waterworks or wastewater works operator training courses, seminars, workshops, or similar training, specifically approved by the board, may be substituted for part of the required experience.

(1) All training substituted for experience must be relevant to the category and classification of the license being applied for.

(2) Training may be substituted for experience at a rate of one month experience for each training credit approved by the board. Up to one training credit is awarded for each 10 hours of classroom contact time or for each 20 hours of laboratory exercise and field trip contact time. No credit towards training credits is granted for breaks, meals, receptions, and time other than classroom, laboratory and field trip contact time.

(3) All courses used for substitution must be approved by utilizing the criteria set forth in Part VI (18 VAC 160-20-160) of this chapter.

(4) Substitution of training for experience will be approved by the board only for applicants who submit a copy of an appropriate certificate identifying the subject matter of the course and the training credit value, and signed by a representative of the organization sponsoring the training.

3. Limitations on substitution.

a. Under no circumstances shall category experience, education, and training substitutions exceed 50% of the total experience required under this subsection.

b. No category experience, education, or training substitutions are permitted for the experience required to obtain a Class VI, Class V or a Class IV license as specified in subsection B of this section.

~~D. Examination. A board-approved examination shall be administered at least twice a year.~~

~~1. An individual may take the examination prior to fulfilling the education and experience requirements, provided all requirements will be met within three months after the date the applicant will take the examination. The license shall not be issued until all applicable requirements have been met and satisfactorily verified.~~

~~2. An individual who is unable to take an examination at the time scheduled shall notify the board prior to the date of the examination; such an individual shall be rescheduled for the next examination. Failure to notify the board may require the submittal of a new application and payment of fees.~~

~~3. Upon submission of an application for reexamination form provided by the board and payment of the reexamination fee, an applicant who is unsuccessful in passing an examination will be allowed to retake the examination up to two times within two years of the date of notification of initial unsuccessful examination results. If the two-year period elapses, or if an applicant fails to pass both reexaminations, then the applicant will be required to submit a new application with fee in accordance with this chapter in order to take an examination.~~

~~4. Applications for examination and reexamination must be received by the Department of Professional and Occupational Regulation at least 60 days prior to a scheduled examination in order to be eligible to sit for that examination.~~

D. Examination. A board-approved examination shall be administered by the board or by an examination vendor approved by the board.

1. Each individual applying to sit for the examination shall satisfy the experience standards established in this section before being approved to sit for the examination. Individuals approved to sit for the examination shall be provided with written instructions for examination registration.

2. Examinees will be given specific instructions as to the conduct of the examination at the examination site. Examinees shall follow these instructions during the course of the examination. Misconduct may result in removal from the examination site, voided examination scores, the denial of the application or any combination of the foregoing.

3. Upon submission of an application for reexamination and payment of the fee established in 18 VAC 160-20-102, an applicant who is unsuccessful in passing the examination shall be allowed to retake the examination an unlimited number of times within one year after the date the application to sit for the examination was approved. If the one-year period elapses, then the applicant shall submit a new application to sit for the examination establishing that he meets the then-current requirements of this chapter and the fee established in 18 VAC 160-20-102.

4. Each application for reexamination shall be accompanied by the fee established in 18 VAC 160-20-102.

E. Licensure. Individuals who have passed the board-approved examination shall apply for licensure and shall satisfy the application requirements established in 18 VAC 160-20-76.

VA.R. Doc. No. R06-326; Filed August 10, 2006, 11:28 a.m.



EMERGENCY REGULATIONS

TITLE 12. HEALTH

DEPARTMENT OF MEDICAL ASSISTANCE SERVICES

Title of Regulation: **12 VAC 30-70. Methods and Standards for Establishing Payment Rates - Inpatient Hospital Services (amending 12 VAC 30-70-221).**

Statutory Authority: §§ 32.1-324 and 32.1-325 of the Code of Virginia.

Effective Dates: September 4, 2006, through September 3, 2007.

Agency Contact: William Lessard, Project Manager, Department of Medical Assistance Services, 600 East Broad Street, Suite 1300, Richmond, VA 23219, telephone (804) 225-4593, FAX (804) 786-1680, or e-mail william.lessard@dmas.virginia.gov.

Preamble:

Section 2.2-4011 of the Administrative Process Act states that an emergency situation is (i) a situation involving an imminent threat to public health or safety; or (ii) a situation in which Virginia statutory law, the Virginia appropriation act, or federal law requires that a regulation shall be effective in 280 days or less from its enactment, or in which federal regulation requires a regulation to take effect no later than 280 days from its effective date. This suggested emergency regulation meets the standard at § 2.2-4011 (ii) of the Code of Virginia.

Item 326 PPP of the 2005 Appropriation Act directed DMAS to undertake this emergency regulation.

The emergency regulation provides clarification regarding what is includable in the definition of Medicaid utilization. Specifically, DMAS is stating that the definition includes all paid Medicaid days and nonpaid/denied Medicaid days (to include medically unnecessary days, inappropriate level of care service days, and days that exceed any maximum day limits). DMAS is stating that the definition of Medicaid days does not include any general assistance, Family Access to Medical Insurance Security (FAMIS), State and Local Hospitalization (SLH), charity care, low-income, indigent care, uncompensated care, bad debt, or Medicare dually eligible days. DMAS is also stating that it does not include days for newborns not enrolled in Medicaid during the fiscal year even though the mother was Medicaid eligible during the birth.

12 VAC 30-70-221. General.

A. Effective July 1, 2000, the prospective (DRG-based) payment system described in this article shall apply to inpatient hospital services provided in enrolled general acute care hospitals, rehabilitation hospitals, and freestanding psychiatric facilities licensed as hospitals, unless otherwise noted.

B. The following methodologies shall apply under the prospective payment system:

1. As stipulated in 12 VAC 30-70-231, operating payments for DRG cases that are not transfer cases shall be determined on the basis of a hospital specific operating rate per case times relative weight of the DRG to which the case is assigned.

2. As stipulated in 12 VAC 30-70-241, operating payments for per diem cases shall be determined on the basis of a hospital specific operating rate per day times the covered days for the case with the exception of payments for per diem cases in freestanding psychiatric facilities. Payments for per diem cases in freestanding psychiatric facilities licensed as hospitals shall be determined on the basis of a hospital specific rate per day that represents an all-inclusive payment for operating and capital costs.

3. As stipulated in 12 VAC 30-70-251, operating payments for transfer cases shall be determined as follows: (i) the transferring hospital shall receive an operating per diem payment, not to exceed the DRG operating payment that would have otherwise been made and (ii) the final discharging hospital shall receive the full DRG operating payment.

4. As stipulated in 12 VAC 30-70-261, additional operating payments shall be made for outlier cases. These additional payments shall be added to the operating payments determined in subdivisions 1 and 3 of this subsection.

5. As stipulated in 12 VAC 30-70-271, payments for capital costs shall be made on an allowable cost basis.

6. As stipulated in 12 VAC 30-70-281, payments for direct medical education costs of nursing schools and paramedical programs shall be made on an allowable cost basis. Payment for direct graduate medical education (GME) costs for interns and residents shall be made quarterly on a prospective basis, subject to cost settlement based on the number of full time equivalent (FTE) interns and residents as reported on the cost report.

7. As stipulated in 12 VAC 30-70-291, payments for indirect medical education costs shall be made quarterly on a prospective basis.

8. As stipulated in 12 VAC 30-70-301, payments to hospitals that qualify as disproportionate share hospitals shall be made quarterly on a prospective basis.

C. The terms used in this article shall be defined as provided in this subsection:

"Base year" means the state fiscal year for which data is used to establish the DRG relative weights, the hospital case-mix indices, the base year standardized operating costs per case, and the base year standardized operating costs per day. The base year will change when the DRG payment system is rebased and recalibrated. In subsequent rebasing, the Commonwealth shall notify affected providers of the base year to be used in this calculation. In subsequent rebasings, the Commonwealth shall notify affected providers of the base year to be used in this calculation.

"Base year standardized costs per case" reflects the statewide average hospital costs per discharge for DRG cases in the

Emergency Regulations

base year. The standardization process removes the effects of case-mix and regional variations in wages from the claims data and places all hospitals on a comparable basis.

"Base year standardized costs per day" reflects the statewide average hospital costs per day for per diem cases in the base year. The standardization process removes the effects of regional variations in wages from the claims data and places all hospitals on a comparable basis. Base year standardized costs per day were calculated separately, but using the same calculation methodology, for the different types of per diem cases identified in this subsection under the definition of "per diem cases."

"Cost" means allowable cost as defined in Supplement 3 (12 VAC 30-70-10 through 12 VAC 30-70-130) and by Medicare principles of reimbursement.

"Disproportionate share hospital" means a hospital that meets the following criteria:

1. A Medicaid utilization rate in excess of 15%, or a low-income patient utilization rate exceeding 25% (as defined in the Omnibus Budget Reconciliation Act of 1987 and as amended by the Medicare Catastrophic Coverage Act of 1988); and
2. At least two obstetricians with staff privileges at the hospital who have agreed to provide obstetric services to individuals entitled to such services under a state Medicaid plan. In the case of a hospital located in a rural area (that is, an area outside of a Metropolitan Statistical Area as defined by the Executive Office of Management and Budget), the term "obstetrician" includes any physician with staff privileges at the hospital to perform nonemergency obstetric procedures.
3. Subdivision 2 of this definition does not apply to a hospital:
 - a. At which the inpatients are predominantly individuals under 18 years of age; or
 - b. Which does not offer nonemergency obstetric services as of December 21, 1987.

"DRG cases" means medical/surgical cases subject to payment on the basis of DRGs. DRG cases do not include per diem cases.

"DRG relative weight" means the average standardized costs for cases assigned to that DRG divided by the average standardized costs for cases assigned to all DRGs.

"Groupable cases" means DRG cases having coding data of sufficient quality to support DRG assignment.

"Hospital case-mix index" means the weighted average DRG relative weight for all cases occurring at that hospital.

"Medicaid utilization percentage" is equal to the hospital's total Medicaid inpatient days divided by the hospital's total inpatient days for a given hospital fiscal year. The Medicaid utilization percentage includes days associated with inpatient hospital services provided to Medicaid patients but reimbursed by capitated managed care providers. *This definition includes all paid Medicaid days and nonpaid/denied Medicaid days to*

include medically unnecessary days, inappropriate level of care service days, and days that exceed any maximum day limits. The definition of Medicaid days does not include any general assistance, Family Access to Medical Insurance Security (FAMIS), State and Local Hospitalization (SLH), charity care, low-income, indigent care, uncompensated care, bad debt, or Medicare dually eligible days. It does not include days for newborns not enrolled in Medicaid during the fiscal year even though the mother was Medicaid eligible during the birth.

"Medicare wage index" and the "Medicare geographic adjustment factor" are published annually in the Federal Register by the Health Care Financing Administration. The indices and factors used in this article shall be those in effect in the base year.

"Operating cost-to-charge ratio" equals the hospital's total operating costs, less any applicable operating costs for a psychiatric DPU, divided by the hospital's total charges, less any applicable charges for a psychiatric DPU. The operating cost-to-charge ratio shall be calculated using data from cost reports from hospital fiscal years ending in the state fiscal year used as the base year.

"Outlier adjustment factor" means a fixed factor published annually in the Federal Register by the Health Care Financing Administration. The factor used in this article shall be the one in effect in the base year.

"Outlier cases" means those DRG cases, including transfer cases, in which the hospital's adjusted operating cost for the case exceeds the hospital's operating outlier threshold for the case.

"Outlier operating fixed loss threshold" means a fixed dollar amount applicable to all hospitals that shall be calculated in the base year so as to result in an expenditure for outliers operating payments equal to 5.1% of total operating payments for DRG cases. The threshold shall be updated in subsequent years using the same inflation values applied to hospital rates.

"Per diem cases" means cases subject to per diem payment and include (i) covered psychiatric cases in general acute care hospitals and distinct part units (DPUs) of general acute care hospitals (hereinafter "acute care psychiatric cases"), (ii) covered psychiatric cases in freestanding psychiatric facilities licensed as hospitals (hereinafter "freestanding psychiatric cases"), and (iii) rehabilitation cases in general acute care hospitals and rehabilitation hospitals (hereinafter "rehabilitation cases").

"Psychiatric cases" means cases with a principal diagnosis that is a mental disorder as specified in the ICD-9-CM. Not all mental disorders are covered. For coverage information, see Amount, Duration, and Scope of Services, Supplement 1 to Attachment 3.1 A and B (12 VAC 30-50-95 through 12 VAC 30-50-310). The limit of coverage of 21 days in a 60-day period for the same or similar diagnosis shall continue to apply to adult psychiatric cases.

"Psychiatric operating cost-to-charge ratio" for the psychiatric DPU of a general acute care hospital means the hospital's operating costs for a psychiatric DPU divided by the hospital's charges for a psychiatric DPU. In the base year, this ratio shall

be calculated as described in the definition of "operating cost-to-charge ratio" in this subsection, using data from psychiatric DPUs.

"Readmissions" occur when patients are readmitted to the same hospital for the same or a similar diagnosis within five days of discharge. Such cases shall be considered a continuation of the same stay and shall not be treated as a new case. Similar diagnoses shall be defined as ICD-9-CM diagnosis codes possessing the same first three digits.

"Rehabilitation operating cost-to-charge ratio" for a rehabilitation unit or hospital means the provider's operating costs divided by the provider's charges. In the base year, this ratio shall be calculated as described in the definition of "operating cost-to-charge ratio" in this subsection, using data from rehabilitation units or hospitals.

"Statewide average labor portion of operating costs" means a fixed percentage applicable to all hospitals. The percentage shall be periodically revised using the most recent reliable data from the Virginia Health Information (VHI), or its successor.

"Transfer cases" means DRG cases involving patients (i) who are transferred from one general acute care hospital to another for related care or (ii) who are discharged from one general acute care hospital and admitted to another for the same or a similar diagnosis within five days of that discharge. Similar diagnoses shall be defined as ICD-9-CM diagnosis codes possessing the same first three digits.

"Type One" hospitals means those hospitals that were state-owned teaching hospitals on January 1, 1996. "Type Two" hospitals means all other hospitals.

"Ungroupable cases" means cases assigned to DRG 469 (principal diagnosis invalid as discharge diagnosis) and DRG 470 (ungroupable) as determined by the AP-DRG Grouper.

D. The All Patient Diagnosis Related Groups (AP-DRG) Grouper shall be used in the DRG payment system. Until notification of a change is given, Version 14.0 of this grouper shall be used. DMAS shall notify hospitals when updating the system to later grouper versions.

E. The primary data sources used in the development of the DRG payment methodology were the department's hospital computerized claims history file and the cost report file. The claims history file captures available claims data from all enrolled, cost-reporting general acute care hospitals, including Type One hospitals. The cost report file captures audited cost and charge data from all enrolled general acute care hospitals, including Type One hospitals. The following table identifies key data elements that were used to develop the DRG payment methodology and that will be used when the system is recalibrated and rebased.

Data Elements for DRG Payment Methodology	
Data Elements	Source
Total charges for each groupable case	Claims history file
Number of groupable cases in each DRG	Claims history file
Total number of groupable cases	Claims history file

Total charges for each DRG case	Claims history file
Total number of DRG cases	Claims history file
Total charges for each acute care psychiatric case	Claims history file
Total number of acute care psychiatric days for each acute care hospital	Claims history file
Total charges for each freestanding psychiatric case	Medicare cost reports
Total number of psychiatric days for each freestanding psychiatric hospital	Medicare cost reports
Total charges for each rehabilitation case	Claims history file
Total number of rehabilitation days for each acute care and freestanding rehabilitation hospital	Claims history file
Operating cost-to-charge ratio for each hospital	Cost report file
Operating cost-to-charge ratio for each freestanding psychiatric facility licensed as a hospital	Medicare cost reports
Psychiatric operating cost-to-charge ratio for the psychiatric DPU of each general acute care hospital	Cost report file
Rehabilitation cost-to-charge ratio for each rehabilitation unit or hospital	Cost report file
Statewide average labor portion of operating costs	VHI
Medicare wage index for each hospital	Federal Register
Medicare geographic adjustment factor for each hospital	Federal Register
Outlier operating fixed loss threshold	Claims history file
Outlier adjustment factor	Federal Register

VA.R. Doc. No. R06-313; Filed August 7, 2006, 2:46 p.m.

TITLE 18. PROFESSIONAL AND OCCUPATIONAL LICENSING

BOARD OF AUDIOLOGY AND SPEECH-LANGUAGE PATHOLOGY

Title of Regulation: 18 VAC 30-20. Regulations Governing the Practice of Audiology and Speech-Language Pathology (amending 18 VAC 30-20-80 and 18 VAC 30-20-170; adding 18 VAC 30-20-171).

Statutory Authority: Chapter 26 (§ 54.1-2600 et seq.) of Title 54.1 of the Code of Virginia.

Effective Dates: September 1, 2006, through August 31, 2007.

Emergency Regulations

Agency Contact: Elizabeth Young, Executive Director, Board of Audiology and Speech-Language Pathology, 6603 West Broad Street, 5th Floor, Richmond, VA 23230-1712, telephone (804) 662-9111, FAX (804) 662-9523 or e-mail elizabeth.young@dhp.virginia.gov.

Preamble:

The adoption of an emergency regulation by the Board of Audiology and Speech-Language Pathology is required to comply with amendments to Chapter 26 (§ 54.1-2600 et seq.) of Title 54.1 of the Code of Virginia and the second enactment clause of Chapter 97 of the 2006 Acts of Assembly.

The amended regulations (i) establish requirements for provisional licensure in audiology for applicants who have met the educational and examination qualifications in order to complete their clinical fellowship year and (ii) set out the requirements for supervision of persons practicing with a provisional license.

18 VAC 30-20-80. Fees.

A. The following fees shall be paid as applicable for licensure:

1. Application for audiology or speech-language pathology license	\$135
2. Application for school speech-language pathology license	\$70
3. Verification of licensure requests from other states	\$20
4. Annual renewal of audiology or speech-language pathology license	\$75
5. Late renewal of audiology or speech-language pathology license	\$25
6. Annual renewal of school speech-language pathology license	\$40
7. Late renewal of school speech-language pathology license	\$15
8. Reinstatement of audiology or speech-language pathology license	\$135
9. Reinstatement of school speech-language pathology license	\$70
10. Duplicate wall certificates	\$25
11. Duplicate license	\$5
12. Returned check	\$35
13. Inactive license renewal for audiology or speech-language pathology	\$40
14. Inactive license renewal for school speech-language pathology	\$20
15. Approval of a continuing education sponsor	\$200
16. Application for provisional license in audiology	\$50

17. Renewal of provisional license in audiology \$25

B. Fees shall be made payable to the Treasurer of Virginia and shall not be refunded once submitted.

18 VAC 30-20-170. Requirements for licensure.

A. The board may grant a license to an applicant who:

1. Holds a current and unrestricted Certificate of Clinical Competence in the area in which he seeks licensure issued by the American Speech-Language-Hearing Association, certification issued by the American Board of Audiology or any other accrediting body recognized by the board. Verification of currency shall be in the form of a certified letter from a recognized accrediting body issued within six months prior to licensure; and

2. Has passed the qualifying examination from an accrediting body recognized by the board within three years preceding the date of applying for licensure, or has been actively engaged in the respective profession for which he seeks licensure for one of the past three consecutive years preceding the date of application; ~~or.~~

B. The board may grant a license to an applicant *for licensure as a speech-language pathologist* who:

1. Holds a master's degree or its equivalent as determined by the board or a doctoral degree from a college or university whose ~~audiology and~~ speech-language program is regionally accredited by the American Speech-Language-Hearing Association or an equivalent accrediting body; and

2. Has passed a qualifying examination from an accrediting body recognized by the board within three years preceding the date of applying for licensure in Virginia or has been actively engaged ~~in the respective profession for which he seeks licensure~~ as a *speech-language pathologist* for one of the past three consecutive years preceding the date of application.

C. The board may grant a license to an applicant as a school speech-language pathologist who:

1. Holds a master's degree in speech-language-pathology; and

2. Holds an endorsement in speech-language pathology from the Virginia Department of Education.

18 VAC 30-20-171. Provisional licensure in audiology.

A. *The board may grant a provisional license in audiology to an applicant who submits a completed application and fee with documentation that the applicant:*

1. *Holds a master's degree or its equivalent as determined by the board or a doctoral degree from a college or university whose audiology program is regionally accredited by the American Speech-Language-Hearing Association or an equivalent accrediting body; and*

2. *Has passed a qualifying examination from an accrediting body recognized by the board within three years preceding the date of applying for provisional licensure in Virginia.*

B. A provisional license shall expire 12 months from the date of issuance and may be renewed for an additional 12 months by payment of a renewal fee. Renewal of a provisional license beyond 24 months shall be for good cause shown as determined by a committee of the board.

C. The holder of a provisional license in audiology shall only practice under the supervision of a licensed audiologist in order to obtain clinical experience as required for licensure in 18 VAC 30-20-170. The provisional licensee shall be responsible and accountable for the safe performance of those direct patient care tasks to which he has been assigned.

D. Licensed audiologists providing supervision shall:

1. Document the frequency and nature of the supervision of provisional licensees;
2. Be responsible and accountable for the assignment of patients and tasks based on their assessment and evaluation of the provisional licensee's knowledge and skills; and
3. Monitor clinical performance and intervene if necessary for the safety and protection of the patients.

E. The identity of a provisional licensee shall be disclosed to the client prior to treatment and shall be made a part of the client's file.

NOTICE: The forms used in administering 18 VAC 30-20, Regulations Governing the Practice of Audiology and Speech-Language Pathology, are not being published; however, the name of each form is listed below. The forms are available for public inspection at the Department of Health Professions, 6603 West Broad Street, Richmond, Virginia, or at the office of the Registrar of Regulations, General Assembly Building, 2nd Floor, Richmond, Virginia.

FORMS

Application for a License to Practice by ASHA Certification (rev. 6/04).

Application for a License to Practice by ABA (AAA) Certification (rev. 6/04).

Application for Provisional Licensure in Audiology (eff. 7/06).

Form A, Certification of Audiology Education (eff. 7/06).

Application for a License to Practice by Education (rev. 6/04).

Application for a License as a School Speech-Language Pathologist (rev. 6/04).

Application for Reinstatement of License to Practice (rev. 10/02).

Application for Reinstatement of License to Practice as: School Speech Language Pathologist (rev. 6/04).

Renewal Notice and Application, 2201 (rev. 6/04).

Renewal Notice and Application, 2202 (rev. 6/04).

Renewal Notice and Application, 2203 (rev. 6/04).

Continued Competency Activity and Assessment Form (eff. 3/01).

Application for Approval as a Continuing Competency Sponsor (rev. 6/04).

VA.R. Doc. No. R06-323; Filed August 10, 2006, 3:53 p.m.

BOARD OF MEDICINE

Titles of Regulations: 18 VAC 85-20. Regulations Governing the Practice of Medicine, Osteopathic Medicine, Podiatry, and Chiropractic (amending 18 VAC 85-20-22; adding 18 VAC 85-20-226).

18 VAC 85-40. Regulations Governing the Practice of Respiratory Care Practitioners (amending 18 VAC 85-40-35; adding 18 VAC 85-40-67).

18 VAC 85-50. Regulations Governing the Practice of Physician Assistants (amending 18 VAC 85-50-35; adding 18 VAC 85-50-61).

18 VAC 85-80. Regulations Governing the Licensure of Occupational Therapists (amending 18 VAC 85-80-26; adding 18 VAC 85-80-73).

18 VAC 85-101. Regulations Governing the Licensure of Radiologic Technologists and Radiologic Technologists-Limited (amending 18 VAC 85-101-25; adding 18 VAC 85-101-153).

18 VAC 85-110. Regulations Governing the Practice of Licensed Acupuncturists (amending 18 VAC 85-110-35; adding 18 VAC 85-110-161).

Statutory Authority: § 54.1-2400 and 54.1-2928.1 of the Code of Virginia.

Effective Dates: September 1, 2006, through August 31, 2007.

Agency Contact: William L. Harp, M.D., Executive Director, Board of Medicine, 6603 West Broad Street, 5th Floor, Richmond, VA, telephone (804) 662-9908, Fax (804) 662-9943, email william.harp@dhp.virginia.gov.

Preamble:

The adoption of an emergency regulation by the Board of Medicine is required to comply with amendments to Chapter 29 (§ 54.1-2900 et seq.) of Title 54.1 of the Code of Virginia, mandating the promulgation of regulations for issuance of restricted volunteer licenses as prescribed in the second enactment clause of Chapter 881 of the 2006 Acts of Assembly.

The key provisions of the amended regulations include the fee for a restricted volunteer license and the continuing education required to renew such a license after the first biennial renewal.

18 VAC 85-20-22. Required fees.

A. Unless otherwise provided, fees established by the board shall not be refundable.

B. All examination fees shall be determined by and made payable as designated by the board.

Emergency Regulations

C. The application fee for licensure in medicine, osteopathic medicine, and podiatry shall be \$302, and the fee for licensure in chiropractic shall be \$277.

D. The fee for a temporary authorization to practice medicine pursuant to § 54.1-2927 B (i) and (ii) of the Code of Virginia shall be \$25.

E. The application fee for a limited professorial or fellow license issued pursuant to 18 VAC 85-20-210 shall be \$55. The annual renewal fee shall be \$35. An additional fee for late renewal of licensure shall be \$15.

F. The application fee for a limited license to interns and residents pursuant to 18 VAC 85-20-220 shall be \$55. The annual renewal fee shall be \$35. An additional fee for late renewal of licensure shall be \$15.

G. The fee for a duplicate wall certificate shall be \$15; the fee for a duplicate license shall be \$5.

H. The fee for biennial renewal shall be \$337 for licensure in medicine, osteopathic medicine and podiatry and \$312 for licensure in chiropractic, due in each even-numbered year in the licensee's birth month. An additional fee for processing a late renewal application within one renewal cycle shall be \$115 for licensure in medicine, osteopathic medicine and podiatry and \$105 for licensure in chiropractic.

I. The fee for requesting reinstatement of licensure or certification pursuant to § 54.1-2408.2 of the Code of Virginia or for requesting reinstatement after any petition to reinstate the certificate or license of any person has been denied shall be \$2,000.

J. The fee for reinstatement of a license issued by the Board of Medicine pursuant to § 54.1-2904 of the Code of Virginia that has expired for a period of two years or more shall be \$382 for licensure in medicine, osteopathic medicine and podiatry and \$367 for licensure in chiropractic in addition to the late fee for each year in which the license has been lapsed, not to exceed a total of four years. The fee shall be submitted with an application for licensure reinstatement.

K. The fee for a letter of verification of licensure to another jurisdiction shall be \$10, and the fee for certification of grades to another jurisdiction by the board shall be \$25. Fees shall be due and payable upon submitting a request for verification or certification to the board.

L. The fee for biennial renewal of an inactive license shall be \$168, due in the licensee's birth month. An additional fee for late renewal of licensure shall be \$55 for each renewal cycle.

M. The fee for an application or for the biennial renewal of a restricted volunteer license shall be \$75, due in the licensee's birth month. An additional fee for late renewal of licensure shall be \$25 for each renewal cycle.

~~M. N.~~ The fee for a returned check shall be \$35.

18 VAC 85-20-226. Restricted volunteer license.

A. Any doctor of medicine, osteopathic medicine, podiatry or chiropractic who held an unrestricted license issued by the Virginia Board of Medicine or by a board in another state as a licensee in good standing at the time the license expired or

became inactive may be issued a restricted volunteer license to practice without compensation in a clinic that is organized in whole or in part for the delivery of health care services without charge in accordance with § 54.1-106 of the Code of Virginia.

B. To be issued a restricted volunteer license, a doctor of medicine, osteopathic medicine, podiatry or chiropractic shall submit an application to the board that documents compliance with requirements of § 54.1-2928.1 of the Code of Virginia and the application fee prescribed in 18 VAC 85-20-22.

C. The licensee who intends to continue practicing with a restricted volunteer license shall renew biennially during his birth month, meet the continued competency requirements prescribed in subsection D, and pay to the board the renewal fee prescribed in 18 VAC 85-20-22.

D. The holder of a restricted volunteer license shall not be required to attest to hours of continuing education for the first renewal of such a license. For each renewal thereafter, the licensee shall attest to 30 hours obtained during the two years immediately preceding renewal with at least 15 hours of Type 1 activities or courses offered by an accredited sponsor or organization sanctioned by the profession and no more than 15 hours of Type 2 activities or courses.

NOTICE: The forms used in administering 18 VAC 85-20, Regulations Governing the Practice of Medicine, Osteopathic Medicine, Podiatry, and Chiropractic, are not being published; however, the name of each form is listed below. The forms are available for public inspection at the Department of Health Professions, 6603 West Broad Street, Richmond, Virginia, or at the office of the Registrar of Regulations, General Assembly Building, 2nd Floor, Richmond, Virginia.

FORMS

Instructions for Completing Application to Practice Medicine for Graduates of Approved Institutions (rev. 7/03).

Instructions for Completing an Application to Practice Medicine for Graduates of Nonapproved Institutions (rev. 7/03).

Instructions for Completing PMLEXIS Examination/License Application (rev. 7/03).

Information for Completing Chiropractic Endorsement Application (rev. 7/03).

Instructions for Completing Podiatry Endorsement Application (rev. 7/03).

Instructions for Completing Osteopathic Medicine Licensure Application (rev. 7/03).

Form A, Claims History Sheet (rev. 12/02).

Form B, Activity Questionnaire (rev. 12/02).

Form C, Clearance from Other State Boards (rev. 12/02).

Form E, Disciplinary Inquiry (rev. 12/02).

Application for a License to Practice Medicine and Surgery (rev. 7/03).

Application for a License to Practice Osteopathic Medicine (rev. 7/03).

Application for a License to Practice Podiatry (rev. 7/03).

Application for a License to Practice Chiropractic (rev. 7/03).

Form H, Virginia Request for Podiatry Disciplinary Action (rev. 4/04).

Form I, National Board of Podiatric Medical Examiners Request for Scores on Part I and II (rev. 1/03).

Requirements and Instructions for an Intern/Resident License (rev. 3/04).

Intern/Resident, Form A, Memorandum from Associate Dean of Graduate Medical Education (rev. 3/04).

Intern/Resident, Form B, Certificate of Professional Education (rev. 3/04).

Application for a Temporary License for Intern/Resident Training Program (rev. 3/04).

Form G, Intern Resident, Request for Status Report of ECFMG Certification (eff. 3/04).

Form H, Report of Clinical Rotations (rev. 12/02).

Transfer Request, Intern Resident (eff. 3/04).

Instructions for Completing an Application for a Limited License to Foreign Medical Graduates Pursuant to 54.1-2936 (rev. 3/04).

Application for a Limited License to Foreign Medical Graduates Pursuant to 54.1-2936 (rev. 3/04).

Form G, Request for Status Report of Educational Commission for Foreign Medical Graduates Certification (rev. 3/04).

Form L, Certificate of Professional Education (rev. 9/04).

Continued Competency Activity and Assessment Form (rev. 4/00).

Instructions for Reinstatement of Medicine and Surgery Licensure Application (rev. 3/04).

Application for Reinstatement of License to Practice Medicine (rev. 3/04).

Form A, MD Reinstatement, Claims History Sheet (rev. 3/04).

Form B, MD Reinstatement, Activity Questionnaire Form (rev. 3/04).

Form C, MD Reinstatement, State Questionnaire Form (rev. 2/04).

MD Reinstatement, Disciplinary Inquiries to Federation of State Medical Boards (rev. 3/04).

Instructions for Reinstatement of Osteopathy Medicine Licensure Application (rev. 2/04).

Application for Reinstatement of License to Practice Osteopathic Medicine (rev. 3/04).

Form A, Osteopathy Reinstatement, Claims History (rev. 3/04).

Instructions for Reinstatement of Chiropractic Licensure Application (rev. 2/04).

Application for Reinstatement of License to Practice as a Chiropractor (rev. 3/04).

Instructions for Reinstatement of Podiatry Licensure Application (rev. 3/04).

Application for Reinstatement of License to Practice Podiatry (rev. 3/04).

Application for Reinstatement of License to Practice Medicine/Osteopathy After Petition for Reinstatement Denied or License Revoked (rev. 3/03).

Application for Reinstatement of License to Practice Medicine/Osteopathy (rev. 2/03).

Application for Reinstatement of License to Practice Chiropractic (rev. 3/03).

Renewal Notice and Application, 0101 Medicine and Surgery (rev. 7/03).

Renewal Notice and Application, 0102 Osteopathy and Surgery (rev. 7/03).

Renewal Notice and Application, 0103 Podiatry (rev. 7/03).

Renewal Notice and Application, 0104 Chiropractic (rev. 7/03).

Renewal Notice and Application, 0108 Naturopath (rev. 12/02).

Renewal Notice and Application, 0109 University and Limited License (rev. 12/02).

Renewal Notice and Application, 0116 Interns and Residents (rev. 12/02).

Application for Registration for Volunteer Practice (eff. 12/02).

Sponsor Certification for Volunteer Registration (eff. 1/03).

Guidelines for Completing the Practitioner Profile Questionnaire (rev. 12/02).

Practitioner's Help Section (rev. 11/02).

Practitioner Questionnaire (rev. 11/02).

Application for Restricted Volunteer License (eff. 8/06).

18 VAC 85-40-35. Fees.

The following fees are required:

1. The application fee, payable at the time the application is filed, shall be \$130.
2. The biennial fee for renewal of active licensure shall be \$135 and for renewal of inactive licensure shall be \$70, payable in each odd-numbered year in the license holder's birth month.
3. The additional fee for late renewal of licensure within one renewal cycle shall be \$50.

Emergency Regulations

4. The fee for reinstatement of a license issued by the Board of Medicine pursuant to § 54.1-2904 of the Code of Virginia, which has lapsed for a period of two years or more, shall be \$180 and must be submitted with an application for licensure reinstatement.
5. The fee for reinstatement of a license pursuant to § 54.1-2921 of the Code of Virginia shall be \$2,000.
6. The fee for a duplicate license shall be \$5, and the fee for a duplicate wall certificate shall be \$15.
7. The fee for a returned check shall be \$35.
8. The fee for a letter of good standing/verification to another jurisdiction shall be \$10; the fee for certification of grades to another jurisdiction shall be \$25.
9. *The fee for an application or for the biennial renewal of a restricted volunteer license shall be \$35, due in the licensee's birth month. An additional fee for late renewal of licensure shall be \$15 for each renewal cycle.*

18 VAC 85-40-67. Restricted volunteer license.

A. *A respiratory care practitioner who held an unrestricted license issued by the Virginia Board of Medicine or by a board in another state as a licensee in good standing at the time the license expired or became inactive may be issued a restricted volunteer license to practice without compensation in a clinic that is organized in whole or in part for the delivery of health care services without charge in accordance with § 54.1-106 of the Code of Virginia.*

B. *To be issued a restricted volunteer license, a respiratory care practitioner shall submit an application to the board that documents compliance with requirements of § 54.1-2928.1 of the Code of Virginia and the application fee prescribed in 18 VAC 85-40-35.*

C. *The licensee who intends to continue practicing with a restricted volunteer license shall renew biennially during his birth month, meet the continued competency requirements prescribed in subsection D, and pay to the board the renewal fee prescribed in 18 VAC 85-40-35.*

D. *The holder of a restricted volunteer license shall not be required to attest to hours of continuing education for the first renewal of such a license. For each renewal thereafter, the licensee shall attest to obtaining 10 hours of continuing education as approved and documented by a sponsor recognized by the AARC or in courses directly related to the practice of respiratory care as approved by the American Medical Association for Category 1 CME credit within the last biennium.*

NOTICE: The forms used in administering 18 VAC 85-40, Regulations Governing the Practice of Respiratory Care Practitioners, are not being published; however, the name of each form is listed below. The forms are available for public inspection at the Department of Health Professions, 6603 West Broad Street, Richmond, Virginia, or at the office of the Registrar of Regulations, General Assembly Building, 2nd Floor, Richmond, Virginia.

FORMS

- Instructions for Completing a Respiratory Care Practitioner Application (rev. 6/04).
- Application for a License to Practice as a Respiratory Care Practitioner (rev. 6/04).
- Instructions for Completing Reinstatement Application for Respiratory Care Practitioner License (rev. 4/05).
- Application for Reinstatement of License to Practice Respiratory Care (rev. 11/04).
- Form A, Claims History Sheet (rev. 6/04).
- Form B, Activity Questionnaire (rev. 6/04).
- Form C, Clearance from Other State Boards (rev. 3/03).
- Form L, Certificate of Professional Education (rev. 9/04).
- Verification of Certification Request Form (NBRC) (rev. 6/04).
- Renewal Notice and Application, 0117 Respiratory Care (rev. 2/03).
- Application for Registration for Volunteer Practice (eff. 12/02).
- Sponsor Certification for Volunteer Registration (eff. 1/03).
- Application for Restricted Volunteer License (eff. 8/06).*

18 VAC 85-50-35. Fees.

Unless otherwise provided, the following fees shall not be refundable:

1. The initial application fee for a license, payable at the time application is filed, shall be \$130.
2. The biennial fee for renewal of an active license shall be \$135 and for renewal of an inactive license shall be \$70, payable in each odd-numbered year in the birth month of the licensee.
3. The additional fee for late renewal of licensure within one renewal cycle shall be \$50.
4. A restricted volunteer license shall expire 12 months from the date of issuance and may be renewed without charge by receipt of a renewal application that verifies that the physician assistant continues to comply with provisions of § 54.1-2951.3 of the Code of Virginia.
5. The fee for review and approval of a new protocol submitted following initial licensure shall be \$15.
6. The fee for reinstatement of a license pursuant to § 54.1-2921 of the Code of Virginia shall be \$2,000.
7. The fee for a duplicate license shall be \$5, and the fee for a duplicate wall certificate shall be \$15.
8. The fee for a returned check shall be \$35.
9. The fee for a letter of good standing/verification to another jurisdiction shall be \$10.
10. *The fee for an application or for the biennial renewal of a restricted volunteer license shall be \$35, due in the*

licensee's birth month. An additional fee for late renewal of licensure shall be \$15 for each renewal cycle.

18 VAC 85-50-61. Restricted volunteer license.

A. A physician assistant who held an unrestricted license issued by the Virginia Board of Medicine or by a board in another state as a licensee in good standing at the time the license expired or became inactive may be issued a restricted volunteer license to practice without compensation in a clinic that is organized in whole or in part for the delivery of health care services without charge in accordance with § 54.1-106 of the Code of Virginia.

B. To be issued a restricted volunteer license, a physician assistant shall submit an application to the board that documents compliance with requirements of § 54.1-2928.1 of the Code of Virginia and the application fee prescribed in 18 VAC 85-50-35.

C. The licensee who intends to continue practicing with a restricted volunteer license shall renew biennially during his birth month, meet the continued competency requirements prescribed in subsection D, and pay to the board the renewal fee prescribed in 18 VAC 85-50-35.

D. The holder of a restricted volunteer license shall not be required to attest to hours of continuing education for the first renewal of such a license. For each renewal thereafter, the licensee shall attest to obtaining 50 hours of continuing education during the biennial renewal period with at least 25 hours in Type 1 and no more than 25 hours in Type 2 as acceptable to the NCCPA.

NOTICE: The forms used in administering 18 VAC 85-50, Regulations Governing the Practice of Physician Assistants, are not being published; however, the name of each form is listed below. The forms are available for public inspection at the Department of Health Professions, 6603 West Broad Street, Richmond, Virginia, or at the office of the Registrar of Regulations, General Assembly Building, 2nd Floor, Richmond, Virginia.

FORMS

Instructions for Completing a Physician Assistant Licensure Application (rev. 2/04).

Application for Licensure as a Physician Assistant (rev. 7/03).

Form #B, Activity Questionnaire (rev. 3/03).

Form #C, Clearance from Other State Boards (rev. 3/03).

Form #L, Certificate of Physician Assistant Education (eff. 9/04).

Form #2, Physician Assistant Invasive Procedures Protocol (rev. 3/03).

Renewal Notice and Application, 0110 Physician Assistant (rev. 12/02).

Instructions for Completing a Practice Application as a Physician Assistant (rev. 9/04).

Application to Practice as a Physician Assistant (rev. 6/04).

Request for Prescriptive Authority from the PA (rev. 4/04).

Alternate Supervisors Signature Form (rev. 3/03).

Form #1-A, Addendum to Protocol of Physician Assistant Duties (rev. 3/03).

Application for Registration for Volunteer Practice (eff. 12/02).

Sponsor Certification for Volunteer Registration (eff. 1/03).

Physician Assistant Volunteer License Application (eff. 3/03).

Application for Restricted Volunteer License (eff. 8/06).

18 VAC 85-80-26. Fees.

A. The following fees have been established by the board:

1. The initial fee for the occupational therapist license shall be \$130.

2. The fee for reinstatement of the occupational therapist license that has been lapsed for two years or more shall be \$180.

3. The fee for active license renewal shall be \$135 and for inactive license renewal shall be \$70 and shall be due in the birth month of the licensed therapist in each even-numbered year.

4. The additional fee for processing a late renewal application within one renewal cycle shall be \$50.

5. The fee for a letter of good standing or verification to another state for a license shall be \$10.

6. The fee for reinstatement of licensure pursuant to § 54.1-2921 of the Code of Virginia shall be \$2,000.

7. The fee for a returned check shall be \$35.

8. The fee for a duplicate license shall be \$5, and the fee for a duplicate wall certificate shall be \$15.

9. The fee for an application or for the biennial renewal of a restricted volunteer license shall be \$35, due in the licensee's birth month. An additional fee for late renewal of licensure shall be \$15 for each renewal cycle.

B. Unless otherwise provided, fees established by the board shall not be refundable.

18 VAC 85-80-73. Restricted volunteer license.

A. An occupational therapist who held an unrestricted license issued by the Virginia Board of Medicine or by a board in another state as a licensee in good standing at the time the license expired or became inactive may be issued a restricted volunteer license to practice without compensation in a clinic that is organized in whole or in part for the delivery of health care services without charge in accordance with § 54.1-106 of the Code of Virginia.

B. To be issued a restricted volunteer license, an occupational therapist shall submit an application to the board that documents compliance with requirements of § 54.1-2928.1 of the Code of Virginia and the application fee prescribed in 18 VAC 85-80-26.

Emergency Regulations

C. The licensee who intends to continue practicing with a restricted volunteer license shall renew biennially during his birth month, meet the continued competency requirements prescribed in subsection D, and pay to the board the renewal fee prescribed in 18 VAC 85-80-26.

D. The holder of a restricted volunteer license shall not be required to attest to hours of continuing education for the first renewal of such a license. For each renewal thereafter, the licensee shall attest to obtaining 10 hours of continuing education during the biennial renewal period with at least five hours of Type 1 and no more than five hours of Type 2 as specified in 18 VAC 85-80-71.

NOTICE: The forms used in administering 18 VAC 85-80, Regulations Governing the Licensure of Occupational Therapists, are not being published; however, the name of each form is listed below. The forms are available for public inspection at the Department of Health Professions, 6603 West Broad Street, Richmond, Virginia, or at the office of the Registrar of Regulations, General Assembly Building, 2nd Floor, Richmond, Virginia.

FORMS

Instructions for Completing an Occupational Therapist Licensure Application (rev. 3/03).

Application for a License to Practice as an Occupational Therapist (rev. 3/03).

Form A, Claims History Sheet (rev. 3/03).

Form B, Activity Questionnaire (rev. 3/03).

Form C, Clearance from Other State Boards (rev. 3/03).

Form L, Certificate of Professional Education (rev. 9/04).

Board Approved Practice, Occupational Therapist Traineeship (rev. 3/03).

Instructions for Completing Reinstatement of Occupational Therapy Licensure (rev. 3/04).

Application for Reinstatement of Licensure to Practice Occupational Therapy (rev. 3/04).

Instructions for Supervised Practice, Occupational Therapy Reinstatement (rev. 3/04).

Supervised Practice Application, Occupational Therapy Reinstatement (rev. 3/04).

Report of Supervised Practice for Reinstatement, Form #B (rev. 3/04).

Renewal Notice and Application (rev. 11/02).

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

Application for Registration for Volunteer Practice (eff. 12/02).

Sponsor Certification for Volunteer Registration (eff. 1/03).

Application for Restricted Volunteer License (eff. 8/06).

18 VAC 85-101-25. Fees.

A. Unless otherwise provided, fees listed in this section shall not be refundable.

B. Initial licensure fees.

1. The application fee for radiologic technologist licensure shall be \$130.

2. The application fee for the radiologic technologist-limited licensure shall be \$90.

3. All examination fees shall be determined by and made payable as designated by the board.

C. Licensure renewal and reinstatement.

1. The fee for active license renewal for a radiologic technologist shall be \$135 and for a radiologic technologist-limited shall be \$70. The fee for inactive license renewal for a radiologic technologist shall be \$70 and for a radiologic technologist-limited shall be \$35.

2. An additional fee of \$50 for a radiologic technologist and \$25 for a radiologic technologist-limited to cover administrative costs for processing a late renewal application within one renewal cycle shall be imposed by the board.

3. The fee for reinstatement of a license that has lapsed for a period of two years or more shall be \$180 for a radiologic technologist and \$120 for a radiologic technologist-limited and shall be submitted with an application for licensure reinstatement.

4. The fee for reinstatement of a license pursuant to § 54.1-2921 of the Code of Virginia shall be \$2,000.

D. Other fees.

1. The application fee for a traineeship as a radiologic technologist shall be \$25.

2. The fee for a letter of good standing or verification to another state for licensure shall be \$10; the fee for certification of grades to another jurisdiction shall be \$25.

3. The fee for a returned check shall be \$35.

4. The fee for a duplicate license shall be \$5.00, and the fee for a duplicate wall certificate shall be \$15.

5. The fee for an application or for the biennial renewal of a restricted volunteer license shall be \$35, due in the licensee's birth month. An additional fee for late renewal of licensure shall be \$15 for each renewal cycle.

18 VAC 85-101-153. Restricted volunteer license.

A. A licensed radiologic technologist or a radiologic technologist-limited who held an unrestricted license issued by the Virginia Board of Medicine or by a board in another state as a licensee in good standing at the time the license expired or became inactive may be issued a restricted volunteer license to practice without compensation in a clinic that is organized in whole or in part for the delivery of health care services without charge in accordance with § 54.1-106 of the Code of Virginia.

B. To be issued a restricted volunteer license, a licensed radiologic technologist or a radiologic technologist-limited shall submit an application to the board that documents compliance with requirements of § 54.1-2928.1 of the Code of Virginia and the application fee prescribed in 18 VAC 85-101-25.

C. The licensee who intends to continue practicing with a restricted volunteer license shall renew biennially during his birth month, meet the continued competency requirements prescribed in subsection D, and pay to the board the renewal fee prescribed in 18 VAC 85-101-25.

D. The holder of a restricted volunteer license shall not be required to attest to hours of continuing education for the first renewal of such a license. For each renewal thereafter, a licensed radiologic technologist shall attest to having completed 12 hours of Category A continuing education as acceptable to and documented by the ARRT within the last biennium. A radiologic technologist-limited shall attest to having completed six hours of Category A continuing education within the last biennium that corresponds to the anatomical areas in which the limited licensee practices. Hours shall be acceptable to and documented by the ARRT or by any other entity approved by the board for limited licensees whose scope of practice is podiatry or bone densitometry.

NOTICE: The forms used in administering 18 VAC 85-101, Regulations Governing the Licensure of Radiologic Technologists and Radiologic Technologists-Limited, are not being published; however, the name of each form is listed below. The forms are available for public inspection at the Department of Health Professions, 6603 West Broad Street, Richmond, Virginia, or at the office of the Registrar of Regulations, General Assembly Building, 2nd Floor, Richmond, Virginia.

FORMS

Instructions for Completing an Application for Licensure as a Radiologic Technologist By Examination/Endorsement (rev. 6/04).

Application for a License as a Radiologic Technologist (rev. 6/04).

Form A, Claims History Sheet (rev. 6/04).

Form B, Activity Questionnaire (rev. 6/04).

Form C, Clearance from Other States (rev. 6/04).

Form E, Certification Request from ARRT (rev. 6/04).

Form F, Traineeship Application (rev. 6/04).

Form L, Certificate of Radiologic Technology Education (eff. 6/04).

Instructions for Completing an Application for Licensure as a Radiologic Technologist-Limited (rev. 6/04).

Application for a License to Practice Radiologic Technology-Limited (rev. 6/04).

Form T/A (1) and T/A (2), Radiologic Technologist-Limited Training Application for Abdomen/Pelvis pursuant to Virginia Regulations 18 VAC 85-101-60 B (3) (rev. 6/04).

Form T/C (1) and T/C (2), Radiologic Technologist-Limited Clinical Training Application (rev. 6/04).

Form T/E, Radiologic Technologist-Limited Traineeship Application (rev. 6/04).

Instructions for Completing Reinstatement of Radiologic Technology Licensure (rev. 4/04).

Application for Reinstatement of License to Practice Radiologic Technologist (eff. 4/04).

Instructions for Completing Reinstatement of Radiologic Technologist-Limited Licensure (rev. 4/04).

Application for Reinstatement of License to Practice Radiologic Technologist-Limited (eff. 4/04).

License Renewal Notice and Application, 0120 Radiologic Technologist (rev. 11/02).

License Renewal Notice and Application, 0122 Limited Radiologic Technologist (eff. 11/02).

Application for Registration for Volunteer Practice (eff. 12/02).

Sponsor Certification for Volunteer Registration (eff. 1/03).

Application for Restricted Volunteer License (eff. 8/06).

18 VAC 85-110-35. Fees.

Unless otherwise provided, the following fees shall not be refundable:

1. The application fee for a license to practice as an acupuncturist shall be \$130.
2. The fee for biennial active license renewal shall be \$135; the fee for biennial inactive license renewal shall be \$70.
3. The additional fee for processing a late renewal within one renewal cycle shall be \$50.
4. The fee for reinstatement of a license which has expired for two or more years shall be \$180.
5. The fee for a letter of good standing/verification of a license to another jurisdiction shall be \$10.
6. The fee for reinstatement of a license pursuant to § 54.1-2921 of the Code of Virginia shall be \$2,000.
7. The fee for a duplicate wall certificate shall be \$15.
8. The fee for a duplicate renewal license shall be \$5.
9. The fee for a returned check shall be \$35.

10. The fee for an application or for the biennial renewal of a restricted volunteer license shall be \$35, due in the licensee's birth month. An additional fee for late renewal of licensure shall be \$15 for each renewal cycle.

18 VAC 85-110-161. Restricted volunteer license.

A. A licensed acupuncturist who held an unrestricted license issued by the Virginia Board of Medicine or by a board in another state as a licensee in good standing at the time the license expired or became inactive may be issued a restricted volunteer license to practice without compensation in a clinic that is organized in whole or in part for the delivery of health

Emergency Regulations

care services without charge in accordance with § 54.1-106 of the Code of Virginia.

B. To be issued a restricted volunteer license, a licensed acupuncturist shall submit an application to the board that documents compliance with requirements of § 54.1-2928.1 of the Code of Virginia and the application fee prescribed in 18 VAC 85-110-35.

C. The licensee who intends to continue practicing with a restricted volunteer license shall renew biennially during his birth month, meet the continued competency requirements prescribed in subsection D, and pay to the board the renewal fee prescribed in 18 VAC 85-110-35.

D. The holder of a restricted volunteer license shall not be required to attest to hours of continuing education for the first renewal of such a license. For each renewal thereafter, the licensee shall attest to obtaining 20 hours of continuing education acceptable to the NCCAOM, obtained within the last biennium.

NOTICE: The forms used in administering 18 VAC 85-110, Regulations Governing the Practice of Licensed Acupuncturists, are not being published; however, the name of each form is listed below. The forms are available for public inspection at the Department of Health Professions, 6603 West Broad Street, Richmond, Virginia, or at the office of the Registrar of Regulations, General Assembly Building, 2nd Floor, Richmond, Virginia.

FORMS

Instructions for Completing an Application for a License to Practice as an Acupuncturist Graduates of Approved Institutions or Programs in the United States (rev. 4/04).

Instructions for Completing an Application for a License to Practice as an Acupuncturist Graduates of Nonapproved Educational Programs (rev. 3/04).

Application for a License to Practice as an Acupuncturist (rev. 12/02).

Form A, Claims History Sheet (rev. 3/04).

Form B, Activity Questionnaire (rev. 3/04).

Form C, Clearance from Other State Boards (rev. 3/04).

Form L, Certification of Professional Education (rev. 9/04).

Verification of NCCAOM Certification (rev. 3/04).

Renewal Notice and Application, 0121 Licensed Acupuncturist (rev. 12/02).

Recommendation for Examination by a Physician (eff. 12/01).

Application for Registration for Volunteer Practice (eff. 12/02).

Sponsor Certification for Volunteer Registration (eff. 1/03).

Application for Restricted Volunteer License (eff. 8/06).

VA.R. Doc. No. R06-330; Filed August 10, 2006, 4:02 p.m.

BOARD OF NURSING

Title of Regulation: 18 VAC 90-30. Regulations Governing the Licensure of Nurse Practitioners (amending 18 VAC 90-30-10 and 18 VAC 90-30-120; adding 18 VAC 90-30-121).

Statutory Authority: Chapters 29 (§ 54.1-2900 et seq.) and 30 (§ 54.1-3000 et seq.) of Title 54.1 of the Code of Virginia.

Effective Dates: September 1, 2006, through August 31, 2007.

Agency 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) 662-9908, FAX (804) 662-9512 or e-mail jay.douglas@dhp.virginia.gov

Preamble:

The adoption of an emergency regulation by the Boards of Nursing and Medicine is required to comply with amendments to Chapter 29 (§ 54.1-2900 et seq.) of Title 54.1 and the second enactment clause of Chapter 750 of the 2006 Acts of Assembly.

The amendments separate regulations for the practice of certified nurse midwives from the practice of other categories of licensed nurse practitioners for the purpose of describing the appropriate relationship with a licensed physician. Chapter 750 defines the relationship for licensed nurse practitioners as practice "under the supervision of a duly licensed physician," whereas a certified nurse midwife renders care "in collaboration and consultation with a duly licensed physician."

18 VAC 90-30-10. Definitions.

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

"Approved program" means a nurse practitioner education program that is accredited by the Council on Accreditation of Nurse Anesthesia Educational Programs/Schools, American College of Nurse Midwives, Commission on Collegiate Nursing Education or the National League for Nursing Accrediting Commission or is offered by a school of nursing or jointly offered by a school of medicine and a school of nursing which grant a graduate degree in nursing and which hold a national accreditation acceptable to the boards.

"Boards" means the Virginia Board of Nursing and the Virginia Board of Medicine.

~~"Collaboration" means the process by which a nurse practitioner, in association with a physician, delivers health care services within the scope of practice of the nurse practitioner's professional education and experience and with medical direction and supervision, consistent with this chapter.~~

"Committee" means the Committee of the Joint Boards of Nursing and Medicine.

"Controlling institution" means the college or university offering a nurse practitioner education program.

"Licensed nurse practitioner" means a registered nurse who has met the requirements for licensure as stated in Part II (18 VAC 90-30-60 et seq.) of this chapter.

"Licensed physician" means a person licensed by the Board of Medicine to practice medicine or osteopathy.

~~"Medical direction and supervision" means participation in the development of a written protocol including provision for periodic review and revision; development of guidelines for availability and ongoing communications which provide for and define consultation among the collaborating parties and the patient; and periodic joint evaluation of services provided, e.g., chart review, and review of patient care outcomes. Guidelines for availability shall address at a minimum the availability of the collaborating physician proportionate to such factors as practice setting, acuity, and geography.~~

"National certifying body" means a national organization that is accredited by an accrediting agency recognized by the U. S. Department of Education or deemed acceptable by the National Council of State Boards of Nursing and has as one of its purposes the certification of nurse anesthetists, nurse midwives or nurse practitioners, referred to in this chapter as professional certification, and whose certification of such persons by examination is accepted by the committee.

"Preceptor" means a physician or a licensed nurse practitioner who supervises and evaluates the nurse practitioner student.

"Protocol" means a written statement, jointly developed by the collaborating physician(s) and the licensed nurse practitioner(s), that directs and describes the procedures to be followed and the delegated medical acts appropriate to the specialty practice area to be performed by the licensed nurse practitioner(s) in the care and management of patients.

18 VAC 90-30-120. Practice of licensed nurse practitioners other than certified nurse midwives.

A. A ~~licensed~~ nurse practitioner *licensed in a category other than certified nurse midwife* shall be authorized to engage in practices constituting the practice of medicine in collaboration with and under the medical direction and supervision of a licensed physician.

B. The practice of licensed nurse practitioners shall be based on specialty education preparation as a nurse practitioner in accordance with standards of the applicable certifying organization and written protocols as defined in 18 VAC 90-30-10.

C. The written protocol shall include the nurse practitioner's authority for signatures, certifications, stamps, verifications, affidavits and endorsements provided it is:

1. In accordance with the specialty license of the nurse practitioner and with the scope of practice of the supervising physician;
2. Permitted by § 54.1-2957.02 or applicable sections of the Code of Virginia; and
3. Not in conflict with federal law or regulation.

D. A certified registered nurse anesthetist shall practice in accordance with the functions and standards defined by the

American Association of Nurse Anesthetists (Guidelines and Standards for Nurse Anesthesia Practice, Revised 1998) and under the medical direction and supervision of a doctor of medicine or a doctor of osteopathy or the medical direction and supervision of a dentist in accordance with rules and regulations promulgated by the Board of Dentistry.

~~E. A certified nurse midwife shall practice in accordance with the Standards for the Practice of Nurse-Midwifery (Revised 1993) defined by the American College of Nurse-Midwives.~~

E. For purposes of this section, the following definitions shall apply:

"Collaboration" means the process by which a nurse practitioner, in association with a physician, delivers health care services within the scope of practice of the nurse practitioner's professional education and experience and with medical direction and supervision, consistent with this chapter.

~~"Medical direction and supervision" means participation in the development of a written protocol including provision for periodic review and revision; development of guidelines for availability and ongoing communications that provide for and define consultation among the collaborating parties and the patient; and periodic joint evaluation of services provided, e.g., chart review, and review of patient care outcomes. Guidelines for availability shall address at a minimum the availability of the collaborating physician proportionate to such factors as practice setting, acuity, and geography.~~

18 VAC 90-30-121. Practice of nurse practitioners licensed as certified nurse midwives.

A. A nurse practitioner licensed as a certified nurse midwife shall be authorized to engage in practices constituting the practice of medicine in collaboration and consultation with a licensed physician.

B. The practice of certified nurse midwives shall be based on specialty education preparation as a nurse practitioner and in accordance with standards of the applicable certifying organization and written protocols as defined in 18 VAC 90-30-10.

C. The written protocol shall include the nurse practitioner's authority for signatures, certifications, stamps, verifications, affidavits and endorsements provided it is:

1. In accordance with the specialty license of the nurse practitioner and with the scope of practice of the supervising physician;
2. Permitted by § 54.1-2957.02 or applicable sections of the Code of Virginia; and
3. Not in conflict with federal law or regulation.

D. A certified nurse midwife, in collaboration and consultation with a duly licensed physician, shall practice in accordance with the Standards for the Practice of Nurse-Midwifery (Revised 2003) defined by the American College of Nurse-Midwives.

E. For purposes of this section, the following definition shall apply:

Emergency Regulations

"Collaboration and consultation" means practice in accordance with the Standards for the Practice of Nurse-Midwifery (Revised 2003) defined by the American College of Nurse-Midwives to include participation in the development of a written protocol including provision for periodic review and revision; development of guidelines for availability and ongoing communications that provide for and define consultation among the collaborating parties and the patient; and periodic joint evaluation of services provided, e.g., chart review, and review of patient care outcomes. Guidelines for availability shall address at a minimum the availability of the collaborating physician proportionate to such factors as practice setting, acuity, and geography.

DOCUMENT INCORPORATED BY REFERENCE

Standards for the Practice of Nurse-Midwifery, rev. 2003, American College of Nurse Midwives.

VA.R. Doc. No. R06-320; Filed August 10, 2006, 4:04 p.m.

TITLE 22. SOCIAL SERVICES

STATE BOARD OF SOCIAL SERVICES

Title of Regulation: **22 VAC 40-35. Virginia Independence Program (22 VAC 40-35-10, 22 VAC 40-35-80, 22 VAC 40-35-90 and 22 VAC 40-35-100).**

Statutory Authority: § 63.2-217 of the Code of Virginia.

Effective Dates: September 1, 2006, through August 31, 2007.

Agency Contact: Mark Golden, Economic Assistance and Employment Manager, Department of Social Services, 7 North 8th Street, Richmond, VA 23219, telephone (804) 726-7385, FAX (804) 726-7356 or e-mail mark.golden@dss.virginia.gov.

Preamble:

The regulation is amended to comply with the Deficit Reduction Act (DRA) of 2005. The DRA becomes effective October 1, 2006, necessitating an emergency regulation. Amendments to the regulation expand the definition of work activities; add to the list of exemptions from mandatory participation in Virginia Initiative for Employment Not Welfare; create a transitional job retention payment; remove work activities from priority order; and allow for education hours to substitute for community work experience in certain situations.

22 VAC 40-35-10. Definitions.

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

"Actively seeking employment" means satisfactorily participating in any assigned job-seeking activity while in the program.

"Adult portion" means the TANF amount paid on behalf of the parent or other caretaker-relative with whom the TANF child

resides, including a minor parent. This amount is the difference in the standard of assistance for a family size which includes the adult and the standard of assistance for a family size of one less person.

"AFDC-Foster Care" means a federal program authorized under § 472 of the Social Security Act (42 USC § 672) and administered by the Virginia Department of Social Services, which provides financial assistance on behalf of qualifying children.

"Agreement" means the written individualized agreement of personal responsibility required by § 63.1-133.49 of the Code of Virginia.

"Allotment" means the monthly food stamp benefit given to a household.

"Applicant" means a person who has applied for TANF or TANF-UP benefits and the disposition of the application has not yet been determined.

"Assistance unit" means those persons who have been determined categorically and financially eligible to receive assistance.

"Caretaker-relative" means the natural or adoptive parent or other relative, as specified in 45 CFR 233.90(c)(1)(v), who is responsible for supervision and care of the needy child.

"Case management" means the process of assessing, coordinating, monitoring, delivering or brokering activities and services necessary for VIEW participants to enter employment or employment-related activities as quickly as possible.

"Case management services" means services which include, but are not limited to, job development and job placement, community work experience, education, skills training, and support services.

"Case manager" means the worker designated by the local department of social services, a private-sector contractor or a private community-based organization including nonprofit entities, churches, or voluntary organizations that provide case management services.

"Child day care" means those services for which a participant is eligible pursuant to child day care services policy.

"Child day care services/program" means a regularly operating service arrangement for children where, during the absence of a parent or guardian, a person or organization has agreed to assume responsibility for the supervision, protection, and well-being of children under the age of 13 (or children up to 18 years of age if they are physically or mentally incapable of caring for themselves or subject to court supervision) for less than a 24-hour period.

"Community work experience" means work for benefits in a public or private organization that serves a community/public function.

"Department" means the Virginia Department of Social Services.

"Diversionary cash assistance" means a one-time lump sum payment to an individual or third-party vendor to prevent long-term receipt of TANF.

"Division of Child Support Enforcement" or "DCSE" means that division of the Virginia Department of Social Services which is responsible under Title IV-D of the Social Security Act (42 USC §§ 651-669) to locate noncustodial parents, establish paternity, establish child support and health care orders, enforce payment of delinquent support, and collect and distribute support payments.

"Employer tax credit" means a tax credit available to an employer pursuant to § 58.1-439.9 of the Code of Virginia.

"Family" means a TANF assistance unit.

"Food Stamp Program" means the program administered through the Virginia Department of Social Services through which a household can receive food stamps with which to purchase food products.

"Full Employment Program" or "FEP" means subsidized, training-oriented, employment which replaces the TANF and food stamp benefits of a participant. This component of VIEW is designed to train the recipient for a specific job, increase his self-sufficiency and improve his competitiveness in the labor market.

"Full-time unsubsidized employment" means employment which is considered by the employer to be full time, but in no case less than 30 hours per week, and for which no JOBS, VIEW, TANF, or food stamp funds are used to pay the individual's salary.

"Grant" means the monthly TANF benefit payment.

"Hardship exceptions" means prescribed reasons which, if applicable, would allow an extension of receipt of TANF benefits.

"He" means a male or female, as applicable.

"Hiring authority" means an individual with the authority to hire employees for a business.

"In loco parentis" means an adult relative or other adult who is acting in place of a parent.

"Incapacitated" means a medically verified condition which renders an individual unable to work.

"Job Opportunities and Basic Skills Training Program (JOBS)" means the program authorized by Title IV-F of the Social Security Act (42 USC §§ 681-687). This program provides education, training and work experience to enhance employment opportunities for TANF recipients who are not exempt from participation.

"Job finding" means identification of available jobs.

"Job matching" means matching a participant's minimum skills or prior work experience to available job openings.

"Job placement" means placing a participant in an unsubsidized or subsidized job. Job placement is the result of job finding and job matching.

"Job search" means a structured, time-limited period in which the participant is required to search for employment. To complete the job search, the participant must search and apply for a set number of jobs.

"Job skills training" means training in technical job skills or required knowledge in a specific occupational area in the labor market.

"Local agency" or "local department" means any one of the local social services or welfare agencies throughout the Commonwealth which administers the VIP program.

"Minor parent" means any parent under 18 years of age.

"On-the-job training" means training which is provided by an employer during routine performance of a job.

"Parent" means a mother or father, married or unmarried, natural, or adoptive following entry of an interlocutory order. The parent may be a minor parent.

"Participant" means a TANF or TANF-UP recipient who is participating in the VIEW program.

"Participating family" means an assistance unit including a parent who participates in the Virginia Initiative for Employment not Welfare (VIEW) Program.

"Part-time unsubsidized employment" means employment of at least eight hours but less than 30 hours per week and for which no JOBS, VIEW, TANF, or food stamp funds are used to pay the individual's salary.

"Post-secondary education" means formal instruction at an institution of higher education or vocational school leading to the attainment of a certificate, an associate degree, or a baccalaureate degree.

"Qualified business employer" means an employer whose business employed not more than 100 employees at the time that the employer first hired a qualified employee.

"Qualified employee" means an employee who is a Virginia resident and is a recipient of Temporary Assistance for Needy Families (TANF).

"Qualified employer" means an employer who may participate in the Virginia Targeted Jobs Grant Program by virtue of meeting all of the program criteria for employers.

"Qualified participant" means a Virginia Initiative for Employment not Welfare participant who meets all of the program criteria and may be hired by a qualified employer.

"Recipient" means an individual who is presently receiving a TANF assistance payment or whose eligibility exists even though the assistance payment is zero.

"Recipient family" means an assistance unit in which the caretaker-relative is a parent of the eligible child and the parent's needs may or may not be included on the grant.

"Relative" means spouse, child, grandchild, parent, or sibling of a qualified employer.

"Sanction" means to reduce or suspend a participant's TANF grant or food stamp allotment or both, where applicable, for noncompliance with these regulations or the statute.

"School" means (i) any public school from kindergarten through grade 12 operated under the authority of any locality within this Commonwealth or (ii) any private or parochial

Emergency Regulations

school that offers instruction at any level or grade from kindergarten through grade 12.

"Support services" means services such as child care or transportation provided to program participants to enable the participant to work or to receive training or education which are intended to lead to employment.

"Temporary Assistance for Needy Families" or "TANF" means the program authorized in § 406 of the Social Security Act (42 USC § 606) and administered by the Virginia Department of Social Services, through which a relative can receive monthly cash assistance for the support of his eligible children.

"Temporary Assistance for Needy Families-Unemployed Parent" or "TANF-UP" means the program authorized in § 63.1-105 of the Code of Virginia and administered by the Virginia Department of Social Services, which provides aid to two-parent families with dependent children who are in financial need.

"Time limitations" means a specified period of time, under the statute, to receive TANF.

"Transitional support services" means child care, transportation, medical assistance or employment and training services provided to working participants whose TANF has been terminated either voluntarily, although still eligible for TANF, or involuntarily, due to time limitations.

"Truant" means a child who (i) fails to report to school for three consecutive school days, or for a total of five scheduled school days per month or an aggregate of seven scheduled school days per school calendar quarter, whichever occurs sooner, and no indication has been received by school personnel that the child's parent or guardian is aware of the child's absence, and a reasonable effort by school personnel to notify the parent or guardian has failed; or (ii) is not enrolled in school at any time during the month.

"Underemployed" means working at a job for less than the federal hourly minimum wage.

"Unsubsidized employment" means employment in which no government funds are used to subsidize directly the wages earned by a participant.

"Virginia Independence Program" or "VIP" means the program in the Commonwealth of Virginia which is made up of the TANF Program and the Virginia Initiative for Employment not Welfare.

"Virginia Initiative for Employment not Welfare" or "VIEW" means the Job Opportunities and Basic Skills Training Program as implemented in the Commonwealth.

"Virginia Targeted Jobs Grant" or "VTJG" means a grant paid to an employer in accordance with § 63.1-25.3 of the Code of Virginia.

"Work activity" means participation in unsubsidized employment, FEP, part-time work, community work experience, ~~or~~ on-the-job training, job search, job readiness, community service, job skills training directly related to employment, satisfactory attendance at secondary school, or

in a course of study leading to a certificate of general equivalence.

22 VAC 40-35-80. Participant eligibility.

A. *The following individuals shall be exempt from mandatory participation in VIEW:*

1. *Any minor;*
2. *Any individual who is unable to participate because of a temporary medical condition that is preventing entry into employment or training. Such individuals ~~unable to participate because of a temporary medical condition that prevents entry into employment or training, as determined by a physician,~~ must provide to the local department a written statement from ~~such~~ a physician to specify that he is incapacitated, the nature and scope of the incapacity, and the duration of the incapacity. The worker must reevaluate the participant's incapacity at the time prescribed by the medical statement or every 60 days, whichever comes first. The recipient must provide verification that he continues to be incapacitated.*
3. *Any individual who is receiving Social Security Disability Benefits or Supplemental Security Income.*
- ~~B.~~ 4. *Any individual who is the sole caregiver of another member of the household who is incapacitated, and whose presence is essential for the care of the other member on a substantially continuous basis, ~~shall be exempt from participation in VIEW.~~ Incapacity is determined by receipt of Social Security Disability Benefits or Supplemental Security Income. The sole other condition under which an individual may be determined incapacitated is by a written medical statement from a physician.*
5. *Any individual who is age 60 or older.*
6. *A parent of a child under 12 months of age who personally provides care for the child. A parent of a child not considered part of the TANF public assistance unit due to the provisions listed in § 63.2-604 of the Code of Virginia may be granted a temporary exemption of not more than six weeks after the birth of such child.*

B. *Nonparents that receive TANF shall participate in VIEW if not otherwise exempt.*

C. *Pregnant women shall participate in VIEW if not otherwise exempt. Pregnant women shall be assigned to job readiness, training, and educational activities during the last trimester of pregnancy.*

~~C.~~ D. *AFDC recipients who meet an exemption from participation in VIEW may volunteer for the program.*

22 VAC 40-35-90. Services.

A. *The participant shall have the primary responsibility to arrange transportation to be employed or participate in activities required by the Agreement of Personal Responsibility. Transportation shall be provided only when the participant is unable to make the necessary arrangements.*

B. *The local department shall provide transitional medical assistance in accordance with the Department of Medical Assistance Services State Plan and regulations.*

C. The local departments may provide those services itemized in § 63.1-133.46 C of the Code of Virginia.

D. Transitional employment and training services shall be through the VIEW program to certain individuals.

1. Transitional employment and training services can be provided if the following criteria are met:

a. The individual is already employed or the provisions of the employment and training services would allow the individual to become reemployed within 60 days.

b. The activities are designed to maintain employment income, increase employment income or prevent the loss of employment income by the participant.

c. The individual had been enrolled in the VIEW program.

d. The TANF case of which the individual was a member is closed.

e. The case had not been in a VIEW sanction at the time of closure.

f. The individual has not completed an associate degree or four-year degree.

2. The individual can only receive up to 12 months of transitional employment and training services available through the VIEW program.

3. The individual shall enroll in an activity which can be completed within the 12-month time period.

4. An individual can only be enrolled in an activity if approved by a VIEW employment services worker.

5. Individuals may be enrolled only in education and training activities for which there are jobs in the community or jobs are projected to become available in the community.

6. Continued enrollment in education and skills training activities is dependent upon meeting the satisfactory progress requirements for participation in these activities.

a. For education below the post-secondary level (Adult Basic Education and General Equivalency Diploma), the individual must obtain one grade level increase every three months.

b. For certificate and job skills training activities, the participant must meet the satisfactory progress requirements of the institution providing the training.

7. Participants shall not be assigned to FEP (Full Employment Program).

E. A VIEW participant shall be eligible for a transitional job retention assistance payment of \$50 per month for up to one year after the end of TANF cash assistance. To qualify the participant shall:

1. Be employed at the end of TANF cash assistance;

2. Maintain employment of at least 30 hours per week;

3. Earn less than 200% of the federal poverty level; and

4. Provide verification of earnings and continued employment of at least 30 hours per week.

22 VAC 40-35-100. VIEW activities.

A. VIEW recognizes that parents have the obligation to support their children through work/employment.

B. VIEW shall recognize clearly defined responsibilities and obligations on the part of public assistance recipients. VIEW shall require an Agreement of Personal Responsibility and the obligation to seek and obtain employment. Refusal to sign the Agreement of Personal Responsibility shall result in termination of AFDC and food stamps. The Agreement of Personal Responsibility shall be written for each nonexempt participant specifying, among other applicable requirements, the following:

1. The participant's obligations and responsibilities:

a. That it is the participant's responsibility to seek employment to support his own family.

b. That it is the participant's responsibility to participate in assignments made by the case manager.

c. That it is the participant's responsibility to notify the case manager of any change in the participant's circumstances which would impact the participant's ability to satisfactorily participate in the program.

d. That it is the participant's responsibility to accept offers of suitable employment. Refusal to accept offers of suitable employment will result in the loss of the participant household's AFDC and food stamps. Loss of food stamps for refusal to accept offers of suitable employment will result in the entire household's food stamp allotment being terminated when the participant is the head of household. If the participant is not the head of the household, only the participant's prorata share shall be removed from the allotment.

e. That it is the participant's responsibility to arrange and find transportation and day care. The agency will provide for transportation and day care, to the extent funding is available, only when the participant is unable to make his own arrangements.

2. Explanation of the two-year time limit.

C. Modification of the Agreement of Personal Responsibility shall not impact or change the two-year time limit for receipt of AFDC benefits.

D. A VIEW participant who does not meet an exemption ~~and who is not employed in unsubsidized employment within 90 days of receipt of AFDC~~ shall be required to participate in a work activity. The department shall ensure that participants are assigned to one of the following employment categories ~~in priority order~~ not less than 90 days after AFDC eligibility determination:

1. Unsubsidized private sector employment (full-time, part-time or temporary) is the preferred employment category. A participant shall be required to accept any offers of suitable employment as defined in § 60.2-618 of the Virginia Unemployment Compensation Act.

2. Subsidized employment as follows:

Emergency Regulations

a. The department shall conduct a work activity which shall be known as the Full Employment Program (FEP), which shall replace AFDC and food stamp benefits with subsidized employment.

b. The local department, employer and the full employment participant shall sign a written agreement. At the expiration of this full employment agreement or when the participant leaves FEP, he will be reassessed and a modified Activity and Service Plan will be developed to reassign the participant to an appropriate employment category.

c. The employer is reimbursed for the wages paid to the participant up to the combined value of the participant's AFDC and food stamps as contained in the agreement signed between the department and the employer.

(1) The employer subsidy will be based on the actual hours the participant works.

(2) The value of the participant's AFDC and food stamp benefits will be based on the benefits received over the period of assignment to a Full Employment Program placement.

3. Community work experience.

a. ~~The participant cannot can be placed into an unsubsidized job or Full Employment Program, the participant must be placed into community work experience. The department and local departments shall expand the community work experience program authorized under the Job Opportunity and Basic Skills Training Program (JOBS) to include Job placement in community work experience programs which placements shall serve a useful public purpose as provided in § 482 (f) of the Social Security Act (42 USC § 682 F).~~

b. The department and local departments shall work with other state, regional, and local agencies and governments in developing job placements. Placements shall be selected to provide skills that will make the participant more employable and serve a public function. Participation in community work experience shall be for an initial period of six months. Program participants shall not displace regular workers.

c. At the expiration of the community work experience assignment or when the participant leaves community work experience, he will be reassessed and a modified Activity and Service Plan will be developed to reassign the participant to an appropriate employment category.

d. There shall be no sick leave benefit attached to this component since participants work in exchange for their AFDC and food stamp benefits. Participants who are ill or incapacitated will continue to receive their benefits.

4. In order to be considered a work activity in VIEW, on-the-job training must be provided by an employer. This is typically employer-required unpaid training by an employer which must be completed before an individual will be hired.

E. Other VIEW activities ~~in conjunction with work~~ include:

1. Education.

a. Education may only be provided in conjunction with work-related activities during the participant's two-year time period.

(1) ~~Only eight Assigned~~ hours per week of community work experience hours can be ~~provided~~ substituted for educational activities during the participant's initial six-month placement in community work experience as long as the participant is engaged in community work experience at least 20 hours per week. After six months of participation in community work experience, the number of hours required in the work activity can be reduced to allow participation in education to further the participant's employability.

(2) Participants who enroll into education or training programs prior to coming in VIEW shall be required to meet the requirements of the program.

b. Post-secondary education. Participants assigned to post-secondary education should have demonstrated the capability to successfully complete the educational activity in the prescribed time period in an occupational area for which there is demand in the community.

2. Job skills training may only be provided in conjunction with work-related activities during the participant's two-year time period. The choice of occupational skills training offered will vary in each jurisdiction depending upon local labor market conditions. However, skills training must be related to the types of jobs which are available or are likely to become available in the community.

3. Job search and job readiness.

4. Community service.

5. Vocational education.

VA.R. Doc. No. R06-327; Filed August 10, 2006, 1:20 p.m.

FORMS

TITLE 4. CONSERVATION AND NATURAL RESOURCES

DEPARTMENT OF MINES, MINERALS AND ENERGY

EDITOR'S NOTICE: The following form has been filed by the Department of Mines, Minerals and Energy. The form is available for public inspection at the Department of Mines, Minerals and Energy, 202 North Ninth Street, Richmond, Virginia 23219, at the department's Big Stone Gap office, 3405 Mountain Empire Road, Big Stone Gap, VA 24219, or the Office of the Registrar of Regulations, General Assembly Building, 2nd Floor, Richmond, Virginia 23219. Copies of the form may be obtained from David B. Spears, Department of Mines, Minerals and Energy, 202 North Ninth Street, Richmond, Virginia 23219, telephone (804) 692-3200.

FORM IMPLEMENTING ARTICLE 5 OF THE COAL MINE SAFETY ACT (§ 45.1-161.57 ET SEQ. OF THE CODE OF VIRGINIA).

Request for Change in Mine License Application Information, DM-LI-1 (rev. ~~3/00~~ 7/06).



Department of Mines, Minerals and Energy
Division of Mines
P.O. Drawer 900
Big Stone Gap, VA 24219

REQUEST FOR CHANGE IN MINE LICENSE APPLICATION INFORMATION

Submit for "changes only" in your license application

Please fill out all information in this section.

COMPANY NAME: _____ MINE NAME: _____

M.I.# _____ REQUESTED BY: _____ DATE: _____

Signature

Information Change

Please check and fill out only the sections for which you are requesting a change.

Mine Name _____ MSHA ID # _____ DMLR # _____

Name and address of person with overall responsibility for operating decisions at the mine

Name and address of agent of the operator with responsibility for business operations of mine

Name(s) and address(es) of the lead person with overall responsibility for health and safety at the mine, and others, as applicable

Name and address of person to be contacted in event of an accident or emergency

Phone: _____

Federal mine I.D. numbers of other mines with 20% or greater ownership interest

Change in company officers and officials (attach additional sheet if necessary)

Official mailing address

GENERAL NOTICES/ERRATA

STATE CORPORATION COMMISSION

AT RICHMOND, AUGUST 8, 2006

COMMONWEALTH OF VIRGINIA *ex rel.*

STATE CORPORATION COMMISSION

CASE NO. PUE-2006-00064

Ex Parte: In the matter of considering
§ 1254 of the Energy Policy Act of 2005

FINAL ORDER

On May 10, 2006, the State Corporation Commission ("Commission") established a proceeding to consider the federal interconnection standard for electric utilities, which was enacted by § 1254 of the Energy Policy Act of 2005, P.L. 109-58, 119 Stat. 594 (the "Energy Policy Act"), for implementation in the Commonwealth.

Section 1254(a) of the Energy Policy Act amends § 111(d) of PURPA, 16 U.S.C. § 2621(d), by adding the following standard for consideration:

(15) INTERCONNECTION - (A) In this paragraph, the term 'interconnection service' means service to an electric consumer by which an on-site generating facility on the premises of the electric consumer is connected to the local distribution facilities.

(B)(i) Each electric utility shall make available, on request, interconnection service to any electric consumer that the electric utility serves.

(ii) Interconnection services shall be made available under clause (i) based on the standards developed by the Institute of Electrical and Electronics Engineers entitled 'IEEE Standard 1547 for Interconnecting Distributed Resources with Electric Power Systems' [IEEE Standard 1547] (or successor standards).

(C)(i) Electric utilities shall establish agreements and procedures providing that the interconnection services made available under subparagraph (B) promote current best practices of interconnection for distributed generation, including practices stipulated in model codes adopted by associations of State regulatory agencies.

(ii) Any agreements and procedures established under clause (i) shall be just and reasonable and not unduly discriminatory or preferential.

In the May 10, 2006, Order Establishing Proceeding, the Commission noted that Virginia Code § 56-578, the distributed generation statute contained in the Virginia Electric Utility Restructuring Act, Chapter 23 (§ 56-576 et seq.) of Title 56 of the Code of Virginia ("Restructuring Act"), is similar to § 1254 of the Energy Policy Act. The Commission invited interested persons to comment on the following issues: (1) whether any prior state action has occurred such that the interconnection standard contained in § 1254 of the Energy Policy Act, or a comparable one, has already been voted on by the General Assembly for implementation in the Commonwealth in § 56-578 of the Restructuring Act, or any other state law or regulation as may be applicable; (2) whether the Commission

has the authority to consider the federal standard; (3) whether the implementation of such standard would be consistent with otherwise applicable Virginia law; (4) whether it would now be appropriate to open a proceeding pursuant to § 56-578 of the Restructuring Act to establish interconnections standards; and (5) what issues would be required to be addressed by the Commission in establishing interconnection standards. The Commission also directed the Staff to file comments on the matter.

Comments were timely submitted on or before June 19, 2006, by Allegheny Power, Appalachian Power Company, Columbia Gas of Virginia, Inc., Delmarva Power & Light Company, Virginia Electric and Power Company, and the Virginia Electric Distribution Cooperatives.¹ On June 20, 2006, Michel A. King filed Comments and a Motion for Leave to File Comments Out of Time stating that he had been unable to prepare his comments prior to the deadline and that no party would be prejudiced by their late acceptance.

The comments generally agreed that § 56-578 of the Restructuring Act closely tracks the federal interconnections standard by requiring utilities to provide interconnection service to customers using distributed generation in a just, reasonable, and not unduly discriminatory or preferential manner, as well as the development of procedures for interconnection based on nationally recognized standards. Several comments noted the mandate of § 56-578 of the Restructuring Act requiring the Commission to establish statewide interconnection standards in accordance with the requirements of the state statute and did not object to the Commission opening a proceeding to develop such standards. However, other comments submitted that most utilities already coordinate with customers who wish to interconnect their on-site generators and that it is therefore unnecessary for the Commission to open a proceeding.

With regard to what standards should be implemented in Virginia, some comments indicated that IEEE Standard 1547 would be appropriate. Other comments indicated that other nationally recognized standards also should be considered. The comments also included issues that the Commission would be required to address in establishing standards, including the differences in operational requirements between the respective utilities, and the allocation of the costs to provide generation interconnection.

The Staff filed comments submitting that the Commission should not adopt the federal interconnection standard, but that such standard would be an appropriate starting point for discussions as to what interconnection standards for distributed generation should be developed for Virginia. Like the other comments filed, the Staff noted that § 56-578 of the Restructuring Act requires the Commission to develop interconnection standards. The Staff recommended that the Commission initiate a proceeding to do so. The Staff

¹ Collectively A&N Electric Cooperative, BARC Electric Cooperative, Central Virginia Electric Cooperative, Community Electric Cooperative, Craig-Botetourt Electric Cooperative, Mecklenburg Electric Cooperative, Northern Neck Electric Cooperative, Northern Virginia Electric Cooperative, Prince George Electric Cooperative, Rappahannock Electric Cooperative, Shenandoah Valley Electric Cooperative, Southside Electric Cooperative, and the Virginia Maryland & Delaware Association of Electric Cooperatives.

General Notices/Errata

indicated that it may be more efficient for statewide standards to be in place, that nationally recognized standards are now in place, and that there are issues and concerns with regard to distributed generation that must be clarified or resolved.

NOW THE COMMISSION, upon consideration of the comments filed herein² and the applicable law, finds that the federal interconnection standard established by § 1254 of the Energy Policy Act is not appropriate for implementation in the Commonwealth. We do, however, believe that it is now appropriate to establish interconnection standards, in accordance § 56-578 of the Restructuring Act, that are consistent with nationally recognized standards, are just, reasonable, and not unduly discriminatory or preferential, and do not provide barriers to new technology or make compliance unduly burdensome and expensive. We will establish a separate docket with respect to developing such standards. With regard to the instant proceeding, we find that no further action need be taken and that this matter should be closed.

Accordingly, IT IS ORDERED THAT:

(1) The Motion for Leave to File Comments Out of Time filed by Michel A. King is hereby granted.

(2) This proceeding is hereby closed.

(3) There being nothing further to come before the Commission in this proceeding, this case shall be removed from the docket and the papers transferred to the file for ended causes.

AN ATTESTED COPY hereof shall be sent by the Clerk of the Commission to: Michel A. King, President, Old Mill Power Company, 103 Shale Place, Charlottesville, Virginia 22902; Bernard L. McNamee, Esquire, McGuireWoods LLP, One James Center, 901 East Cary Street, Richmond, Virginia 23219-4030; Jason T. Jacoby, Esquire, Woods Rogers, PLC, 823 East Main Street, Suite 1200, Richmond, Virginia 23219; T. Borden Ellis, Esquire, NiSource Corporate Services Company, 1809 Coyote Drive, Chester, Virginia 23836; Charlotte P. McAfee, Esquire, Hunton & Williams, Riverfront Plaza, East Tower, 951 East Byrd Street, Richmond, Virginia 23219-4074; James P. Guy, II, Esquire, LeClair Ryan, P.C., 4201 Dominion Boulevard, Suite 200, Glen Allen, Virginia 23060; Philip J. Bray, Esquire, Allegheny Power, 10802 Bower Avenue, Williamsport, Maryland 21795; C. Meade Browder, Jr., Senior Assistant Attorney General, Office of the Attorney General, Division of Consumer Counsel, 900 East Main Street, Second Floor, Richmond, Virginia 23219; and the Commission's Office of General Counsel and Divisions of Economics and Finance and Energy Regulation.

DEPARTMENT OF ENVIRONMENTAL QUALITY

Jackson River Watershed

Public meeting: Alleghany County Governmental Complex, 9212 Winterberry Avenue, Board of Supervisors Room, located near Low Moor, Virginia, on Thursday, September 28,

² We will grant the Motion for Leave to File Comments Out of Time filed by Michel A. King.

2006, from 7 p.m. to 9 p.m. Directions: From I-64 heading west, Take exit 21 (Route 696). Take a right of the exit onto 696, then an immediate right onto Winterberry Avenue (Route 1101). The Alleghany County Governmental Complex is located approximately 1/2 mile on the left side of the road.

Purpose of notice: The Virginia Department of Environmental Quality announces a public meeting to discuss a study to restore water quality in the Jackson River watershed.

Description of study: Virginia agencies are working to identify sources of pollution causing low dissolved oxygen levels and biological impairment (general standard) in the Jackson River watershed. Dissolved oxygen levels periodically fall below the minimum water quality standard, which decreases the suitability of the water to support aquatic life. The general standard indicates the water quality is unable to support a natural aquatic community.

The following is a list of the "impaired" waters, the length of the impaired segment, their location and the reason for the impairment: Jackson River (I04R-11.21 miles miles), Alleghany, Botetourt, Covington, dissolved oxygen; Jackson River (I04R-24.21 miles), Alleghany, Botetourt, Covington, benthic.

During the study, the state agencies will develop a total maximum daily load, or a TMDL, for the impaired waters. A TMDL is the total amount of a pollutant a water body can contain and still meet water quality standards. To restore water quality, contamination levels have to be reduced to the TMDL amount.

How to comment: DEQ accepts written comments by e-mail, fax or postal mail. Written comments should include the name, address and telephone number of the person commenting and be received by October 28, 2006. DEQ also accepts written and oral comments at the public meeting announced in this notice.

Contact for additional information: Jason R. Hill, Virginia Department of Environmental Quality, West Central Regional Office, 3019 Peters Creek Road, Roanoke, VA 24019, telephone (540) 562-6724, FAX (540) 562-6860, or e-mail jrhil@deq.virginia.gov.

Laurel Fork

Purpose of notice: To seek public comment on the revised draft "Total Maximum Daily Load Development for Laurel Fork Fecal Bacteria, Dissolved Oxygen and General Standard (Benthic)" water quality improvement study by the Virginia Department of Environmental Quality, Department of Mines, Minerals and Energy and the Department of Conservation and Recreation. Specifically, the revision addresses dissolved oxygen by establishing a 0 kg/year TMDL allocation for raw sewage into the stream.

Description of study: Laurel Fork, located in Tazewell County, Virginia, flows through the town of Pocahontas and joins into Bluestone River after it flows into West Virginia. The stream is impaired for failing to meet the aquatic life use based on dissolved oxygen violations, violations of the general standard

for aquatic organisms and failure to meet the recreational use because of fecal coliform and E. coli bacteria violations.

The study reports the pollutant impairing the aquatic community and recommends a total maximum daily load, or TMDL, for sediment in terms of total suspended solids for Laurel Fork. Additionally, the study also presents the sources of bacteria contamination and a TMDL for bacteria for Laurel Fork. The revision explicitly establishes a TMDL for raw sewage to address violations of the dissolved oxygen standard. A TMDL is the total amount of a pollutant a water body can contain and still meet water quality standards. To restore water quality, contamination levels have to be reduced to the TMDL amount.

How a decision is made: The development of a TMDL includes a public comment period, including public meetings. The draft document was revised after the final public meeting in response to EPA review and it is the revised document that is available for public review and comment. After public comments have been considered and addressed, DEQ will submit the revised TMDL report to the U.S. Environmental Protection Agency for approval.

How to comment: DEQ accepts written comments by e-mail, fax or postal mail. Written comments should include the name, address and telephone number of the person commenting and be received by DEQ during the comment period, September 4, 2006, to October 2, 2006.

To review draft TMDL report: The revised draft TMDL report on the impaired waters is available from the contact below or on the DEQ website at www.deq.virginia.gov/tmdl.

Contact for additional information: Nancy T. Norton, P.E., Regional TMDL Coordinator, Virginia Department of Environmental Quality, Southwest Regional Office, 355 Deadmore Street, P.O. Box 1688, Abingdon, VA 24212-1688, telephone (276) 676-4807, FAX (276) 676-4899, or e-mail ntnorton@deq.virginia.gov.

Warwick River, James River, Skiffes Creek, Baptist Run and Deep Creek

The Virginia Department of Environmental Quality will host a public meeting on a water quality study for Warwick River, James River, Skiffes Creek, Baptist Run and Deep Creek in Newport News on Thursday, September 21, 2006.

The meeting will start at 6:30 p.m. in the Grissom Library, 336 DeShazor Drive, Newport News, Virginia. The purpose of the meeting is to provide information and discuss the study with community members and local government.

The Virginia Departments of Environmental Quality, Conservation and Recreation, and Health are working to identify the sources of bacteria pollution in this watershed. This pollution decreases the quality of the water, and prohibits swimming or recreational use, and the direct harvest and consumption of shellfish in these waters.

During the study, a total maximum daily load, TMDL, will be developed for fecal coliform bacteria E. coli, or enterococci for each of these impairments. A TMDL is the total amount of a pollutant a water body can contain and still meet water quality

standards. To restore water quality, pollutant levels have to be reduced to the TMDL amount.

Streams with impaired for the recreational use include the Upper Warwick River, Deep Creek, and Baptist Run. The James River, Warwick River and Skiffes Creek are impaired for the shellfish consumption use.

For more information, contact Jennifer Howell, Department of Environmental Quality, Tidewater Regional Office in Virginia Beach, telephone (757) 518-2111 or e-mail jshowell@deq.virginia.gov. Additional information is also available on the DEQ website at www.deq.virginia.gov/tmdl.

DEPARTMENT OF HEALTH

Drinking Water State Revolving Fund Program - Intended Use Plan for FY 2007

The Virginia Department of Health (VDH) received numerous loan requests and set-aside suggestions following our announcement in January 2006 of funds available from the Drinking Water State Revolving Fund Program. Through the Safe Drinking Water Act, Congress authorizes capitalization grants to the states but authorization has not been finalized.

The VDH's Office of Drinking Water has prepared a draft Intended Use Plan (IUP) using information submitted via the loan requests and set-aside suggestions. This IUP is for your review and comment. The document dated January 20, 2006, and entitled "Virginia Drinking Water State Revolving Fund Program - Program Design Manual" is a part of the Intended Use Plan. This document was mailed in our January announcement and is available on our website at www.vdh.virginia.gov/dw.

As previously announced in January, the VDH will hold a public meeting. The meeting will be on Wednesday, October 4, 2006, from 9:30 a.m. to 10:30 a.m. at the Office of Drinking Water East Central Field Office, 300 Turner Road, Richmond, VA 23225. In addition, comments from the public are to be postmarked by Friday, October 6, 2006.

If you plan to attend, please contact Theresa Hewlett at (804) 864-7501 by the close of business on September 22, 2006, so that we may properly plan the meeting.

Please direct your requests for information and forward written comments to Thomas B. Gray, P.E., Virginia Department of Health, Division for Planning, Policy, and Construction Assistance, Office of Drinking Water, James Madison Building, Room 632, 109 Governor Street, Richmond VA 23219, telephone (804) 864-7501, FAX (804) 864-7521.

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 August 15, 2006. The orders may be viewed at the State Lottery Department, 900 E. Main Street,

General Notices/Errata

Richmond, Virginia, or at the office of the Registrar of Regulations, 910 Capitol Street, 2nd Floor, Richmond, Virginia.

Final Rules for Game Operation:

Director's Order Number Forty-Five (06)

Virginia's Instant Game Lottery 730; "Best of 7's" (effective 8/10/06)

Director's Order Number Forty-Six (06)

Virginia's Instant Game Lottery 745; "Super Deuces" (effective 8/10/06)

VIRGINIA WASTE MANAGEMENT BOARD

Proposed Consent Special Order - Chemetrics, Inc.

Purpose of notice: To invite citizens to comment on a proposed consent order for a facility in Calverton, Virginia.

Public comment period: September 4, 2006, to October 4, 2006.

Consent order description: The Waste Management Board proposes to issue a consent order to Chemetrics, Inc., to address alleged violations of the Virginia Hazardous Waste Management Regulations (9 VAC 20-60-12 et seq.). The location of the facility where the alleged violations occurred is 4295 Catlett Road (Route 28), Calverton, Virginia. The consent order describes a settlement to resolve improper management of hazardous waste and the operation of an unpermitted hazardous waste treatment, storage, and disposal facility.

How to comment: DEQ accepts comments from the public by e-mail, FAX or postal mail. All comments must include the name, address and telephone number of the person commenting and be received by DEQ within the comment period. The public may review the proposed consent order at the DEQ office named below or on the DEQ website at www.deq.virginia.gov.

Contact for public comments, document requests and additional information: Carl Ciccarelli, Department of Environmental Quality, Northern Virginia Regional Office, 13901 Crown Court, Woodbridge, VA 22193, telephone (703) 583-3862, FAX (703) 583-3841, or e-mail cjccicarelli@deq.virginia.gov.

STATE WATER CONTROL BOARD

Proposed Consent Special Order - Dickenson County Public Service Authority

Purpose of notice: To seek public comment on a proposed consent order from the Department of Environmental Quality for a facility in Dickenson County, Virginia.

Public comment period: September 4, 2006, to October 4, 2006.

Consent order description: The State Water Control Board proposes to issue a consent special order to the Dickenson County Public Service Authority to address alleged violations of Virginia's regulations. The location of the facility where the alleged violations occurred is the Haysi Sewage Treatment Plant, State Rt. 613, North Splashdam Road, Haysi, Virginia. The consent order describes a settlement to resolve effluent limit violations of VPDES Permit No. VA0067571, with schedules to address both I/I work and upgrade/expansion of the facility.

How to comment: DEQ accepts comments from the public by e-mail, FAX or postal mail. All comments must include the name, address and telephone number of the person commenting and be received by DEQ within the comment period. The public may review the proposed consent order at the DEQ office named below or on the DEQ website at www.deq.virginia.gov.

Contact for public comments, document requests and additional information: D. R. Sizemore, Department of Environmental Quality, Southwest Regional Office, P.O. Box 1688, Abingdon, VA 24212-1688 (The office is located at 355 Deadmore Street, Abingdon, Virginia), telephone (276) 676-4800, FAX (276) 676-4899, or e-mail drsizemore@deq.virginia.gov.

Proposed Consent Special Order - Newton Mobile Home Court, Incorporated

Purpose of notice: To invite citizens to comment on a proposed consent order for the Newton Mobile Home Court Wastewater Treatment Plant.

Public comment period: August 16, 2006, to October 4, 2006.

Consent order description: The State Water Control Board proposes to issue a consent order to Newton Mobile Home Court, Incorporated, to address alleged violations of its Virginia Pollutant Discharge Elimination System Permit. The location of the facility where the alleged violations occurred is Buffalo Junction, Mecklenburg, County. The facility discharges treated sewage into Little Buffalo Creek. The consent order describes a settlement to resolve alleged operational and recordkeeping violations.

How to comment: DEQ accepts comments from the public by e-mail, FAX or postal mail. All comments must include the name, address and telephone number of the person commenting and be received by close of business on the final day of the public comment period. The public may review the proposed consent order at the DEQ office named below or on the DEQ website at www.deq.virginia.gov.

Contact for public comments, document requests and additional information: Edward A. Liggett, Department of Environmental Quality, South Central Regional Office, 7705 Timberlake Road, Lynchburg, VA 24502, telephone (434) 582-6254, FAX (434) 582-5125, or e-mail ealiggett@deq.virginia.gov.

Proposed Consent Special Order - Town of Fincastle

Purpose of notice: To seek public comment on a proposed consent order from the Department of Environmental Quality for the Town of Fincastle, Virginia.

Public comment period: September 4, 2006, through October 4, 2006.

Consent order description: The State Water Control Board proposes to issue a consent order to the Town to address alleged violations of the VPDES permit and regulations. The consent order describes a settlement to resolve unauthorized discharges of raw sewage to state waters, incomplete submittal of a DMR, not submitting a confirming statement for existing O&M manual or a new O&M manual by due date, and the failure to submit quarterly water quality standards monitoring.

How to comment: DEQ accepts comments from the public by e-mail, FAX or postal mail. All comments must include the name, address and telephone number of the person commenting and be received by DEQ within the comment period. The public may review the proposed consent order at the DEQ office named below or on the DEQ website at www.deq.virginia.gov.

Contact for public comments, document requests and additional information: Steven Wright, Department of Environmental Quality, West Central Regional Office, 3019 Peters Creek Road, Roanoke, VA 24019, telephone (540) 562-6792, FAX (540) 562-6725, or e-mail sbwright@deq.virginia.gov.

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>.

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

ERRATA

STATE BOARD OF SOCIAL SERVICES

Title of Regulation: 22 VAC 40-72. Standards for Licensed Assisted Living Facilities (22 VAC 40-72-10 through 22 VAC 40-72-1160).

Publication: 22:24 VA.R. 3502-3559 August 7, 2006.

Correction to proposed regulation:

Page 3551, 22 VAC 40-72-789 A 3, line 5, change "section" to "subsection"

Page 3556, 22 VAC 40-72-1060, last sentence, delete "*The requirements of this section do not apply to this article.*" Insert "*The requirements of this article do not apply for the spouse, parent, adult sibling, or adult child since the individual does not have a serious cognitive impairment due to a primary psychiatric diagnosis of dementia with an inability to recognize danger or protect his own safety and welfare.*"

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

September 8, 2006 - 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 decrease the administration fee charged to Virginia candidates who take the computer-based CPA examination, or "CBT," for the first time from \$160 to \$120, and to repeal entirely the fee charged to Virginia candidates who retake the CBT. The net effect of this is to provide direct savings to Virginia candidates.

Statutory Authority: §§ 54.1-4402 and 54.1-4403 of the Code of 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 or e-mail boa@boa.virginia.gov.

COMMONWEALTH COUNCIL ON AGING

† **September 14, 2006 - 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 comment is welcome.

Contact: Marsha Mucha, Commonwealth Council on Aging, Department for the Aging, 1610 Forest Ave., Suite 100, Richmond, VA 23229, telephone (804) 662-9312.

BOARD OF AGRICULTURE AND CONSUMER SERVICES

September 11, 2006 - 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 Agriculture and Consumer Services intends to repeal regulations entitled **2 VAC 5-580, Rules and Regulations Pertaining to the Sanitary and Operating Requirements in Retail Food Stores**, and adopt regulations entitled **2 VAC 5-585, Retail Food Establishment Regulations**. The purpose of the proposed action is to adopt the Retail Food Establishment Regulations that by law will replace the existing Rules and Regulations Pertaining to Sanitary and Operating Requirements in Retail Food Stores upon the effective date of the new regulations.

Statutory Authority: § 3.1-398 of the Code of Virginia.

Contact: Richard D. Saunders, Program Manager, Office of Dairy and Foods, Department of Agriculture and Consumer Services, 102 Governor St., Suite 349, Richmond, VA 23219, telephone (804) 786-8899, FAX (804) 371-7792 or e-mail doug.saunders@vdacs.virginia.gov.

Virginia Cattle Industry Board

September 7, 2006 - Noon -- Open Meeting
September 8, 2006 - 8 a.m. -- Open meeting
Stonewall Jackson Hotel and Conference Center, 24 South Market Street, Staunton, Virginia.♿

A regular business meeting to (i) approve minutes from the previous meeting; (ii) review its financial statement and budget; and (iii) receive program updates for the state and national level industry programs from staff. The primary order of business will involve the review of project proposals for the fiscal year, which begins on October 1, 2006. On Thursday, September 7, 2006, breakout committees for Consumer Information, Promotion, and Industry Services will review and select project proposals recommendations for FY 06-07 funding to be made at the Friday, September 8, 2006, board meeting. The primary order of business for the Friday, September 8, 2006, meeting will be the development of a full operating budget for FY 06-07. 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 Bill R. McKinnon at least five days before the meeting date so that suitable arrangements can be made.

Contact: Bill R. McKinnon, Executive Director, Virginia Cattle Industry Board, P.O. Box 9, Daleville, VA 24083, telephone (540) 992-1992, FAX (540) 992-4632, e-mail bmckinnon@vacattlemen.org.

Virginia Horse Industry Board

September 22, 2006 - 10 a.m. -- Open Meeting
Department of Forestry, 900 Natural Resources Drive, 2nd Floor Meeting Room, Charlottesville, Virginia. ♿

A meeting to (i) review the financial status of the board with regard to the fiscal year that just closed, (ii) discuss marketing projects for the new fiscal year, and (iii) hear from several guest speakers. 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, Oliver Hill Bldg., 102 Governor St., Room 318, 3rd Floor, Richmond, VA 23219, telephone (804) 786-5842, FAX (804) 371-7786, e-mail andrea.heid@vdacs.virginia.gov.

Virginia Marine Products Board

September 26, 2006 - 6 p.m. -- Open Meeting
Ann's Restaurant, Route 17, Glenss, Virginia. ♿

A meeting to (i) hear the reading and approval of minutes of previous board meeting; and (ii) hear a report on finance, trade shows, industry tours, and cooperative programs with the Virginia Department of Agriculture and Consumer Services. The board will entertain public comment at the conclusion of all other business for a period not to exceed 30 minutes. Any person who needs any accommodation in order to participate at the meeting should contact Shirley Estes at least five days before the meeting date so that suitable arrangements can be made.

Contact: Shirley Estes, Executive Director, Virginia Marine Products Board, 554 Denbigh Blvd., Suite B, Newport News, VA, telephone (757) 874-3474, FAX (757) 886-0671, e-mail shirley.estes@vdacs.virginia.gov.

STATE AIR POLLUTION CONTROL BOARD

September 8, 2006 - Public comments may be submitted until this date.

Notice is hereby given in accordance with § 2.2-4007 of the Code of Virginia that the State Air Pollution Control Board intends to amend regulations entitled **9 VAC 5-140, Regulation for Emissions Trading (Rev. E05)**. The purpose of the proposed action is to establish requirements to reduce SO₂ and NO_x emissions in order to eliminate their

significant contribution to nonattainment or interference with maintenance of the national ambient air quality standards in downwind states and to protect Virginia's air quality and its natural resources.

Statutory Authority: §§ 10.1-1308 and 10.1-1322.3 of the Code of Virginia.

Contact: Mary E. Major, Department of Environmental Quality, P.O. Box 10009, Richmond, VA 23240, telephone (804) 698-4423, FAX (804) 698-4510 or e-mail memajor@deq.virginia.gov.

† **September 25, 2006 - 10 a.m.** -- Open Meeting
General Assembly Building, 9th and Broad Streets, House Room C, Richmond, Virginia. ♿

A regular meeting. The agenda will be posted no later than September 15, 2006.

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.

ALCOHOLIC BEVERAGE CONTROL BOARD

September 5, 2006 - 9 a.m. -- Open Meeting
September 18, 2006 - 9 a.m. -- Open Meeting
October 2, 2006 - 9 a.m. -- Open Meeting
October 16, 2006 - 9 a.m. -- Open Meeting
November 6, 2006 - 9 a.m. -- Open Meeting
November 20, 2006 - 9 a.m. -- Open Meeting
† **December 4, 2006 - 9 a.m.** -- Open Meeting
Department of Alcoholic Beverage Control, 2901 Hermitage Road, Richmond, Virginia. ♿

An executive staff 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 curtis.coleburn@abc.virginia.gov.

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


September 7, 2006 - 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. 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.


Calendar of Events

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 23230-4917, telephone (804) 367-8514, FAX (804) 367-2475 or e-mail apelscidla@dpor.virginia.gov.


† September 7, 2006 - Noon -- Open Meeting

Department of Professional and Occupational Regulation, 3600 West Broad Street, 4th Floor, Richmond, Virginia. 

A meeting of the Land Surveyors Section and invited subject matter experts to conduct an examination workshop. A public comment period will be held at the beginning of the workshop. After the public comment period, the workshop will be conducted in closed session under authority of § 2.2-3711 of the Code of Virginia due to the confidential nature of the examination. The public will not be admitted to the closed session.

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) 367-0795, (804) 367-9753/TTY , e-mail apelscidla@dpor.virginia.gov.


October 25, 2006 - 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. 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 Architects, Professional Engineers, Land Surveyors, Certified Interior Designers and Landscape Architects, 3600 W. Broad St., Richmond, VA 23230-4917, telephone (804) 367-8514, FAX (804) 367-2475 or e-mail apelscidla@dpor.virginia.gov.


October 31, 2006 - 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. 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 Architects, Professional Engineers, Land Surveyors, Certified Interior Designers and Landscape Architects, 3600 W. Broad St., Richmond, VA 23230-4917, telephone (804) 367-8514, FAX (804) 367-2475 or e-mail apelscidla@dpor.virginia.gov.


November 2, 2006 - 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. 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 Architects, Professional Engineers, Land Surveyors, Certified Interior Designers and Landscape Architects, 3600 W. Broad St., Richmond, VA 23230-4917, telephone (804) 367-8514, FAX (804) 367-2475 or e-mail apelscidla@dpor.virginia.gov.


November 8, 2006 - 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. 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 Architects, Professional Engineers, Land Surveyors, Certified Interior Designers and Landscape Architects, 3600 W. Broad St., Richmond, VA 23230-4917, telephone (804) 367-8514, FAX (804) 367-2475 or e-mail apelscidla@dpor.virginia.gov.

November 9, 2006 - 9 a.m. -- Open Meeting

Department of Professional and Occupational Regulation, 3600 West Broad Street, Richmond, Virginia. 

A meeting of the Interior Designers Section to conduct board business. 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 Architects, Professional Engineers, Land Surveyors, Certified Interior Designers and Landscape Architects, 3600 W. Broad St., Richmond, VA 23230-4917, telephone (804) 367-8514, FAX (804) 367-2475 or e-mail apelscidla@dpor.virginia.gov.

ART AND ARCHITECTURAL REVIEW BOARD


October 6, 2006 - 10 a.m. -- Open Meeting

November 3, 2006 - 10 a.m. -- Open Meeting

† **December 1, 2006 - 10 a.m.** -- Open Meeting


Science Museum of Virginia, 2500 West Broad Street, Forum Room, Richmond, Virginia.  (Interpreter for the deaf provided upon request)

A monthly meeting to review projects submitted by state agencies. Art and Architectural Review Board submittal forms and submittal instructions can be downloaded by visiting the DGS Forms Center at www.dgs.virginia.gov. 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) 225-0359, (804) 786-6152/TTY , or e-mail rford@comarchs.com.

VIRGINIA COMMISSION FOR THE ARTS


† **September 15, 2006 - 10 a.m.** -- Open Meeting

Virginia Commission for the Arts, 223 Governor Street, Richmond, Virginia. 


A Photograph Fellowship Panel meeting to review artist applications for fellowships in photography. 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.


† **September 26, 2006 - 10 a.m.** -- Open Meeting

Commission for the Arts, 223 Governor Street, Richmond, Virginia. 


A Fiction A Fellowship Panel meeting to review the first half of the writer applications for fellowships in fiction. The applications will be divided alphabetically. 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.


† **October 3, 2006 - 10 a.m.** -- Open Meeting

Virginia Commission for the Arts, 223 Governor Street, Richmond, Virginia. 


A Fiction B Fellowship Panel meeting to review the second half of the writer applications for fellowships in fiction. The applications will be divided alphabetically. 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.

† **October 19, 2006 - 10 a.m.** -- Open Meeting


Location to be announced.  (Interpreter for the deaf provided upon request)

A quarterly meeting of the 13 commissioners to review grant award recommendations by the three Artist Fellowship Panels and by the Technology Enhancement Grant Panel.


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.

VIRGINIA BOARD FOR ASBESTOS, LEAD, AND HOME INSPECTORS

November 1, 2006 - 9 a.m. -- Open Meeting


Department of Professional and Occupational Regulation, 3600 West Broad Street, Richmond, Virginia. 

A general business meeting including consideration of regulatory issues as may be presented on the agenda. 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 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: David Dick, Executive Director, Virginia Board for Asbestos, Lead, and Home Inspectors, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-8507, FAX (804) 367-2475, (804) 367-9753/TTY , e-mail alhi@dpor.virginia.gov.

AUCTIONEERS BOARD

October 5, 2006 - 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, Department of Professional and Occupational Regulation, 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.

† **October 5, 2006 - 10 a.m.** -- Public Hearing

Department of Professional and Occupational Regulation, 3600 West Broad Street, Richmond, Virginia.

Calendar of Events


November 3, 2006 - 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 Auctioneers Board intends to amend regulations entitled **18 VAC 25-21, Regulations of the Virginia Auctioneers Board**. The purpose of the proposed action is to develop necessary regulations to implement a mandatory continuing education program for the renewal and reinstatement of auctioneer licenses as required by Chapter 956 of the 2004 Acts of Assembly.


Statutory Authority: §§ 54.1-201, 54.1-602 and 54.1-603.1 of the Code of Virginia.

Contact: Marian H. Brooks, Board Administrator, Department of Professional and Occupational Regulation, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-8514, FAX (804) 367-0785 or e-mail auctioneers@dpor.virginia.gov.

BOARD FOR BARBERS AND COSMETOLOGY


November 6, 2006 - 9 a.m. -- Open Meeting
Department of Professional and Occupational Regulation, 3600 West Broad Street, 4th Floor, Richmond, Virginia. 

A general business meeting to include consideration of 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 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 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.


DEPARTMENT FOR THE BLIND AND VISION IMPAIRED

Rehabilitation Council for the Blind


September 16, 2006 - 10 a.m. -- Open Meeting
Department for the Blind and Vision Impaired, 397 Azalea Avenue, Richmond, Virginia.  (Interpreter for the deaf provided upon request)

A quarterly meeting to advise the Department for the Blind and Vision Impaired on matters related to vocational rehabilitation services for the blind and visually impaired citizens of the commonwealth. Public comment will be entertained at the end of the meeting.


Contact: Susan D. Payne, VR Program Director, Department for the Blind and Vision Impaired, 397 Azalea Ave., Richmond, VA 23227, telephone (804) 371-3184, FAX (804) 371-3390,


toll-free (800) 622-2155, (804) 371-3140/TTY , e-mail susan.payne@dbvi.virginia.gov.

BOARD FOR BRANCH PILOTS


November 1, 2006 - 8:30 a.m. -- Open Meeting
Virginia Port Authority, 600 World Trade Center, Norfolk, Virginia. 


A meeting of the Examination Administrators 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. All meetings are subject to cancellation. 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 made. The board 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.


November 1, 2006 - 9:30 a.m. -- Open Meeting
Virginia Port Authority, 600 World Trade Center, Norfolk, 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. All meetings are subject to cancellation. 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 made. The board 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.

† December 4, 2006 - 9 a.m. -- Open Meeting
Virginia Pilot Association, 3329 Shore Drive, Virginia Beach, Virginia. 

A meeting to conduct examinations for renewal of licenses.

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.

CEMETERY BOARD

October 17, 2006 - 9 a.m. -- Open Meeting
Department of Professional and Occupational Regulation, 3600 West Broad Street, 4th Floor, Richmond, Virginia. 

A meeting to discuss board business.

Contact: Christine Martine, Executive Director, Cemetery Board, 3600 W. Broad St., Richmond, VA 23230, telephone

(804) 367-8552, FAX (804) 367-6946, (804) 367-9753/TTY☎,
e-mail cemetery@dpor.virginia.gov.

* * * * *

† **October 17, 2006 - 10:30 a.m.** -- Public Hearing
Department of Professional and Occupational Regulation,
3600 West Broad Street, Richmond, Virginia.

November 4, 2006 - 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 Cemetery Board intends to amend
regulations entitled **18 VAC 47-20, Cemetery Board Rules
and Regulations**. The purpose of the proposed action is to
replace emergency regulations with permanent regulations.

Statutory Authority: §§ 54.1-201 and 54.1-2313 of the Code of
Virginia.

Contact: Christine Martine, Executive Director, Cemetery
Board, 3600 W. Broad St., Richmond, VA 23230, telephone
(804) 367-8552, FAX (804) 367-6946 or e-mail
cemetery@dpor.virginia.gov.

CHARITABLE GAMING BOARD

September 12, 2006 - 10 a.m. -- Open Meeting
Science Museum of Virginia, 2500 West Broad Street,
Richmond, Virginia.☎

A regular board meeting.

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@dcg.virginia.gov.

CHESAPEAKE BAY LOCAL ASSISTANCE BOARD

NOTE: CHANGE IN MEETING DATE

September 26, 2006 - 10 a.m. -- Open Meeting
Location to be announced.

A regular meeting to review local programs.

Contact: David C. Dowling, Policy, Planning, and Budget
Director, Department of Conservation and Recreation, 203
Governor St., Suite 302, Richmond, VA 23219, telephone
(804) 786-2291, FAX (804) 786-6141, e-mail
david.dowling@dcr.virginia.gov.

October 31, 2006 - 10 a.m. -- Open Meeting
James Monroe Building, 101 North 14th Street, 17th Floor
Conference Room, Richmond, Virginia.

A regular meeting of the Northern Area Review Committee
to review local programs.

Contact: David C. Dowling, Policy, Planning, and Budget
Director, Department of Conservation and Recreation,
203 Governor St., Suite 302, Richmond, VA 23219, telephone
(804) 786-2291, FAX (804) 786-6141, e-mail
david.dowling@dcr.virginia.gov.

October 31, 2006 - 2 p.m. -- Open Meeting
James Monroe Building, 101 North 14th Street, 17th Floor
Conference Room, Richmond, Virginia.

A regular meeting of the Southern Area Review Committee
to review local programs.

Contact: David C. Dowling, Policy, Planning, and Budget
Director, Department of Conservation and Recreation, 203
Governor St., Suite 302, Richmond, VA 23219, telephone
(804) 786-2291, FAX (804) 786-6141, e-mail
david.dowling@dcr.virginia.gov.

CHILD DAY-CARE COUNCIL

October 20, 2006 - Public comments may be submitted until
this date.

Notice is hereby given in accordance with § 2.2-4007 of the
Code of Virginia that the Child Day-Care Council intends to
amend regulations entitled **22 VAC 15-10, Public
Participation Guidelines**. The purpose of the proposed
action is to make editorial changes throughout the
regulation to improve clarity. 22 VAC 15-10-40 will be
amended to reflect the provisions of Chapter 241 of the
2002 Acts of Assembly that changed the provisions for a
person to petition the council to take a rulemaking action.
22 VAC 15-10-50 will be amended to reflect the statutory
changes of Chapter 717 of the 1995 Acts of Assembly that
make publication of proposed regulations in a newspaper of
general circulation discretionary rather than mandatory.

Statutory Authority: §§ 2.2-4007 and 63.2-1735 of the Code of
Virginia.

Contact: Richard Martin, Manager, Office of Legislative and
Regulatory Affairs, Department of Social Services, 7 N. 8th
St., Richmond, VA 23219, telephone (804) 726-7902, FAX
(804) 726-7906 or e-mail richard.martin@dss.virginia.gov.

STATE CHILD FATALITY REVIEW TEAM

September 12, 2006 - 10 a.m. -- Open Meeting
November 17, 2006 - 10 a.m. -- Open Meeting
Office of the Chief Medical Examiner, 400 East Jackson
Street, Richmond, Virginia.☎

The business portion of the State Child Fatality Review
Team meeting, from 10 a.m. to 10:30 a.m., is open to the
public. At the conclusion of the open meeting, the team will
go into closed session for confidential case review.

Contact: Rae Hunter-Havens, Coordinator, State Child
Fatality Review, 400 E. Jackson St., Richmond, VA 23219,
telephone (804) 786-1047, FAX (804) 371-8595, toll-free (800)
447-1708, e-mail rae.hunter-havens@vdh.virginia.gov.

COMPENSATION BOARD

September 20, 2006 - 11 a.m. -- Open Meeting
102 Governor Street, Lower Level, Room LL22, Richmond,
Virginia.☎

A monthly board meeting.

Calendar of Events

Contact: Cindy Waddell, Compensation Board, P.O. Box 710, Richmond, VA 23218, telephone (804) 225-3308, FAX (804) 371-0235, e-mail cindy.waddell@scb.virginia.gov.

DEPARTMENT OF CONSERVATION AND RECREATION

September 6, 2006 - 9 a.m. -- Open Meeting

October 11, 2006 - 9 a.m. -- Open Meeting

Location to be determined.

A Technical Advisory Committee meeting to assist the department in considering revisions to the Virginia Soil and Water Conservation Board's Impounding Structure (Dam Safety) Regulations.

Contact: David C. Dowling, Policy, Planning, and Budget Director, Department of Conservation and Recreation, 203 Governor St., Suite 302, Richmond, VA 23219, telephone (804) 786-2291, FAX (804) 786-6141, e-mail david.dowling@dcr.virginia.gov.

September 14, 2006 - Noon -- Open Meeting

October 12, 2006 - Noon -- Open Meeting

November 9, 2006 - Noon -- Open Meeting

Richmond City Hall, 900 East Broad Street, 5th Floor, Planning Commission Conference Room, Richmond, Virginia.

A regular meeting of the Falls of the James Scenic River Advisory Committee to discuss river issues.

Contact: David C. Dowling, Policy, Planning, and Budget Director, Department of Conservation and Recreation, 203 Governor St., Suite 302, Richmond, VA 23219, telephone (804) 786-2291, FAX (804) 786-6141, e-mail david.dowling@dcr.virginia.gov.

September 28, 2006 - 1 p.m. -- Open Meeting

October 26, 2006 - 1 p.m. -- Open Meeting

VDOT Training Center, Farmville, Virginia.

A meeting of the High Bridge State Park Master Plan Advisory Committee for continued discussion of the master plan development.

Contact: Robert S. Munson, Planning Bureau Manager, Department of Conservation and Recreation, 203 Governor St., Suite 326, Richmond, VA 23219, telephone (804) 786-6140, FAX (804) 371-7899, e-mail robert.munson@dcr.virginia.gov.

October 3, 2006 - 9 a.m. -- Open Meeting

Location to be determined.

A Technical Advisory Committee meeting to assist the department in considering revisions to the Virginia Soil and Water Conservation Boards Virginia Stormwater Management Program (VSMP) Permit Regulations.

Contact: David C. Dowling, Policy, Planning, and Budget Director, Department of Conservation and Recreation, 203 Governor St., Suite 302, Richmond, VA 23219, telephone (804) 786-2291, FAX (804) 786-6141, e-mail david.dowling@dcr.virginia.gov.

October 19, 2006 - 7 p.m. -- Open Meeting
Prince Edward County Courthouse, Board Room, Farmville, Virginia.

A meeting to receive comment from the public regarding the proposed High Bridge State Park Master Plan.

Contact: Robert S. Munson, Planning Bureau Manager, Department of Conservation and Recreation, 203 Governor St., Suite 326, Richmond, VA 23219, telephone (804) 786-6140, FAX (804) 371-7899, e-mail robert.munson@dcr.virginia.gov.

† November 21, 2006 - 10 a.m. -- Open Meeting

Location to be announced.

A meeting of the Virginia Land Conservation Foundation to review grant manual criteria.

Contact: David C. Dowling, Policy, Planning, and Budget Director, Department of Conservation and Recreation, 203 Governor St., Suite 302, Richmond, VA 23219, telephone (804) 786-2291, FAX (804) 786-6141, e-mail david.dowling@dcr.virginia.gov.

Virginia Cave Board

† September 16, 2006 - 1 p.m. -- Open Meeting

Stone Lodge Grand Caverns, Grottoes, Virginia.

A regular meeting. A meeting of the board subcommittees will begin at 11 a.m. and the full board will meet at 1 p.m. The public is invited to attend.

Contact: Larry Smith, Natural Area Protection Manager, Department of Conservation and Recreation, 203 Governor St., Suite 302, Richmond, VA 23219, telephone (804) 786-7951, FAX (804) 786-6141, toll-free (804) 371-2674, e-mail larry.smith@dcr.virginia.gov.

Virginia Scenic River Advisory Board

† October 5, 2006 - 10 a.m. -- Open Meeting

Location to be announced.

A regular meeting to discuss river issues.

Contact: David C. Dowling, Policy, Planning, and Budget Director, Department of Conservation and Recreation, 203 Governor St., Suite 302, Richmond, VA 23219, telephone (804) 786-2291, FAX (804) 786-6141, e-mail david.dowling@dcr.virginia.gov.

Virginia Soil and Water Conservation Board

NOTE: CHANGE IN MEETING DATE

September 28, 2006 - 9:30 a.m. -- Open Meeting


November 16, 2006 - 9:30 a.m. -- Open Meeting

Location to be announced.


A regular board meeting.

Contact: David C. Dowling, Policy, Planning, and Budget Director, Department of Conservation and Recreation, 203 Governor St., Suite 302, Richmond, VA 23219, telephone (804) 786-2291, FAX (804) 786-6141, e-mail david.dowling@dcr.virginia.gov.

BOARD FOR CONTRACTORS

September 6, 2006 - 9 a.m. -- Open Meeting
Department of Professional and Occupational Regulation,
3600 West Broad Street, Richmond, Virginia. 

LRD Licensing to conduct 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.

† **September 12, 2006 - 9 a.m.** -- Open Meeting


† **September 14, 2006 - 9 a.m.** -- Open Meeting

September 15, 2006 - 9 a.m. -- Open Meeting

September 19, 2006 - 9 a.m. -- Open Meeting

Department of Professional and Occupational Regulation,
3600 West Broad Street, Richmond, Virginia. 


An informal fact-finding conference.

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.


September 26, 2006 - 9 a.m. -- Open Meeting

October 24, 2006 - 9 a.m. -- Open Meeting


† **November 28, 2006 - 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 least 10 days prior to this meeting so that suitable arrangements can be made. The department fully complies with the Americans with Disabilities Act.

Contact: 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.

† **November 28, 2006 - 1 p.m.** -- Open Meeting


Department of Professional and Occupational Regulation,
3600 West Broad Street, Richmond, Virginia. 

A quarterly meeting of the Board for Contractors Committee. The meeting starts after the Board for Contractors meeting.


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 contractors@dpor.virginia.gov.

BOARD OF CORRECTIONAL EDUCATION

† **September 15, 2006 - 10 a.m.** -- Open Meeting

James Monroe Building, 101 North 14th Street, 7th Floor,
Richmond, Virginia.  (Interpreter for the deaf provided upon request)

A meeting to discuss general business.

Contact: Patty Ennis, Board Clerk, Board of Correctional Education, 101 N. 14th St., Richmond, VA 23219, telephone (804) 225-3314, FAX (804) 786-7642, (804) 371-8647/TTY , e-mail patricia.ennis@dce.virginia.gov.

BOARD OF CORRECTIONS

September 8, 2006 - Public comments may be submitted until 5 p.m. on this date.


Notice is hereby given in accordance with § 2.2-4007 of the Code of Virginia that the Board of Corrections intends to amend regulations entitled **6 VAC 15-20, Regulations Governing Certification and Inspection**. The purpose of the proposed action is to amend existing certification and inspection standards to update definitions and terminology; redirect authority to set and adjust audit schedules, determine compliance decisions and grant extension; standardize submission of variance requests for local and state correctional facilities; and reduce the time limit for a completed audit to be forwarded to the board.

Statutory Authority: § 53.1-5 of the Code of Virginia.

Contact: Donna Lawrence, Manager, Compliance and Accreditation Unit, Department of Corrections, 6900 Atmore Dr., Richmond, VA 23225, telephone (804) 674-3499, FAX (804) 674-3587 or e-mail donna.lawrence@vadoc.virginia.gov.

September 19, 2006 - 10 a.m. -- Open Meeting

November 14, 2006 - 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 barbara.woodhouse@vadoc.virginia.gov.

September 19, 2006 - 1 p.m. -- Open Meeting

November 14, 2006 - 1 p.m. -- Open Meeting

Department of Corrections, 6900 Atmore Drive, 3rd Floor,
Board Room, 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 barbara.woodhouse@vadoc.virginia.gov.

Calendar of Events

September 20, 2006 - 9:30 a.m. -- Open Meeting
November 15, 2006 - 9:30 a.m. -- Open Meeting
Department of Corrections, 6900 Atmore Drive, 3rd Floor, Room 3054, 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 barbara.woodhouse@vadoc.virginia.gov.

September 20, 2006 - 10 a.m. -- Open Meeting
November 15, 2006 - 10 a.m. -- Open Meeting
Department of Corrections, 6900 Atmore Drive, 3rd Floor Board Room, Richmond, Virginia. ♿

A regular meeting of the full board to review and discuss all matters considered by board committees that require presentation to and action 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 barbara.woodhouse@vadoc.virginia.gov.

CRIMINAL JUSTICE SERVICES BOARD

September 13, 2006 - 1 p.m. -- Public Hearing
General Assembly Building, 9th and Broad Streets, House Room D, Richmond, Virginia. ♿

September 11, 2006 - 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 Criminal Justice Services Board intends to amend regulations entitled **6 VAC 20-30. Rules Relating to Compulsory In-Service Training Standards for Law-Enforcement Officers, Jailors or Custodial Officers, Courtroom Security Officers, Process Service Officers and Officers of the Department of Corrections, Division of Institutional Services.** The purpose of the proposed action is to amend the rules, last updated in 1992, to make the standards more compatible with the most efficient way to conduct training. The purpose of the changes is to facilitate training while maintaining the quality of training. The goal is to make training and reporting requirements easier for certified academies to accomplish.

Statutory Authority: § 9.1-102 of the Code of Virginia.

Contact: John Byrd, Assistant Section Chief, Department of Criminal Justice Services, 202 N. 9th St., Richmond, VA 23219, telephone (804) 786-6375, FAX (804) 786-0410 or e-mail john.byrd@dcjs.virginia.gov.

September 13, 2006 - 1 p.m. -- Public Hearing
General Assembly Building, 9th and Broad Streets, House Room D, Richmond, Virginia. ♿

September 11, 2006 - 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 Criminal Justice Services Board intends to amend regulations entitled **6 VAC 20-50. Rules Relating to Compulsory Minimum Training Standards Jailors or Custodial Officers, Courthouse and Courtroom Security Officers and Process Service Officers.** The purpose of the proposed action is to amend the regulations to ensure that training and certification of jailors, courtroom and courthouse security officers and process service officers is based on timely data provided by the 2001-2002 job task analysis.

Statutory Authority: § 9.1-102 of the Code of Virginia.

Contact: Judith Kirkendall, Job Task Analysis Administrator, Department of Criminal Justice Services, 202 North 9th Street, Richmond, VA 23219, telephone (804) 786-8003, FAX (804) 786-0410, or e-mail judith.kirkendall@dcjs.virginia.gov.

BOARD OF DENTISTRY

September 6, 2006 - 11 a.m. -- Open Meeting
Department of Health Professions, 6603 West Broad Street, 5th Floor, Richmond, Virginia. ♿

A new board member orientation meeting. There will not be a public comment period.

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) 662-7246, (804) 662-7197/TTY ♿, e-mail sandra.reen@dhp.virginia.gov.

September 8, 2006 - 9 a.m. -- Open Meeting
September 29, 2006 - 9 a.m. -- Open Meeting
October 13, 2006 - 9 a.m. -- Open Meeting
October 27, 2006 - 9 a.m. -- Open Meeting
November 17, 2006 - 9 a.m. -- Open Meeting
Department of Health Professions, 6603 West Broad Street, 5th Floor, Richmond, Virginia. ♿


A meeting of the Special Conference Committee to 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.


September 14, 2006 - 9 a.m. -- Open Meeting
Roanoke Hotel and Convention Center, Roanoke, Virginia. ♿


Formal hearings. 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.


September 15, 2006 - 9 a.m. -- Open Meeting
Roanoke Hotel and Convention Center, Roanoke, Virginia. 

A meeting to discuss board business. There will be a 15-minute public comment period at the beginning of the meeting.

Contact: Sandra Reen, Executive Director, Board of Dentistry, 6603 W. Broad St., 5th Floor, Richmond, VA 23230-1712, telephone (804) 662-9906, FAX (804) 662-7246, (804) 662-7197/TTY , e-mail sandra.reen@dhp.virginia.gov.

September 22, 2006 - 9 a.m. -- Open Meeting
Department of Health Professions, 6603 West Broad Street, 5th Floor, Richmond, Virginia. 


A meeting of the Credentials Committee to hold informal conferences. There will not be a public comment period.

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) 662-7246, (804) 662-7197/TTY , e-mail sandra.reen@dhp.virginia.gov.

October 6, 2006 - 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 Dentistry intends to amend regulations entitled **18 VAC 60-20, Board of Dentistry Regulations**. The purpose of the proposed action is to allow the board to accept other evidence of qualification for licensure from an applicant if a transcript of other documentation cannot be produced by a third-party entity from which it is required. It will also require an applicant to submit a current report from the National Practitioner Data Bank, which is produced along with the report that is currently required from the Healthcare Integrity and Protection Data Bank.

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

Contact: Sandra Reen, Executive Director, Board of Dentistry, 6603 W. Broad St., 5th Floor, Richmond, VA 23230-1712, telephone (804) 662-9906, FAX (804) 662-7246, (804) 662-7197/TTY , e-mail sandra.reen@dhp.virginia.gov.

† **November 3, 2006** - Public comments may be submitted until 5 p.m. on this date.

Notice is hereby given in accordance with § 2.2-4007 of the Code of Virginia that the Board of Dentistry intends to amend regulations entitled **18 VAC 60-20, Regulations Governing the Practice of Dentistry and Dental Hygiene**. The purpose of the proposed action is to eliminate the requirement for a second person to be in the operatory with the dentist to monitor the patient during the administration of inhalation analgesia or nitrous oxide. Copies of the board's regulation may be found on the board's website at <http://dhp.virginia.gov/dentistry>.

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

Public comments may be submitted until 5 p.m. on November 3, 2006, to Sandra Reen, Executive Director, Board of Dentistry, 6603 West Broad Street, 5th Floor, Richmond, VA 23230-1712.


Contact: Elaine J. Yeatts, Regulatory Coordinator, Department of Health Professions, 6603 W. Broad St., Richmond, VA 23230, telephone (804) 662-9918, FAX (804) 662-9114 or e-mail elaine.yeatts@dhp.virginia.gov.

DESIGN BUILD/CONSTRUCTION MANAGEMENT REVIEW BOARD


September 21, 2006 - 11 a.m. -- Open Meeting

October 19, 2006 - 11 a.m. -- Open Meeting

November 16, 2006 - 11 a.m. -- Open Meeting


Department of General Services, 202 North Ninth Street, Room 412, Richmond, Virginia.  (Interpreter for the deaf provided upon request)

A monthly meeting to review requests submitted by localities to use the design build or construction management type contracts. Contact the Division of Engineering and Buildings to confirm this meeting. Board rules and regulations can be obtained on-line at www.dgs.virginia.gov under DGS Forms, Form #DGS-30-904.

Contact: Rhonda M. Bishton, Administrative Assistant, Division of Engineering and Buildings, Department of General Services, 202 N. Ninth St., Richmond, VA 23219, telephone (804) 786-3263, FAX (804) 371-7934, (804) 786-6152/TTY , e-mail rhonda.bishton@dgs.virginia.gov.

VIRGINIA ECONOMIC DEVELOPMENT PARTNERSHIP

† **September 14, 2006 - 10 a.m.** -- Open Meeting

901 East Byrd Street, Riverfront Plaza, West Tower, 20th Floor, Richmond, Virginia. 

A meeting to discuss issues pertaining to the Virginia Economic Development Partnership.


Contact: Kimberly M. Ellett, Senior Executive Assistant, Virginia Economic Development Partnership, P.O. Box 798, Richmond, VA 23218, telephone (804) 545-5610, FAX (804) 545-5611, e-mail kellett@yesvirginia.org.

BOARD OF EDUCATION

September 27, 2006 - 9 a.m. -- Open Meeting

October 25, 2006 - 9 a.m. -- Open Meeting

† **November 29, 2006 - 9 a.m.** -- Open Meeting


James Monroe Building, 101 North 14th Street, Main Lobby Level, Conference Rooms C and D, Richmond, Virginia.  (Interpreter for the deaf provided upon request)

A regular business meeting of the board. Public comment will be received. The public is urged to confirm arrangements prior to each meeting by viewing the

Calendar of Events

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.


September 27, 2006 - 11 a.m. -- Public Hearing
James Monroe Building, 101 North 14th Street, 22nd Floor, Richmond, Virginia.  (Interpreter for the deaf provided upon request)

September 11, 2006 - 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 20-700, Regulations for Conducting Division-Level Academic Reviews**. The purpose of the proposed action is to require division-level academic review in school divisions where findings of school-level academic reviews show that the failure of the schools to reach full accreditation is related to the local school board's failure to meet its responsibilities under the Standards of Quality. The Board of Education promulgated emergency regulations as a result of this requirement that expired February 15, 2006. The proposed regulations, which will replace the emergency regulations, do not deviate substantially from the provisions of the emergency regulations.

Statutory Authority: § 22.1-253.13:3 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.

September 27, 2006 - 11 a.m. -- Public Hearing
James Monroe Building, 101 North 14th Street, 22nd Floor, Richmond, Virginia.  (Interpreter for the deaf provided upon request)

September 11, 2006 - 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 20-710, Regulations Governing the Process for Submitting Proposals to Consolidate School Divisions**. The purpose of the proposed action is to comply with an amendment to § 22.1-25 of the Code of Virginia by the 2004 General Assembly.

The amendment directs the Board of Education to promulgate regulations providing for a process by which school divisions may submit proposals for consolidation. Section 22.1-25 of the Code of Virginia stipulates the information and data to be submitted by school divisions in their proposals for consolidation, the criteria that must be considered by the Board of Education in reviewing the proposals and a process for public participation in the process. The proposed regulations also include a section detailing the statutory authority, a definitions section, and additional administration and consolidation process requirements.

Statutory Authority: § 22.1-25 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.

SECRETARY OF EDUCATION

September 6, 2006 - 10 a.m. -- CANCELED

October 4, 2006 - 10 a.m. -- Open Meeting

November 15, 2006 - 10 a.m. -- Open Meeting

Capital One West Creek Campus, Town Center Building, Richmond, Virginia.

A full council meeting of the Start Strong Pre-K Council.


Contact: Kendall Tyree, Special Assistant to the Secretary of Education, 1111 E. Broad St., Richmond, VA 23219, telephone (804) 692-2550, e-mail kendall.tyree@governor.virginia.gov.

LOCAL EMERGENCY PLANNING COMMITTEE

November 6, 2006 - 3 p.m. -- Open Meeting


Timbrook Public Safety Center, 231 East Piccadilly Street, Winchester, Virginia.

A regular meeting.

Contact: L.A. Miller, Fire and Rescue Chief, Local Emergency Planning Committee, Winchester Fire and Rescue Department, 231 E. Piccadilly St., Winchester, VA 22601, telephone (540) 662-2298, FAX (540) 542-1318, (540) 662-4131/TTY .

DEPARTMENT OF ENVIRONMENTAL QUALITY

† **September 5, 2006 - 6:30 p.m.** -- Public Hearing

Elkton Elementary School, 302 B Street, Elkton, Virginia. 

A public hearing on amendment of the hazardous waste management permit for Merck and Co., Inc. located in Elkton. The public comment period began on August 7, 2006, and ends on September 21, 2006.

Contact: Matthew M. Stepien, Department of Environmental Quality, P.O. Box 10009, Richmond, VA 23240, telephone (804) 698-4026, FAX (804) 698-4324, e-mail mmstepien@deq.virginia.gov.

† **September 7, 2006 - 7 p.m.** -- Public Hearing
Chatham Middle School, 11650 U.S. Highway 29 North,
Chatham, Virginia. ♿

A public hearing on the reissuance of the hazardous waste management permit for the Cook Composites and Polymers Co. in Chatham. The public comment period began on August 7, 2006, and ends on September 22, 2006.

Contact: Richard J. Criqui, Jr., Department of Environmental Quality, P.O. Box 10009, Richmond, VA 23240, telephone (804) 698-4013, FAX (804) 698-4234, e-mail rjcriqui@deq.virginia.gov.

September 7, 2006 - 7 p.m. -- Open Meeting
Sully District Government Center, 4900 Stonecroft Boulevard,
James McDonnell Community Room, Chantilly, Virginia. ♿

The first public meeting on the development of a TMDL to address dissolved oxygen impairments in the Occoquan Reservoir. The public notice appears in the Virginia Register of Regulations on August 21, 2006. The public comment period begins on September 7, 2006, and ends on October 6, 2006.

Contact: Katie Conway, Department of Environmental Quality, 13901 Crown Court, Woodbridge, VA 22193, telephone (703) 583-3804, e-mail mkconaway@deq.virginia.gov.

† **September 14, 2006 - 10 a.m.** -- Open Meeting
Department of Environmental Quality, 629 East Main Street,
Richmond, Virginia. ♿

The third meeting with stakeholders to discuss implementation of HB447/SB88, Removal of Mercury Switches from Automobiles Prior to Demolition. For more information go to:
<http://www.deq.virginia.gov/waste/mercuryswitch.html>.

Contact: Steven E. Frazier, Department of Environmental Quality, P.O. Box 10009, Richmond, VA 23240, telephone (804) 698-4199, e-mail sefrazier@deq.virginia.gov.

† **September 18, 2006 - 7 p.m.** -- Public Hearing
Victoria Public Library, 1417 7th Street, Meeting Room,
Victoria, Virginia. ♿

A public hearing on a modification of the Lunenburg County Sanitary Landfill Permit that would include provisions for incorporating a new sedimentation basin, an updated ground water monitoring plan, a closure/post closure plan and updating several operating practices. The public comment period began on August 16, 2006, and ends on October 3, 2006.

Contact: James L. Stump, Department of Environmental Quality, P.O. Box 1688, Abingdon, VA 24212, telephone (276) 676-4856, FAX (276) 676-4899, e-mail jlstump@deq.virginia.gov.

September 19, 2006 - 9 a.m. -- Open Meeting
Department of Environmental Quality, 629 East Main Street,
Richmond, Virginia. ♿

A regular meeting of the Ground Water Protection Steering Committee.

Contact: Mary Ann Massie, Department of Environmental Quality, P.O. Box 10009, Richmond, VA 23240, telephone (804) 698-4042, e-mail mamassie@deq.virginia.gov.

† **September 21, 2006 - 6:30 p.m.** -- Open Meeting
Grissom Library, 336 DeShazor Drive, Newport News,
Virginia. ♿

A public meeting on the development of a TMDL for bacteria for Warwick River, James River, Skiffes Creek, Baptist Run and Deep Creek in Newport News. The public notice appears in the Virginia Register on September 4, 2006. The comment period begins on September 21, 2006, and ends on October 23, 2006.

Contact: Jennifer Howell, Department of Environmental Quality, 5636 Southern Blvd., Virginia Beach, VA 23462, telephone (757) 518-2111, e-mail jshowell@deq.virginia.gov.

† **September 28, 2006 - 7 p.m.** -- Open Meeting
Alleghany County Government Complex, 9212 Winterberry
Avenue, Board of Supervisors Room, Low Moor, Virginia. ♿

A public meeting on the development of a TMDL for impaired waters in the Jackson River watershed located in Alleghany and Botetourt counties and in Covington. The public notice appears in the Virginia Register on September 4, 2006. The public comment period begins on September 28, 2006, and ends on October 28, 2006.

Contact: Jason R. Hill, Department of Environmental Quality, 3019 Peters Creek Rd., Roanoke, VA 24019, telephone (540) 562-6724, FAX (540) 562-6860, e-mail jrhill@deq.virginia.gov.

FORENSIC SCIENCE BOARD

October 10, 2006 - Public comments may be submitted until 5 p.m. on this date.

Notice is hereby given in accordance with § 2.2-4007 of the Code of Virginia that the Department of Forensic Science intends to adopt regulations entitled **6 VAC 40-10, Public Participation Guidelines**. The purpose of the proposed action is to facilitate participation by the public in the formation of regulations that are being promulgated to carry out the legislative mandates of the Department of Forensic Science as required by § 2.2-4007 D of the Code of Virginia.

Statutory Authority: §§ 2.2-4007 and 9.1-1110 of the Code of Virginia.

Contact: Katya N. Herndon, Regulatory Coordinator, Department of Forensic Science, 700 N. 5th St., Richmond, VA 23219, telephone (804) 786-6848, FAX (804) 786-6857 or e-mail katya.herndon@dfs.virginia.gov.

BOARD OF FORESTRY


September 11, 2006 - 9 a.m. -- Open Meeting
Department of Forestry Central Office, 900 Natural Resources
Drive, Charlottesville, Virginia. ♿ (Interpreter for the deaf
provided upon request)

An orientation and official business meeting.


Calendar of Events

Contact: Donna S. Hoy, Administrative Staff Specialist, Board 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 FOR GEOLOGY

October 18, 2006 - 9 a.m. -- Open Meeting
Department of Professional and Occupational Regulation, 3600 West Broad Street, Richmond, Virginia. 

A general business meeting including consideration of 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: David E. Dick, Regulatory Programs Coordinator, Department of Professional and Occupational Regulation, 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.

OFFICE OF GOVERNOR

Olmstead Community Integration Implementation Team

October 17, 2006 - 1 p.m. -- Open Meeting
† December 19, 2006 - 1 p.m. -- Open Meeting
Virginia Housing Development Authority, 601 South Belvidere Street, Richmond, Virginia.  (Interpreter for the deaf provided upon request)

A regular meeting.

Contact: Julie A. Stanley, Director, Community Integration for People with Disabilities, Office of Governor, 1111 E. Broad St., Richmond, VA 23219, telephone (804) 371-0828, FAX (804) 786-6984, e-mail julie.stanley@governor.virginia.gov.

Olmstead Community Integration Oversight Board

† September 8, 2006 - 11 a.m. -- Open Meeting
† September 19, 2006 - 11 a.m. -- Open Meeting
Virginia Housing Development Authority, 601 South Belvidere Street, Richmond, Virginia.  (Interpreter for the deaf provided upon request)

A regular meeting. No public comment will be received.

Contact: Julie A. Stanley, Director, Community Integration for People with Disabilities, Office of Governor, 1111 E. Broad St., Richmond, VA 23219, telephone (804) 371-0828, FAX (804) 786-6984, e-mail julie.stanley@governor.virginia.gov.

STATE BOARD OF HEALTH

† October 4, 2006 - 7 p.m. -- Public Hearing
Henrico Training Center, 7701 East Parham Road, Rooms 2031 and 2032, Richmond, Virginia.

November 10, 2006 - 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 5-585, Biosolids Use Regulations**. The purpose of the proposed action is to provide regulations and standards for training, testing and certification of persons land applying Class B sewage sludge (biosolids) in the Commonwealth, and for revoking, suspending or denying such certification from any person for cause. The amended regulations are to include standards and criteria for the approval of instructional programs to be taught by governmental entities and by the private sector for the purpose of certifying biosolids land applicators.

Statutory Authority: § 32.1-164.5 of the Code of Virginia.

Contact: C.M. Sawyer, Division Director, Department of Health, 109 Governor St., 5th Floor, Richmond, VA 23219, telephone (804) 864-7463, FAX (804) 864-7475 or e-mail cal.sawyer@vdh.virginia.gov.

October 11, 2006 - 3 p.m. -- Public Hearing
Department of Health, Madison Building, 109 Governor Street, 5th Floor Conference Room, Richmond, Virginia.

October 20, 2006 - 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 consider adopting regulations entitled **12 VAC 5-125, Regulations for Bedding and Upholstered Furniture Inspection Program**. The purpose of the proposed action is to ensure that only safe and healthy bedding and upholstered furniture products are being sold in the Commonwealth, that uniformity with other state bedding programs be maintained, and that the Code of Virginia be enforced.

Statutory Authority: §§ 32.1-224 and 59.1-200 of the Code of Virginia.

Contact: Gary L. Hagy, Director, Division of Food and Environmental Services, Department of Health, 109 Governor St., 5th Floor, Richmond, VA 23219, telephone (804) 864-7455, FAX (804) 864-7475 or e-mail gary.hagy@vdh.virginia.gov.

October 23, 2006 - 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 5-70, Regulations Governing the Newborn Screening and Treatment Program**, and adopt regulations entitled **12 VAC 5-71, Regulations Governing Virginia Newborn Screening Services**. The purpose of the proposed action is to expand newborn screening services as required by Chapter 721 of the 2005 Acts of Assembly.

Statutory Authority: § 32.1-12 and Article 7 (§ 32.1-65 et seq.) of Chapter 2 of Title 32.1 of the Code of Virginia.

Public comments may be submitted until October 23, 2006.

Contact: Nancy Ford, Division of Child and Adolescent Health, Department of Health, 109 Governor St., Richmond, VA 23219, telephone (804) 864 7691, FAX (804) 864 7647, or e-mail nancy.ford@vdh.virginia.gov.


† **November 18, 2006** - 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 5-40, Regulations Governing Financial Assistance for Emergency Medical Services**, and amend regulations entitled **12 VAC 5-31, Virginia Emergency Medical Services Regulations**. The purpose of the proposed action is to adopt regulations for designation of regional EMS councils and revise regulations regarding the Rescue Squad Assistance Fund (RSAF) combining them with all regulations governing EMS in Virginia.

Statutory Authority: §§ 32.1-12, 32.1-111.4 and 32.1-111.11 of the Code of Virginia.


Contact: Michael D. Berg, Manager, Regulation and Compliance, 109 Governor St, UB-55, Richmond, VA 23219, telephone (804) 864-7615, FAX (804) 864-7580, toll-free 1-800-523-6019 or e-mail michael.berg@vdh.virginia.gov.

DEPARTMENT OF HEALTH

September 6, 2006 - 9 a.m. -- Open Meeting
Department of Health, Lobby Conference Room, 1st Floor, Richmond, Virginia. 

A meeting of the Health Workforce Advisory Committee to advise on all aspects of VDH health workforce duties and responsibilities.

Contact: Karen Reed, Health Workforce and Minority Health Manager, Department of Health, 109 Governor St., Suite 1016 E., Richmond, VA 23219, telephone (804) 864-7427, FAX (804) 864-7440, toll-free (804) 694-7349, e-mail karen.reed@vdh.virginia.gov.

September 8, 2006 - 10 a.m. -- Open Meeting
Children's Hospital, 2924 Brook Road, Richmond, Virginia. 

A meeting of the Virginia Early Hearing Detection and Intervention Program Advisory Committee to assist the Department of Health in the implementation of the Virginia Early Hearing Detection and Intervention Program. The

advisory committee meets four times a year. Public comment will not be received.

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, e-mail pat.dewey@vdh.virginia.gov.

September 9, 2006 - 9 a.m. -- Open Meeting

September 14, 2006 - 9 a.m. -- Open Meeting


† **November 9, 2006 - 9 a.m.** -- Open Meeting

109 Governor Street, 5th Floor Conference Room, Richmond, Virginia. Will also be scheduled in remote locations via video conference.


A meeting of the Authorized Onsite Soil Evaluator Regulations Advisory Committee to make recommendations to the commissioner regarding AOSE/PE policies, procedures and programs.

Contact: Dwayne Roadcap, Program Manager, Department of Health, 109 Governor St., Richmond, VA 23219, telephone (804) 864-7462, FAX (804) 864-7476, e-mail dwayne.roadcap@vdh.virginia.gov.

September 13, 2006 - 1 p.m. -- Open Meeting

Medical Society of Virginia, 2924 Emerywood Parkway, Suite 300, Richmond, Virginia. 


† **September 20, 2006 - 1 p.m.** -- Open Meeting

Virginia Hospital and Healthcare Association, 4200 Innslake Drive, Glen Allen, Virginia. 

A meeting of the SMFP Advisory Committee to address issues concerning the proposed State Medical Facilities Plan.

Contact: Carrie Eddy, Senior Policy Analyst, Department of Health, 3600 W. Broad St., Suite 216, Richmond, VA 232330, telephone (804) 367-2157, FAX (804) 367-2149, e-mail carrie.eddy@vdh.virginia.gov.

† **September 21, 2006 - 10 a.m.** -- Open Meeting

Virginia Association of Volunteer Rescue Squads Headquarters, 2535 Turkey Creek Road, Oilville, Virginia. 

A meeting to review and finalize initial draft regulations for presentation to the EMS Advisory Board for their November 8, 2006, meeting.

Contact: Michael D. Berg, Manager, Regulation and Compliance, Department of Health, 109 Governor St., Suite UB-55, Richmond, VA 23219, telephone (804) 864-7001, FAX (804) 864-7022, toll-free (800) 523-6019, e-mail michael.berg@vdh.virginia.gov.

September 22, 2006 - 10 a.m. -- Open Meeting


Department of Health, 109 Governor Street, 5th Floor Conference Room, Richmond, Virginia.

A meeting of the Sewage Handling and Disposal Regulations Advisory Committee to make recommendations to the commissioner regarding sewage handling and disposal policies, procedures and programs of the department.

Contact: Donald Alexander, Division Director, DOSWS, Department of Health, 109 Governor St., 5th Floor, Richmond,


Calendar of Events

VA 23219, telephone (804) 864-7452, FAX (804) 864-7476, e-mail donald.alexander@vdh.virginia.gov.

September 27, 2006 - 1:30 p.m. -- Open Meeting
Madison Building, 109 Governor Street, Richmond, Virginia. 
(Interpreter for the deaf provided upon request)

A meeting of the Newborn Screen Regulations Advisory Group to allow and invite public participation in the development of proposed regulations.


Contact: Nancy Ford, Pediatric Screening and Genetic Services, Department of Health, 109 Governor St., Richmond, VA 23219, telephone (804) 864-7691, FAX (804) 864-7721, e-mail nancy.ford@vdh.virginia.gov.

October 3, 2006 - 10 a.m. -- Open Meeting
Division of Consolidated Laboratory Services, 600 North 5th Street, Training Room T-23, Richmond, Virginia. 


A meeting of the Genetics Advisory Committee to advise the Department of Health on coordinating access to clinical genetics services across the Commonwealth and assuring the provision of genetic awareness and quality services and education for consumers and providers taking into consideration issues of confidentiality, privacy and consent.

Contact: Nancy Ford, Director, Pediatric Screening and Genetic Services, Department of Health, 109 Governor St., Richmond, VA 23219, telephone (804) 864-7691, e-mail nancy.ford@vdh.virginia.gov.


BOARD OF HEALTH PROFESSIONS

† September 19, 2006 - 10 a.m. -- Open Meeting
Department of Health Professions, 6603 West Broad Street, 5th Floor, Room 2, Richmond, Virginia. 

A regular board meeting to conduct new board member orientation and general organization in developing the board's workplan. Additionally, the board will receive recommendations from the Practitioner Self-Referral Committee and conduct any general board business as needed. 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, Richmond, VA 23230-1712, telephone (804) 662-7013, FAX (804) 662-7098, (804) 662-7197/TTY , e-mail elizabeth.carter@dhp.virginia.gov.

BOARD FOR HEARING AID SPECIALISTS


November 15, 2006 - 9 a.m. -- Open Meeting
Department of Professional and Occupational Regulation, 3600 West Broad Street, 4th Floor, Richmond, Virginia. 

A general business meeting including consideration of 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 Hearing Aid Specialists, 3600 W. Broad St., Richmond, VA 23230-4917, telephone (804) 367-8590, FAX (804) 367-6295, (804) 367-9753/TTY , e-mail hearingaidspec@dpor.virginia.gov.

VIRGINIA HIGHER EDUCATION TUITION TRUST FUND


† September 7, 2006 - 10:30 a.m. -- Open Meeting
James Monroe Building, 101 North 14th Street, 5th Floor, Virginia College Savings Plan Boardroom, Richmond, Virginia. 


A meeting of the Virginia College Savings Plan Investment Advisory Committee.

Contact: Robin Schultz, Investment Operations Manager, Virginia Higher Education Tuition Trust Fund, James Monroe Bldg., 101 N. 14th St., 5th Floor, Richmond, VA 23219, telephone (804) 786-9166, FAX (804) 786-2453, toll-free (888) 567-0540, (804) 786-2766/TTY , e-mail vcspinfo@virginia529.com.


† September 7, 2006 - Noon -- Open Meeting
James Monroe Building, 101 North 14th Street, 5th Floor, Virginia College Savings Plan Boardroom, Richmond, Virginia. 


A meeting of the Virginia College Savings Plan Actuarial Committee.

Contact: Jennifer Jones, Administrative Operations Specialist, Virginia Higher Education Tuition Trust Fund, James Monroe Bldg., 101 N. 14th St., 5th Floor, Richmond, VA 23219, telephone (804) 225-2853, FAX (804) 786-2453, toll-free (888) 567-0540, (804) 786-2766/TTY , e-mail vcspinfo@virginia529.com.

† October 11, 2006 - 10 a.m. -- Open Meeting
James Monroe Building, 101 North 14th Street, 5th Floor, Virginia College Savings Plan Boardroom, Richmond, Virginia. 

A meeting of the Virginia College Savings Plan Compensation Committee.

Contact: Jennifer Jones, Administrative Operations Specialist, Virginia Higher Education Tuition Trust Fund, James Monroe Bldg., 101 N. 14th St., 5th Floor, Richmond, VA 23219, telephone (804) 225-2853, FAX (804) 786-2453, toll-free (888) 567-0540, (804) 786-2766/TTY , e-mail vcspinfo@virginia529.com.

† October 11, 2006 - 11 a.m. -- Open Meeting
James Monroe Building, 101 North 14th Street, 5th Floor, Virginia College Savings Plan Boardroom, Richmond, Virginia. 

A meeting regular board meeting.

Contact: Jennifer Jones, Administrative Operations Specialist, Virginia Higher Education Tuition Trust Fund, James Monroe Bldg., 101 N. 14th St., 5th Floor, Richmond, VA 23219, telephone (804) 225-2853, FAX (804) 786-2453, toll-free (888) 567-0540, (804) 786-2766/TTY ☎, e-mail vcspinfo@virginia529.com.

STATE COUNCIL OF HIGHER EDUCATION FOR VIRGINIA

September 12, 2006 - 12:30 p.m. -- Open Meeting
James Monroe Building, 101 North 14th Street, Richmond, Virginia.

Committee meetings begin at 8:30 a.m. Agenda materials will be available on the website approximately one week prior to the meeting at www.schev.edu. A public comment period will be allocated on the meeting agenda. To be scheduled, those interested in making public comment should contact the person listed below no later than 5 p.m. three business days prior to the meeting date. At the time of the request, the speaker's name, address and topic must be provided. Each speaker will be given up to three minutes to address SCHEV. Speakers are asked to submit a written copy of their remarks at the time of comment.

Contact: Lee Ann Rung, State Council of Higher Education for Virginia, 101 N 14th St., Richmond, VA 23219, telephone (804) 225-2602, FAX (804) 371-7911, e-mail leeannrung@schev.edu.

BOARD OF HOUSING AND COMMUNITY DEVELOPMENT

September 13, 2006 - 9 a.m. -- Public Hearing
Department of Housing and Community Development, 501 North Second Street, 1st Floor Board Room, Richmond, Virginia.📍

October 6, 2006 - 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 5-111, Enterprise Zone Regulations**, and adopt regulations entitled **13 VAC 5-112, Enterprise Zone Grant Program Regulations**. The purpose of the proposed action is to establish the processes and procedures for the new Real Property Investment Grants and the new Job Creation Grants and to establish new enterprise zone administration processes and procedures.

Statutory Authority: § 59.1-540 of the Code of Virginia.

Contact: Stephen W. Calhoun, Regulatory Coordinator, Department of Housing and Community Development, The Jackson Center, 501 N. 2nd St. Richmond, VA 23219-1321, telephone (804) 371-7000, FAX (804) 371-7090, (804) 371-7089/TTY ☎, e-mail steve.calhoun@dhcd.virginia.gov.

September 26, 2006 - 10 a.m. -- Open Meeting
The Jackson Center, 501 North 2nd Street, 1st Floor Boardroom, Richmond, Virginia.📍

A regular business meeting.

Contact: Stephen W. Calhoun, Regulatory Coordinator, Department of Housing and Community Development, The Jackson Center, 501 N. 2nd St., Richmond, VA 23219-1321, telephone (804) 371-7000, FAX (804) 371-7090, (804) 371-7089/TTY ☎, e-mail steve.calhoun@dhcd.virginia.gov.

VIRGINIA HOUSING DEVELOPMENT AUTHORITY

† **September 27, 2006 - 11 a.m.** -- Open Meeting
Virginia Housing Development Authority, 601 South Belvidere Street, Richmond, Virginia.📍

A regular meeting of the Board of Commissioners to review and, if appropriate, approve the minutes from the prior meeting; may consider for approval and ratification mortgage loan commitments under its various programs; will consider and, if appropriate, approve (i) the repeal of the Rules and Regulations for Home Rehabilitation Loans and (ii) amendments to the Rules and Regulations for the Virginia Housing Fund; will review the authority's operations for the prior months; and will consider such other matters and take such other actions as they may deem appropriate. Various committees of the Board of Commissioners, including the Programs Committee, the Audit Committee, the Operations Committee, the Executive Committee, and the Committee of the Whole, may also meet during the day preceding the meeting and before and after the meeting and may consider matters within their purview. The committees and the board may also meet during meals on the day before the meeting and on the day of the meeting. The planned agenda of the meeting will be available at the offices of the authority one week prior to the date of the meeting.

Contact: J. Judson McKellar, Jr., General Counsel, Virginia Housing Development Authority, 601 S. Belvidere St., Richmond, VA 23220, telephone (804) 343-5540, FAX (804) 783-6701, toll-free (800) 968-7837, (804) 783-6705/TTY ☎, e-mail judson.mckellar@vhda.com.

VIRGINIA COUNCIL ON HUMAN RESOURCES

September 21, 2006 - 9:30 a.m. -- Open Meeting
James Monroe Building, 101 North 14th Street, PDS 4, Richmond, Virginia.

A quarterly meeting.

Contact: Charles Reed, Associate Director, Department of Human Resource Management, James Monroe Bldg., 101 N. 14th St., 13th Floor, Richmond, VA 23219, telephone (804) 786-3124, FAX (804) 371-2505, e-mail charles.reed@dhrm.virginia.gov.

VIRGINIA INFORMATION TECHNOLOGIES AGENCY

Wireless E-911 Services Board

September 13, 2006 - 10 a.m. -- Open Meeting
November 8, 2006 - 10 a.m. -- Open Meeting


Calendar of Events

Richmond Plaza Building, 110 South 7th Street, 4th Floor Auditorium, Richmond, Virginia. 

A regular board meeting.


Contact: Steve Marzolf, Public Safety Communications Coordinator, Virginia Information Technologies Agency, 411 E. Franklin St., 5th Floor, Suite 500, Richmond, VA 23219, telephone (804) 371-0015, FAX (804) 371-2277, toll-free (866) 482-3911, e-mail steve.marzolf@vita.virginia.gov.

JAMESTOWN-YORKTOWN FOUNDATION

September 6, 2006 - 2 p.m. -- Open Meeting
Richmond, Virginia. (call for specific location)  (Interpreter for the deaf provided upon request)


A regular meeting of the Executive Committee of the Jamestown 2007 Steering Committee.

Contact: Judith Leonard, Administrative Office Manager, Jamestown-Yorktown Foundation, 410 W. Francis St., Williamsburg, VA 23185, telephone (757) 253-4253, FAX (757) 253-4950, e-mail judith.leonard@jyf.virginia.gov.


October 19, 2006 - Noon -- Open Meeting
Richmond, Virginia. (call for specific location)  (Interpreter for the deaf provided upon request)

A regular meeting of the Jamestown 2007 Steering Committee.

Contact: Judith Leonard, Administrative Office Manager, Jamestown-Yorktown Foundation, 410 W. Francis St., Williamsburg, VA 23185, telephone (757) 253-4253, FAX (757) 253-4950, e-mail judith.leonard@jyf.virginia.gov.

November 20, 2006 - 10 a.m. -- Open Meeting
November 21, 2006 - 8 a.m. -- Open Meeting
Crowne Plaza Fort Magruder, 6945 Pocahontas Trail, Williamsburg, Virginia.  (Interpreter for the deaf provided upon request)

The semiannual two-day Board of Trustees meeting. Public comment will be received on the second day of the meeting. Contact the Foundation for a schedule.

Contact: Laura W. Bailey, Executive Assistant to the Boards, Jamestown-Yorktown Foundation, P.O. Box 1607, Williamsburg, VA 23187, telephone (757) 253-4840, FAX (757) 253-5299, toll-free (888) 593-4682, (757) 253-7236/TTY , e-mail laura.bailey@jyf.virginia.gov.

STATE BOARD OF JUVENILE JUSTICE

September 13, 2006 - 9 a.m. -- Open Meeting
Virginia Wilderness Institute, Grundy, Virginia.

November 8, 2006 - 9 a.m. -- Open Meeting
Shenandoah Valley Juvenile Detention Home, 300 Technology Drive, Staunton, Virginia.

Meeting details will be provided closer to the meeting date.

Contact: Department of Juvenile Justice, 700 Centre, 700 E. Franklin St., 4th Floor, Richmond, VA 23219, telephone (804) 371-0743, FAX (804) 371-0773.

DEPARTMENT OF LABOR AND INDUSTRY

Virginia Apprenticeship Council


September 21, 2006 - 10 a.m. -- Open Meeting
Confederate Hills Recreation Building, 302 Lee Avenue, Highland Springs, Virginia. 

A regular business meeting.


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.state.va.us.

LIBRARY BOARD


† September 18, 2006 - 10:30 a.m. -- Open Meeting
NOTE: CHANGE IN MEETING TIME

November 13, 2006 - 10:30 a.m. -- Open Meeting
The Library of Virginia, 800 East Broad Street, Richmond, Virginia. 

A meeting to discuss matters pertaining to the Library of Virginia and the Library Board.

Contact: Jean H. Taylor, Executive Secretary Senior, The Library of Virginia, 800 E. Broad St., Richmond, VA 23219-8000, telephone (804) 692-3525, FAX (804) 692-3594, (804) 692-3976/TTY , e-mail jtaylor@lva.lib.va.us.


COMMISSION ON LOCAL GOVERNMENT

September 12, 2006 - 10 a.m. -- Open Meeting
The Jackson Center, 501 North 2nd Street, Richmond, Virginia. 

A regular business meeting.

Contact: Ted McCormack, Commission on Local Government, 501 N. 2nd St., Richmond, VA 23219, telephone (804) 786-6508, FAX (804) 371-7090, e-mail ted.mccormack@dhcd.virginia.gov.

BOARD OF LONG-TERM CARE ADMINISTRATORS

September 12, 2006 - 9 a.m. -- Public Hearing
Department of Health Professions, 6603 West Broad Street, 5th Floor, Board Room 1, Richmond, Virginia. 

September 22, 2006 - 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 Long-Term Care Administrators intends to amend regulations entitled **18 VAC 95-30, Regulations Governing the Practice of Assisted Living Facility Administrators**. The purpose of

the proposed action is to set the fees and requirements for licensure as assisted living facility administrators.

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

Public comments may be submitted until September 22, 2006, to Sandra Reen, Executive Director, Board of Long-Term Care 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.

Contact: Elaine J. Yeatts, Regulatory Coordinator, Department of Health Professions, 6603 W. Broad St., Richmond, VA 23230, telephone (804) 662-9918, FAX (804) 662-9114 or e-mail elaine.yeatts@dhp.virginia.gov.

NOTE: CHANGE IN MEETING DATE

October 30, 2006 - 9:30 a.m. -- Open Meeting
Department of Health Professions, 6603 West Broad Street, 5th Floor, Richmond, Virginia.♿

A meeting to discuss general business matters. There will be a 15-minute public comment period at the beginning of the meeting.

Contact: Sandra Reen, Executive Director, Board of Long-Term Care 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.

LONGWOOD UNIVERSITY

† **September 15, 2006 - 10 a.m.** -- Open Meeting
† **September 16, 2006 - 9 a.m.** -- Open Meeting
Longwood University, 201 High Street, Lancaster Hall 102, Farmville, Virginia.♿

A meeting to conduct routine business of the Board of Visitors.

Contact: Jeanne Hayden, Office of the President, Longwood University, 201 High St., Farmville, VA 23909, telephone (434) 395-2004.

VIRGINIA MANUFACTURED HOUSING BOARD

September 21, 2006 - 10 a.m. -- Open Meeting
Department of Housing and Community Development, 501 North 2nd Street, 1st Floor Boardroom Richmond, Virginia.♿

A regular meeting to carry out duties under the Manufactured Housing Licensing and Transaction Recovery Fund Regulations.

Contact: Curtis McIver, State Building Code Administrator, Virginia Manufactured Housing Board, The Jackson Center, 501 N. 2nd St., Richmond, VA 23219-1321, telephone (804) 371-7161, FAX (804) 371-7092, (804) 371-7089/TTY☎, e-mail curtis.mciver@dhcd.virginia.gov.

MARINE RESOURCES COMMISSION

September 26, 2006 - 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 commission 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

September 12, 2006 - 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

September 7, 2006 - 9 a.m. -- Open Meeting
September 26, 2006 - 9:30 a.m. -- Open Meeting
Department of Medical Assistance Services, 600 East Broad Street, 7th Floor, Conference Room, Richmond, Virginia.♿

A meeting to provide an overview of Medicaid-funded acute and long-term care services in Virginia and across the United States.

Contact: Adrienne T. Fegans, Program Operations Administrator, Department of Medical Assistance Services, 600 E. Broad St., Suite 1300, Richmond, VA 23219, telephone (804) 786-4112, FAX (804) 371-4981, (800) 343-0634/TTY☎, e-mail altc@dmas.virginia.gov.

September 14, 2006 - 1 p.m. -- Open Meeting
Capital One, 15075 Capital One Drive, West Creek Town Center, Room C-1, Richmond, Virginia.♿

A CHIPAC quarterly meeting. Public comment will be received at the end of the meeting.

Contact: Diane Howard, FAMIS Marketing and Outreach Liaison, Department of Medical Assistance Services, 600 E. Broad St., Suite 1300, Richmond, VA 23219, telephone (804) 786-3359, FAX (804) 786-5799, e-mail diane.howard@dmas.virginia.gov.

September 21, 2006 - 9 a.m. -- Open Meeting
Department of Medical Assistance Services, 600 East Broad Street, 7th Floor Conference Room, Richmond, Virginia.♿

A meeting of the Medicaid Revitalization Committee to present a draft committee report.

Calendar of Events

Contact: Bonnie Scott, Director's Office, Department of Medical Assistance Services, 600 E. Broad St., Suite 1300, Richmond, VA 23219, telephone (804) 786-8437, FAX (804) 786-1680, (800) 343-0634/TTY ☎, e-mail bonnie.scott@dmas.virginia.gov.

September 22, 2006 - 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 30-50, Amount, Duration and Scope of Medical and Remedial Care Services**, and **12 VAC 30-120, Waivered Services**. The purpose of the proposed action is to (i) provide clarity and guidance to providers and other stakeholders; (ii) conform to the IFDDS waiver renewal application as approved by CMS in February of 2004; (iii) comply with Department of Mental Health, Mental Retardation and Substance Abuse Services (DMHMRSAS) and Department of Social Services (DSS) provider licensing standards; (iv) follow recommendations made by the office of the Attorney General; and (v) support individual choice.

Statutory Authority: §§ 32.1-324 and 32.1-325 of the Code of Virginia.

Contact: Teja Stokes, Project Manager, Department of Medical Assistance Services, 600 E. Broad St., Suite 1300, Richmond, VA 23219, telephone (804) 786-0527, FAX (804) 786-1680 or e-mail teja.stokes@dmas.virginia.gov.

September 22, 2006 - 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 place a ceiling on specialized care ancillary service reimbursement to nursing facilities providing services to Medicaid.

Statutory Authority: §§ 32.1-324 and 32.1-325 of the Code of Virginia.

Contact: Diane Hankins, Provider Reimbursement, Department of Medical Assistance Services, 600 E. Broad St., Suite 1300, Richmond, VA 23219, telephone (804) 786-5379, FAX (804) 786-1680 or e-mail diane.hankins@dmas.virginia.gov.

September 22, 2006 - 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-**

120, Waivered Services. The purpose of the proposed action is to develop new regulations containing the policy and procedures for the Day Support Waiver in consultation with members of the General Assembly and in collaboration with DMHMRSAS and the MR Waiver Advisory Committee. This waiver covers only those individuals who have a diagnosis of mental retardation. Day support services include training, assistance, and specialized supervision in the acquisition, retention, or improvement of self-help, socialization, and adaptive skills, which typically take place outside the home.

Statutory Authority: §§ 32.1-324 and 32.1-325 of the Code of Virginia.

Contact: Teja Stokes, Project Manager, Department of Medical Assistance Services, 600 E. Broad St., Suite 1300, Richmond, VA 23219, telephone (804) 786-0527, FAX (804) 786-1680 or e-mail teja.stokes@dmas.virginia.gov.

October 18, 2006 - 9:30 a.m. -- Public Hearing
Department of Medical Assistance Services, 600 East Broad Street, 7th Floor, Conference Room, Richmond, Virginia. ♿

A meeting to hear public comment on the integration of acute and long-term care. Written comments may be sent throughout the process to altc@dmas.virginia.gov.

Contact: Adrienne T. Fegans, Program Operations Administrator, Department of Medical Assistance Services, 600 E. Broad St., Suite 1300, Richmond, VA 23219, telephone (804) 786-4112, FAX (804) 371-4981, (800) 343-0634/TTY ☎, e-mail altc@dmas.virginia.gov.

October 18, 2006 - 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 Medicaid transportation issues with the committee and the community.

Contact: Bob Knox, Transportation Supervisor, Department of Medical Assistance Services, 600 E. Broad St., Suite 1300, Richmond, VA 23219, telephone (804) 371-8854, FAX (804) 786-6035, (800) 343-0634/TTY ☎, e-mail robert.knox@dmas.virginia.gov.

October 20, 2006 - 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 adopt regulations entitled **12 VAC 30-30, Groups Covered and Agencies Responsible for Eligibility Determination; 12 VAC 30-40, Eligibility Conditions and Requirements; and 12 VAC 30-50, Amount, Duration, and Scope of Medical and Remedial Care Services**. The purpose of the proposed action is to implement the Medicare Prescription Part D Drug Program.

Statutory Authority: §§ 32.1-324 and 32.1-325 of the Code of Virginia

Public comments may be submitted until October 20, 2006.

Contact: Jack Quigley, Policy & Research Division,
Department of Medical Assistance Services, 600 E. Broad St.,
Suite 1300, Richmond, VA 23219, telephone (804) 786-1300,
FAX (804) 786-1680 or
e-mail jack.quigley@dmas.virginia.gov.

October 20, 2006 - 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 Medical Assistance Services intends to amend regulations entitled **12 VAC 30-70, Methods and Standards for Establishing Payment Rates; In-Patient Hospital Care**. The purpose of the proposed action is to permit DMAS to make DSH payments in conformity with changing federal legislation.

Statutory Authority: §§ 32.1-324 and 32.1-325 of the Code of Virginia

Public comments may be submitted until October 20, 2006.

Contact: William Lessard, Provider Reimbursement,
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.

October 20, 2006 - 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 30-150, Uninsured Medical Catastrophe Fund**. The purpose of the proposed action is to update the UDCF program to make it more user friendly.


Statutory Authority: §§ 32.1-324 and 32.1-325 of the Code of Virginia

Public comments may be submitted until October 20, 2006.

Contact: Patricia Taylor, Program Operations Division,
Department of Medical Assistance Services, 600 E. Broad St.,
Suite 1300, Richmond, VA 23219, telephone (804) 371-6333,
FAX (804) 786-1680 or
e-mail patricia.taylor@dmas.virginia.gov.

October 23, 2006 - 9 a.m. -- Open Meeting
Department of Medical Assistance Services, 600 East Broad Street, Richmond, Virginia. 

A meeting of the Pharmacy and Therapeutics Committee to review PDL Phase I and new drugs in PDL Phase II.

Contact: Katina Goodwyn, Pharmacy Contract Manager,
Department of Medical Assistance Services, 600 E. Broad St.,
Suite 1300, Richmond, VA 23219, telephone (804) 371-0428,
(800) 343-0634/TTY , e-mail
katina.goodwyn@dmas.virginia.gov.

† November 3, 2006 - 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 30-110, Eligibility and Appeals**. The purpose of the proposed action is to update the appeals regulations to reflect current practice.

Statutory Authority: §§ 32.1-324 and 32.1-325 of the Code of Virginia.


Contact: Mahalia McGill-Arnold, Project Manager,
Department of Medical Assistance Services, 600 E. Broad St.,
Suite 1300, Richmond, VA 23219, telephone (804) 786-1531,
FAX (804) 786-1680 or e-mail
mahalia.arnold@dmas.virginia.gov.

† November 3, 2006 - 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 30-120, Waivered Services**. The purpose of the proposed action is to revise and update the MEDALLION regulations to address several operational and waiver changes in the MEDALLION program.

Statutory Authority: §§ 32.1-324 and 32.1-325 of the Code of Virginia.


Contact: Vivian Horn, Managed Care Division, Department of Medical Assistance Services, 600 E. Broad St., Suite 1300, Richmond, VA 23219, telephone (804) 371-6060, FAX (804) 786-1680 or e-mail vivian.horn@dmas.virginia.gov.

November 9, 2006 - 2 p.m. -- Open Meeting
Department of Medical Assistance Services, 600 East Broad Street, 13th Floor Board Room, Richmond, Virginia. 

A meeting of the Drug Utilization Review Committee to discuss Medicaid pharmacy issues as related to this committee.

Contact: Rachel Cain, Pharmacist, Department of Medical Assistance Services, 600 E. Broad St., Suite 1300, Richmond, VA 23219, telephone (804) 371-0428, (800) 343-0634/TTY , e-mail katina.goodwyn@dmas.virginia.gov.

BOARD OF MEDICINE

September 7, 2006 - 9:30 a.m. -- Open Meeting
Courtyard Marriott, 3301 Ordway Drive, Roanoke, Virginia. 

September 13, 2006 - 8:45 a.m. -- Open Meeting
Department of Health Professions, 6603 West Broad Street, 5th Floor, Richmond, Virginia. 

Calendar of Events

September 19, 2006 - 9 a.m. -- Open Meeting
Holiday Inn Select, 2801 Plank Road, Fredericksburg, Virginia. 📍

† **September 27, 2006 - 9 a.m.** -- Open Meeting

† **November 29, 2006 - 9 a.m.** -- Open Meeting
Williamsburg Marriott, 50 Kingsmill Road, Williamsburg, Virginia. 📍

A special conference committee will convene informal conferences to inquire into allegations that certain practitioners of medicine or other healing arts may have violated certain laws and regulations governing the practice of medicine. Further, the committee may review cases with board staff for case disposition, including consideration of consent orders for settlement. The committee will meet in open and closed sessions pursuant to the Code of Virginia. Public comment will not be received.

Contact: Renee S. Dixon, 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.dixon@dhp.virginia.gov.

September 22, 2006 - 8:30 a.m. -- Open Meeting
Department of Health Professions, 6603 West Broad Street, 5th Floor, Board Room, Richmond, Virginia. 📍

A meeting of the Legislative Committee to consider regulatory matters as 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, 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.

September 22, 2006 - 1 p.m. -- Open Meeting
Department of Health Professions, 6603 West Broad Street, 5th Floor, Board Room 2, Richmond, Virginia. 📍

A meeting of the Ad Hoc Committee on Continuing Competency to discuss the available data on this topic and consider directions for the board in the future. Public comment will be received on agenda items at the beginning of the meeting.

Contact: William L. Harp, M.D., Executive Director, Board of Medicine, 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.

October 19, 2006 - 8 a.m. -- Open Meeting
Department of Health Professions, 6603 West Broad Street, 5th Floor, Board Room 2, Richmond, Virginia. 📍

A meeting 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, 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

October 4, 2006 - 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 regulations of acupuncture. 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 Athletic Training

October 5, 2006 - 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 regulations of athletic training. 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 Midwifery

October 6, 2006 - 10 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 regulations of midwifery. 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 Occupational Therapy

October 3, 2006 - 10 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 regulations of occupational therapy. 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 Physician Assistants

October 5, 2006 - 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 regulations of physician assistants. 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 Radiologic Technology

October 4, 2006 - 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 regulations of radiologic technologists and radiologic technologist-limited. 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 Respiratory Care

October 3, 2006 - 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 regulations of respiratory care. 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.


DEPARTMENT OF MENTAL HEALTH, MENTAL RETARDATION AND SUBSTANCE ABUSE SERVICES

† **September 8, 2006 - 1:30 p.m.** -- Open Meeting
10128-B West Broad Street, Glen Allen, Virginia. 
(Interpreter for the deaf provided upon request)

A meeting of the Interagency Civil Admissions Advisory Council to identify and discuss a 2006-2007 work plan and recommendations for action.

Contact: Jane McDonald, Community Support Specialist, Office of Mental Health, Department of Mental Health, Mental Retardation and Substance Abuse Services, 1220 Bank St., P.O. Box 1797, Richmond, VA, telephone (804) 371-8950,

FAX (804) 786-1587, e-mail jamcdonald@co.dmhmrzas.virginia.gov.

† **September 13, 2006 - 9 a.m.** -- Open Meeting
Henrico Area Mental Health's East Center, East Wing 23,
4825 S. Laburnum Avenue, Richmond, Virginia.  (Interpreter for the deaf provided upon request)

A quarterly meeting of the Virginia Interagency Coordinating Council to advise and assist the Department of Mental Health, Mental Retardation and Substance Abuse Services as lead agency for Part C (of IDEA), early intervention for infants and toddlers with disabilities and their families. Discussion focuses on issues related to Virginia's implementation of the Part C Program.

Contact: La Keisha White, Child and Family Services Office Specialist, Department of Mental Health, Mental Retardation and Substance Abuse Services, Child and Family Services, 9th Floor, P.O. Box 1797, Richmond, VA 23218-1797, telephone (804) 786-3710, FAX (804) 371-7959, e-mail lakeishia.white@co.dmhmrzas.virginia.gov.

September 19, 2006 - 2 p.m. -- Public Hearing
Henrico Area Mental Health and Retardation Services, 10299
Woodman Road, Conference Room, Glen Allen, Virginia.

October 3, 2006 - 10 a.m. -- Public Hearing
Mount Rogers Community Services Board, 770 West Ridge
Road, Wytheville, Virginia.


October 23, 2006 - Public comments may be submitted until this date.

Notice is hereby given in accordance with § 2.2-4007 of the Code of Virginia that the State Board of Mental Health, Mental Retardation and Substance Abuse Services intends to amend regulations entitled **12 VAC 35-105, Rules and Regulations for the Licensing of Providers of Mental Health, Mental Retardation and Substance Abuse Services**. The purpose of the proposed action is to add standards for new providers of services for the treatment of opioid addiction.

Statutory Authority: § 37.2-203 and Chapter 7 of the 2005 Acts of Assembly.

Public comments may be submitted until October 23, 2006.

Contact: Leslie Anderson, Director, Office of Licensing, Department of Mental Health, Mental Retardation and Substance Abuse Services, P.O. Box 1797, Richmond, VA 23218-1797, telephone (804) 371-6885, FAX (804) 692-0066 or e-mail leslie.anderson@co.dmhmrzas.virginia.gov.

† **October 11, 2006 - 4 p.m.** -- Public Hearing
Valley Community Services Board, 85 Sanger's Lane,
Staunton, Virginia.  (Interpreter for the deaf provided upon request)

Calendar of Events

† **October 17, 2006 - 4 p.m.** -- Public Hearing
Mt. Rogers Community Mental Health and Mental Retardation Services, 770 West Ridge Road, Wytheville, Virginia. (Interpreter for the deaf provided upon request)

† **October 19, 2006 - 4 p.m.** -- Public Hearing
Southern Virginia Mental Health Center, 328 Taylor Drive, Danville, Virginia. (Interpreter for the deaf provided upon request)

† **October 24, 2006 - 4 p.m.** -- Public Hearing
Hospitality Center, Norfolk CSB, 6401 Tidewater Drive, Norfolk, Virginia. (Interpreter for the deaf provided upon request)

† **November 8, 2006 - 4 p.m.** -- Public Hearing
Henrico Area Mental Health and Mental Retardation Services, 10299 Woodman Road, Conference Room C, Richmond, Virginia. (Interpreter for the deaf provided upon request)

† **November 9, 2006 - 6 p.m.** -- Public Hearing
Fairfax County Government Center, 12000 Government Center Parkway, Fairfax, Virginia. (Interpreter for the deaf provided upon request)

A public hearing to receive comments on proposed 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.

Contact: Margaret Walsh, Director of the Office of Human Rights, State Mental Health, Mental Retardation and Substance Abuse Services Board, Jefferson Bldg., 1220 Bank St., P.O. Box 1797, Richmond, VA 23218-1797, telephone (804) 786-3988, FAX (804) 371-2308, e-mail margaret.walsh@co.dmhmsas.virginia.gov.

October 23, 2006 - Public comments may be submitted until this date.

Notice is hereby given in accordance with § 2.2-4007 of the Code of Virginia that the State Board of Mental Health, Mental Retardation and Substance Abuse Services intends to amend regulations entitled **12 VAC 35-45, Regulations for Providers for Mental Health, Mental Retardation and Substance Abuse Residential Services for Children**. The purpose of the proposed action is to add provisions for issuing an order of summary suspension of the license to operate a group home or residential facility for children. In addition to any other comments, the department on behalf of the board is seeking comments on the costs and benefits of the proposal and the potential impacts of this regulatory proposal. Also, the board is seeking information on impacts on small businesses as defined in § 2.2-4007.1 of the Code of Virginia. Information may include (i) projected reporting, recordkeeping and other administrative costs; (ii) probable effect of the regulation on affected small businesses; and (iii) description of less intrusive or costly alternative methods of achieving the purpose of the regulation.

Anyone wishing to submit written comments may do so by mail, email or fax to the contact person named below. Written comments must include the name and address of

the commenter. In order to be considered comments must be received by the last date of the public comment period.

Statutory Authority: §§ 37.2-203, 37.2-408 and 37.2-418 of the Code of Virginia.

Public comments may be submitted until October 23, 2006.

Contact: Leslie Anderson, Director, Office of Licensing, Department of Mental Health, Mental Retardation and Substance Abuse Services, P.O. Box 1797, Richmond, VA 23218-1797, telephone (804) 371-6885, FAX (804) 692-0066 or e-mail leslie.anderson@co.dmhmsas.virginia.gov.

October 23, 2006 - Public comments may be submitted until this date.

Notice is hereby given in accordance with § 2.2-4007 of the Code of Virginia that the State Board of Mental Health, Mental Retardation and Substance Abuse Services intends to amend regulations entitled **12 VAC 35-45, Regulations for Providers for Mental Health, Mental Retardation and Substance Abuse, and Brain Injury Residential Services for Children**. The purpose of the proposed action is to add provisions for licensing providers of brain injury services.

Statutory Authority: § 37.2-203 and Chapter 725 of the 2005 Acts of Assembly.

Public comments may be submitted until October 23, 2006.

Contact: Leslie Anderson, Director, Office of Licensing, Department of Mental Health, Mental Retardation and Substance Abuse Services, P.O. Box 1797, Richmond, VA 23218-1797, telephone (804) 371-6885, FAX (804) 692-0066 or e-mail leslie.anderson@co.dmhmsas.virginia.gov.

October 23, 2006 - Public comments may be submitted until this date.

Notice is hereby given in accordance with § 2.2-4007 of the Code of Virginia that the State Board of Mental Health, Mental Retardation and Substance Abuse Services intends to amend regulations entitled **12 VAC 35-105, Rules and Regulations for the Licensing of Providers of Mental Health, Mental Retardation and Substance Abuse Services**. The purpose of the proposed action is to add provisions for licensing providers of brain injury services. In addition to any other comments, the department on behalf of the board is seeking comments on the costs and benefits of the proposal and the potential impacts of this regulatory proposal. Also, the board is seeking information on impacts on small businesses as defined in § 2.2-4007.1 of the Code of Virginia. Information may include (i) projected reporting, recordkeeping and other administrative costs; (ii) probable effect of the regulation on affected small businesses; and (iii) description of less intrusive or costly alternative methods of achieving the purpose of the regulation.

Anyone wishing to submit written comments may do so by mail, email or fax to the contact person named below. Written comments must include the name and address of

the commenter. In order to be considered comments must be received by the last date of the public comment period.

Statutory Authority: § 37.2-203 and Chapter 725 of the 2005 Acts of Assembly.

Public comments may be submitted until October 23, 2006.

Contact: Leslie Anderson, Director, Office of Licensing, Department of Mental Health, Mental Retardation and Substance Abuse Services, P.O. Box 1797, Richmond, VA 23218-1797, telephone (804) 371-6885, FAX (804) 692-0066 or e-mail leslie.anderson@co.dmhmrzas.virginia.gov.

October 23, 2006 - Public comments may be submitted until this date.


Notice is hereby given in accordance with § 2.2-4007 of the Code of Virginia that the State Board of Mental Health, Mental Retardation and Substance Abuse Services intends to adopt regulations entitled **12 VAC 35-210, Regulations to Govern Temporary Leave from State Mental Health and State Mental Retardation Facilities**. The purpose of the proposed action is to promulgate a new regulation to govern practices related to trial or home visits from state mental health and state mental retardation facilities under § 37.2-837 B of the Code of Virginia.

Statutory Authority: §§ 37.2-203 and 37.2-837 of the Code of Virginia.

Public comments may be submitted until October 23, 2006.

Contact: Marion Greenfield, Office of Quality Management, Department of Mental Health, Mental Retardation and Substance Abuse Services, P.O. Box 1797, Richmond, VA 23218-1797, telephone (804) 786-4516, FAX (804) 786-8623 or e-mail marion.greenfield@co.dmhmrzas.virginia.gov.


STATE MILK COMMISSION

September 13, 2006 - 10:45 a.m. -- Open Meeting
Department of Forestry, 900 Natural Resources Drive, Room 2054, Charlottesville, Virginia. 


A regular meeting to consider industry issues, 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 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, 102 Governor St., Room 205, Richmond, VA 23219, telephone (804) 786-2013, FAX (804) 786-3779, e-mail edward.wilson@vdacs.virginia.gov.

DEPARTMENT OF MINES, MINERALS AND ENERGY


September 6, 2006 - 3 p.m. -- Open Meeting
Powell River Project Pavilion, Norton, Virginia. 


A semiannual meeting of the Abandoned Mined Land Advisory Committee to review current and outstanding issues of the Abandoned Mine Land (AML) Program and Rural Abandoned Mine Land Program (RAMP). The Division of Mined Land Reclamation receives advice from the committee membership regarding ongoing reclamation of AML through technical information sharing, collaboration, mission oversight and support.

Contact: Roger L. Williams, AML Services Manager, Department of Mines, Minerals and Energy, P.O. Drawer 900, Big Stone Gap, VA 24219, telephone (276) 523-8208, FAX (276) 523-8247, (800) 828-1120/TTY , e-mail roger.williams@dmme.virginia.gov.


† September 7, 2006 - 10 a.m. -- Open Meeting
Department of Mines, Minerals and Energy, 3405 Mountain Empire Road, Buchanan-Smith Building, Room 219, Big Stone Gap, Virginia.  (Interpreter for the deaf provided upon request)

A meeting to receive public comments (pursuant to 4 VAC 25-130-800.40(f) of the Virginia Coal Surface Mining Reclamation Regulations) on the application by Sea "B" Mining Company for final performance bond release of Permit No. 1401335. The permit is located near Jewell Valley on Jones Fork and Dismal Creek-Buchanan County.

Contact: Gavin M. Bledsoe, Legal Services Officer, Department of Mines, Minerals and Energy, Division of Mined Land Reclamation, 3405 Mountain Empire Rd., Big Stone Gap, VA 24219, telephone (276) 523-8157, FAX (276) 523-8163, (800) 828-1120/TTY , e-mail gavin.bledsoe@dmme.virginia.gov.

† September 28, 2006 - 8:30 a.m. -- Open Meeting
Virginia Highlands Community College Learning Resources Center, Abingdon, Virginia.  (Interpreter for the deaf provided upon request)

A workshop of the Division of Mined Land Reclamation on total maximum daily loads (TMDLs) for resource extraction impaired streams. Targeted participants will be representatives of Virginia's coal mining industry and other interested stakeholders. Special accommodations for the disabled will be made available at the public meeting or hearing on request. Anyone needing special accommodations should contact the Department of Mines, Minerals and Energy at least seven days prior to the meeting.

Contact: Joey O'Quinn, Reclamation Specialist, Department of Mines, Minerals and Energy, Division of Mined Land Reclamation, 3405 Mountain Empire Rd., Big Stone Gap, VA 24219, telephone (276) 523-8151, FAX (804) 692-3237, toll-free (276) 523-8163, (800) 828-1120/TTY , e-mail joey.oquinn@dmme.virginia.gov.

† November 3, 2006 - 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 Mines, Minerals and

Calendar of Events

Energy intends to amend regulations entitled **4 VAC 25-130, Coal Surface Mining Reclamation Regulations**. The purpose of the proposed action is to revise references to sections in the Virginia Administrative Process Act to reflect the renumbering that became effective October 1, 2001; provide direction as to where requests for formal administrative review and notices of judicial appeal shall be filed; maintain consistency with corresponding federal amendments regarding survey requirements and the rebuttable presumption of subsidence determinations; maintain consistency with federal regulations regarding thick overburden; and increase the civil penalties for violations of the Virginia Coal Surface Mining Control and Reclamation Act that result in personal injury or fatality.

Statutory Authority: §§ 45.1-161.3 and 45.1-230 of the Code of Virginia.

Public comments may be submitted until 5 p.m. on November 3, 2006.

Contact: Gavin Bledsoe, Legal Services Officer, Department of Mines, Minerals and Energy, P.O. Drawer 900, Big Stone Gap, VA 24219-0900, telephone (276) 523-8157, FAX (276) 523-8163, or e-mail gavin.bledsoe@dmme.virginia.gov.

DEPARTMENT OF MOTOR VEHICLES

September 12, 2006 - 11 a.m. -- Public Hearing
Virginia Beach Library, Central, 4100 Virginia Beach Boulevard, Virginia Beach, Virginia.

September 14, 2006 - 11 a.m. -- Public Hearing
DMV Headquarters Building, 2300 West Broad Street, Richmond, Virginia.

September 19, 2006 - 11 a.m. -- Public Hearing
VDOT Staunton District Office, 3536 North Valley Pike, Harrisonburg, Virginia.

September 21, 2006 - 11 a.m. -- Public Hearing
West Springfield Government Center, 6140 Rolling Road, Springfield, Virginia.

October 6, 2006 - 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 Motor Vehicles intends to repeal regulations entitled **24 VAC 20-120, Commercial Driver Training School Regulations**, and adopt regulations entitled **24 VAC 20-121, Virginia Driver Training School Regulations**. The purpose of the proposed action is to ensure that graduates of commercial vehicle and passenger vehicle driver training schools licensed by DMV are adequately prepared to safely and independently operate motor vehicles on the public roadways. The overall goals are to (i) strengthen DMV training school standards and develop additional standards to ensure that the instruction provided is uniform and meets all established requirements; (ii) strengthen DMV's oversight process to ensure that reviews of training documentation are consistent, evaluation of school curriculums are expanded, and school audits are more comprehensive and less burdensome on driver training

course providers; and (iii) implement additional changes intended to ensure that consistently high quality instruction is provided across the driver training school system and that the learning environment for younger students is safe, secure and peer-oriented.

Statutory Authority: §§ 46.2-203 and 46.2-1703 of the Code of Virginia.

Contact: Marc Copeland, Senior Policy Analyst, Department of Motor Vehicles, P.O. Box 27412, Room 724, Richmond, VA 23269-0001, telephone (804) 367-1875, FAX (804) 367-6631, toll-free 1-866-368-5463 or e-mail marc.copeland@dmv.virginia.gov.

MOTOR VEHICLE DEALER BOARD

September 11, 2006 - 8:30 a.m. -- Open Meeting
Department of Motor Vehicles, 2300 West Broad Street, Room 702, Richmond, Virginia.  (Interpreter for the deaf provided upon request)

Committees will meet as follows:

Dealer Practices Committee - 8:30 a.m.

Licensing Committee - Immediately following Dealer Practices

Advertising Committee - 9:30 a.m. or immediately after Licensing, whichever is later

Transaction Recovery Fund Committee - Immediately following Advertising

Franchise Law Committee - To be scheduled as needed.

Full board meeting - 10 a.m. or five to 45 minutes following Transaction Recovery Fund

NOTE: Meetings may begin later, but not earlier than scheduled. Meeting end times are approximate. Any person who needs any accommodation in order to participate in the meeting should contact the board at least 10 days before the meeting so that suitable arrangements can be made.


Contact: Alice R. Weedon, Administrative Assistant, Motor Vehicle Dealer Board, 2201 W. Broad St., Suite 104, Richmond, VA 23220, telephone (804) 367-1100, FAX (804) 367-1053, toll-free (877) 270-0203, e-mail dboard@mvdv.virginia.gov.

VIRGINIA MUSEUM OF FINE ARTS


September 12, 2006 - 8 a.m. -- Open Meeting

October 3, 2006 - 8 a.m. -- Open Meeting

November 7, 2006 - 8 a.m. -- Open Meeting

Virginia Museum of Fine Arts, The Pauley Center, 200 North Boulevard, Dining Room, 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, telephone (804) 340-1503, FAX (804) 340-1502, (804) 340-1401/TTY , e-mail sbroyles@vmfa.state.va.us.

September 20, 2006 - 9 a.m. -- Open Meeting
Virginia Museum of Fine Arts, The Pauley Center, 200 North Boulevard, Parlor, Richmond, Virginia. ♿

A meeting for staff to update the Expansion Committee in closed session. Public comment will not be received.

Contact: Suzanne Broyles, Secretary of the Museum, Virginia Museum of Fine Arts, 200 N. Boulevard, Richmond, VA 23220, telephone (804) 340-1503, FAX (804) 340-1502, toll-free (800) 943-8632, (804) 340-1401/TTY ☎, e-mail sbroyles@vmfa.state.va.us.

September 20, 2006 - 11:15 a.m. -- Open Meeting
Virginia Museum of Fine Arts, 200 North Boulevard, Library, Richmond, Virginia. ♿

The following committees will meet for staff updates:
11:15 a.m. - Art Acquisitions - Library
1 p.m. - Artistic Oversight - CEO Parlor
3:30 p.m. - Government Affairs - Pauley Center 2

Public comment will not be received.

Contact: Suzanne Broyles, Secretary of the Museum, Virginia Museum of Fine Arts, 200 N. Boulevard, Richmond, VA 23220, telephone (804) 340-1503, FAX (804) 340-1502, (804) 340-1401/TTY ☎, e-mail sbroyles@vmfa.state.va.us.

September 21, 2006 - 9 a.m. -- Open Meeting
Virginia Museum of Fine Arts, Pauley Center, 2, 200 North Boulevard, Richmond, Virginia. ♿

A meeting of the Fiscal Oversight Committee for staff to update the 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, telephone (804) 340-1503, FAX (804) 340-1502, (804) 340-1401/TTY ☎, e-mail sbroyles@vmfa.state.va.us.

September 21, 2006 - Noon -- Open Meeting
Virginia Museum of Fine Arts, 200 North Boulevard, CEO Parlor, Richmond, Virginia. ♿

A meeting for staff to update the board. Part of the meeting will be held in closed session. Public comment will not be received.

Contact: Suzanne Broyles, Secretary of the Museum, Virginia Museum of Fine Arts, 200 N. Boulevard, Richmond, VA 23220, telephone (804) 340-1503, FAX (804) 340-1502, (804) 340-1401/TTY ☎, e-mail sbroyles@vmfa.state.va.us.

VIRGINIA COMMISSION FOR NATIONAL AND COMMUNITY SERVICE

Governor's Commission on Community and National Service

September 21, 2006 - 10 a.m. -- Open Meeting
Department of Social Services, 7 North 8th Street, Richmond, Virginia. ♿

A regular business meeting of the board.

Contact: Susan Patton, Virginia Commission for National and Community Service, 7 N. 8th St., Richmond, VA 23219, telephone (804) 726-7065, FAX (804) 726-7024, toll-free (800) 638-3839, (804) 828-1120/TTY ☎, e-mail susan.c.patton@dss.virginia.gov.

FOUNDATION FOR VIRGINIA'S NATURAL RESOURCES

October 11, 2006 - 10 a.m. -- Open Meeting
Department of Forestry, 900 Natural Resources Drive, Charlottesville, Virginia. ♿ (Interpreter for the deaf provided upon request)

A business meeting of the Board of Trustees.

Contact: Brenda Taylor, Administrative Staff Specialist, Foundation for Virginia's Natural Resources, 900 Natural Resources Dr., Charlottesville, VA 22903, telephone (434) 977-6555, FAX (434) 977-7749, e-mail brenda.taylor@dof.virginia.gov.

BOARD OF NURSING

September 18, 2006 - 9 a.m. -- Open Meeting
September 20, 2006 - 9 a.m. -- Open Meeting
September 21, 2006 - 9 a.m. -- Open Meeting
November 13, 2006 - 9 a.m. -- Open Meeting
November 15, 2006 - 9 a.m. -- Open Meeting
November 16, 2006 - 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.

September 19, 2006 - 9 a.m. -- Open Meeting
November 14, 2006 - 9 a.m. -- Open Meeting
Department of Health Professions, 6603 West Broad Street, 5th Floor, Board Room 2, Richmond, Virginia. ♿

A meeting to conduct general business including receipt of committee reports and 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.

Calendar of Events

September 19, 2006 - 11:30 a.m. -- Public Hearing
Department of Health Professions, 6603 West Broad Street,
5th Floor, Board Room 2, Richmond, Virginia. ☎

A public hearing to receive comment on proposed amendments to regulations for certified nurse aides.

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.

† **October 3, 2006 - 9 a.m.** -- Open Meeting

† **October 6, 2006 - 9 a.m.** -- Open Meeting

† **October 11, 2006 - 9 a.m.** -- Open Meeting

† **October 12, 2006 - 9 a.m.** -- Open Meeting

† **October 16, 2006 - 9 a.m.** -- Open Meeting

† **October 24, 2006 - 9 a.m.** -- Open Meeting

† **November 30, 2006 - 9 a.m.** -- Open Meeting

† **December 1, 2006 - 9 a.m.** -- Open Meeting

† **December 4, 2006 - 9 a.m.** -- Open Meeting

Department of Health Professions, 6603 West Broad Street, 5th Floor, Board Room 3, Richmond, Virginia. ☎

A Special Conference Committee comprised of two or three 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.

JOINT BOARDS OF NURSING AND MEDICINE

October 18, 2006 - 9 a.m. -- Open Meeting
Department of Health Professions, 6603 West Broad Street, 5th Floor, Richmond, Virginia. ☎

A regular meeting.

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.

* * * * *

† **November 3, 2006** - 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 Boards of Nursing and Medicine intend to amend regulations entitled **18 VAC 90-30, Regulations Governing the Licensure of Nurse Practitioners**. The purpose of the proposed action is to clarify the duration of a provisional license granted to an applicant for licensure as a nurse practitioner pending the results of the required national certifying examination for consistency with the current practice of electronic testing.

Copies of the board's regulation may be found on the board's website at <http://dhp.virginia.gov/nursing/>.

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

Public comments may be submitted until 5 p.m. on November 3, 2006, to Jay P. Douglas, R.N., Executive Director, Board of Nursing, Alcoa Bldg., 6603 W. Broad St., 5th Floor, Richmond, VA 23230-1712.

Contact: Elaine J. Yeatts, Regulatory Coordinator, Department of Health Professions, 6603 W. Broad St., Richmond, VA 23230, telephone (804) 662-9918, FAX (804) 662-9114 or e-mail elaine.yeatts@dhp.virginia.gov.

OLD DOMINION UNIVERSITY

September 22, 2006 - 1:30 p.m. -- Open Meeting
Old Dominion University, Webb University Center, Norfolk, Virginia. ☎

A regular meeting of the executive committee of the governing board of the institution to discuss business of the board and the institution as determined by the rector and the president. Public comment will not be received by the board.

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.

October 16, 2006 - Noon -- Open Meeting

November 20, 2006 - Noon -- Open Meeting
Old Dominion University, Webb University Center, Old 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 by the board.

Contact: Donna Meeks, Executive Secretary to the Board of Visitors, Old Dominion University, 204 Koch Hall, Old Dominion University, Norfolk, VA 23529, telephone (757) 683-3072, FAX (757) 683-5679, e-mail dmeeks@odu.edu.

VIRGINIA OUTDOORS FOUNDATION

September 20, 2006 - 1 p.m. -- Open Meeting

September 21, 2006 - 9 a.m. -- Open Meeting

November 15, 2006 - 1 p.m. -- Open Meeting


November 16, 2006 - 9 a.m. -- Open Meeting

Location to be announced; Charlottesville, Virginia area.


A meeting for policy and easement consideration. Public comment will be received.


Contact: Trisha Cleary, Administrative Assistant, Department of Conservation and Recreation, 101 N. 14th St., 17th Floor, Richmond, VA 23219, telephone (804) 225-2147, FAX (804) 371-4810, e-mail tcleary@vofonline.org.

VIRGINIA BOARD FOR PEOPLE WITH DISABILITIES


† **September 12, 2006 - 11 a.m.** -- Open Meeting
Wyndham Airport Hotel, 4700 Laburnum Avenue, Richmond, Virginia.  (Interpreter for the deaf provided upon request)

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, telephone (804) 786-9368, FAX (804) 786-1118, toll-free (800) 846-4464, (804) 786-0016/TTY , e-mail sandra.smalls@vbpd.virginia.gov.

† **September 13, 2006 - 8:30 a.m.** -- Open Meeting
Wyndham Airport Hotel, 4700 Laburnum Avenue, Richmond, Virginia.  (Interpreter for the deaf provided upon request)


A quarterly board meeting, followed by meetings of the Community Integration, Community Living/Transportation, Education, and Employment Committees.

Contact: Sandra Smalls, Executive Assistant, Virginia Board for People with Disabilities, 202 N. 9th St., 9th Floor, Richmond, VA 23219, telephone (804) 786-9368, FAX (804) 786-1118, toll-free (800) 846-4464, (804) 786-0016/TTY , e-mail sandra.smalls@vbpd.virginia.gov.

BOARD OF PHARMACY

September 27, 2006 - 9 a.m. -- Open Meeting
Department of Health Professions, 6603 West Broad Street, 5th Floor, Conference Room 2, Richmond, Virginia. 

A 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, RPh, 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 scott.russell@dhp.virginia.gov.


October 7, 2006 - Public comments may be submitted until 5 p.m. on 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 action is to add the Internet-based TOEFL examination in lieu of the current TOEFL and TSE as an alternative for graduates in foreign schools of pharmacies.


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


Contact: Elizabeth Scott Russell, Executive Director, Board of Pharmacy, 6603 W. Broad St., 5th Floor, Richmond, VA 23230, telephone (804) 662-9911, FAX (804) 662-9313 or e-mail scott.russell@dhp.virginia.gov.

POLYGRAPH EXAMINERS ADVISORY BOARD

September 21, 2006 - 10 a.m. -- Canceled
October 26, 2006 - 11 a.m. -- Open Meeting
Department of Professional and Occupational Regulation, 3600 West Broad Street, 4th Floor, 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. 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: Kevin Hoeft, Regulatory Boards Administrator, Department of Professional and Occupational Regulation, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-2785, FAX (804) 367-0674, (804) 367-9753/TTY , e-mail kevin.hoeft@dpor.virginia.gov.

September 21, 2006 - 10 a.m. -- Public Hearing
Department of Professional and Occupational Regulation, 3600 West Broad Street, 4th Floor, Richmond, Virginia. 

October 6, 2006 - Public comment 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 Professional and Occupational Regulation intends to amend regulations entitled **18 VAC 120-30, Regulations Governing Polygraph Examiners**. The purpose of the proposed action is to amend current regulations to reflect statutory changes, industry changes, and changes suggested by licensees and the public.

Statutory Authority: § 54.1-1802 of the Code of Virginia.

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) 367-0674, (804) 367-9753/TTY , e-mail kevin.hoeft@dpor.virginia.gov.

DEPARTMENT OF PROFESSIONAL AND OCCUPATIONAL REGULATION

† **September 27, 2006 - 10 a.m.** -- Public Hearing
Department of Professional and Occupational Regulation, 3600 West Broad Street, Richmond, Virginia.

November 3, 2006 - 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 Professional and Occupational Regulation intends to amend regulations entitled **18 VAC 120-40, Virginia Professional Boxing and Wrestling Events Regulations**. The purpose of the proposed action is to restructure the regulations to better


Calendar of Events

distinguish between boxing and wrestling; incorporate general industry standards; and make other changes resulting from the department's review.

Statutory Authority: § 54.1-831 of the Code of Virginia.

Contact: Karen W. O'Neal, Deputy Director for Licensing and Regulation, Department of Professional and Occupational Regulation, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-8537, FAX (804) 367-2475 or e-mail karen.oneal@dpor.virginia.gov.

BOARD FOR PROFESSIONAL AND OCCUPATIONAL REGULATION

November 13, 2006 - 10 a.m. -- Open Meeting
Department of Professional and Occupational Regulation, 3600 West Broad Street, 5th Floor Conference Room, Richmond, Virginia. 


A quarterly meeting.

Contact: Mark Courtney, Executive Director, Board for Professional and Occupational Regulation, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-8514, FAX (804) 367-2475, e-mail mark.courtney@dpor.virginia.gov.


BOARD OF PSYCHOLOGY

October 10, 2006 - 9:30 a.m. -- Open Meeting
Department of Health Professions, 6603 West Broad Street, 5th Floor, Richmond, Virginia. 


A meeting to include 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.

VIRGINIA PUBLIC GUARDIAN AND CONSERVATOR ADVISORY BOARD

September 28, 2006 - 10 a.m. -- Open Meeting
Department for the Aging, 1610 Forest Avenue, Suite 100, Richmond, Virginia. 

A quarterly meeting.

Contact: Janet Dingle Brown, Esq., Public Guardianship Coordinator and Legal Services Developer, Department for the Aging, 1610 Forest Ave., Suite 100, Richmond, VA 23229, telephone (804) 662-7049, FAX (804) 662-9354, toll-free (800) 552-3402, (804) 662-9333/TTY , e-mail janet.brown@vda.virginia.gov.

VIRGINIA RACING COMMISSION

October 20, 2006 - Public comments may be submitted until this date.


Notice is hereby given in accordance with § 2.2-4007 of the Code of Virginia that the Virginia Racing Commission intends to amend regulations entitled **11 VAC 10-70, Regulations Pertaining to Horse Racing With Pari-Mutuel Wagering-Stewards**. The purpose of the proposed action is to clarify the authority of the stewards appointed by the Virginia Racing Commission to enforce and interpret the commission's regulations. The definition of "participant" has been added, which provides that certain individuals associated with a horse that is entered to run in Virginia shall be considered as participants and come under the jurisdiction of the commission. Additionally, the amendments authorize the commission to take disciplinary actions through stewards or at a meeting at which a quorum is present. These amendments are made to conform with the regulation changes that were made to the Code of Virginia on July 1, 2005, as provided for in SB 1270.

Statutory Authority: § 59.1-369 of the Code of Virginia.


Public comments may be submitted until 5 p.m. on October 20, 2006.


Contact: David S. Lermond, Jr., Regulatory Coordinator, 10700 Horsemen's Lane, New Kent, VA 23024, telephone (804) 966-7404, FAX (804) 966-7418 or e-mail david.lermond@vrc.virginia.gov.

REAL ESTATE APPRAISER BOARD


† September 14, 2006 - 9 a.m. -- Open Meeting
Department of Professional and Occupational Regulation, 3600 West Broad Street, 4th Floor, Room 453, Richmond, Virginia. 

Informal fact-finding conferences.


Contact: Christine Martine, Executive Director, Real Estate Board, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-8552, FAX (804) 367-6946, (804) 367-9753/TTY , e-mail reboard@dpor.virginia.gov.

November 7, 2006 - 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: Christine Martine, Executive Director, Real Estate Appraiser Board, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-8552, FAX (804) 367-6946, (804) 367-9753/TTY , e-mail reappraisers@dpor.virginia.gov.

REAL ESTATE BOARD


† **September 13, 2006 - 3 p.m.** -- Open Meeting
† **September 14, 2006 - 9 a.m.** -- Open Meeting
Department of Professional and Occupational Regulation,
3600 West Broad Street, 4th Floor, Room 453, Richmond,
Virginia. 


Informal fact-finding conferences.

Contact: Christine Martine, Executive Director, Real Estate Board, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-8552, FAX (804) 367-6946, (804) 367-9753/TTY , e-mail reboard@dpor.virginia.gov.


September 13, 2006 - 3 p.m. -- Open Meeting
† **December 4, 2006 - 3 p.m.** -- Open Meeting
Department of Professional and Occupational Regulation,
3600 West Broad Street, 5th Floor, Richmond, Virginia. 


A meeting of the Education Committee.

Contact: Christine Martine, Executive Director, Real Estate Board, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-8552, FAX (804) 367-6946, (804) 367-9753/TTY , e-mail reboard@dpor.virginia.gov.


September 14, 2006 - 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.

Contact: Christine Martine, Executive Director, Real Estate Board, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-8552, FAX (804) 367-6946, (804) 367-9753/TTY , e-mail reboard@dpor.virginia.gov.

September 14, 2006 - 9 a.m. -- Open Meeting
Department of Professional and Occupational Regulation,
3600 West Broad Street, 4th Floor, Richmond, Virginia. 


A meeting to discuss board business.


Contact: Christine Martine, Executive Director, Real Estate Appraiser Board, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-8552, FAX (804) 367-6946, (804) 367-9753/TTY , e-mail reappraisers@dpor.virginia.gov.

DEPARTMENT OF REHABILITATIVE SERVICES


October 10, 2006 - 9:30 a.m. -- Open Meeting
Department of Rehabilitative Service, 8004 Franklin Farms Drive, Richmond, Virginia. 

Meetings of the ESOAC/LTESS Steering Committee to discuss rehabilitation issues that impact employment service organizations in providing employment services and long-term follow-along funding to consumers.


Contact: Tim Olive, Program Administrative Specialist, Department of Rehabilitative Services, 8004 Franklin Farms Dr., P.O. Box K-300, Richmond, VA 23229, telephone (804) 662-7127, FAX (804) 662-9140, toll-free (800) 552-5019, (804) 662-9040/TTY , e-mail tim.olive@drs.virginia.gov.

October 27, 2006 - 1 p.m. -- Open Meeting
Department of Rehabilitative Service, 8004 Franklin Farms Drive, Richmond, Virginia. 


A quarterly meeting of the Virginia Brain Injury Council. Public comments will be received at approximately 1:15 p.m.


Contact: Kristie Chamberlain, BI/SCI Services Unit, Department of Rehabilitative Services, 8004 Franklin Farms Dr., P.O. Box K-300, Richmond, VA 23229, telephone (804) 662-7154, FAX (804) 662-7663, toll-free (800) 552-5019, (800) 464-9950/TTY , e-mail kristie.chamberlain@drs.virginia.gov.

Commonwealth Neurotrauma Initiative (CNI) Trust Fund Advisory Board


September 21, 2006 - 10 a.m. -- Open Meeting
North Run Corporate Center, Community College Workforce Alliance, J. Sargeant Reynolds Conference Center-Auditorium, 1630 East Parham Road, Richmond, Virginia. 

A Commonwealth Neurotrauma Initiative (CNI) Trust Fund Research Colloquium II meeting. Research grantees will report to the board and each other on CNI funded research on the mechanisms and treatment of neurotrauma. An interpreter for the deaf will be provided upon prior request. Materials will be provided in alternate format upon request.

Contact: Kristie Chamberlain, BI/SCI Services Unit, Department of Rehabilitative Services, 8004 Franklin Farms Dr., P.O. Box K-300, Richmond, VA 23229, telephone (804) 662-7154, FAX (804) 662-7663, toll-free (800) 552-5019, (800) 464-9950/TTY , e-mail kristie.chamberlain@drs.virginia.gov.

September 22, 2006 - 9 a.m. -- Open Meeting
Department of Rehabilitative Services, 8004 Franklin Farms Drive, Conference 101, Richmond, Virginia. 

A quarterly meeting. Agendas and other materials available in alternate format upon request. Public comments will be received at approximately 9:15 a.m.

Contact: Kristie Chamberlain, BI/SCI Services Unit, Department of Rehabilitative Services, 8004 Franklin Farms Dr., P.O. Box K-300, Richmond, VA 23229, telephone (804) 662-7154, FAX (804) 662-7663, toll-free (800) 552-5019, (800) 464-9950/TTY , e-mail kristie.chamberlain@drs.virginia.gov.

VIRGINIA RESEARCH AND TECHNOLOGY ADVISORY COMMISSION

September 19, 2006 - 1 p.m. -- Open Meeting
University of Virginia Research Park, Charlottesville, Virginia.

November 14, 2006 - 11 a.m. -- Open Meeting
Williamsburg, Virginia.


A quarterly meeting.

Contact: Nancy Vorona, VP Research Investment, Virginia Research and Technology Advisory Commission, 2214 Rock

Calendar of Events

Hill Rd., Suite 600, Herndon, VA 20170, telephone (703) 689-3043, FAX (703) 464-1720, e-mail nvorona@cit.org.

VIRGINIA SMALL BUSINESS FINANCING AUTHORITY


† **September 20, 2006 - 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 to conduct 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

† **September 6, 2006 - 6 p.m.** -- Public Hearing
Centreville High School, 6001 Union Mill Road, Clifton, Virginia.

September 7, 2006 - 6 p.m. -- Public Hearing
J. R. Tucker High School, 2910 Parham Road, Virginia. 


September 11, 2006 - 6 p.m. -- Public Hearing
Williamsburg Library Theatre, 515 Scotland Street, Williamsburg, Virginia. 

September 13, 2006 - 6 p.m. -- Public Hearing
Hidden Valley High School, 5000 Titan Trail, Roanoke, Virginia. 

October 6, 2006 - Public comments may be submitted until this date.


Notice is hereby given in accordance with § 2.2-4007 of the Code of Virginia that the State Board of Social Services intends to adopt regulations entitled **22 VAC 40-72, Standards for Licensed Assisted Living Facilities**. The purpose of the proposed action is to promulgate a comprehensive revision of the assisted living facility standards and replace an emergency regulation. The proposed action includes additional requirements for care and services to residents; staff qualifications, training and responsibilities; management of the facility, physical plant features; coordination with mental health systems; disclosure of information; and emergency preparedness.


Statutory Authority: §§ 63.2-217 and 63.2-1732 of the Code of Virginia.


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, (800) 828-1120/TTY , e-mail judith.mcgreal@dss.virginia.gov.

* * * * *

† **September 6, 2006 - 6 p.m.** -- Public Hearing
Centreville High School, 6001 Union Mill Road, Clifton, Virginia.

September 7, 2006 - 6 p.m. -- Public Hearing
J. R. Tucker High School, 2910 Parham Road, Virginia. 


September 11, 2006 - 6 p.m. -- Public Hearing
Williamsburg Library Theatre, 515 Scotland Street, Williamsburg, Virginia. 

September 13, 2006 - 6 p.m. -- Public Hearing
Hidden Valley High School, 5000 Titan Trail, Roanoke, Virginia. 

October 6, 2006 - Public comments may be submitted until this date.


Notice is hereby given in accordance with § 2.2-4007 of the Code of Virginia that the State Board of Social Services intends to repeal regulations entitled **22 VAC 40-71, Standards and Regulations for Licensed Assisted Living Facilities**. The purpose of the proposed action is to promulgate a comprehensive revision of the assisted living facility standards and replace an emergency regulation. The proposed action includes additional requirements for care and services to residents; staff qualifications, training and responsibilities; management of the facility, physical plant features; coordination with mental health systems; disclosure of information; and emergency preparedness.


Statutory Authority: §§ 63.2-217 and 63.2-1732 of the Code of Virginia.


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, (800) 828-1120/TTY , e-mail judith.mcgreal@dss.virginia.gov.

* * * * *

† **September 6, 2006 - 6 p.m.** -- Public Hearing
Centreville High School, 6001 Union Mill Road, Clifton, Virginia.

September 7, 2006 - 6 p.m. -- Public Hearing
NOTE: CHANGE IN MEETING LOCATION
J. R. Tucker High School, 2910 Parham Road, Richmond, Virginia. 

September 11, 2006 - 6 p.m. -- Public Hearing
Williamsburg Library Theatre, 515 Scotland Street, Williamsburg, Virginia. 

September 13, 2006 - 6 p.m. -- Public Hearing
Hidden Valley High School, 5000 Titan Trail, Roanoke, Virginia. 

October 6, 2006 - Public comments may be submitted until this date.

Notice is hereby given in accordance with § 2.2-4007 of the Code of Virginia that the State Board of Social Services intends to amend regulations entitled **22 VAC 40-80, General Procedures and Information for Licensure**. The

purpose of the proposed action is to conform the regulation with legislative changes to the provisions for terms of license, administrative sanctions, and hearings procedures.

Public comment can also be submitted at the Department of Social Services website at <http://www.dss.state.va.us>. Persons wishing to speak at public hearings may begin registering at 5:30 p.m.

Statutory Authority: §§ 63.2-217 and 63.2-1732, 63.2-1733 and 63.2-1734 of the Code of Virginia.

Contact: Kathryn Thomas, Program Development Consultant, Department of Social Services, 7 N. 8th St., Richmond, VA 23219, telephone (804) 726-7158, FAX (804) 726-7132, (800) 828-1120/TTY ☎, e-mail kathryn.thomas@dss.virginia.gov.

September 8, 2006 - Public comments may be submitted until this date.

Notice is hereby given in accordance with § 2.2-4007 of the Code of Virginia that the State Board of Social Services intends to repeal regulations entitled **22 VAC 40-330, Collection of Overpayments in the Refugee Other Assistance Program**. The purpose of the proposed action is to repeal the regulation as the regulation applies to a program that no longer exists under federal law.

Statutory Authority: § 63.2-217 of the Code of Virginia.

Contact: Penelope Boyd, Policy Coordinator, Virginia Refugee Resettlement Program, Department of Social Services, 7 N. 8th St., Richmond, VA 23219, telephone (804) 726-7933, FAX (804) 726-7127 or e-mail penny.boyd@dss.virginia.gov.

September 8, 2006 - Public comments may be submitted until this date.

Notice is hereby given in accordance with § 2.2-4007 of the Code of Virginia that the State Board of Social Services intends to repeal regulations entitled **22 VAC 40-340, Protective Payments in the Refugee Other Assistance Program**. The purpose of the proposed action is to repeal the regulation as the regulation applies to a program that no longer exists under federal law.

Statutory Authority: § 63.2-217 of the Code of Virginia.

Contact: Penelope Boyd, Policy Coordinator, Virginia Refugee Resettlement Program, Department of Social Services, 7 N. 8th St., Richmond, VA 23219, telephone (804) 726-7933, FAX (804) 726-7127 or e-mail penny.boyd@dss.virginia.gov.

† November 3, 2006 - Public comments may be submitted until this date.

Notice is hereby given in accordance with § 2.2-4007 of the Code of Virginia that the State Board of Social Services intends to repeal regulations entitled **22 VAC 40-20, Food Stamp Program - Income Conversion Method**. The purpose of the proposed action is to repeal the regulation that requires the use of income conversion to calculate weekly or biweekly income amounts to monthly amounts for the Food Stamp Program. The provision will be included in a new comprehensive Food Stamp Regulation, 22 VAC 40-601.

Statutory Authority: § 63.2-217 of the Code of Virginia.

Contact: Celestine Jackson, Program Consultant, Division of Benefit Program, Department of Social Services, 7 N. 8th St., Richmond, VA 23219, telephone (804) 726-7376, FAX (804) 726-7356 or e-mail celestine.jackson@dss.virginia.gov.

† November 3, 2006 - Public comments may be submitted until this date.

Notice is hereby given in accordance with § 2.2-4007 of the Code of Virginia that the State Board of Social Services intends to amend regulations entitled **22 VAC 40-25, Auxiliary Grants Program**. The purpose of the proposed action is to update the regulation and establish guidelines regarding requirements to participate in the Auxiliary Grants Program, minimum services to be provided, reimbursable rates and reporting requirements.

Statutory Authority: §§ 63.2-217 and 63.2-800 of the Code of Virginia.

Contact: Sandra Coffey, Regional Adult Services Consultant, Department of Social Services, 1604 Santa Rosa Rd., Suite 130, Richmond, VA 23229, telephone (804) 662-9784, FAX (804) 662-7023 or e-mail sandra.coffey@dss.virginia.gov.

† November 3, 2006 - Public comments may be submitted until this date.

Notice is hereby given in accordance with § 2.2-4007 of the Code of Virginia that the State Board of Social Services intends to amend regulations entitled **22 VAC 40-41, Neighborhood Assistance Tax Credit Program**. The purpose of the proposed action is to ensure the availability of tax credits and their equitable distribution among approved organizations.

Statutory Authority: §§ 63.2-217 and 63.2-2002 of the Code of Virginia.

Contact: J. Mark Grigsby, Director, Office of Community Services, Department of Social Services, 7 N. 8th St., Richmond, VA 23219, telephone (804) 726-7922, FAX (804) 726-7946, or e-mail james.grigsby@dss.virginia.gov.

Calendar of Events

† **November 3, 2006** - Public comments may be submitted until this date.

Notice is hereby given in accordance with § 2.2-4007 of the Code of Virginia that the State Board of Social Services intends to repeal regulations entitled **22 VAC 40-540, Allowance of Telephone Costs in the Food Stamp Program**. The purpose of the proposed action is to repeal the regulation that requires the use of a standard amount for telephone expenses in determining shelter costs for the Food Stamp Program. The provision will be included in a new comprehensive Food Stamp regulation, 22 VAC 40-601.

Statutory Authority: § 63.2-217 of the Code of Virginia.

Contact: Celestine Jackson, Program Consultant, Division of Benefit Program, Department of Social Services, 7 N. 8th St., Richmond, VA 23219, telephone (804) 726-7376, FAX (804) 726-7356 or e-mail celestine.jackson@dss.virginia.gov.

† **November 3, 2006** - Public comments may be submitted until this date.

Notice is hereby given in accordance with § 2.2-4007 of the Code of Virginia that the State Board of Social Services intends to repeal regulations entitled **22 VAC 40-600, Food Stamp Program - Administrative Disqualification Hearings**. The purpose of the proposed action is to repeal the regulation that establishes an administrative process to determine if an individual has committed an intentional act against the Food Stamp Program. The provisions of this regulation will be included as part of a new comprehensive Food Stamp Regulation, 22 VAC 40-601.

Statutory Authority: § 63.2-217 of the Code of Virginia.

Contact: Celestine Jackson, Program Consultant, Division of Benefit Program, Department of Social Services, 7 N. 8th St., Richmond, VA 23219, telephone (804) 726-7376, FAX (804) 726-7356 or e-mail celestine.jackson@dss.virginia.gov.

† **November 3, 2006** - Public comments may be submitted until this date.

Notice is hereby given in accordance with § 2.2-4007 of the Code of Virginia that the State Board of Social Services intends to adopt regulations entitled **22 VAC 40-601, Food Stamp Program**. The purpose of the proposed action is to repeal three regulations that affect different aspects of the Food Stamp Program and incorporate them in a single regulation to streamline the regulatory structure for the program. The regulation will serve as a comprehensive regulation for the Food Stamp Program. The regulation addresses eligibility determination through the conversion of weekly or biweekly income to monthly amounts and using a standard amount for the basic cost for telephone services. The regulation also establishes an administrative hearing process to determine intentional program violations.

Statutory Authority: § 63.2-217 of the Code of Virginia.

Contact: Celestine Jackson, Program Consultant, Division of Benefit Program, Department of Social Services, 7 N. 8th St., Richmond, VA 23219, telephone (804) 726-7376, FAX (804) 726-7356 or e-mail celestine.jackson@dss.virginia.gov.

† **November 3, 2006** - Public comments may be submitted until this date.

Notice is hereby given in accordance with § 2.2-4007 of the Code of Virginia that the State Board of Social Services intends to amend regulations entitled **22 VAC 40-880, Child Support Enforcement Program**. The purpose of the proposed action is to update the current child support regulation impacted by 2003 and 2004 state legislation, and to amplify selected sections of the existing regulation. The current regulation encompasses all functions of the child support enforcement program including application, eligibility for services, location, paternity establishment, order establishment, enforcement, collection, distribution and case closure.


Statutory Authority: § 63.2-217 of the Code of Virginia.

Contact: Cynthia Holdren, Program Manager, Division of Child Support Enforcement, Department of Social Services, 7 N. 8th St., 1st Floor, Richmond, VA 23219, telephone (804) 726-7474, FAX (804) 726-7482 or e-mail cynthia.holdren@dss.virginia.gov.


BOARD OF SOCIAL WORK

October 13, 2006 - 10 a.m. -- Open Meeting
Department of Health Professions, 6603 West Broad Street, Fifth Floor, Richmond, Virginia. 

A regular business meeting.

Contact: Evelyn B. Brown, Executive Director, Board of Social Work, Alcoa Bldg., 6603 W. Broad St., 5th Floor, Richmond, VA 23230-1712, telephone (804) 662-9914, FAX (804) 662-7250, (804) 662-7197/TTY , e-mail evelyn.brown@dhp.virginia.gov.

BOARD FOR SOIL SCIENTISTS AND WETLAND PROFESSIONALS

October 11, 2006 - 9 a.m. -- Open Meeting
Department of Professional and Occupational Regulation, 3600 West Broad Street, Richmond, Virginia. 

A meeting of the Soil Scientists and Wetland Delineators 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 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.

DEPARTMENT OF TAXATION

† **September 26, 2006 - 1 p.m.** -- Open Meeting
Department of Taxation, Main Street Center, 600 East Main Street, Richmond, Virginia.

Under Item 265 E of the Appropriation Act, the Department of Taxation has been directed to study the feasibility of requiring a certification that all tax obligations are paid prior to the issuance of or the renewal of a state license or permit. In order to support the department with this task, all other agencies of the Commonwealth have been asked to provide information and assistance. To begin this process, the department will be holding an organizational meeting. At this meeting, we would like to discuss the workplan that we have developed and explore the possibility of setting up an advisory committee. In addition, we would like to address any potential problems or other issues that are brought to our attention.

Contact: Amber Stanwix, Tax Policy Analyst, Department of Taxation, P.O. 27185, Richmond, VA 23261-7185, telephone (804) 371-2312, FAX (804) 371-2355, e-mail taxclearancestudy@tax.virginia.gov.

State Land Evaluation Advisory Council

September 11, 2006 - 11 a.m. -- Open Meeting
Department of Taxation, 2220 West Broad Street, Richmond, Virginia. ♿

A meeting to adopt suggested ranges of value for agricultural, horticultural, forest and open-space land use and the use-value assessment program.

Contact: H. Keith Mawyer, Property Tax Manager, Department of Taxation, 2220 W. Broad St., Richmond, VA 23220, telephone (804) 367-8020, e-mail keith.mawyer@tax.virginia.gov.

VIRGINIA TOBACCO SETTLEMENT FOUNDATION

† **September 12, 2006 - Noon** -- Open Meeting
VCU Siegel Center, 1200 West Broad Street, Richmond, Virginia. ♿

A meeting to elect a chairman and vice chairman.

Contact: Eloise Burke, Senior Executive Assistant, Virginia Tobacco Settlement Foundation, 701 E. Franklin St., Richmond, VA 23219, telephone (804) 786-2523, FAX (804) 225-2272, e-mail eburke@vtsf.org.

TREASURY BOARD

September 20, 2006 - 9 a.m. -- Open Meeting
October 18, 2006 - 9 a.m. -- Open Meeting
November 15, 2006 - 9 a.m. -- Open Meeting
101 North 14th Street, 3rd Floor, Richmond, Virginia. ♿

A regular meeting.

Contact: J. Braxton Powell, Treasurer, Department of the Treasury, 101 N. 14th St., 3rd Floor, Richmond, VA 23218, telephone (225) 225-2142, FAX (225) 225-3187, e-mail braxton.powell@trs.virginia.gov.

DEPARTMENT OF VETERANS SERVICES

† **October 4, 2006 - 11 a.m.** -- Open Meeting
American Legion Department of Virginia Building, 1708 Commonwealth Avenue, Richmond, Virginia. ♿

A meeting of the Veterans Services Foundation Board of Trustees. Public comment will be heard at the conclusion of the meeting.

Contact: Roz J. Trent, Coordinator of Board Operations, Department of Veterans Services, 900 E. Main St., Richmond, VA 23219, telephone (804) 786-0220, FAX (804) 786-0302, e-mail roz.trent@dvs.virginia.gov.

† **October 11, 2006 - 10 a.m.** -- Open Meeting
American Legion Department of Virginia Building, 1708 Commonwealth Avenue, Richmond, Virginia. ♿

A meeting of the Joint Leadership Council of Veterans Services Organizations. Public comment will be heard at approximately 10:15 a.m. and also at the conclusion of the meeting.

Contact: Roz J. Trent, Coordinator of the JLC, VCCAC and VSF Program Operations, Department of Veterans Services, 900 E. Main St., Richmond, VA 23219, telephone (804) 786-0220, FAX (804) 786-0302, e-mail roz.trent@dvs.virginia.gov.

† **October 18, 2006 - 11 a.m.** -- Open Meeting
McGuire VA Medical Center - Building 507-A2, 1221 Broad Rock Road, Richmond, Virginia.

A meeting of the Veterans Care Center Advisory Committee. Public comment will be heard at the conclusion of the meeting.

Contact: Roz J. Trent, Coordinator, JLC, VCCAC and VSF Program Operations, Department of Veterans Services, 900 E. Main St., telephone (804) 786-0220, FAX (804) 786-0302, e-mail roz.trent@dvs.virginia.gov.

Board of Veterans Services

September 18, 2006 - 11:30 a.m. -- Open Meeting
NOTE: CHANGE MEETING LOCATION
American Legion, 1708 Commonwealth Avenue, Richmond, Virginia. ♿


Public comment limited to three minutes per speaker.

Contact: Rhonda Earman, Special Assistant to the Commissioner, Department of Veterans Services, 900 E. Main

Calendar of Events


St., Richmond, VA 23219, telephone (804) 786-0286, e-mail rhonda.earman@dvs.virginia.gov.

STATE WATER CONTROL BOARD

† **September 6, 2006 - 9 a.m.** -- Open Meeting
General Assembly Building, 9th and Broad Streets, House Room D, Richmond, Virginia. 

A regular meeting. Please note that start time of the meeting may change to 9:30 a.m.


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 cmb Berndt@deq.virginia.gov.

October 4, 2006 - 9:30 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 the regulation for wastewater reclamation and reuse.

Contact: Valerie Rourke, Department of Environmental Quality, P.O. Box 10009, Richmond, VA 23240, telephone (804) 698-4158, e-mail varourke@deq.virginia.gov.

BOARD FOR WATERWORKS AND WASTEWATER WORKS OPERATORS

September 13, 2006 - 8:30 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 conducted 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 interpretive services should contact the department at least 10 days prior to this meeting so that suitable arrangements can be made. The department fully complies with the Americans with Disabilities Act.

Contact: David E. Dick, Executive Director, Board for Waterworks and Wastewater Works Operators, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-8595, FAX (804) 367-2475, (804) 367-9753/TTY , e-mail waterwasteoper@dpor.virginia.gov.

† **November 3, 2006** - 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 for Waterworks and Wastewater Works Operators intends to amend regulations entitled **18 VAC 160-20, Board for Waterworks and Wastewater Works Operators Regulations**. The purpose of the proposed action is to delete current language providing for a paper and pencil examination and add


language that provides for a computer-administered examination as well as language enabling applicants to apply directly to the examination vendor rather than to the board to sit for the examination. The vendor will, in consultation with board staff, determine applicant eligibility to sit for the examination. Those passing the examination must apply to the board for licensure. The amendments will replace the current single application to sit for the examination and become licensed with a separate application to sit for the examination and a separate application for license. Under the proposed amendments, applicants will be able to qualify to sit for the examination and become licensed in a much shorter period of time.

Statutory Authority: §§ 54.1-201 and 54.1-2301 of the Code of Virginia.

Contact: David E. Dick, Executive Director, Board for Waterworks and Wastewater Works Operators, 3600 W. Broad St., Richmond, VA 23230-4917, telephone (804) 367-2648, FAX (804) 367-6128 or e-mail waterwasteoper@dpor.virginia.gov.


INDEPENDENT

VIRGINIA INDIGENT DEFENSE COMMISSION

September 8, 2006 - 11 a.m. -- Open Meeting
Virginia Indigent Defense Commission, 1604 Santa Rosa Road, Suite 109, Richmond, Virginia. 

A meeting of the Executive Committee.


Contact: Danita Pryor, Office Manager, Virginia Indigent Defense Commission, 1604 Santa Rosa Rd., Suite 109, Richmond, VA 23229, telephone (804) 662-7249, FAX (804) 662-7359, e-mail dpryor@idc.virginia.gov.

September 8, 2006 - Noon -- Open Meeting
Virginia Indigent Defense Commission, 1604 Santa Rosa Road, Suite 109, Richmond, Virginia. 

A meeting of the full commission.

Contact: Danita Pryor, Office Manager, Virginia Indigent Defense Commission, 1604 Santa Rosa Rd., Suite 109, Richmond, VA 23229, telephone (804) 662-7249, FAX (804) 662-7359, e-mail dpryor@idc.virginia.gov.

STATE LOTTERY BOARD

September 13, 2006 - 9:30 a.m. -- Open Meeting
State Lottery Department, 900 East Main Street, 13th Floor, Richmond, Virginia. 

A regular meeting. 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.

* * * * *

October 20, 2006 - 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 Lottery Board intends to amend regulations entitled **11 VAC 5-20, Administration Regulations**. The purpose of the proposed action is to require the department to follow the procedures contained in Virginia Lottery Purchasing Manual when purchasing goods or services.


Statutory Authority: Section 58.1-4007 of the Code of Virginia.

Contact: Betty K. Hill, Legislative & Regulatory Coordinator, State Lottery Department, 900 E. Main St., Richmond, VA 23219, telephone (804) 692-7904, FAX (804-692-7603) or e-mail bhill@valottery.com.


VIRGINIA OFFICE FOR PROTECTION AND ADVOCACY

† **September 8, 2006 - 10 a.m.** -- Open Meeting
Location to be determined.  (Interpreter for the deaf provided upon request)


A meeting of the Priorities and Public Awareness Committee. Public comment by telephone is welcomed by the Priorities and Public Awareness Committee and will be received at the beginning of the meeting. For information on participating in this conference call or if you wish to provide public comment via telephone, call Lisa Shehi, Administrative Assistant at 1-800-552-3962 (Voice/TTY) or e-mail Ms. Shehi at lisa.shehi@vopa.virginia.gov.

Contact: Lisa Shehi, Executive 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 lisa.shehi@vopa.virginia.gov.


Disabilities Advisory Council

September 13, 2006 - 10 a.m. -- Open Meeting
Virginia Office for Protection and Advocacy, Byrd Building, 1910 Byrd Avenue, Suite 5, Richmond, Virginia.  (Interpreter for the deaf provided upon request)


A regular meeting of the Disabilities Advisory Council. This meeting is open to the public. Public comment is welcomed by the council and will be received beginning at 10 a.m. Public comment will also be accepted by telephone. Public comment will be received beginning at 10 a.m. Public comment will also be accepted by telephone.

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) 662-7413, toll-free (800) 552-3962, (804) 225-2042/TTY , e-mail lisa.shehi@vopa.virginia.gov.


September 25, 2006 - 9 a.m. -- Open Meeting
Virginia Office for Protection and Advocacy, Byrd Building, 1910 Byrd Avenue, Suite 5, VOPA Conference Room,

Richmond, Virginia.  (Interpreter for the deaf provided upon request)


A meeting of the Board of Directors. Public comment will be received beginning at 9 a.m. 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 September 11, 2006. Ms. Shehi will take your name and phone number and you will be telephoned during the public comment period. For more information on participating in this conference call or to provide public comment via telephone. If interpreter services or accommodations are required, please contact Ms. Shehi no later than September 11, 2006.

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) 662-7413, toll-free (800) 552-3962, (804) 225-2042/TTY , e-mail lisa.shehi@vopa.virginia.gov.


BOARD FOR PROTECTION AND ADVOCACY

September 26, 2006 - 9 a.m. -- Open Meeting
Virginia Office for Protection and Advocacy, Byrd Building, 1910 Byrd Avenue, Suite 5, Richmond, Virginia.  (Interpreter for the deaf provided upon request)

A meeting of the Governing Board. Public comment is welcomed by the board and will be received beginning at 9 a.m. on September 26, 2006. Public comment will also be accepted by telephone. Public comment will be received beginning at 10 a.m. 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 September 11, 2006. 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 September 12, 2006.

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) 662-7413, toll-free (800) 552-3962, (804) 225-2042/TTY , e-mail lisa.shehi@vopa.virginia.gov.

PAIMI Advisory Council

November 16, 2006 - 10 a.m. -- Open Meeting
Charlottesville, Virginia.  (Interpreter for the deaf provided upon request)

Public comment is welcome and will be received at the beginning of the meeting. If interpreter services or other accommodations are required, please contact Ms. Shehi no later than November 2, 2006.

Contact: Lisa Shehi, Administrative Assistant, Virginia Office for Protection and Advocacy, 1910 Byrd Ave., Suite 5,

Calendar of Events

Richmond, VA 23230, telephone (804) 662-7213, FAX (804) 662-7431, toll-free (800) 552-3962, (804) 225-2042/TTY ☎, e-mail lisa.shehi@vopa.virginia.gov.

VIRGINIA RETIREMENT SYSTEM

September 12, 2006 - 9 a.m. -- Open Meeting
Virginia Retirement System, 1200 East Main Street, Richmond, Virginia. ♿

A regular meeting of the Optional Retirement Plan for Higher Education Committee. No public comment will be received at the meeting.

Contact: Patty Atkins-Smith, Legislative Liaison and Policy Analyst, Virginia Retirement System, 1200 E. Main St., Richmond, VA 23219, telephone (804) 344-3123, FAX (804) 786-1541, toll-free (888) 827-3847, (804) 344-3190/TTY ☎, e-mail psmith@varetire.org.

September 13, 2006 - 1:30 p.m. -- Open Meeting

November 8, 2006 - 1:30 p.m. -- Open Meeting
Virginia Retirement System, 1200 East Main Street, Richmond, Virginia.

Meetings of the following committees:

- 1:30 p.m. - Benefits and Actuarial
- 3 p.m. - Audit and Compliance

Contact: LaShaunda King, Executive Assistant, Virginia Retirement System, 1200 E. Main St., Richmond, VA 23219, telephone (804) 344-3124, FAX (804) 786-1541, toll-free (888) 827-3847, (804) 344-3190/TTY ☎, e-mail lking@varetire.org.

September 14, 2006 - 9 a.m. -- Open Meeting

November 9, 2006 - 9 a.m. -- Open Meeting
Virginia Retirement System, 1111 East Main Street, 3rd Floor Conference Room, Richmond, Virginia. ♿

A regular meeting of the Investment Advisory Committee. No public comment will be received at the meeting.

Contact: Linda Ritchey, Executive Assistant, Virginia Retirement System, 1111 E. Main St., Richmond, VA 23219, telephone (804) 697-6673, FAX (804) 786-1541, toll-free (888) 827-3847, (804) 344-3190/TTY ☎, e-mail lritchey@varetire.org.

September 14, 2006 - 1 p.m. -- Open Meeting

October 12, 2006 - 1 p.m. -- Open Meeting
November 9, 2006 - 1 p.m. -- Open Meeting
Virginia Retirement System, 1111 East Main Street, 3rd Floor Conference Room, Richmond, Virginia. ♿

A regular meeting of the Board of Trustees. No public comment will be received at the meeting.

Contact: LaShaunda King, Executive Assistant, Virginia Retirement System, 1200 E. Main St., Richmond, VA 23219, telephone (804) 344-3124, FAX (804) 786-1541, toll-free (888) 827-3847, (804) 344-3190/TTY ☎, e-mail lking@varetire.org.

September 14, 2006 - 5:30 p.m. -- Open Meeting
Jefferson Hotel, 101 West Franklin Street, Richmond, Virginia. ♿

A special meeting. No public comment will be received.

Contact: LaShaunda King, Executive Assistant, Virginia Retirement System, 1200 E. Main St., Richmond, VA 23219, telephone (804) 344-3119, FAX (804) 786-1541, toll-free (888) 827-3847, (804) 344-3190/TTY ☎, e-mail lking@varetire.org.

September 15, 2006 - 8:30 a.m. -- Open Meeting
Jefferson Hotel, 101 West Franklin Street, Richmond, Virginia. ♿

A special meeting of the VRS Board of Trustees. No public comment will be received.

Contact: LaShaunda King, Executive Assistant, Virginia Retirement System, 1200 E. Main St., Richmond, VA 23219, telephone (804) 344-3119, FAX (804) 786-1541, toll-free (888) 827-3847, (804) 344-3190/TTY ☎, e-mail lking@varetire.org.

October 11, 2006 - 1:30 p.m. -- Open Meeting
Virginia Retirement System, 1200 East Main Street, Richmond, Virginia. ♿

A meeting of the Benefits and Actuarial Committee. No public comment will be received at the meeting.

Contact: LaShaunda King, Executive Assistant, Virginia Retirement System, 1200 E. Main St., Richmond, VA 23219, telephone (804) 344-3124, FAX (804) 786-1541, toll-free (888) 827-3847, (804) 344-3190/TTY ☎, e-mail lking@varetire.org.

LEGISLATIVE

JOINT COMMISSION ON ADMINISTRATIVE RULES

October 4, 2006 - 10 a.m. -- Open Meeting
General Assembly Building, 9th and Broad Streets, Senate Room A, Richmond, Virginia. ♿

A regular meeting. For questions regarding the meeting agenda, contact Elizabeth Palen, Division of Legislative Services, (804) 786-3591. Individuals requiring interpreter services or other accommodations should telephone Senate Committee Operations at (804) 698-7450, (804) 698-7419/TTY, or write to Senate Committee Operations, P.O. Box 396, Richmond, VA 23218, at least seven days prior to the meeting.

Contact: Hobie Lehman, Senate Committee Operations, General Assembly Bldg., 910 Capitol St., Richmond, VA 23219, telephone (804) 698-7410.


VIRGINIA SESQUICENTENNIAL OF THE AMERICAN CIVIL WAR COMMISSION

† **September 12, 2006 - 2 p.m.** -- Open Meeting
General Assembly Building, 9th and Broad Streets, 9th Floor, Appropriations Room, Richmond, Virginia. ♿

A regular meeting. For questions regarding the meeting agenda contact Brenda Edwards or Cheryl Jackson, Division of Legislative Services, (804) 786-3591.

Contact: Scott Maddrea, House Committee Operations, 910 Capitol St., Richmond, VA 23219, telephone (804) 698-1540.


HOUSE APPROPRIATIONS


September 18, 2006 - 9:30 a.m. -- Open Meeting
October 16, 2006 - 9:30 a.m. -- Open Meeting
November 13, 2006 - TBA - Open Meeting
November 14, 2006 - TBA - Open Meeting
General Assembly Building, 9th and Broad Streets, 9th Floor,
Richmond, Virginia. 

A regular meeting.

Contact: Barbara L. Teague, House Committee Operations,
910 Capitol St., Richmond, VA 23219, telephone (804) 698-
1540.

VIRGINIA CODE COMMISSION

September 20, 2006 - 10 a.m. -- Open Meeting
General Assembly Building, 9th and Broad Streets, 6th Floor,
Senate Leadership Room, Richmond, Virginia. 

November 9, 2006 - 10 a.m. -- Open Meeting
General Assembly Building, 9th and Broad Streets, 6th Floor,
Speaker's Conference Room, Richmond, Virginia. 

A regularly scheduled meeting.

Contact: Jane D. Chaffin, Registrar of Regulations, 910
Capitol St., 2nd Floor, Richmond, VA 23219, telephone (804)
786-3591, FAX (804) 692-0625, e-mail
jchaffin@leg.state.va.us.


NOTE: CHANGE IN MEETING LOCATION

† **October 19, 2006 - 9 a.m.** -- Open Meeting
Courtyard Marriott at UVA, Charlottesville, Virginia.

A general business meeting.

Contact: Jane Chaffin, Registrar of Regulations, General
Assembly Bldg., 2nd Floor, 910 Capitol St., Richmond, VA
23219, telephone (804) 786-3591, FAX (804) 692-0625,
e-mail jchaffin@leg.state.va.us.


HOUSE COMMITTEE ON COMMERCE AND LABOR

October 3, 2006 - 10 a.m. -- Open Meeting
General Assembly Building, 9th and Broad Streets, House
Room D, Richmond, Virginia. 

A regular meeting. For questions regarding the meeting
agenda contact Frank Munyan, Division of Legislative
Services, (804) 786-3591.


Contact: Barbara L. Teague, House Committee Operations,
910 Capitol St., Richmond, VA 23219, telephone (804) 698-
1540.

SENATE EDUCATION AND HEALTH SPECIAL SUBCOMMITTEE

September 12, 2006 - 10 a.m. -- Open Meeting
General Assembly Building, 9th and Broad Streets, 4th Floor
East Conference Room, Richmond, Virginia. 

A regular meeting. For questions regarding the meeting
agenda, contact Nikki Seeds or Brenda Edwards, Division
of Legislative Services, (804) 786-3591. Individuals
requiring interpreter services or other accommodations
should telephone Senate Committee Operations at (804)
698-7450, (804) 698-7419/TTY, or write to Senate
Committee Operations, P.O. Box 396, Richmond, VA
23218, at least seven days prior to the meeting.


Contact: Hobie Lehman, Senate Committee Operations,
General Assembly Bldg., 910 Capitol St., Richmond, VA
23219, telephone (804) 698-7410.

† **September 25, 2006 - 10 a.m.** -- Open Meeting
General Assembly Building, 9th and Broad Streets, Senate
Room A, Richmond, Virginia. 

A regular meeting. For questions regarding the meeting
agenda, contact Jessica Eades or Ellen Weston, Division of
Legislative Services, (804) 786-3591. Individuals requiring
interpreter services or other accommodations should
telephone Senate Committee Operations at (804) 698-7450,
(804) 698-7419/TTY, or write to Senate Committee
Operations, P.O. Box 396, Richmond, VA 23218, at least
seven days prior to the meeting.

Contact: Hobie Lehman, Senate Committee Operations,
General Assembly Bldg., 910 Capitol St., Richmond, VA
23219, telephone (804) 698-7410.


JOINT SUBCOMMITTEE STUDYING OPEN SPACE FARMLAND PRESERVATION

October 10, 2006 - 12:30 p.m. -- Open Meeting
Barrier Islands Center, Machipongo, Virginia. 

A regular meeting. For questions regarding the meeting
agenda contact Mark Vucci, Division of Legislative Services,
(804) 786-3591.

Contact: Pam Burham, House Committee Operations, 910
Capitol St., Richmond, VA 23219, telephone (804) 698-1540.

JOINT COMMISSION ON TECHNOLOGY AND SCIENCE

† **September 7, 2006 - 1 p.m.** -- Open Meeting
Patrick Henry Building, 1111 East Broad Street, House Room
1, Richmond, Virginia. 

A meeting of JCOTS Advisory Committee on the State of
Electronic Government.


Contact: Patrick Cushing, Staff Attorney, Joint Commission
on Technology and Science, General Assembly Bldg., 910
Capitol St., 2nd Floor, Richmond, VA 23219, telephone (804)
786-3591, e-mail pcushing@leg.state.va.us.

September 19, 2006 - 10:30 a.m. -- Open Meeting
Insurance Institute for Highway Safety, Vehicle Research
Center, 988 Dairy Road, Ruckersville, Virginia.

A meeting of JCOTS Advisory Committee on Traffic Safety
and Technology.


Calendar of Events

Contact: Patrick Cushing, Staff Attorney, Joint Commission on Technology and Science, General Assembly Bldg., 910 Capitol St., 2nd Floor, Richmond, VA 23219, telephone (804) 786-3591, e-mail pcushing@leg.state.va.us.

† **September 20, 2006 - 10 a.m.** -- Open Meeting
Patrick Henry Building, 1111 East Broad Street, House Room 1, Richmond, Virginia. 


A meeting of JCOTS Use of Social Security Numbers Advisory Committee.

Contact: Patrick Cushing, Staff Attorney, Joint Commission on Technology and Science, General Assembly Bldg., 910 Capitol St., 2nd Floor, Richmond, VA 23219, telephone (804) 786-3591, e-mail pcushing@leg.state.va.us.

† **September 20, 2006 - 1:30 p.m.** -- Open Meeting
Patrick Henry Building, 1111 East Broad Street, House Room 1, Richmond, Virginia. 


A meeting of JCOTS Real ID Act Advisory Committee.

Contact: Patrick Cushing, Staff Attorney, Joint Commission on Technology and Science, General Assembly Bldg., 910 Capitol St., 2nd Floor, Richmond, VA 23219, telephone (804) 786-3591, e-mail pcushing@leg.state.va.us.

† **September 21, 2006 - 1 p.m.** -- Open Meeting
Patrick Henry Building, 1111 East Broad Street, House Room 1, Richmond, Virginia. 


A meeting of JCOTS Electronic Medical Records Advisory Committee. Teleconferenced site: 510 Cumberland Street, Suite 308, Bristol, Virginia. In case of technical difficulties during the meeting, contact Lisa Wallmeyer at 804-786-3591.

Contact: Patrick Cushing, Staff Attorney, Joint Commission on Technology and Science, General Assembly Bldg., 910 Capitol St., 2nd Floor, Richmond, VA 23219, telephone (804) 786-3591, e-mail pcushing@leg.state.va.us.

† **October 3, 2006 - 1 p.m.** -- Open Meeting
General Assembly Building, 9th and Broad Streets, Richmond, Virginia. 


A meeting of JCOTS Nanotechnology Manufacturing and Research and Development Advisory Committees.

Contact: Patrick Cushing, Staff Attorney, Joint Commission on Technology and Science, General Assembly Bldg., 910 Capitol St., 2nd Floor, Richmond, VA 23219, telephone (804) 786-3591, e-mail pcushing@leg.state.va.us.

† **October 4, 2006 - 10 a.m.** -- Open Meeting
Patrick Henry Building, 1111 East Broad Street, House Room 1, Richmond, Virginia. 


A meeting of the JCOTS Electronic Balloting Advisory Committee.

Contact: Patrick Cushing, Staff Attorney, Joint Commission on Technology and Science, General Assembly Bldg., 910 Capitol St., 2nd Floor, Richmond, VA 23219, telephone (804) 786-3591, e-mail pcushing@leg.state.va.us.

† **October 10, 2006 - 2 p.m.** -- Open Meeting
General Assembly Building, 9th and Broad Streets, Speaker's Conference Room, Richmond, Virginia. 


A meeting of JCOTS Cybercrimes Advisory Committee.

Contact: Patrick Cushing, Staff Attorney, Joint Commission on Technology and Science, General Assembly Bldg., 910 Capitol St., 2nd Floor, Richmond, VA 23219, telephone (804) 786-3591, e-mail pcushing@leg.state.va.us.

† **October 11, 2006 - 1 p.m.** -- Open Meeting
General Assembly Building, 9th and Broad Streets, House Room D, Richmond, Virginia. 

A regular meeting of the commission.


Contact: Patrick Cushing, Staff Attorney, Joint Commission on Technology and Science, General Assembly Bldg., 910 Capitol St., 2nd Floor, Richmond, VA 23219, telephone (804) 786-3591, e-mail pcushing@leg.state.va.us.

† **November 30, 2006 - 10 a.m.** -- Open Meeting
General Assembly Building, 9th and Broad Streets, House Room D, Richmond, Virginia. 

A regular meeting. Teleconferenced site: 510 Cumberland Street, Suite 308, Bristol, Virginia. In case of technical difficulties during the meeting, contact Lisa Wallmeyer at 804-786-3591.

Contact: Lisa Wallmeyer, Executive Director, Joint Commission on Technology and Science, General Assembly Bldg., 910 Capitol St., 2nd Floor, Richmond, VA 23219, telephone (804) 786-3591.

JOINT SUBCOMMITTEE STUDYING TELEWORK OPPORTUNITIES FOR STATE AND PRIVATE SECTOR EMPLOYEES

† **September 14, 2006 - 10 a.m.** -- Open Meeting
Center for Innovative Technology, 7th Floor, Fairfax Room, Herndon, Virginia. 

A regular meeting. For questions regarding the meeting agenda contact Lisa Wallmeyer, Division of Legislative Services, (804) 786-3591.

Contact: Lori Maynard, House Committee Operations, 910 Capitol St., Richmond, VA 23219, telephone (804) 698-1540.

CHRONOLOGICAL LIST

OPEN MEETINGS

September 5

Alcoholic Beverage Control Board

September 6

Conservation and Recreation, Department of Contractors, Board for

Dentistry, Board of

Health, Department of

Jamestown-Yorktown Foundation

Mines, Minerals and Energy, Department of

† Water Control Board, State

September 7

Agriculture and Consumer Services, Department of
- Virginia Cattle Industry Board
† Architects, Professional Engineers, Land Surveyors,
Certified Interior Designers and Landscape Architects,
Board for
Environmental Quality, Department of
† Higher Education Tuition Trust Fund, Virginia
Medical Assistance Services, Department of
Medicine, Board of
† Mines, Minerals and Energy, Department of
† Technology and Science, Joint Commission on

September 8

Agriculture and Consumer Services, Department of
- Virginia Cattle Industry Board
Dentistry, Board of
† Governor, Office of the
- Olmstead Community Integration Oversight Board
Health, Department of
Indigent Defense Commission, Virginia
† Mental Health, Mental Retardation and Substance Abuse
Services, Department of
† Protection and Advocacy, Virginia Office for

September 9

Health, Department of

September 11

Forestry, Board of
Motor Vehicle Dealer Board
Taxation, Department of
- State Land Evaluation Advisory Council

September 12

† American Civil War, Virginia Sesquicentennial of the
Charitable Gaming Board
Child Fatality Review Team, State
† Contractors, Board for
Education and Health Special Subcommittee, Senate
Higher Education for Virginia, State Council of
Local Government, Commission on
Medical Assistance Services, Board of
Museum of Fine Arts, Virginia
† People with Disabilities, Virginia Board for
Retirement System, Virginia
† Tobacco Settlement Foundation, Virginia

September 13

Health, Department of
Information Technologies Agency, Virginia
- E911 Wireless Service Board
Juvenile Justice, State Board of
Lottery Board, State
Medicine, Board of
† Mental Health, Mental Retardation and Substance Abuse
Services, Department of
Milk Commission, State
† People with Disabilities, Virginia Board for
Protection and Advocacy, Virginia Office for
- Disabilities Advisory Council
† Real Estate Board
Retirement System, Virginia
Waterworks and Wastewater Works Operators, Board for

September 14

† Aging, Commonwealth Council on
Conservation and Recreation, Department of

† Contractors, Board for
Dentistry, Board of
† Economic Development Partnership, Virginia
† Environmental Quality, Department of
Health, Department of
Medical Assistance Services, Department of
† Real Estate Appraiser Board
Real Estate Board
Retirement System, Virginia
† Telework Opportunities for State and Private Sector
Employees, Joint Subcommittee Studying

September 15

† Arts, Virginia Commission for the
Contractors, Board for
† Correctional Education, Board of
Dentistry, Board of
† Longwood University
Retirement System, Virginia

September 16

Blind and Vision Impaired, Department for the
† Conservation and Recreation, Department of
- Virginia Cave Board
† Longwood University

September 18

Alcoholic Beverage Control Board
Appropriations, House
Library Board
Nursing, Board of
Veterans Services, Department of
- Board of Veterans Services

September 19

Contractors, Board for
Corrections, Board of
Environmental Quality, Department of
† Governor, Office of the
- Olmstead Community Integration Advisory Board
† Health Professions, Board of
Medicine, Board of
Nursing, Board of
Research and Technology Advisory Commission, Virginia
Technology and Science, Joint Commission on

September 20

Code Commission, Virginia
Compensation Board
Corrections, Board of
† Health, Department of
Museum of Fine Arts, Virginia
Nursing, Board of
Outdoors Foundation, Virginia
† Small Business Financing Authority, Department of
† Technology and Science, Joint Commission on
Treasury Board

September 21

Design-Build/Construction Management Review Board
† Environmental Quality, Department of
† Health, Department of
Human Resources, Virginia Council on
Labor and Industry, Department of
- Virginia Apprenticeship Council
Manufactured Housing Board, Virginia
Medical Assistance Services, Department of
Museum of Fine Arts, Virginia

Calendar of Events

National and Community Service, Virginia Commission for Nursing, Board of
Outdoors Foundation, Virginia
Rehabilitative Services, Department of
† Technology and Science, Joint Commission on

September 22

Agriculture and Consumer Services, Department of
- Virginia Horse Industry Board
Dentistry, Board of
Health, Department of
Medicine, Board of
Old Dominion University
Rehabilitative Services, Department of

September 25

† Air Pollution Control Board, State
† Education and Health Special Subcommittee, Senate
Protection and Advocacy, Virginia Office for

September 26

Agriculture and Consumer Services, Department of
- Virginia Marine Products Board
† Arts, Virginia Commission for the
Chesapeake Bay Local Assistance Board
Contractors, Board for
Housing and Community Development, Board of
Marine Resources Commission
Medical Assistance Services, Department of
Protection and Advocacy, Virginia Office for
- Board for Protection and Advocacy
† Taxation, Department of

September 27

Education, Board of
Health, Department of
† Housing Development Authority, Virginia
† Medicine, Board of
Pharmacy, Board of

September 28

Conservation and Recreation, Department of
- Virginia Soil and Water Conservation Board
† Environmental Quality, Department of
† Mines, Minerals and Energy, Department of
Public Guardian and Conservator Advisory Board, Virginia

September 29

Dentistry, Board of

October 2

Alcoholic Beverage Control Board

October 3

† Arts, Virginia Commission for the
Commerce and Labor, House Committee on
Conservation and Recreation, Department of
Health, Department of
Medicine, Board of
- Advisory Board on Occupational Therapy
- Advisory Board on Respiratory Care
Museum of Fine Arts, Virginia
† Nursing, Board of
† Technology and Science, Joint Commission on

October 4

Administrative Rules, Joint Commission on
Education, Secretary of
Medicine, Board of
- Advisory Board on Acupuncture
- Advisory Board on Radiologic Technology

† Technology and Science, Joint Commission on
† Veterans Services, Department of
- Veterans Services Foundation
Water Control Board, State

October 5

Auctioneers Board
† Conservation and Recreation, Department of
- Virginia Scenic River Advisory Board
Medicine, Board of
- Advisory Board on Athletic Training
- Advisory Board on Physician Assistants

October 6

Art and Architectural Review Board
Medicine, Board of
- Advisory Board on Midwifery
† Nursing, Board of

October 10

Open Space and Farmland Preservation, Joint
Subcommittee Studying
Psychology, Board of
Rehabilitative Services, Department of
† Technology and Science, Joint Commission on

October 11

Conservation and Recreation, Department of
† Higher Education Tuition Trust Fund, Virginia
Natural Resources, Foundation for Virginia's
† Nursing, Board of
Retirement System, Virginia
Soil Scientists and Wetland Professionals, Board for
Professional
† Veterans Services, Department of

October 12

Conservation and Recreation, Department of
† Nursing, Board of
Retirement System, Virginia

October 13

Dentistry, Board of
Social Work, Board of

October 16

Alcoholic Beverage Control Board
Appropriations, House
† Nursing, Board of
Old Dominion University

October 17

Cemetery Board
Governor, Office of the
- Olmstead Community Integration Implementation Team

October 18

Geology, Board for
Medical Assistance Services, Department of
Nursing, Board of
- Joint Boards of Nursing and Medicine
Treasury Board
† Veterans Services, Department of

October 19

† Arts, Virginia Commission for the
† Code Commission, Virginia
Conservation and Recreation, Department of
Design-Build/Construction Management Review Board
Jamestown-Yorktown Steering Committee
Medicine, Board of

October 23

Medical Assistance Services, Department of

October 24

Contractors, Board for

† Nursing, Board of

October 25

Architects, Professional Engineers, Land Surveyors,
Certified Interior Designers and Landscape Architects,
Board for

Education, Board of

October 26

Conservation and Recreation, Department of
Polygraph Examiners Advisory Board

October 27

Dentistry, Board of

Rehabilitation Services, Department of

October 30

Long-Term Care Administrators, Board for

October 31

Architects, Professional Engineers, Land Surveyors,
Certified Interior Designers and Landscape Architects,
Board for

Chesapeake Bay Local Assistance Board

November 1

Asbestos, Lead, and Home Inspectors, Board for
Branch Pilots, Board for

November 2

Architects, Professional Engineers, Land Surveyors,
Certified Interior Designers and Landscape Architects,
Board for

November 3

Art and Architectural Review Board

November 6

Alcoholic Beverage Control Board
Barbers and Cosmetology, Board for
Emergency Planning Committee, Local
- City of Winchester

November 7

Museum of Fine Arts, Virginia

Real Estate Appraiser Board

November 8

Architects, Professional Engineers, Land Surveyors,
Certified Interior Designers and Landscape Architects,
Board for

Information Technologies Agency, Virginia

- E911 Wireless Service Board

Juvenile Justice, State Board of

Retirement System, Virginia

November 9

Architects, Professional Engineers, Land Surveyors,
Certified Interior Designers and Landscape Architects,
Board for

Code Commission, Virginia

Conservation and Recreation, Department of

† Health, Department of

Medical Assistance Services, Department of

Retirement System, Virginia

November 13

Appropriations, House

Library Board

Nursing, Board of

Professional and Occupational Regulation, Board for

November 14

Appropriations, House

Corrections, Board of

Nursing, Board of

Research and Technology Advisory Commission, Virginia

November 15

Corrections, Board of

Education, Secretary of

Hearing Aid Specialists, Board for

Nursing, Board of

Outdoors Foundation, Virginia

Treasury Board

November 16

Conservation and Recreation, Department of

- Virginia Soil and Water Conservation Board

Design-Build/Construction Management Review Board

Nursing, Board of

Outdoors Foundation, Virginia

Protection and Advocacy, Virginia Office for

- PAIMI Advisory Council

November 17

Child Fatality Review Team, State

Dentistry, Board of

November 20

Alcoholic Beverage Control Board

Jamestown-Yorktown Foundation

Old Dominion University

November 21

† Conservation and Recreation, Department of

Jamestown-Yorktown Foundation

November 28

† Contractors, Board for

November 29

† Education, Board of

† Medicine, Board of

November 30

† Nursing, Board of

† Technology and Science, Joint Commission on

December 1

† Art and Architectural Review Board

† Nursing, Board of

December 4

† Alcoholic Beverage Control Board

† Branch Pilots, Board for

† Nursing, Board of

† Real Estate Board

December 19

† Governor, Office of

- Olmstead Community Integration Implementation Team

PUBLIC HEARINGS

September 5

† Environmental Quality, Department of

September 6

† Social Service, State Board of

September 7

† Environmental Quality, Department of

Social Services, State Board of

September 11

Social Services, State Board of

Calendar of Events

September 12

Long-Term Care Administrators, Board of
Motor Vehicles, Department of

September 13

Criminal Justice Services, Department of
Housing and Community Development, Department of
Social Services, State Board of

September 14

Motor Vehicles, Department of

September 18

† Environmental Quality, Department of

September 19

Mental Health, Mental Retardation and Substance Abuse
Services, State Board of
Motor Vehicles, Department of
Nursing, Board of

September 21

Motor Vehicles, Department of
Polygraph Examiners Advisory Board

September 27

Education, Board of
† Professional and Occupational Regulation, Board for

October 3

Mental Health, Mental Retardation and Substance Abuse
Services, State Board of

October 4

† Health, Board of

October 5

† Auctioneers Board

October 11

Health, Board of
† Mental Health, Mental Retardation and Substance Abuse
Services, State Board of

October 17

† Cemetery Board
† Mental Health, Mental Retardation and Substance Abuse
Services, State Board of

October 18

† Medical Assistance Services, Department of

October 19

† Mental Health, Mental Retardation and Substance Abuse
Services, State Board of

October 24

† Mental Health, Mental Retardation and Substance Abuse
Services, State Board of

November 8

† Mental Health, Mental Retardation and Substance Abuse
Services, State Board of

November 9

† Mental Health, Mental Retardation and Substance Abuse
Services, State Board of