



Virginia Register of Regulations

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THE VIRGINIA REGISTER INFORMATION PAGE

THE VIRGINIA REGISTER OF REGULATIONS is an official state publication issued every other week throughout the year. Indexes are published quarterly, and the last index of the year is cumulative. The *Virginia Register* has several functions. The new and amended sections of regulations, both as proposed and as finally adopted, are required by law to be published in the *Virginia Register*. In addition, the *Virginia Register* is a source of other information about state government, including petitions for rulemaking, emergency regulations, executive orders issued by the Governor, the Virginia Tax Bulletin issued periodically by the Department of Taxation, and notices of public hearings and open meetings of state agencies.

ADOPTION, AMENDMENT, AND REPEAL OF REGULATIONS

An agency wishing to adopt, amend, or repeal regulations must first publish in the *Virginia Register* a notice of intended regulatory action; a basis, purpose, substance and issues statement; an economic impact analysis prepared by the Department of Planning and Budget; the agency's response to the economic impact analysis; a summary; a notice giving the public an opportunity to comment on the proposal; and the text of the proposed regulation.

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

The Joint Commission of Administrative Rules (JCAR) or the appropriate standing committee of each house of the General Assembly may meet during the promulgation or final adoption process and file an objection with the Registrar and the promulgating agency. The objection will be published in the *Virginia Register*. Within 21 days after receipt by the agency of a legislative objection, the agency shall file a response with the Registrar, the objecting legislative body, and the Governor.

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

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

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

A regulation becomes effective at the conclusion of the 30-day final adoption period, or at any other later date specified by the promulgating agency, unless (i) a legislative objection has been filed, in which event the regulation, unless withdrawn, becomes effective on the date specified, which shall be after the expiration of the 21-day objection

period; (ii) the Governor exercises his authority to require the agency to provide for additional public comment, in which event the regulation, unless withdrawn, becomes effective on the date specified, which shall be after the expiration of the period for which the Governor has provided for additional public comment; (iii) the Governor and the General Assembly exercise their authority to suspend the effective date of a regulation until the end of the next regular legislative session; or (iv) the agency suspends the regulatory process, in which event the regulation, unless withdrawn, becomes effective on the date specified, which shall be after the expiration of the 30-day public comment period and no earlier than 15 days from publication of the readopted action.

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

FAST-TRACK RULEMAKING PROCESS

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.

EMERGENCY REGULATIONS

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

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

STATEMENT

The foregoing constitutes a generalized statement of the procedures to be followed. For specific statutory language, it is suggested that Article 2 (§ 2.2-4006 et seq.) of Chapter 40 of Title 2.2 of the Code of Virginia be examined carefully.

CITATION TO THE VIRGINIA REGISTER

The *Virginia Register* is cited by volume, issue, page number, and date. **18:23 VA.R. 2997-3011 July 29, 2002**, refers to Volume 18, Issue 23, pages 2997 through 3011 of the *Virginia Register* issued on July 29, 2002.

The Virginia Register of Regulations is published pursuant to Article 6 (§ 2.2-4031 et seq.) of Chapter 40 of Title 2.2 of the Code of Virginia.

Members of the Virginia Code Commission: **R. Steven Landes**, Chairman; **John S. Edwards**, Vice Chairman; **Ryan T. McDougle**; **Robert Hurt**; **Robert L. Calhoun**; **Frank S. Ferguson**; **E.M. Miller, Jr.**; **Thomas M. Moncure, Jr.**; **James F. Almand**; **S. Bernard Goodwyn**.

Staff of the Virginia Register: **Jane D. Chaffin**, Registrar of Regulations; **June T. Chandler**, Assistant Registrar.

PUBLICATION SCHEDULE AND DEADLINES

This schedule is available on the *Register's* Internet home page (<http://register.state.va.us>).

September 2006 through August 2007

<u>Volume: Issue</u>	<u>Material Submitted By Noon*</u>	<u>Will Be Published On</u>
FINAL INDEX - Volume 22		October 2006
23:1	August 30, 2006	September 18, 2006
23:2	September 13, 2006	October 2, 2006
23:3	September 27, 2006	October 16, 2006
23:4	October 11, 2006	October 30, 2006
23:5	October 25, 2006	November 13, 2006
23:6	November 8, 2006	November 27, 2006
23:7	November 21, 2006 (Tuesday)	December 11, 2006
INDEX 1 Volume 23		January 2007
23:8	December 6, 2006	December 25, 2006
23:9	December 19, 2006 (Tuesday)	January 8, 2007
23:10	January 3, 2007	January 22, 2007
23:11	January 17, 2007	February 5, 2007
23:12	January 31, 2007	February 19, 2007
23:13	February 14, 2007	March 5, 2007
23:14	February 28, 2007	March 19, 2007
INDEX 2 Volume 23		April 2007
23:15	March 14, 2007	April 2, 2007
23:16	March 28, 2007	April 16, 2007
23:17	April 11, 2007	April 30, 2007
23:18	April 25, 2007	May 14, 2007
23:19	May 9, 2007	May 28, 2007
23:20	May 23, 2007	June 11, 2007
INDEX 3 Volume 23		July 2007
23:21	June 6, 2007	June 25, 2007
23:22	June 20, 2007	July 9, 2007
23:23	July 3, 2007 (Tuesday)	July 23, 2007
23:24	July 18, 2007	August 6, 2007

*Filing deadlines are Wednesdays unless otherwise specified.

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 1. Administration			
1 VAC 50-10-10 through 1 VAC 50-10-50	Repealed	22:26 VA.R. 4083	10/4/06
1 VAC 50-10-60 through 1 VAC 50-10-150	Added	22:26 VA.R. 4084-4085	10/4/06
1 VAC 50-20-1	Added	22:26 VA.R. 4085	10/4/06
1 VAC 50-20-5	Added	22:26 VA.R. 4085	10/4/06
1 VAC 50-20-10	Amended	22:26 VA.R. 4086	10/4/06
1 VAC 50-20-20	Repealed	22:26 VA.R. 4086	10/4/06
1 VAC 50-20-30	Repealed	22:26 VA.R. 4086	10/4/06
1 VAC 50-20-40	Amended	22:26 VA.R. 4086	10/4/06
1 VAC 50-20-50	Amended	22:26 VA.R. 4086	10/4/06
1 VAC 50-20-60 through 1 VAC 50-20-90	Repealed	22:26 VA.R. 4086-4087	10/4/06
1 VAC 50-20-100	Amended	22:26 VA.R. 4087	10/4/06
1 VAC 50-20-110	Amended	22:26 VA.R. 4087	10/4/06
1 VAC 50-20-120	Repealed	22:26 VA.R. 4087	10/4/06
1 VAC 50-20-130	Repealed	22:26 VA.R. 4087	10/4/06
1 VAC 50-20-140	Amended	22:26 VA.R. 4087	10/4/06
1 VAC 50-20-142	Added	22:26 VA.R. 4087	10/4/06
1 VAC 50-20-150 through 1 VAC 50-20-180	Amended	22:26 VA.R. 4088	10/4/06
1 VAC 50-20-190 through 1 VAC 50-20-220	Repealed	22:26 VA.R. 4088	10/4/06
1 VAC 50-20-230	Amended	22:26 VA.R. 4089	10/4/06
1 VAC 50-20-240	Repealed	22:26 VA.R. 4089	10/4/06
1 VAC 50-20-250	Repealed	22:26 VA.R. 4089	10/4/06
1 VAC 50-20-260	Repealed	22:26 VA.R. 4089	10/4/06
1 VAC 50-20-270	Amended	22:26 VA.R. 4089	10/4/06
1 VAC 50-20-280	Repealed	22:26 VA.R. 4089	10/4/06
1 VAC 50-20-290	Repealed	22:26 VA.R. 4089	10/4/06
1 VAC 50-20-300	Repealed	22:26 VA.R. 4090	10/4/06
1 VAC 50-20-310	Amended	22:26 VA.R. 4090	10/4/06
1 VAC 50-20-320	Repealed	22:26 VA.R. 4090	10/4/06
1 VAC 50-20-330	Repealed	22:26 VA.R. 4090	10/4/06
1 VAC 50-20-340	Repealed	22:26 VA.R. 4090	10/4/06
1 VAC 50-20-350	Amended	22:26 VA.R. 4090	10/4/06
1 VAC 50-20-360	Repealed	22:26 VA.R. 4090	10/4/06
1 VAC 50-20-370	Repealed	22:26 VA.R. 4091	10/4/06
1 VAC 50-20-380	Repealed	22:26 VA.R. 4091	10/4/06
1 VAC 50-20-382	Added	22:26 VA.R. 4091	10/4/06
1 VAC 50-20-384	Added	22:26 VA.R. 4091	10/4/06
1 VAC 50-20-390	Amended	22:26 VA.R. 4091	10/4/06
1 VAC 50-20-400 through 1 VAC 50-20-530	Repealed	22:26 VA.R. 4091-4093	10/4/06

Cumulative Table of VAC Sections Adopted, Amended, or Repealed

SECTION NUMBER	ACTION	CITE	EFFECTIVE DATE
1 VAC 50-20-540 through 1 VAC 50-20-600	Amended	22:26 VA.R. 4093-4098	10/4/06
1 VAC 50-20-601	Added	22:26 VA.R. 4098	10/4/06
1 VAC 50-20-605	Added	22:26 VA.R. 4099	10/4/06
1 VAC 50-20-610	Amended	22:26 VA.R. 4100	10/4/06
1 VAC 50-20-612	Added	22:26 VA.R. 4101	10/4/06
1 VAC 50-20-614	Added	22:26 VA.R. 4101	10/4/06
1 VAC 50-20-616	Added	22:26 VA.R. 4102	10/4/06
1 VAC 50-20-620 through 1 VAC 50-20-670	Amended	22:26 VA.R. 4102-4105	10/4/06
1 VAC 50-20-680	Repealed	22:26 VA.R. 4105	10/4/06
1 VAC 50-20-690	Repealed	22:26 VA.R. 4105	10/4/06
1 VAC 50-20-700	Repealed	22:26 VA.R. 4105	10/4/06
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
2 VAC 20-40-10	Amended	22:26 VA.R. 4105	10/5/06
2 VAC 20-40-20	Amended	22:26 VA.R. 4106	10/5/06
2 VAC 20-40-40	Amended	22:26 VA.R. 4107	10/5/06
2 VAC 20-40-60	Amended	22:26 VA.R. 4107	10/5/06
2 VAC 20-40-65	Added	22:26 VA.R. 4107	10/5/06
2 VAC 20-40-70 through 2 VAC 20-40-110	Amended	22:26 VA.R. 4107-4109	10/5/06
2 VAC 20-40-120	Repealed	22:26 VA.R. 4109	10/5/06
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

Cumulative Table of VAC Sections Adopted, Amended, or Repealed

SECTION NUMBER	ACTION	CITE	EFFECTIVE DATE
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
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

Cumulative Table of VAC Sections Adopted, Amended, or Repealed

SECTION NUMBER	ACTION	CITE	EFFECTIVE DATE
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
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

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SECTION NUMBER	ACTION	CITE	EFFECTIVE DATE
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
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 20-521-30	Amended	22:26 VA.R. 4110	10/4/06
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 5-20-21	Amended	22:26 VA.R. 4111	10/4/06
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 5-20-206	Amended	22:26 VA.R. 4114	10/4/06
9 VAC 5-40-300	Amended	22:26 VA.R. 4115	10/4/06
9 VAC 5-40-5060	Amended	22:26 VA.R. 4115	10/4/06
9 VAC 5-40-5200	Amended	22:26 VA.R. 4116	10/4/06
9 VAC 5-40-5700	Amended	22:26 VA.R. 4116	10/4/06
9 VAC 5-40-5720	Amended	22:26 VA.R. 4117	10/4/06
9 VAC 5-40-5750	Amended	22:26 VA.R. 4118	10/4/06
9 VAC 5-40-6970	Amended	22:26 VA.R. 4118	10/4/06
9 VAC 5-40-7050	Amended	22:26 VA.R. 4118	10/4/06
9 VAC 5-40-7120	Amended	22:26 VA.R. 4119	10/4/06

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9 VAC 5-40-7130	Amended	22:26 VA.R. 4119	10/4/06
9 VAC 5-40-7140	Amended	22:26 VA.R. 4122	10/4/06
9 VAC 5-40-7210	Amended	22:26 VA.R. 4124	10/4/06
9 VAC 5-40-7240	Amended	22:26 VA.R. 4124	10/4/06
9 VAC 5-40-7250	Amended	22:26 VA.R. 4124	10/4/06
9 VAC 5-40-7260	Amended	22:26 VA.R. 4125	10/4/06
9 VAC 5-40-7270	Amended	22:26 VA.R. 4136	10/4/06
9 VAC 5-40-7300	Amended	22:26 VA.R. 4139	10/4/06
9 VAC 5-40-7330	Amended	22:26 VA.R. 4140	10/4/06
9 VAC 5-40-7360	Amended	22:26 VA.R. 4140	10/4/06
9 VAC 5-40-7800	Amended	22:26 VA.R. 4141	10/4/06
9 VAC 5-40-7880	Amended	22:26 VA.R. 4141	10/4/06
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

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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
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

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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 25-260-30	Amended	22:26 VA.R. 4142	*
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	--
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

* Upon filing notice of EPA approval with the Registrar of Regulations.

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SECTION NUMBER	ACTION	CITE	EFFECTIVE DATE
11 VAC 10-70-20	Amended	22:26 VA.R. 4144	9/4/06-11/3/06
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 10-70-30	Amended	22:26 VA.R. 4144	9/4/06-11/3/06
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 10-70-40	Amended	22:26 VA.R. 4144	9/4/06-11/3/06
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 10-70-50	Repealed	22:26 VA.R. 4144	9/4/06-11/3/06
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 10-70-60	Amended	22:26 VA.R. 4144	9/4/06-11/3/06
11 VAC 10-70-70	Amended	22:20 VA.R 2707	5/19/06-9/4/06
11 VAC 10-70-70	Amended	22:26 VA.R. 4145	9/4/06-11/3/06
11 VAC 10-70-80	Amended	22:20 VA.R 2707	5/19/06-9/4/06
11 VAC 10-70-80	Amended	22:26 VA.R. 4146	9/4/06-11/3/06
11 VAC 10-70-90	Amended	22:20 VA.R 2707	5/19/06-9/4/06
11 VAC 10-70-90	Amended	22:26 VA.R. 4146	9/4/06-11/3/06
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 10-70-170	Amended	22:26 VA.R. 4146	9/4/06-11/3/06
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 10-90-10	Amended	22:26 VA.R. 4146	9/4/06-11/3/06
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 10-90-30	Amended	22:26 VA.R. 4146	9/4/06-11/3/06
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 10-90-50	Amended	22:26 VA.R. 4146	9/4/06-11/3/06
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
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

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SECTION NUMBER	ACTION	CITE	EFFECTIVE DATE
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 30-70-221 emer	Amended	22:26 VA.R. 4183	9/4/06-9/3/07
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 30-110-90	Amended	22:26 VA.R. 4168	11/20/06
12 VAC 30-110-370	Amended	22:26 VA.R. 4168	11/20/06
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
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

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12 VAC 30-120-280	Amended	22:26 VA.R. 4170	11/20/06
12 VAC 30-120-290	Amended	22:26 VA.R. 4172	11/20/06
12 VAC 30-120-310	Amended	22:26 VA.R. 4172	11/20/06
12 VAC 30-120-320	Amended	22:26 VA.R. 4173	11/20/06
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 30-141-10	Amended	22:26 VA.R. 4147	10/4/06
12 VAC 30-141-40	Amended	22:26 VA.R. 4149	10/4/06
12 VAC 30-141-100	Amended	22:26 VA.R. 4150	10/4/06
12 VAC 30-141-160	Amended	22:26 VA.R. 4151	10/4/06
12 VAC 30-141-170	Repealed	22:26 VA.R. 4152	10/4/06
12 VAC 30-141-175	Added	22:26 VA.R. 4153	10/4/06
12 VAC 30-141-200	Amended	22:23 VA.R. 3387	8/23/06
12 VAC 30-141-200	Amended	22:26 VA.R. 4155	10/4/06
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

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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
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

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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
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 25-21-70	Amended	22:26 VA.R. 4155	11/1/06
18 VAC 25-21 (Forms)	Amended	22:26 VA.R. 4155	--
18 VAC 30-20-80	Amended	22:14 VA.R. 2205	4/19/06
18 VAC 30-20-80 emer	Amended	22:26 VA.R. 4186	9/1/06-8/31/07
18 VAC 30-20-170 emer	Amended	22:26 VA.R. 4186	9/1/06-8/31/07
18 VAC 30-20-171 emer	Added	22:26 VA.R. 4186	9/1/06-8/31/07
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 60-20-108	Amended	22:26 VA.R. 4175	11/18/06
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

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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 70-20-30	Amended	22:26 VA.R. 4156	11/1/06
18 VAC 70-20-50 through 18 VAC 70-20-90	Amended	22:21 VA.R. 2908-2910	8/1/06
18 VAC 70-20-50	Amended	22:26 VA.R. 4156	11/1/06
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 70-20 (Forms)	Amended	22:26 VA.R. 4156	--
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 85-20-22 emer	Amended	22:26 VA.R. 4187	9/1/06-8/31/07
18 VAC 85-20-122	Amended	22:26 VA.R. 4157	10/4/06
18 VAC 85-20-226 emer	Added	22:26 VA.R. 4188	9/1/06-8/31/07
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
18 VAC 85-20-420 emer	Added	22:10 VA.R. 1696	12/21/05-12/20/06
18 VAC 85-40-35 emer	Amended	22:26 VA.R. 4189	9/1/06-8/31/07
18 VAC 85-40-67 emer	Added	22:26 VA.R. 4190	9/1/06-8/31/07
18 VAC 85-50-35 emer	Amended	22:26 VA.R. 4190	9/1/06-8/31/07
18 VAC 85-50-61 emer	Added	22:26 VA.R. 4191	9/1/06-8/31/07
18 VAC 85-80-26 emer	Amended	22:26 VA.R. 4191	9/1/06-8/31/07
18 VAC 85-80-73 emer	Added	22:26 VA.R. 4191	9/1/06-8/31/07
18 VAC 85-101-25 emer	Amended	22:26 VA.R. 4192	9/1/06-8/31/07
18 VAC 85-101-153 emer	Added	22:26 VA.R. 4192	9/1/06-8/31/07
18 VAC 85-110-35 emer	Amended	22:26 VA.R. 4193	9/1/06-8/31/07
18 VAC 85-110-161 emer	Added	22:26 VA.R. 4193	9/1/06-8/31/07
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 90-30-10 emer	Amended	22:26 VA.R. 4194	9/1/06-8/31/07
18 VAC 90-30-50	Amended	22:12 VA.R. 2038	3/22/06
18 VAC 90-30-80	Amended	22:26 VA.R. 4177	11/18/06

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18 VAC 90-30-120 emer	Amended	22:26 VA.R. 4195	9/1/06-8/31/07
18 VAC 90-30-121 emer	Added	22:26 VA.R. 4195	9/1/06-8/31/07
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 95-20-220	Amended	22:26 VA.R. 4157	10/4/06
18 VAC 95-20-221	Added	22:26 VA.R. 4158	10/4/06
18 VAC 95-20-310	Amended	22:26 VA.R. 4158	10/4/06
18 VAC 95-20-330	Amended	22:26 VA.R. 4158	10/4/06
18 VAC 95-20-340	Amended	22:26 VA.R. 4159	10/4/06
18 VAC 95-20-380	Amended	22:26 VA.R. 4159	10/4/06
18 VAC 95-20-390	Amended	22:26 VA.R. 4159	10/4/06
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 105-20-20	Amended	22:26 VA.R. 4159	10/4/06
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

Cumulative Table of VAC Sections Adopted, Amended, or Repealed

SECTION NUMBER	ACTION	CITE	EFFECTIVE DATE
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
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
18 VAC 155-20-10	Amended	22:26 VA.R. 4160	11/1/06
18 VAC 155-20-110	Amended	22:26 VA.R. 4161	11/1/06
18 VAC 155-20-120	Amended	22:26 VA.R. 4161	11/1/06
18 VAC 155-20-160	Amended	22:26 VA.R. 4162	11/1/06
18 VAC 155-20-220	Amended	22:26 VA.R. 4163	11/1/06
18 VAC 155-20-280	Amended	22:26 VA.R. 4166	11/1/06
18 VAC 155-20 (Forms)	Amended	22:26 VA.R. 4166	--
18 VAC 160-20-76	Amended	22:26 VA.R. 4179	12/1/06
18 VAC 160-20-90	Amended	22:26 VA.R. 4180	12/1/06
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 40-35-10 emer	Amended	22:26 VA.R. 4196	9/1/06-8/31/07
22 VAC 40-35-80 emer	Amended	22:26 VA.R. 4198	9/1/06-8/31/07
22 VAC 40-35-90 emer	Amended	22:26 VA.R. 4198	9/1/06-8/31/07
22 VAC 40-35-100 emer	Amended	22:26 VA.R. 4199	9/1/06-8/31/07
22 VAC 40-72-789	Erratum	22:26 VA.R. 4207	--
22 VAC 40-72-1060	Erratum	22:26 VA.R. 4207	--
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

Cumulative Table of VAC Sections Adopted, Amended, or Repealed

SECTION NUMBER	ACTION	CITE	EFFECTIVE DATE
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 9. ENVIRONMENT

STATE WATER CONTROL BOARD

Initial Agency Notice

Title of Regulation: **9 VAC 25-720. Water Quality Management Planning Regulation.**

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

Name of Petitioner: Edward J. O'Brien, President, Boston Water & Sewer Company.

Nature of Petitioner's Request: The petitioner requests the board to amend the Water Quality Management Planning Regulation, 9 VAC 25-720-70 C, to include total nitrogen and total phosphorus allocations for the Boston Water & Sewer Company's proposed wastewater facility (VPDES Permit No. 0088749). The permit, first issued in 1995 (reissued in 2000 and 2005), contains flow tiers of 0.075, 0.15, 0.25 and 0.45 million gallons per day (MGD). The plant will be initially constructed for 0.25 MGD capacity, scheduled to commence operating in the third quarter of 2008. The new facility will replace an existing 0.015 MGD plant (VPDES Permit No. 65358).

Agency's Plan for Disposition of Request: Public notice receipt of the petition and provide for a 21-day public comment period. Upon close of the public comment period, review any comments received and then make a decision to either initiate a rulemaking or place the petition on the board's next meeting agenda for their consideration.

Public comments may be submitted until October 10, 2006.

Agency Contact: John M. Kennedy, Department of Environmental Quality, Chesapeake Bay Program Manager, P.O. Box 10009, Richmond, VA 23240-0009, telephone (804) 698-4312, FAX (804) 698-4116, or email jmkennedy@deq.virginia.gov.

VA.R. Doc. No. R06-342; Filed August 22, 2006, 10:41 a.m.

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 email charles.reed@dhrm.virginia.gov.

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

TITLE 9. ENVIRONMENT

STATE WATER CONTROL BOARD

† Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 2.2-4007 of the Code of Virginia that the State Water Control Board intends to consider amending regulations entitled **9 VAC 25-260, Water Quality Standards**. The purpose of the proposed action is to update the water quality standards based on new scientific information; improve permitting, monitoring and

assessment programs; and fulfill the legal mandates for a three-year review of the standards.

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

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

Public comments may be submitted until 5 p.m. on November 17, 2006.

Contact: Eleanore M. Daub, Department of Environmental Quality, P.O. Box 10009, 629 E. Main St., Richmond, VA 23240, telephone (804) 698-4111, FAX (804) 698-4116, or email emdaub@deq.virginia.gov.

VA.R. Doc. No. R06-344; Filed August 30, 2006, 8:18 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 **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.

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 email don.alexander@vdh.virginia.gov.

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

Notices of Intended Regulatory Action

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 email 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 email 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 email john.crisanti@doli.virginia.gov.

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

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 email boa@boa.virginia.gov.

VA.R. Doc. No. R06-308; Filed August 2, 2006, 10:36 a.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 email elizabeth.young@dhp.virginia.gov.

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

BOARD FOR CONTRACTORS

† Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 2.2-4007 of the Code of Virginia that the Board for Contractors intends to consider amending regulations entitled **18 VAC 50-22, Board for Contractors Regulations**. The purpose of the proposed action is to amend the regulations to require prelicense education as a requirement for licensure, as required by legislative action.

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

Statutory Authority: §§ 54.1-201 and 54.1-1102 of the Code of Virginia.

Public comments may be submitted until October 18, 2006.

Contact: Eric L. Olson, Assistant Director, Board for Contractors, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-2785, FAX (804) 367-2475, or email contractor@dpor.virginia.gov.

VA.R. Doc. No. R06-340; Filed August 21, 2006, 9:38 a.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 email william.harp@dhp.virginia.gov.

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

Notice of Intended Regulatory Action

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

Notices of Intended Regulatory Action

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 email 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 90-30, 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 email jay.douglas@dhp.virginia.gov.

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

REAL ESTATE APPRAISER BOARD

† Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 2.2-4007 of the Code of Virginia that the Real Estate Appraiser Board intends to consider amending regulations entitled **18 VAC 130-20, Real Estate Appraiser Board Rules and Regulations**. The purpose of the proposed action is to make (i) changes consistent with new federal requirements, (ii) clarifying changes, and (iii) other changes that may result from the department's periodic review of the regulations.

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

Statutory Authority: §§ 54.1-201 and 54.1-2013 of the Code of Virginia.

Public comments may be submitted until October 20, 2006.

Contact: Christine Martine, Executive Director, Real Estate Appraiser Board, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-8552, FAX (804) 367-6946, or email reappraisers@dpor.virginia.gov.

VA.R. Doc. No. R06-333; Filed August 29, 2006, 3:15 p.m.

TITLE 22. SOCIAL SERVICES

STATE BOARD OF SOCIAL SERVICES

Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 2.2-4007 of the Code of Virginia that the State Board of Social Services intends to consider amending regulations entitled **22 VAC 40-35, 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 email mark.golden@dss.virginia.gov.

VA.R. Doc. No. R06-328; Filed August 10, 2006, 1:20 p.m.

REGULATIONS

For information concerning the different types of regulations, see the Information Page.

Symbol Key

Roman type indicates existing text of regulations. Underscored language indicates proposed new text. Language that has been stricken indicates proposed text for deletion. Brackets are used in final regulations to indicate changes from the proposed regulation.

TITLE 6. CRIMINAL JUSTICE AND CORRECTIONS

PART I. GENERAL PROVISIONS.

STATE BOARD OF JUVENILE JUSTICE

Final Regulation

Title of Regulation: **6 VAC 35-10. Public Participation Guidelines (amending 6 VAC 35-10-10 through 6 VAC 35-10-50 and 6 VAC 35-10-70 through 6 VAC 35-10-110; adding 6 VAC 35-10-105, 6 VAC 35-10-120 through 6 VAC 35-10-150; and repealing 6 VAC 35-10-60).**

Statutory Authority: §§ 2.2-4007, 66-3, and 66-10 of the Code of Virginia.

Effective Date: October 18, 2006.

Agency Contact: Deron M. Phipps, Regulatory Coordinator, Department of Juvenile Justice, 700 Centre Building, 7th and Franklin Streets, Richmond, VA 23219, telephone (804) 786-6407, FAX (804) 731-0773, or email deron.phipps@djj.virginia.gov.

Summary:

The amendments (i) establish requirements for maintaining, updating, and purging lists of interested parties in the formation, development and promulgation of regulations; (ii) specify the documents to be sent to persons or entities on the mailing list; and (iii) delete existing requirements for advisory panels to have at least three members and to meet at least twice. Other amendments include updating references to the Code of Virginia, deleting references to "operating units," and providing for notice and public hearing when the department acquires real property for certain purposes.

Changes made to the proposed regulation since the publication of the proposed stage include (i) specifying requirements for soliciting comments from juveniles and their families, staff members, and citizen liaison groups and (ii) adding a requirement to send the agency's summary of public comment and the agency's response to all who offered comments at least five days before final adoption of the regulation.

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.

6 VAC 35-10-10. Definitions.

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

~~"Agency" means any authority, instrumentality, officers of the Virginia Department of Youth and Family Services, and members of the Virginia Board of Youth and Family Services, or other unit of the state government empowered by the basic laws to make regulations or decide cases.~~

~~"Agency regulatory coordinator" means the individual appointed by the director to provide technical assistance to the operating units and to coordinate regulations.~~

~~"Basic law" or "basic laws" means provisions of the Constitution and statutes of the Commonwealth of Virginia authorizing an agency to make regulations or decide cases or containing procedural requirements thereof.~~

~~"Board" means the State Board of Youth and Family Services Juvenile Justice.~~

~~"Department" means the Department of Youth and Family Services Juvenile Justice.~~

~~"Director" means the Director of the Department of Youth and Family Services.~~

~~"Operating unit" means the offices of the director, deputy directors, administrators or other offices within the department that will develop or draft a regulation. Only the board may promulgate a regulation.~~

~~"Rule or regulation" means any statement of general application, having the force of law, affecting the rights or conduct of any person, promulgated by an agency in accordance with the authority conferred on it by applicable basic laws. Exemptions to this requirement are those listed in § 9-6.14:4.1 of the Code of Virginia as determined by the Attorney General's Office.~~

6 VAC 35-10-20. Authority.

~~Chapter 1.1:1 of Title 9 A. The Administrative Process Act, Chapter 40 (§ 2.2-4000 et seq.) of Title 2.2 of the Code of Virginia deals with the promulgation of rules and sets out the procedures for promulgating regulations. Specifically, § 9-6.14:7.1 2.2-4007 D of the Code of Virginia directs agencies of the Commonwealth to develop, adopt and use public participation guidelines for soliciting the input of~~

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interested parties in the formation and development of regulations. Section 66-10 of the Code of Virginia empowers the Board of ~~Youth and Family Services~~ Juvenile Justice to make, adopt and promulgate rules and regulations.

B. Section 2.2-4007 D of the Code of Virginia specifically directs that "[t]he guidelines shall set out any methods for the identification and notification of interested parties, and any specific means of seeking input from interested persons or groups that the [agency department] intends to use in addition to the Notice of Intended Regulatory Action. The guidelines shall set out a general policy for the use of standing or ad hoc advisory panels and consultation with groups registering interest in working with the [agency department]. Such policy shall address the circumstances in which the [agency department] considers the panels or consultation appropriate and intends to make use of the panels or consultation."

C. Section 66-3 of the Code of Virginia requires that when the department acquires real property for the purpose of operating a juvenile correctional facility the department shall comply with standards set by the board to ensure adequate public notice and local hearing.

6 VAC 35-10-30. Purpose.

~~These This regulation provides guidelines are designed to provide consistent, written procedures that will ensure input from for informing the public of, and involving interested parties during in, the development, periodic review and final stages of the regulatory process amendment of regulations promulgated by the Board of Juvenile Justice and provides guidelines for public notice and local hearing as required by § 66-3 of the Code of Virginia.~~

6 VAC 35-10-40. Administration.

A. The board has the responsibility for promulgating regulations pertaining to public input in the regulatory process.

B. The director is the chief executive officer of the Department of ~~Youth and Family Services~~ Juvenile Justice and is responsible for implementing the standards and goals of the board. The department, through designated staff, acts as agent of the board in the development and review of regulations as prescribed by the Administrative Process Act and Executive Orders of the Governor.

6 VAC 35-10-50. Application of regulations.

A. These regulations have general application throughout the Commonwealth Public Participation Guidelines apply to all regulations adopted, amended or repealed by the Board of Juvenile Justice, except those regulations that are exempted or excluded from the provisions of the Administrative Process Act by § 2.2-4002 or § 2.2-4006 of the Code of Virginia.

B. Nothing in these Public Participation Guidelines shall prevent the board or the department from taking supplemental actions to provide additional opportunity for public comment in the process of drafting, revising or repealing regulations.

6 VAC 35-10-60. Effective date. (Repealed.)

Effective date: January 31, 1991.

6 VAC 35-10-70. Application of the Administrative Process Act.

~~The provisions of board and the department shall follow the policies and procedures established by the Virginia Administrative Process Act, which is codified as Chapter 1-1:1 of Title 9 (§ 2.2-4000 et seq. of the Code of Virginia, shall govern the adoption, amendment, modification, and revision of these regulations, and the conduct of all proceedings and appeals) and applicable Executive Orders of the Governor in developing, amending or repealing regulations. All hearings on such regulations shall be conducted as public meetings in accordance with § 9-6.14:7.1 2.2-3707 of the Code of Virginia.~~

PART II.

PUBLIC PARTICIPATION IN RULEMAKING.

6 VAC 35-10-80. Identification of interested parties.

~~Each operating unit within A. The department which is responsible for rule making shall develop and maintain a one or more current list lists of those persons, organizations, and agencies that have demonstrated an interest in the regulatory activities of the department and the board or who have expressed interest in specific program regulations in the past, through written comments or attendance at public hearings regulatory issues or proposals.~~

B. The department may add to the list any party likely to be interested in, regulated by, or otherwise affected by a proposed regulatory action or any party whose involvement will serve the purpose of increasing participation in the regulatory process.

C. Individuals and organizations may ask to be added to the list of interested parties at any time via letter, fax or email. The lists will be updated as additional interested parties are identified.

D. The department may purge inactive entries from the list of interested parties when a notice that has been sent to the postal address on file is returned as undeliverable or when a notice that has been sent to an email or fax address on file is undeliverable for more than one day. In addition, the department may periodically ask those on the list of interested parties to indicate whether they wish to be continued on the list.

[E. When a regulation governs programs or services that directly affect juveniles or their families, the department shall

make and document efforts to invite comment from juveniles and their families.

F. When a regulation governs units operated by the department, the department shall make and document efforts to invite comment from the staff at the affected units.

G. When an organizational unit or facility operated by the department has a citizen liaison group, the department shall make and document efforts to invite comment from the members of the citizen liaison group.]

6 VAC 35-10-90. Notification of interested parties.

A. Individual mailings. When an operating unit of the department determines that specific regulations need to be developed or substantially modified, the operating unit department shall so notify by mail the individuals, organizations, and agencies identified as interested parties in 6 VAC 35-10-80. This notice may be via the U.S. mail, fax, or email, and shall invite those interested in providing input to notify the [agency department] of their interest. The notice shall include the title of the regulation to be developed or modified; the operating unit contact person at the department, mailing address, and telephone number; and the date by which a notice of a desire to comment must be received. In addition, known parties having interest and expertise will be advised, through a special mailing via mail, fax, or email, of the [agency's department's] desire to develop a regulation and will be invited to assist the [operating unit department] in developing the regulation or in providing input.

B. The department shall also post notice of the intended regulatory action on the department's web page and on the Regulatory Town Hall web page maintained by the Department of Planning and Budget, in accordance with instructions from the Governor on the regulatory process.

B. C. Notice of intent. When an operating unit of the department determines that specific regulations that are covered by the Administrative Process Act need to be developed or substantially modified, the operating unit department shall, consistent with policies issued by the Governor, publish a Notice of Intent in the Virginia Register of Regulations. This notice will invite those interested in providing input to notify the operating unit department of their interest. The notice will include the title of the regulation to be developed or modified; the operating unit contact person, mailing address, email address, fax number and telephone number; and the date by which a notice of a desire to comment must be received. All notices shall be coordinated through the agency regulatory coordinator who will forward them for publication.

6 VAC 35-10-100. Solicitation of input from interested parties.

A. In developing any regulation, the department shall afford interested individuals and entities an opportunity to submit data, views, and arguments, whether in person, by regular mail, email, or facsimile, to the department or its designated representative. Prior to or during any such opportunity the department may, at its discretion, begin drafting the proposed regulation.

A. B. Advisory panels. Whenever an operating unit proposes to develop or substantially modify a regulation, it The department may create an advisory panel to assist in this the development of a new regulation or the modification of an existing regulation. Advisory panels shall be established on an ad hoc basis and shall consist of persons representative of those who have registered an interest in the subject of the regulation or persons who have an expertise in a specific regulatory matter.

1. Members of advisory panels shall consist of a balanced representation of individuals and representatives of organizations and agencies identified in 6 VAC 35-10-80 as interested and who have expressed a desire to comment on new or modified regulations in the developmental process. ~~Each panel shall consist of no less than three members.~~

2. Individual panels shall establish their own operating procedure, ~~but in no case will a panel meet less than twice.~~ All comments on proposed regulations shall be documented ~~by the operating unit~~ and a response developed for each comment.

B. C. Other comments. All persons, organizations, and agencies that respond to the individual mailings, email or fax notice and the Notice of Intent shall be provided an opportunity to examine regulations in their developmental stage and to provide written comments on these regulations to the operating unit department. The operating unit department shall document the receipt of these comments and respond to each commentor.

D. The operating unit department shall consider all input received, as a result of including but not limited to responses to notifications mailed to interested parties as listed in 6 VAC 35-10-90, in formulating and drafting proposed regulations.

E. The failure of any person to receive any notice or copies of any documents provided under these guidelines shall not affect the validity of any regulations otherwise adopted in accordance with this chapter.

6 VAC 35-10-105. Documents to be sent to persons or entities on the mailing list.

Persons or entities on the [mailing list of interested parties] list described in 6 VAC 35-10-80 shall be mailed the

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following documents at the appropriate stage of the regulatory process:

1. A Notice of Intended Regulatory Action.
2. A Notice of Comment Period along with, at the proposed stage, a copy of the proposed regulation.
3. A copy of any final regulation [to be] adopted by the [~~department~~ board, along with a draft of the department's summary description of public comment and the department's response to each comment. In accordance with § 2.2-4012 of the Code of Virginia, this information shall be sent at least five days before final adoption of the regulation].
4. A notice soliciting comment on a final regulation when the regulatory process has been extended.

6 VAC 35-10-110. Administrative Process Act procedures.

After regulations have been Regulations shall be developed according to these guidelines, they shall be submitted for public comment under § 9-6-14:7.1, revised and repealed in accordance with the Administrative Process Act (§ 2.2-4000 et seq. of the Code of Virginia). The board intends to include one or more public hearings as part of the public comment period for all regulations and whenever practicable will schedule at least one such hearing in conjunction with a meeting of the board so that the board members may hear first hand from persons who have an interest in the regulation.

6 VAC 35-10-120. Petition for rulemaking.

As provided by § 2.2-4007 of the Code of Virginia, any person may petition the board to develop a new regulation or to revise an existing regulation. The board and the department will follow the procedures set out in § 2.2-4007 in responding to any such petition.

PART III. PUBLIC NOTICE WHEN THE DEPARTMENT ACQUIRES PROPERTY.

6 VAC 35-10-130. Notice to local governing authority.

When the department acquires real property for the purpose of operating a juvenile correctional center or other residential or administrative facility, it shall provide notice to the governing body of the locality in which the property is located. The department may give such notice as soon as it has reason to believe it may acquire a specific property, but must give notice at least 30 days prior to entering into a contract to purchase or accepting a deed or other instrument of conveyance for the property.

6 VAC 35-10-140. Public hearing.

The department shall conduct a public hearing within 30 days from the date it notified the locality. If, however, the locality elects to conduct its own hearing within the same 30 days, the department may dispense with its hearing.

6 VAC 35-10-150. Comments made at public hearing.

Department staff shall attend the local hearing and shall prepare a summary of the public comments made and any responses offered by the department. The department shall include a summary of the public comments and its responses in any report to the General Assembly or to the Governor and any executive branch agency that has a role in reviewing and approving the proposed development of the juvenile correctional facility on the property that was the subject of the local hearing.

VA.R. Doc. No. R04-229; Filed August 29, 2006, 3:37 p.m.

TITLE 9. ENVIRONMENT

STATE AIR POLLUTION CONTROL BOARD

Final Regulation

Title of Regulation: 9 VAC 5-40. Existing Stationary Sources (Rev. H03) (amending 9 VAC 5-40-5600, 9 VAC 5-40-5610, [9 VAC 5-40-5620,] 9 VAC 5-40-5630, 9 VAC 5-40-5631, and 9 VAC 5-40-5641).

Statutory Authority: § 10.1-1308 of the Code of Virginia; Clean Air Act (Sections 110, 111, 123, 129, 171, 172 and 182); 40 CFR Parts 51 and 60.

Effective Date: October 18, 2006.

Agency Contact: Mary E. Major, Department of Environmental Quality, P.O. Box 10009, Richmond, VA 23240, telephone (804) 698-4423, FAX (804) 698-4510, or email memajor@deq.virginia.gov.

Summary:

The regulation provides for the control of open burning and use of special incineration devices. It specifies the materials that may and may not be burned, the conditions under which burning may occur, and the legal responsibilities of the person conducting the burning. The regulation permits open burning or the use of special incineration devices for disposal of clean burning construction waste, debris waste and demolition waste but provides for a seasonal restriction during May, June, July, August and September in the Northern Virginia, Richmond and Hampton Roads volatile organic compound (VOC) emissions control areas. It also provides a model local ordinance for cities and counties that wish to adopt their own legally enforceable mechanisms to control burning in lieu of relying on the state's regulatory program.

Year-round restrictions are placed on open burning or use of special incineration devices such that disposal is limited to clean burning waste and debris waste. Modifications are made to ensure the regulation is consistent with existing incinerator regulations of the board and waste management regulations.

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.

9 VAC 5-40-5600. Applicability.

A. Except as provided in ~~subsection~~ subsections C and D of this section, the provisions of this article apply to any person who permits or engages in open burning or who permits or engages in burning using special incineration devices.

B. The provisions of this article apply throughout the Commonwealth of Virginia.

C. The provisions of this article do not apply to such an extent as to prohibit the burning of leaves by persons on property where they reside if the local governing body of the county, city or town in which such persons reside has enacted an otherwise valid ordinance (under the provisions of § 10.1-1308 of the Virginia Air Pollution Control Law) regulating such burning in all or any part of the locality.

D. The provisions of this article do not apply to air curtain incinerators subject to the provisions of (i) Article 45 (9 VAC 5-40-6250 et seq.), 46 (9 VAC 5-40-6550 et seq.), or 54 (9 VAC 5-40-7950 et seq.) of 9 VAC 5 Chapter 40 or (ii) Subparts Eb, AAAA or CCCC of 40 CFR Part 60.

9 VAC 5-40-5610. Definitions.

A. For the purpose of these regulations and subsequent amendments or any orders issued by the board, the words or terms shall have the meanings given them in subsection C of this section.

B. As used in this article, all terms not defined here shall have the meanings given them in 9 VAC 5 Chapter 10 (9 VAC 5-10 [~~10 et seq.~~]), unless otherwise required by context.

C. Terms defined:

"Air curtain incinerator" means an incinerator that operates by forcefully projecting a curtain of air across an open chamber or pit in which combustion occurs. Incinerators of this type can be constructed above or below ground and with or without refractory walls and floor. Air curtain incinerators are not to be confused with conventional combustion devices with enclosed fireboxes and controlled air technology such as mass burn, modular, and fluidized bed combustors.

"Automobile graveyard" means any lot or place ~~which~~ that is exposed to the weather and upon which more than five motor vehicles of any kind, incapable of being operated, and ~~which~~ that it would not be economically practical to make operative, are placed, located or found.

"Built-up area" means any area with a substantial portion covered by industrial, commercial or residential buildings.

"Clean burning waste" means waste ~~which does not produce emissions of greater than 40% opacity when burned and which that~~ is not prohibited to be burned under this article and that consists only of (i) 100% wood waste, (ii) 100% clean lumber or clean wood, (iii) 100% yard waste, or (iv) 100% mixture of only any combination of wood waste, clean lumber, clean wood or yard waste.

"Clean lumber" means wood or wood products that have been cut or shaped and include wet, air-dried, and kiln-dried wood products. Clean lumber does not include wood products that have been painted, pigment-stained, or pressure-treated by compounds such as chromate copper arsenate, pentachlorophenol, and creosote.

"Clean wood" means [~~untreated wood or untreated wood products including clean untreated lumber, tree stumps (whole or chipped), and tree limbs (whole or chipped). Clean wood does not include: (i) yard waste, or (ii) construction, renovation, or demolition wastes (for example, railroad ties and telephone poles)~~ untaminated natural or untreated wood. Clean wood includes, but is not limited to, byproducts of harvesting activities conducted for forest management or commercial logging, or mill residues consisting of bark, chips, edgings, sawdust, shavings or slabs. It does not include wood that has been treated, adulterated, or chemically changed in some way; treated with glues, binders or resins; or painted, stained or coated].

"Commercial waste" means all solid waste generated by establishments engaged in business operations other than manufacturing or construction. This category includes, but is not limited to, waste resulting from the operation of stores, markets, office buildings, restaurants and shopping centers.

"Construction waste" means solid waste ~~which that~~ is produced or generated during construction ~~of structures, remodeling, or repair of pavements, houses, commercial buildings and other structures~~. Construction waste consists of lumber, wire, sheetrock, broken brick, shingles, glass, pipes, concrete, and metal and plastics if the metal or plastics are a part of the materials of construction or empty containers for such materials. Paints, coatings, solvents, asbestos, any liquid, compressed gases or semi-liquids, and garbage are not construction wastes and the disposal of such materials shall be in accordance with the regulations of the Virginia Waste Management Board.

"Debris waste" means ~~stumps, wood, brush, and leaves from land-clearing operations~~ wastes resulting from land-clearing operations. Debris wastes include but are not limited to stumps, wood, brush, leaves, soil and road spoils.

"Demolition waste" means that solid waste ~~which that~~ is produced by the destruction of structures [~~and or~~] their foundations [~~, or both,~~] and includes the same materials as construction waste.

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"Garbage" means ~~rotting animal and vegetable matter accumulated by a household in the course of ordinary day to day living~~ readily putrescible discarded materials composed of animal, vegetable or other organic matter.

"Hazardous waste" means ~~refuse or combination of refuse which, because of its quantity, concentration or physical, chemical or infectious characteristics may:~~ a "hazardous waste" as described in 9 VAC 20-60, Hazardous Waste Management Regulations.

- ~~a. Cause or significantly contribute to an increase in mortality or an increase in serious irreversible or incapacitating illness; or~~
- ~~b. Pose a substantial present or potential hazard to human health or the environment when improperly treated, stored, transported, disposed, or otherwise managed.~~

"Household refuse waste" means ~~waste material and trash normally accumulated by a household in the course of ordinary day to day living~~ any waste material, including garbage, trash and refuse derived from households. For purposes of this regulation, households include single and multiple residences, hotels and motels, bunkhouses, ranger stations, crew quarters, campgrounds, picnic grounds and day-use recreation areas. Household wastes do not include sanitary waste in septic tanks (septage) that is regulated by other state agencies.

"Industrial waste" means ~~all waste generated on the premises of manufacturing and industrial operations such as, but not limited to, those carried on in factories, processing plants, refineries, slaughter houses, and steel mills~~ any solid waste generated by manufacturing or industrial process that is not a regulated hazardous waste. Such waste may include but is not limited to waste resulting from the following manufacturing processes: electric power generation; fertilizer/agricultural chemicals; food and related products/by products; inorganic chemicals; iron and steel manufacturing; leather and leather products; nonferrous metals manufacturing/foundries; organic chemicals; plastics and resins manufacturing; pulp and paper industry; rubber and miscellaneous plastic products; stone, glass, clay and concrete products; textile manufacturing; transportation equipment; and water treatment. This term does not include mining waste or oil and gas waste.

"Junk" means old or scrap copper, brass, rope, rags, batteries, paper, trash, rubber, debris, waste, or junked, dismantled, or wrecked automobiles, or parts thereof, iron, steel, and other old or scrap ferrous or nonferrous material.

"Junkyard" means an establishment or place of business ~~which that~~ is maintained, operated, or used for storing, keeping, buying, or selling junk, or for the maintenance or operation of an automobile graveyard, and the term shall include garbage dumps and sanitary ~~[#Hs~~ landfills].

"Landfill" means a sanitary landfill, an industrial waste landfill, or a construction/demolition/debris landfill. See Part

I (9 VAC 20-80-10 et seq.) of 9 VAC 20 Chapter 80 (Solid Waste Management Regulations) for further definitions of these terms.

"Local landfill" means any landfill located within the jurisdiction of a local government.

"Opening burning" means the ~~burning of any matter in such a manner that the products resulting from combustion are emitted directly into the atmosphere without passing through a stack, duct or chimney~~ combustion of solid waste without:

- ~~[a. 1.]~~ Control of combustion air to maintain adequate temperature for efficient combustion;
- ~~[b. 2.]~~ Containment of the combustion reaction in an enclosed device to provide sufficient residence time and mixing for complete combustion; and
- ~~[c. 3.]~~ Control of the combustion products' emission.

"Open pit incinerator" means a device used to burn waste for the primary purpose of reducing the volume by removing combustible matter. Such devices function by directing a curtain of air at an angle across the top of a trench or similarly enclosed space, thus reducing the amount of combustion byproducts emitted into the atmosphere. The term also includes trench burners, air curtain ~~destructors~~ incinerators and over draft incinerators.

"Refuse" means ~~trash, rubbish, garbage and other forms of solid or liquid waste, including, but not limited to, wastes resultant from residential, agricultural, commercial, industrial, institutional, trade, construction, land clearing, forest management and emergency operations~~ all solid waste products having the characteristics of solids rather than liquids and that are composed wholly or partially of materials such as garbage, trash, rubbish, litter, residues from clean up of spills or contamination or other discarded materials.

"Salvage operation" means any operation consisting of a business, trade or industry participating in salvaging or reclaiming any product or material, such as, but not limited to, reprocessing of used motor oils, metals, chemicals, shipping containers or drums, and specifically including automobile graveyards and junkyards.

"Sanitary landfill" means an engineered land burial facility for the disposal of household waste ~~which that~~ is so located, designed, constructed, and operated to contain and isolate the waste so that it does not pose a substantial or potential hazard to human health or the environment. A sanitary landfill also may receive other types of solid wastes, such as commercial solid waste, nonhazardous sludge, hazardous waste from conditionally exempt small quantity generators, construction [,] demolition [, or] debris [waste] and nonhazardous industrial solid waste. See Part I (9 VAC 20-80-10 et seq.) of 9 VAC 20 Chapter 80 (Solid Waste Management Regulations) for further definitions of these terms.

"Smoke" means small gas-borne particulate matter consisting mostly, but not exclusively, of carbon, ash and other material in concentrations sufficient to form a visible plume.

"Special incineration device" means a an open pit incinerator, conical or teepee burner, or any other device specifically designed to provide good combustion performance.

"Wood waste" means untreated wood and untreated wood products, including tree stumps (whole or chipped), trees, tree limbs (whole or chipped), bark, sawdust, chips, scraps, slabs, millings, and shavings. Wood waste does not include:

1. Grass, grass clippings, bushes, shrubs, and clippings from bushes and shrubs from residential, commercial/retail, institutional, or industrial sources as part of maintaining yards or other private or public lands.

2. Construction, renovation, or demolition wastes.

3. Clean lumber.

"Yard waste" means grass, grass clippings, bushes, shrubs, and clippings from bushes and shrubs that come from residential, commercial/retail, institutional, or industrial sources as part of maintaining yards or other private or public lands. Yard waste does not include (i) construction, renovation, and demolition wastes or (ii) clean wood.

[9 VAC 5-40-5620. Open burning prohibitions.

A. No owner or other person shall cause or permit open burning of refuse or use of special incineration devices except as provided in 9 VAC 5-40-5630.

B. No owner or other person shall cause or permit open burning or the use of a special incineration device for ~~disposal~~ the destruction of rubber tires, asphaltic materials, crankcase oil, impregnated wood or other rubber or petroleum based materials except when conducting bona fide fire fighting instruction at fire fighting training schools having permanent facilities.

C. No owner or other person shall cause or permit open burning or the use of a special incineration device for ~~disposal~~ the destruction of hazardous waste or containers for such materials.

D. No owner or other person shall cause or permit open burning or the use of a special incineration device for the purpose of a salvage operation or for the ~~disposal~~ destruction of commercial/industrial waste.

~~E. Open burning or the use of special incineration devices permitted under the provisions of this article does not exempt or excuse any owner or other person from the consequences, liability, damages or injuries which may result from such conduct; nor does it excuse or exempt any owner or other person from complying with other applicable laws, ordinances, regulations and orders of the governmental entities having jurisdiction, even though the open burning is~~

~~conducted in compliance with this article. In this regard special attention should be directed to § 10.1-1142 of the Code of Virginia, which is enforced by the Department of Forestry.~~

~~F. With regard to the provisions of subsection E of this section, special attention should also be directed to the regulations of the Virginia Waste Management Board. No disposal of waste by open burning or transportation of waste to be disposed of by open burning shall take place in violation of the regulations of the Virginia Waste Management Board.~~

~~G-E.~~ Upon declaration of an alert, warning or emergency stage of an air pollution episode as described in 9 VAC 5 Chapter 70 (9 VAC 5-70-10 et seq.) or when deemed advisable by the board to prevent a hazard to, or an unreasonable burden upon, public health or welfare, no owner or other person shall cause or permit open burning or use of a special incineration device; and any in-process burning or use of special incineration devices shall be immediately terminated in the designated air quality control region.]

9 VAC 5-40-5630. Permissible open burning.

[~~A.~~] Open burning or the use of special incineration devices is permitted in the following instances provided the provisions of subsections B through [~~G E~~] of 9 VAC 5-40-5620 are met:

1. Upon the request of an owner or a responsible civil or military public official, the board may approve open burning or the use of special incineration devices under controlled conditions for the elimination of a hazard ~~which~~ that constitutes a threat to the public health, safety or welfare and ~~which that~~ cannot be remedied by other means consonant with the circumstances presented by the hazard. Such uses of open burning or the use of special incineration devices may include, but are not limited to, the following:

a. Destruction of deteriorated or unused explosives and munitions on government or private property when other means of disposal are not available. Hazardous waste permits may be required under the provisions of 9 VAC 20-60.

b. [~~Disposal Destruction~~] of debris caused by floods, tornadoes, hurricanes or other natural disasters where alternate means of disposal are not economical or practical and when it is in the best interest of the citizens of the Commonwealth. Solid waste management permits may be required under the provisions of 9 VAC 20-80.

c. [~~Disposal On-site destruction~~] of animal or plant life that is infested, or reasonably believed to be infested, by a pest or disease in order (i) to suppress, control, or eradicate an infestation or pest; (ii) to prevent or retard the spread of an infestation or pest; or (iii) to prevent further disease transmission or progression.

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2. Open burning is permitted for training and instruction of government and public fire fighters under the supervision of the designated official and industrial in-house fire fighting personnel with clearance from the local fire fighting authority. The designated official in charge of the training shall notify and obtain the approval of the regional director prior to conducting the training exercise. Training schools where permanent facilities are installed for fire fighting instruction are exempt from this notification requirement. Buildings that have not been demolished may be burned under the provisions of this subdivision only.

3. Open burning or the use of special incineration devices is permitted for the destruction of classified military documents under the supervision of the designated official.

4. Open burning is permitted for camp fires or other fires that are used solely for recreational purposes, for ceremonial occasions, for outdoor noncommercial preparation of food, and for warming of outdoor workers provided the materials specified in subsections B and C of 9 VAC 5-40-5620 are not burned.

5. In urban areas, open burning is permitted for the [~~disposal~~ on-site destruction] of leaves and tree, yard and garden trimmings located on the premises of private property, provided that no regularly scheduled public or private collection service for such trimmings is available at the adjacent street or public road. In nonurban areas, open burning is permitted for the [~~disposal~~ on-site destruction] of leaves and tree, yard and garden trimmings located on the premises of private property regardless of the availability of collection service for such trimmings.

6. Open burning is permitted for the [~~disposal~~ on-site destruction] of household refuse waste by homeowners or tenants, provided that no regularly scheduled public or private collection service for such refuse is available at the adjacent street or public road.

7. Open burning is permitted for the destruction of any combustible liquid or gaseous material by burning in a flare or flare stack. Use of a flare or flare stack for the destruction of hazardous waste or commercial/industrial waste is allowed provided written approval is obtained from the board and the facility is in compliance with Article 3 (9 VAC 5-40-160 et seq.) of this chapter and Article 3 (9 VAC 5-50-160 et seq.) of 9 VAC 5 Chapter 50. Permits issued under 9 VAC 5 Chapter 80 (9 VAC 5-80 [-10 et seq.]) may be used to satisfy the requirement for written approval. This activity must be consistent with the provisions of 9 VAC 20-60.

8. Open burning or the use of special incineration devices is permitted [on-site] for [~~disposal~~ the destruction] of clean burning ~~construction~~ waste, and debris waste, ~~and demolition~~ waste [resulting from property maintenance, from the development or modification of roads and highways, parking areas, railroad tracks, pipelines, power

and communication lines, buildings or building areas, sanitary landfills, or from any other clearing operations].

~~Buildings which have not been demolished may be burned only as provided in subdivision 2 of this section. Open burning or the use of special incineration devices for the purpose of such [disposal destruction] is prohibited in the Northern Virginia Volatile Organic Compounds Emissions Control Area (see 9 VAC 5-20-206) during June, July, and August. As of January 1, 2000, open burning for the purpose of such disposal is prohibited in the Richmond and Hampton Roads Volatile Organic Compounds Emissions Control Areas~~ volatile organic compounds emissions control areas (see 9 VAC 5-20-206) during May, June, July, and August, and September.

9. Open burning is permitted for forest management and agriculture practices approved by the board (see 9 VAC 5-40-5631), provided the following conditions are met:

a. The burning shall be at least 1000 feet from any occupied building unless the occupants have given prior permission, other than a building located on the property on which the burning is conducted.

b. The burning shall be attended at all times.

10. Open burning or the use of special incineration devices is permitted for [~~disposal~~ the destruction] of clean burning ~~construction~~ waste, and debris waste, ~~and demolition~~ waste on the site of local landfills provided that the burning does not take place on land that has been filled and covered so as to present an underground fire hazard due to the presence of methane gas. Open burning or the use of special incineration devices for the purpose of such [~~disposal~~ disposal destruction] is prohibited in the Northern Virginia Volatile Organic Compounds Emissions Control Area (see 9 VAC 5-20-206) during June, July, and August. As of January 1, 2000, open burning for the purpose of such disposal is prohibited in the Richmond and Hampton Roads Volatile Organic Compounds Emissions Control Areas volatile organic compounds emissions control areas (see 9 VAC 5-20-206) during May, June, July, and August, and September.

[B. Open burning or the use of special incineration devices permitted under the provisions of this article does not exempt or excuse any owner or other person from the consequences, liability, damages or injuries that may result from such conduct; nor does it excuse or exempt any owner or other person from complying with other applicable laws, ordinances, regulations and orders of the governmental entities having jurisdiction, even though the open burning is conducted in compliance with this article. In this regard, special attention should be directed to § 10.1-1142 of the Code of Virginia, which is enforced by the Department of Forestry.

C. With regard to the provisions of subsection B of this section, special attention should also be directed to the regulations of the Virginia Waste Management Board. No destruction of waste by open burning or transportation of waste to be destroyed by open burning shall take place in violation of the regulations of the Virginia Waste Management Board.]

9 VAC 5-40-5631. Forest management and agricultural practices.

A. Open burning is permitted in accordance with subsections B and C of this section provided the provisions of subsections B through [~~G E~~] of 9 VAC 5-40-5620 are met.

B. Open burning may be used for the following forest management practices provided the burning is conducted in accordance with the Department of Forestry's smoke management plan:

1. To reduce forest fuels and minimize the effect of wild fires.
2. To control undesirable growth of hardwoods.
3. To control disease in pine seedlings.
4. To prepare forest land for planting or seeding.
5. To create a favorable habitat for certain species.
6. To remove dead vegetation for the maintenance of railroad, highway and public utility right-of-way.

C. In the absence of other means of disposal, open burning may be used for the following agricultural practices:

1. To destroy undesirable or diseased vegetation.
2. To clear orchards and orchard prunings.
3. To destroy [empty] fertilizer and chemical containers.
4. To denature seed and grain ~~which that~~ may no longer be suitable for agricultural purposes.
5. To prevent loss from frost or freeze damage.
6. To create a favorable habitat for certain species.
7. To destroy strings and plastic ground cover remaining in the field after being used in growing staked tomatoes.

9 VAC 5-40-5641. Local ordinances on open burning.

A. General.

1. If the governing body of any locality wishes to adopt an ordinance [relating to air pollution and] governing open burning within its jurisdiction, the ordinance must first be approved by the board (see § 10.1-1321 B of the Code of Virginia).

2. In order to assist local governments in the development of ordinances acceptable to the board, the ordinance in subsection C of this section is offered as a model.

3. If a local government wishes to adopt the language of the model ordinance without changing any wording except that enclosed by parentheses, that government's ordinance shall be deemed to be approved by the board on the date of local adoption provided that a copy of the ordinance is filed with the department upon its adoption by the local government.

4. If a local government wishes to change any wording of the model ordinance aside from that enclosed by parentheses in order to construct a local ordinance, that government shall request the approval of the board prior to adoption of the ordinance by the local jurisdiction. A copy of the ordinance shall be filed with the department upon its adoption by the local government.

5. Local ordinances ~~which that~~ have been approved by the board prior to April 1, 1996, remain in full force and effect as specified by their promulgating authorities.

B. Establishment and approval of local ordinances varying from the model.

1. Any local governing body proposing to adopt or amend an ordinance relating to open burning ~~which that~~ differs from the model local ordinance in subsection C of this section shall first obtain the approval of the board for the ordinance or amendment as specified in subdivision A 4 of this section. The board in approving local ordinances will consider, but will not be limited to, the following criteria:

- a. The local ordinance shall provide for intergovernmental cooperation and exchange of information.
- b. Adequate local resources will be committed to enforcing the proposed local ordinance.
- c. The provisions of the local ordinance shall be as strict as state regulations, except as provided for leaf burning in § 10.1-1308 of the Virginia Air Pollution Control Law.
- d. If a waiver from any provision of Article 40 (9 VAC 5-40-5600 et seq.) of 9 VAC 5 Chapter 40 has been requested under [~~9 VAC 5-40-5640~~ 9 VAC 5-40-5645], the language of the ordinance shall achieve the objective of the provision from which the waiver is requested.

2. Approval of any local ordinance may be withdrawn if the board determines that the local ordinance is less strict than state regulations or if the locality fails to enforce the ordinance.

3. If a local ordinance must be amended to conform to an amendment to state regulations, such local amendment will be made within six months of the effective date of the amended state regulations.

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4. Local ordinances are a supplement to state regulations. Any provisions of local ordinances ~~which that~~ have been approved by the board and are more strict than state regulations shall take precedence over state regulations within the respective locality. If a locality fails to enforce its own ordinance, the board reserves the right to enforce state regulations.

5. A local governing body may grant a variance to any provision of its air pollution control ordinance(s) provided that:

- a. A public hearing is held prior to granting the variance;
- b. The public is notified of the application for a variance by notice in at least one major newspaper of general circulation in the affected locality at least 30 days prior to the date of the hearing; and
- c. The variance does not permit any owner or other person to take action that would result in a violation of any provision of state regulations unless a variance is granted by the board. The public hearings required for the variances to the local ordinance and state regulations may be conducted jointly as one proceeding.

6. [~~9 VAC 5-20-60~~ 9 VAC 5-170-150] shall not apply to local ordinances concerned solely with open burning.

C. Model Ordinance.

ORDINANCE NO. (000)

Section (000-1). Title. This article shall be known as the (local jurisdiction) Ordinance for the Regulation of Open Burning.

Section (000-2). Purpose. The purpose of this article is to protect public health, safety, and welfare by regulating open burning within (local jurisdiction) to achieve and maintain, to the greatest extent practicable, a level of air quality that will provide comfort and convenience while promoting economic and social development. This article is intended to supplement the applicable regulations promulgated by the State Air Pollution Control Board and other applicable regulations and laws.

Section (000-3). Definitions. For the purpose of this article and subsequent amendments or any orders issued by (local jurisdiction), the words or phrases shall have the meaning given them in this section.

A. "Automobile graveyard" means any lot or place ~~which that~~ is exposed to the weather and upon which more than five motor vehicles of any kind, incapable of being operated, and ~~which that~~ it would not be economically practical to make operative, are placed, located or found.

B. "Built-up area" means any area with a substantial portion covered by industrial, commercial or residential buildings.

~~B. C.~~ "Clean burning waste" means waste ~~which does not produce dense smoke when burned and that~~ is not prohibited to be burned under this ordinance and that consists only of (i) 100% wood waste, (ii) 100% clean lumber or clean wood, (iii) 100% yard waste, or (iv) 100% mixture of only any combination of wood waste, clean lumber, clean wood or yard waste.

D. "Clean lumber" means wood or wood products that have been cut or shaped and include wet, air-dried, and kiln-dried wood products. Clean lumber does not include wood products that have been painted, pigment-stained, or pressure-treated by compounds such as chromate copper arsenate, pentachlorophenol, and creosote.

E. "Clean wood" means [~~untreated wood or untreated wood products including clean untreated lumber, tree stumps (whole or chipped), and tree limbs (whole or chipped).~~ Clean wood does not include: (i) yard waste or (ii) construction, renovation, or demolition wastes (for example, railroad ties and telephone poles) uncontaminated natural or untreated wood. Clean wood includes, but is not limited to, byproducts of harvesting activities conducted for forest management or commercial logging, or mill residues consisting of bark, chips, edgings, sawdust, shavings or slabs. It does not include wood that has been treated, adulterated, or chemically changed in some way; treated with glues, binders or resins; or painted, stained or coated].

~~C. F.~~ "Construction waste" means solid waste ~~which that~~ is produced or generated during construction ~~of structures, remodeling, or repair of pavements, houses, commercial buildings and other structures.~~ Construction waste includes lumber, wire, sheetrock, broken brick, shingles, glass, pipes, concrete, and metal and plastics if the metal or plastics are a part of the materials of construction or empty containers for such materials. Paints, coatings, solvents, asbestos, any liquid, compressed gases or semi-liquids, and garbage are not construction wastes and the disposal of such materials must be in accordance with the regulations of the Virginia Waste Management Board.

~~D. G.~~ "Debris waste" means ~~stumps, wood, brush, and leaves from land-clearing operations~~ wastes resulting from land-clearing operations. Debris wastes include but are not limited to stumps, wood, brush, leaves, soil and road spoils.

~~E. H.~~ "Demolition waste" means that solid waste ~~which that~~ is produced by the destruction of structures [~~and or~~] their foundations [, or both,] and includes the same materials as construction waste.

~~F. I.~~ "Garbage" means ~~rotting animal and vegetable matter accumulated by a household in the course of ordinary day to day living~~ readily putrescible discarded materials composed of animal, vegetable or other organic matter.

~~G. J. "Hazardous waste" means refuse or combination of refuse which, because of its quantity, concentration or physical, chemical or infectious characteristics may: a "hazardous waste" as described in 9 VAC 20-60, Hazardous Waste Management Regulations.~~

- ~~1. Cause or significantly contribute to an increase in mortality or an increase in serious irreversible or incapacitating illness; or~~
- ~~2. Pose a substantial present or potential hazard to human health or the environment when improperly treated, stored, transported, disposed, or otherwise managed~~

~~H. K. "Household refuse waste" means waste material and trash normally accumulated by a household in the course of ordinary day to day living any waste material, including garbage, trash and refuse derived from households. For purposes of this regulation, households include single and multiple residences, hotels and motels, bunkhouses, ranger stations, crew quarters, campgrounds, picnic grounds and day-use recreation areas. Household wastes do not include sanitary waste in septic tanks (septage) that is regulated by [other] state agencies.~~

~~I. L. "Industrial waste" means all waste generated on the premises of manufacturing and industrial operations such as, but not limited to, those carried on in factories, processing plants, refineries, slaughter houses, and steel mills any solid waste generated by manufacturing or industrial process that is not a regulated hazardous waste. Such waste may include but is not limited to waste resulting from the following manufacturing processes: electric power generation; fertilizer/agricultural chemicals; food and related products/by products; inorganic chemicals; iron and steel manufacturing; leather and leather products; nonferrous metals manufacturing/foundries; organic chemicals; plastics and resins manufacturing; pulp and paper industry; rubber and miscellaneous plastic products; stone, glass, clay and concrete products; textile manufacturing; transportation equipment; and water treatment. This term does not include mining waste or oil and gas waste.~~

~~J. M. "Junkyard" means an establishment or place of business which that is maintained, operated, or used for storing, keeping, buying, or selling junk, or for the maintenance or operation of an automobile graveyard, and the term shall include garbage dumps and sanitary [#lls landfills].~~

~~K. N. "Landfill" means a sanitary landfill, an industrial waste landfill, or a construction/demolition/debris landfill. See Solid Waste Management Regulations (9 VAC 20-80 [-10 et seq.]) for further definitions of these terms.~~

~~L. O. "Local landfill" means any landfill located within the jurisdiction of a local government.~~

~~M. P. "Open burning" means the burning of any matter in such a manner that the products resulting from combustion~~

~~are emitted directly into the atmosphere without passing through a stack, duct or chimney combustion of solid waste without:~~

- ~~[a- 1.] Control of combustion air to maintain adequate temperature for efficient combustion;~~
- ~~[b- 2.] Containment of the combustion reaction in an enclosed device to provide sufficient residence time and mixing for complete combustion; and~~
- ~~[e- 3.] Control of the combustion products' emission.~~

~~N. Q. "Open pit incinerator" means a device used to burn waste for the primary purpose of reducing the volume by removing combustible matter. Such devices function by directing a curtain of air at an angle across the top of a trench or similarly enclosed space, thus reducing the amount of combustion byproducts emitted into the atmosphere. The term also includes trench burners, air curtain ~~destructors incinerators~~ and over draft incinerators.~~

~~O. R. "Refuse" means trash, rubbish, garbage and other forms of solid or liquid waste, including, but not limited to, wastes resulting from residential, agricultural, commercial, industrial, institutional, trade, construction, land clearing, forest management and emergency operations all solid waste products having the characteristics of solids rather than liquids and that are composed wholly or partially of materials such as garbage, trash, rubbish, litter, residues from clean-up of spills or contamination or other discarded materials.~~

~~P. S. "Salvage operation" means any operation consisting of a business, trade or industry participating in salvaging or reclaiming any product or material, such as, but not limited to, reprocessing of used motor oils, metals, chemicals, shipping containers or drums, and specifically including automobile graveyards and junkyards.~~

~~Q. T. "Sanitary landfill" means an engineered land burial facility for the disposal of household waste which that is so located, designed, constructed, and operated to contain and isolate the waste so that it does not pose a substantial present or potential hazard to human health or the environment. A sanitary landfill also may receive other types of solid wastes, such as commercial solid waste, nonhazardous sludge, hazardous waste from conditionally exempt small quantity generators, construction [,] demolition [, or] debris [waste] and nonhazardous industrial solid waste. See Solid Waste Management Regulations (9 VAC 20-80-10 ~~et seq-~~) for further definitions of these terms.~~

~~R. U. "Smoke" means small gas-borne particulate matter consisting mostly, but not exclusively, of carbon, ash and other material in concentrations sufficient to form a visible plume.~~

~~S. V. "Special incineration device" means a an open pit incinerator, conical or teepee burner, or any other device~~

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specifically designed to provide good combustion performance.

W. "Wood waste" means untreated wood and untreated wood products, including tree stumps (whole or chipped), trees, tree limbs (whole or chipped), bark, sawdust, chips, scraps, slabs, millings, and shavings. Wood waste does not include:

1. Grass, grass clippings, bushes, shrubs, and clippings from bushes and shrubs from residential, commercial/retail, institutional, or industrial sources as part of maintaining yards or other private or public lands.
2. Construction, renovation, or demolition wastes.
3. Clean lumber.

X. "Yard waste" means grass, grass clippings, bushes, shrubs, and clippings from bushes and shrubs that come from residential, commercial/retail, institutional, or industrial sources as part of maintaining yards or other private or public lands. Yard waste does not include (i) construction, renovation, and demolition wastes or (ii) clean wood.

Section (000-4). Prohibitions on open burning.

A. No owner or other person shall cause or permit open burning or the use of a special incineration device for [~~disposal~~ the destruction] of refuse except as provided in this ordinance.

B. No owner or other person shall cause or permit open burning or the use of a special incineration device for [~~disposal~~ the destruction] of rubber tires, asphaltic materials, crankcase oil, impregnated wood or other rubber or petroleum based materials except when conducting bona fide fire fighting instruction at fire fighting training schools having permanent facilities.

C. No owner or other person shall cause or permit open burning or the use of a special incineration device for [~~disposal~~ the destruction] of hazardous waste or containers for such materials.

D. No owner or other person shall cause or permit open burning or the use of a special incineration device for the purpose of a salvage operation or for the [~~disposal~~ destruction] of commercial/industrial waste.

E. Open burning or the use of special incineration devices permitted under the provisions of this ordinance does not exempt or excuse any owner or other person from the consequences, liability, damages or injuries ~~which~~ that may result from such conduct; nor does it excuse or exempt any owner or other person from complying with other applicable laws, ordinances, regulations and orders of the governmental entities having jurisdiction, even though the open burning is conducted in compliance with this ordinance. In this regard special attention should be directed to § 10.1-1142 of the Code of Virginia, the regulations of the Virginia Waste Management Board, and the State Air Pollution Control

Board's Regulations for the Control and Abatement of Air Pollution.

F. Upon declaration of an alert, warning or emergency stage of an air pollution episode as described in 9 VAC 5 Chapter 70 (9 VAC 5-70 [~~-40 et seq.~~]) or when deemed advisable by the State Air Pollution Control Board to prevent a hazard to, or an unreasonable burden upon, public health or welfare, no owner or other person shall cause or permit open burning or use of a special incineration device; and any in process burning or use of special incineration devices shall be immediately terminated in the designated air quality control region.

Section (000-5). Exemptions. The following activities are exempted to the extent covered by the State Air Pollution Control Board's Regulations for the Control and Abatement of Air Pollution:

A. Open burning for training and instruction of government and public fire fighters under the supervision of the designated official and industrial in-house fire fighting personnel;

B. Open burning for camp fires or other fires that are used solely for recreational purposes, for ceremonial occasions, for outdoor noncommercial preparation of food, and for warming of outdoor workers;

C. Open burning for the destruction of any combustible liquid or gaseous material by burning in a flare or flare stack;

D. Open burning for forest management and agriculture practices approved by the State Air Pollution Control Board; and

E. Open burning for the destruction of classified military documents.

Section (000-6). Permissible open burning.

A. Open burning is permitted [on-site] for the [~~disposal~~ destruction] of leaves and tree, yard and garden trimmings located on the premises of private property, provided that the conditions are met:

1. The burning takes place on the premises of the private property; (and)
2. The location of the burning is not less than 300 feet from any occupied building unless the occupants have given prior permission, other than a building located on the property on which the burning is conducted; (and)
3. No regularly scheduled public or private collection service for such trimmings is available at the adjacent street or public road¹.

¹ This provision shall be included in ordinances for urban areas. It may be included in ordinances for non-urban areas.

B. Open burning is permitted for the disposal of household ~~refuse waste~~ by homeowners or tenants, provided that the following conditions are met:

1. The burning takes place on the premises of the dwelling;
2. Animal carcasses or animal wastes are not burned;
3. Garbage is not burned; (and)
4. The location of the burning is not less than 300 feet from any occupied building unless the occupants have given prior permission, other than a building located on the property on which the burning is conducted; (and)
5. No regularly scheduled public or private collection service for such refuse is available at the adjacent street or public road².

C. Open burning is permitted [on-site] for [~~disposal~~ destruction] of debris waste resulting from property maintenance, from the development or modification of roads and highways, parking areas, railroad tracks, pipelines, power and communication lines, buildings or building areas, sanitary landfills, or from any other clearing operations ~~which~~ that may be approved by (designated local official), provided the following conditions are met:

1. All reasonable effort shall be made to minimize the amount of material burned, with the number and size of the debris piles approved by (designated local official);
2. The material to be burned shall consist of brush, stumps and similar debris waste and shall not include demolition material;
3. The burning shall be at least 500 feet from any occupied building unless the occupants have given prior permission, other than a building located on the property on which the burning is conducted;
4. The burning shall be conducted at the greatest distance practicable from highways and air fields,
5. The burning shall be attended at all times and conducted to ensure the best possible combustion with a minimum of smoke being produced;
6. The burning shall not be allowed to smolder beyond the minimum period of time necessary for the destruction of the materials; and
7. The burning shall be conducted only when the prevailing winds are away from any city, town or built-up area.

D. Open burning is permitted for [~~disposal~~ destruction] of debris on the site of local landfills provided that the burning does not take place on land that has been filled and covered so as to present an underground fire hazard due to the

presence of methane gas provided that the following conditions are met:

1. The burning shall take place on the premises of a local sanitary landfill ~~which~~ that meets the provisions of the regulations of the Virginia Waste Management Board,
2. The burning shall be attended at all times;
3. The material to be burned shall consist only of brush, tree trimmings, yard and garden trimmings, clean burning ~~construction~~ waste, clean burning debris waste, or clean burning demolition waste;
4. All reasonable effort shall be made to minimize the amount of material that is burned;
5. No materials may be burned in violation of the regulations of the Virginia Waste Management Board or the State Air Pollution Control Board. The exact site of the burning on a local landfill shall be established in coordination with the regional director and (designated local official); no other site shall be used without the approval of these officials. (Designated local official) shall be notified of the days during which the burning will occur.

(E. (Sections 000-6 A through D notwithstanding, no owner or other person shall cause or permit open burning or the use of a special incineration device during [May] June, July, [~~or~~] August [, or September].³)

Section (000-7). Permits.

A. When open burning of debris waste (Section 000-6 C) or open burning of debris on the site of a local landfill (Section 000-6 D) is to occur within (local jurisdiction), the person responsible for the burning shall obtain a permit from (designated local official) prior to the burning. Such a permit may be granted only after confirmation by (designated local official) that the burning can and will comply with the provisions of this ordinance and any other conditions ~~which~~ that are deemed necessary to ensure that the burning will not endanger the public health and welfare or to ensure compliance with any applicable provisions of the State Air Pollution Control Board's Regulations for the Control and Abatement of Air Pollution. The permit may be issued for each occasion of burning or for a specific period of time deemed appropriate by (designated local official).

B. Prior to the initial installation (or reinstallation, in cases of relocation) and operation of special incineration devices, the person responsible for the burning shall obtain a permit from (designated local official), such permits to be granted only after confirmation by (designated local official) that the burning can and will comply with the applicable provisions in Regulations for the Control and Abatement of Air Pollution

² This provision shall be included in ordinances for urban areas. It may be included in ordinances for non-urban areas.

³ This provision shall be included in ordinances for jurisdictions within volatile organic compound emissions control areas. It may be included in ordinances for jurisdictions outside these areas.

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and that any conditions are met ~~which~~ that are deemed necessary by (designated local official) to ensure that the operation of the devices will not endanger the public health and welfare. Permits granted for the use of special incineration devices shall at a minimum contain the following conditions:

1. All reasonable effort shall be made to minimize the amount of material that is burned. Such efforts shall include, but are not limited to, the removal of pulpwood, sawlogs and firewood.
2. The material to be burned shall consist of brush, stumps and similar debris waste and shall not include demolition material.
3. The burning shall be at least 300 feet from any occupied building unless the occupants have given prior permission, other than a building located on the property on which the burning is conducted; burning shall be conducted at the greatest distance practicable from highways and air fields. If (designated local official) determines that it is necessary to protect public health and welfare, he may direct that any of the above cited distances be increased.
4. The burning shall be attended at all times and conducted to ensure the best possible combustion with a minimum of smoke being produced. Under no circumstances should the burning be allowed to smolder beyond the minimum period of time necessary for the destruction of the materials.
5. The burning shall be conducted only when the prevailing winds are away from any city, town or built-up area.
6. The use of special incineration devices shall be allowed only for the [~~disposal~~ destruction] of debris waste, clean burning construction waste, and clean burning demolition waste.

(C. An application for a permit under Section 000-7 A or 000-7 B shall be accompanied by a processing fee of \$----.⁴)

Section (000-8). Penalties for violation.

A. Any violation of this ordinance is punishable as a Class [1] misdemeanor. (See § [~~15.1-901~~ 15.2-1429] of the Code of Virginia.)

B. Each separate incident may be considered a new violation.

VA.R. Doc. No. R05-24; Filed August 26, 2006, 11:10 a.m.

STATE WATER CONTROL BOARD

Final Regulation

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 the notice of EPA approval with the Registrar of Regulations.

Agency Contact: Jean W. Gregory, Department of Environmental Quality, P.O. Box 10009, Richmond, VA 23240, telephone (804) 698-4113, FAX (804) 698-4116, or email jwgregory@deq.virginia.gov.

Summary:

The amendments designate three surface waters located within the boundaries of George Washington National Forest for special protection as Exceptional State Waters. A change from the proposed removes Piney Mountain Branch as a proposed water for Exceptional State Waters designation.

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.

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.

⁴ The fee stipulation in this section is optional at the discretion of the jurisdiction.

(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

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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) Blue Suck Branch from its headwaters downstream to the first crossing with the George Washington National Forest boundary.

(20) Downy Branch from its headwaters downstream to the first crossing with the George Washington National Forest boundary.

[~~(21) Piney Mountain Branch from its headwaters downstream to the first crossing with the George Washington National Forest boundary.~~

~~(22)-(21)] North Branch Simpson Creek (Brushy Run) from its headwaters downstream to its confluence with Simpson Creek.~~

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. R05-26; Filed August 29, 2006, 9:27 a.m.

Final Regulation

Title of Regulation: **9 VAC 25-260. Water Quality Standards (amending 9 VAC 25-260-5, 9 VAC 25-260-50, 9 VAC 25-260-310, [~~9 VAC 25-260-350, 9 VAC 25-260-415, 9 VAC 25-260-420, 9 VAC 25-260-450,~~] 9 VAC 25-260-480 [, ~~9 VAC 25-260-540~~] ; adding 9 VAC 25-260-187).**

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

Effective Date: Upon filing the notice of EPA approval with the Registrar of Regulation.

Agency Contact: Jean W. Gregory, Department of Environmental Quality, P.O. Box 10009, Richmond, VA 23240, telephone (804) 698-4113, FAX (804) 698-4116, or email jwgregory@deq.virginia.gov.

Summary:

Amendments to the state's Water Quality Standards regulation add new numerical and narrative criteria to protect designated uses of man-made lakes and reservoirs as well as the two natural lakes in the state from the impacts of nutrients. The rulemaking also clarifies that the existing dissolved oxygen criteria during times of thermal stratification should only apply to the upper layer (epilimnion) in man-made lakes and reservoirs where nutrient enrichment is controlled by applicable nutrient criteria in 9 VAC 25-260-187.

Since publication of the proposal, the following changes have been made: reassignment of Lake Whitehurst from a cool to a warm water fishery and Burke Lake from a warm water to a fertilized fishery with the appropriate changes in the numeric criteria; clarification that water quality assessment of nutrient criteria (chlorophyll a and total phosphorus) will be based on the two most recent monitoring years with available data; addition of a process for confirmation of use impairments when the criteria are exceeded; and retention of the nutrient enriched waters designations in 9 VAC 25-260-350 for Smith Mountain Lake, Lake Chesdin, South Fork Rivanna Reservoir, and Claytor Lake.

In addition, as a result of the retention of the nutrient enriched waters designations in 9 VAC 25-260-350, proposed deletion of references to the designations in 9 VAC 25-260-415, 9 VAC 25-260-420, 9 VAC 25-260-450 and 9 VAC 25-260-540 were reinstated in the final regulation.

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.

PART I.
SURFACE WATER STANDARDS WITH GENERAL,
STATEWIDE APPLICATION.

9 VAC 25-260-5. Definitions.

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

"Algicides" means chemical substances, most commonly copper-based, used as a treatment method to control algae growths.

"Board" means State Water Control Board.

"Chesapeake Bay and its tidal tributaries" means all tidally influenced waters of the Chesapeake Bay; western and eastern coastal embayments and tributaries; James, York, Rappahannock and Potomac Rivers and all their tidal tributaries to the end of tidal waters in each tributary (in larger rivers this is the fall line); and includes subdivisions 1, 2, 3, 4, 5, and 6 of 9 VAC 25-260-390, subdivisions 1, 1b, 1d, 1f and 1o of 9 VAC 25-260-410, subdivisions 5 and 5a of 9 VAC 25-260-415, subdivisions 1 and 1a of 9 VAC 25-260-440, subdivisions 2, 3, 3a, 3b and 3e of 9 VAC 25-260-520, and subdivision 1 of 9 VAC 25-260-530. This definition does not include free flowing sections of these waters.

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

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

"Drifting organisms" means planktonic organisms that are dependent on the current of the water for movement.

"Epilimnion" means the upper layer of nearly uniform temperature in a thermally stratified man-made lake or reservoir listed in 9 VAC 25-260-187 B.

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

"Lacustrine" means the zone within a lake or reservoir that corresponds to nonflowing lake-like conditions such as those near the dam. The other two zones within a reservoir are riverine (flowing, river-like conditions) and transitional (transition from river to lake conditions).

"Man-made lake or reservoir" means a constructed impoundment.

"Mixing zone" means a limited area or volume of water where initial dilution of a discharge takes place and where numeric water quality criteria can be exceeded but designated uses in the water body on the whole are maintained and lethality is prevented.

"Natural lake" means an impoundment that is natural in origin. There are two natural lakes in Virginia: Mountain Lake in Giles County and Lake Drummond located within the boundaries of Chesapeake and Suffolk in the Great Dismal Swamp.

"Passing organisms" means free swimming organisms that move with a mean velocity at least equal to the ambient current in any direction.

"Primary contact recreation" means any water-based form of recreation, the practice of which has a high probability for total body immersion or ingestion of water (examples include but are not limited to swimming, water skiing, canoeing and kayaking).

"Pycnocline" means the portion of the water column where density changes rapidly because of salinity and/or temperature. In an estuary the pycnocline is the zone separating deep, cooler more saline waters from the less saline, warmer surface waters. The upper and lower boundaries of a pycnocline are measured as a change in density per unit of depth that is greater than twice the change of the overall average for the total water column.

"Secondary contact recreation" means a water-based form of recreation, the practice of which has a low probability for total body immersion or ingestion of waters (examples include but are not limited to wading, boating and fishing).

"Swamp waters" means waters with naturally occurring low pH and low dissolved oxygen caused by: (i) low flow velocity that prevents mixing and reaeration of stagnant, shallow waters and (ii) decomposition of vegetation that lowers dissolved oxygen concentrations and causes tannic acids to color the water and lower the pH.

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

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

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9 VAC 25-260-50. Numerical criteria for dissolved oxygen, pH, and maximum temperature.***

CLASS****	DESCRIPTION OF WATERS	DISSOLVED OXYGEN (mg/l)****		pH	Max. Temp. (°C)
		Min.	Daily Avg.		
I	Open Ocean	5.0	--	6.0-9.0	--
II	Estuarine Waters (Tidal Water-Coastal Zone to Fall Line)	4.0	5.0	6.0-9.0	--
III	Nontidal Waters (Coastal and Piedmont Zones)	4.0	5.0	6.0-9.0	32
IV	Mountainous Zones Waters	4.0	5.0	6.0-9.0	31
V	Stockable Trout Waters	5.0	6.0	6.0-9.0	21
VI	Natural Trout Waters	6.0	7.0	6.0-9.0	20
VII	Swamp Waters	*	*	4.3-9.0*	**

*This classification recognizes that the natural quality of these waters may fall outside of the ranges for D.O. and pH set forth above as water quality criteria; therefore, on a case-by-case basis, criteria for specific Class VII waters can be developed that reflect the natural quality of the waterbody. Virginia Pollutant Discharge Elimination System limitations in Class VII waters shall meet pH of 6.0 - 9.0.

**Maximum temperature will be the same as that for Classes I through VI waters as appropriate.

***The water quality criteria in this section do not apply below the lowest flow averaged (arithmetic mean) over a period of seven consecutive days that can be statistically expected to occur once every 10 climatic years (a climatic year begins April 1 and ends March 31).

****See 9 VAC 25-260-55 for implementation of these criteria in waters naturally low in dissolved oxygen.

*****For a thermally stratified man-made lake or reservoir in Class III, IV, V or VI waters that are listed in 9 VAC 25-260-187, these dissolved oxygen criteria apply only to the epilimnion in the lacustrine portion of the water body. When these waters are not stratified, the dissolved oxygen criteria apply throughout the water column.

PART II.

STANDARDS WITH MORE SPECIFIC APPLICATION.

9 VAC 25-260-187. Criteria for man-made lakes and reservoirs to protect aquatic life and recreational designated uses from the impacts of nutrients.

A. [~~The list of man-made lakes and reservoirs in subsection B of this section are those waters previously monitored or planned for monitoring by the department~~ The criteria in subsection B of this section apply to the man-made lakes and reservoirs listed in this section]. Additional man-made lakes and reservoirs [~~will may~~] be added as new reservoirs are constructed or monitoring data become available from outside groups or future agency monitoring.

B. Whether or not algicide treatments are used, the chlorophyll a criteria apply to all waters on the list. The total phosphorus criteria apply only if a specific man-made lake or reservoir received algicide treatment during the monitoring and assessment period of April 1 through October 31.

The 90th percentile of the chlorophyll a data collected at one meter or less within the lacustrine portion of the man-made lake or reservoir between April 1 and October 31 [~~in any given year~~] shall not exceed the chlorophyll a criterion for that water body [~~for two consecutive assessments. The in each of the two most recent monitoring years that chlorophyll a data are available. For a water body that received algicide treatment, the~~] median of the total phosphorus data collected at one meter or less within the lacustrine portion of the man-made lake or reservoir between April 1 and October 31 [~~in any given year~~] shall not exceed the total phosphorus criterion [~~for two consecutive assessments for a water body that received algicide treatment in each of the two most recent monitoring years that total phosphorus data are available~~].

Monitoring data used for assessment shall be from sampling location(s) within the lacustrine portion where observations are evenly distributed over the seven months from April 1 through October 31 and are in locations that are representative, either individually or collectively, of the condition of the man-made lake or reservoir.

Man-made Lake or Reservoir Name	Location	Chlorophyll a (µg/L)	Total Phosphorus (µg/L)
Able Lake	Stafford County	35	40
Airfield Pond	Sussex County	35	40
Amelia Lake	Amelia County	35	40
Aquia Reservoir (Smith Lake)	Stafford County	35	40
Bark Camp Lake (Corder Bottom Lake, Lee/Scott/Wise Lake)	Scott County	35	40
Beaver Creek Reservoir	Albemarle County	35	40
Beaverdam Creek Reservoir (Beaverdam Reservoir)	Bedford County	35	40
Beaverdam Reservoir	Loudoun County	35	40
Bedford Reservoir (Stony Creek Reservoir)	Bedford County	35	40
Big Cherry Lake	Wise County	35	40
Breckenridge Reservoir	Prince William County	35	40
Briery Creek Lake	Prince Edward County	35	40
Brunswick Lake (County Pond)	Brunswick County	35	40
Burke Lake	Fairfax County	[35 60]	40
Carvin Cove Reservoir	Botetourt County	35	40
Cherrystone Reservoir	Pittsylvania County	35	40

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Chickahominy Lake	Charles City County	35	40
Claytor Lake	Pulaski County	25	20
Clifton Forge Reservoir (Smith Creek Reservoir)	Alleghany County	35	20
Coles Run Reservoir	Augusta County	10	10
Curtis Lake	Stafford County	60	40
Diascund Creek Reservoir	New Kent County	35	40
Douthat Lake	Bath County	25	20
Elkhorn Lake	Augusta County	10	10
Emporia Lake (Meherrin Reservoir)	Greensville County	35	40
Fairystone Lake	Henry County	35	40
Falling Creek Reservoir	Chesterfield County	35	40
Fort Pickett Reservoir	Nottoway/ Brunswick County	35	40
Gatewood Reservoir	Pulaski County	35	40
Georges Creek Reservoir	Pittsylvania County	35	40
Goose Creek Reservoir	Loudoun County	35	40
Graham Creek Reservoir	Amherst County	35	40
Great Creek Reservoir	Lawrenceville	35	40
Harrison Lake	Charles City County	35	40
Harwood Mills Reservoir	York County	60	40
Hidden Valley Lake	Washington County	35	40
Hogan Lake	Pulaski County	35	40
Holiday Lake	Appomattox County	35	40
Hungry Mother Lake	Smyth County	35	40
Hunting Run Reservoir	Spotsylvania County	35	40
J. W. Flannagan Reservoir	Dickenson County	25	20
Kerr Reservoir, Virginia portion (Buggs Island Lake)	Halifax County	25	30
Keysville Reservoir	Charlotte County	35	40
Lake Albemarle	Albemarle County	35	40
Lake Anna	Louisa County	25	30
Lake Burnt Mills	Isle of Wight County	60	40
Lake Chesdin	Chesterfield County	35	40
Lake Cohoon	Suffolk City	60	40
Lake Conner	Halifax County	35	40
Lake Frederick	Frederick County	35	40
Lake Gaston, (Virginia portion)	Brunswick County	25	30
Lake Gordon	Mecklenburg County	35	40
Lake Keokee	Lee County	35	40

Lake Kilby	Suffolk City	60	40
Lake Lawson	Virginia Beach City	60	40
Lake Manassas	Prince William County	35	40
Lake Meade	Suffolk City	60	40
Lake Moomaw	Bath County	10	10
Lake Nelson	Nelson County	35	40
Lake Nottoway (Lee Lake, Nottoway Lake)	Nottoway County	35	40
Lake Pelham	Culpeper County	35	40
Lake Prince	Suffolk City	35	40
Lake Robertson	Rockbridge County	35	40
Lake Smith	Virginia Beach City	60	40
Lake Whitehurst	Norfolk City	[25 60]	[20 40]
Lake Wright	Norfolk City	60	40
Laurel Bed Lake	Russell County	35	40
Lee Hall Reservoir (Newport News Reservoir)	Newport News City	60	40
Leesville Reservoir	Bedford County	25	30
Little Creek Reservoir	Virginia Beach City	60	40
Little Creek Reservoir	James City County	25	30
Little River Reservoir	Montgomery County	35	40
Lone Star Lake F (Crystal Lake)	Suffolk City	60	40
Lone Star Lake G (Crane Lake)	Suffolk City	60	40
Lone Star Lake I (Butler Lake)	Suffolk City	60	40
Lunga Reservoir	Prince William County	35	40
Lunenburg Beach Lake (Victoria Lake)	Town of Victoria	35	40
Martinsville Reservoir (Beaver Creek Reservoir)	Henry County	35	40
Mill Creek Reservoir	Amherst County	35	40
Modest Creek Reservoir	Town of Victoria	35	40
Motts Run Reservoir	Spotsylvania County	25	30
Mount Jackson Reservoir	Shenandoah County	35	40
Mountain Run Lake	Culpeper County	35	40
Ni Reservoir	Spotsylvania County	35	40
North Fork Pound Reservoir	Wise County	35	40
Northeast Creek Reservoir	Louisa County	35	40
Ocoquan Reservoir	Fairfax County	35	40
Pedlar Lake	Amherst County	25	20
Philpott Reservoir	Henry County	25	30

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Phelps Creek Reservoir (Brookneal Reservoir)	Campbell County	35	40
Ragged Mountain Reservoir	Albemarle County	35	40
Rivanna Reservoir (South Fork Rivanna Reservoir)	Albemarle County	35	40
Roaring Fork	Pittsylvania County	35	40
Rural Retreat Lake	Wythe County	35	40
Sandy River Reservoir	Prince Edward County	35	40
Shenandoah Lake	Rockingham County	35	40
Silver Lake	Rockingham County	35	40
Smith Mountain Lake	Bedford County	25	30
South Holston Reservoir	Washington County	25	20
Speights Run Lake	Suffolk City	60	40
Spring Hollow Reservoir	Roanoke County	25	20
Staunton Dam Lake	Augusta County	35	40
Stonehouse Creek Reservoir	Amherst County	60	40
Strasburg Reservoir	Shenandoah County	35	40
Stumpy Lake	Virginia Beach	60	40
Sugar Hollow Reservoir	Albemarle County	25	20
Swift Creek Reservoir	Chesterfield County	35	40
Switzer Lake	Rockingham County	10	10
Talbot Reservoir	Patrick County	35	40
Thrashers Creek Reservoir	Amherst County	35	40
Totier Creek Reservoir	Albemarle County	35	40
Townes Reservoir	Patrick County	25	20
Troublesome Creek Reservoir	Buckingham County	35	40
Waller Mill Reservoir	York County	25	30
Western Branch Reservoir	Suffolk City	25	20
Wise Reservoir	Wise County	25	20

[C. When the board determines that the applicable criteria in subsection B of this section for a specific man-made lake or reservoir are exceeded, the board shall consult with the Department of Game and Inland Fisheries regarding the status of the fishery in determining whether or not the designated use for that water body is being attained. If the designated use of the subject water body is not being attained, the board shall assess the water body as impaired in accordance with § 62.1-44.19:5 of the Code of Virginia. If the designated use is being attained, the board shall assess the water body as impaired in accordance with § 62.1-44.19:5 of the Code of Virginia until site-specific criteria are adopted and become effective for that water body.]

[C. D.] If the nutrient criteria specified for a man-made lake or reservoir in subsection B of this section do not provide for the attainment and maintenance of the water quality standards of downstream waters as required in 9 VAC 25-260-10 C, the nutrient criteria herein may be modified on a site-specific basis to protect the water quality standards of downstream waters.

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

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

a. Shellfish waters. In all open ocean or estuarine waters capable of propagating shellfish or in specific areas where public or leased private shellfish beds are present,

including those waters on which condemnation or restriction classifications are established by the State Department of Health, the following criteria for fecal coliform bacteria will apply:

The geometric mean fecal coliform value for a sampling station shall not exceed an MPN (most probable number) of 14 per 100 ml of sample and the 90th percentile shall not exceed 43 for a 5-tube, 3-dilution test or 49 for a 3-tube, 3-dilution test.

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

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

c. Cancelled.

d. Cancelled.

e. Cancelled.

f. Cancelled.

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

were made following a public hearing on August 22, 1990, and adopted by the board at its September 24, 1990, meeting (Minute 24) and became effective on December 5, 1990. Copies are available upon request from the Department of Environmental Quality.

- h. Cancelled.
- i. Cancelled.
- j. Cancelled.
- k. Cancelled.
- l. Cancelled.

m. The following effluent limitations apply to wastewater treatment facilities in the entire Chickahominy watershed above Walker's Dam (this excludes effluents consisting solely of stormwater):

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

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

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

- p. Cancelled.
- q. Cancelled.

- r. Cancelled.
- s. Chlorides not to exceed 40 mg/l at any time.
- t. Cancelled.

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

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

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

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

w. Cancelled.

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

y. Tidal freshwater Potomac River and tributaries that enter the tidal freshwater Potomac River from Cockpit Point (below Occoquan Bay) to the fall line at Chain Bridge. During November 1 through February 14 of each year the 30-day average concentration of total ammonia nitrogen (in mg N/L) shall not exceed, more than once every three years on the average, the following chronic ammonia criterion:

$$\left(\frac{0.0577}{1 + 10^{7.688 - \text{pH}}} + \frac{2.487}{1 + 10^{\text{pH} - 7.688}} \right) \times 1.45(10^{0.028(25 - \text{MAX})})$$

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

The default design flow for calculating steady state waste load allocations for this chronic ammonia criterion is the 30Q10, unless statistically valid methods are employed which demonstrate compliance with the duration and return frequency of this water quality criterion.

z. A site specific dissolved copper aquatic life criterion of 16.3 µg/l for protection from acute effects and 10.5 µg/l for protection from chronic effects applies in the following area:

Little Creek to the Route 60 (Shore Drive) bridge including Little Channel, Desert Cove, Fishermans Cove and Little Creek Cove.

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Hampton Roads Harbor including the waters within the boundary lines formed by I-664 (Monitor-Merrimac Bridge Tunnel) and I-64 (Hampton Roads Bridge Tunnel), Willoughby Bay and the Elizabeth River and its tidal tributaries.

This criterion reflects the acute and chronic copper aquatic life criterion for saltwater in 9 VAC 25-260-140 B X a water effect ratio. The water effect ratio was derived in accordance with 9 VAC 25-260-140 F.

aa. The following site-specific dissolved oxygen criteria apply to the tidal Mattaponi and Pamunkey Rivers and their tidal tributaries because of seasonal lower dissolved oxygen concentration due to the natural oxygen depleting processes present in the extensive surrounding tidal wetlands. These criteria apply June 1 through September 30 to Chesapeake Bay segments MPNTF, MPNOH, PMKTF, PMKOH and are implemented in accordance with subsection D of 9 VAC 25-260-185. These criteria supersede the open water criteria listed in subsection A of 9 VAC 25-260-185.

Designated use	Criteria Concentration/ Duration	Temporal Application
Open Water	30 day mean \geq 4.0 mg/l	June 1 - September 30
	Instantaneous minimum \geq 3.2 mg/l at temperatures $<29^{\circ}\text{C}$	
	Instantaneous minimum \geq 4.3 mg/l at temperatures $\geq 29^{\circ}\text{C}$	

bb. The following site specific numerical chlorophyll a criteria apply March 1 through May 31 and July 1 through September 30 as seasonal means to the tidal James River (excludes tributaries) segments JMSTF2, JMSTF1, JMSTF1, JMSTF1, JMSTF1, JMSTF1, JMSTF1 and are implemented in accordance with subsection D of 9 VAC 25-260-185.

Designated Use	Chlorophyll a μl	Chesapeake Bay Program Segment	Temporal Application
Open Water	10	JMSTF2	March 1 - May 31
	15	JMSTF1	
	15	JMSOH	
	12	JMSMH	
	12	JMSPH	
	15	JMSTF2	July 1 - September 30
	23	JMSTF1	
	22	JMSOH	
	10	JMSMH	
	10	JMSPH	

cc. For Mountain Lake in Giles County, chlorophyll a shall not exceed 6 $\mu\text{g/L}$ at a depth of 6 meters and orthophosphate-P shall not exceed 8 $\mu\text{g/L}$ at a depth of one meter or less.

dd. For Lake Drummond, located within the boundaries of Chesapeake and Suffolk in the Great Dismal Swamp, chlorophyll a shall not exceed 35 $\mu\text{g/L}$ and total phosphorus shall not exceed 40 $\mu\text{g/L}$ at a depth of one meter or less.

PART VIII. NUTRIENT ENRICHED WATERS.

EDITOR'S NOTE: The proposed amendments to 9 VAC 25-260-350, 9 VAC 25-260-415, 9 VAC 25-260-420, 9 VAC 25-260-450, and 9 VAC 25-260-540, which appeared in 22:10 VA.R. 1497-1513 January 23, 2006, were not adopted by the board.

9 VAC 25-260-480. Chowan and Dismal Swamp (Albemarle Sound Subbasin).

Albemarle Sound Subbasin			
SEC.	CLASS	SP. STDS.	SECTION DESCRIPTION
1	II		Back Bay and its tributaries in the City of Virginia Beach to the Virginia-North Carolina state line and the Northwest River and its tidal tributaries from the Virginia-North Carolina state line to the free flowing portion, unless otherwise designated in this chapter and North Landing River and its tidal tributaries from the Virginia-North Carolina state line to the Great Bridge Lock.
1a	III		The free flowing portions of streams in Section 1 and tributaries of Stumpy Lake.
1b	III	PWS	Stumpy Lake (raw water supply for the City of Norfolk) and feeder streams to points 5 miles upstream.
1c	II	PWS	Northwest River and its tributaries from the City of Chesapeake's raw water intake to points 5 miles upstream and points 5 miles downstream.
2	III		Intracoastal Waterway (portions not described in Section 1).
3	III	dd	Lake Drummond, including feeder ditches, and all interstate tributaries of the Dismal Swamp between Virginia and North Carolina.

VA.R. Doc. No. R05-113; Filed August 28, 2006, 11:11 a.m.



TITLE 12. HEALTH

STATE BOARD OF HEALTH

Final Regulation

Title of Regulation: 12 VAC 5-590. Waterworks Regulations (adding 12 VAC 5-590-505).

Statutory Authority: § 32.1-170 of the Code of Virginia.

Effective Date: October 18, 2006.

Agency Contact: Robert A. K. Payne, JD, Director of Regulatory Compliance, Department of Health, 109 Governor Street, Richmond, VA 23219, telephone (804) 864-7498, FAX (804) 864-7520, or email rob.payne@vdh.virginia.gov.

Summary:

The amendment requires community waterworks to develop and maintain an emergency management plan (EMP) to provide pure water during extended power outages of no less than five days. The plan will address procedures for obtaining and distributing potable water; notification procedures to public officials, customers and the media; emergency disinfection procedures; and telephone numbers for state regulatory personnel, waterworks personnel, and energy suppliers to the waterworks.

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.

12 VAC 5-590-505. Emergency management plan for extended power outages.

A. Each community waterworks (including consecutive waterworks) shall develop and maintain an emergency management plan for extended power outages.

B. Each plan shall be kept current and shall be kept at a location that is readily accessible in the event of an extended power outage.

C. Each community waterworks shall certify in writing to the appropriate field office of the Office of Drinking Water in the Department of Health that the waterworks has completed such plan.

D. Each plan shall address the following where applicable:

1. Identification of the criteria (events, duration of power outage, etc.) that will initiate activation of the plan.
2. How the community waterworks will respond to an extended power outage for a minimum of five days.
3. Procedures for obtaining and distributing potable water in the event that primary source(s) becomes unavailable.
4. Notification procedures and example notices to the public and media (local radio stations, television stations, local newspapers, etc.) including conservation and boil water advisories.
5. Emergency disinfection procedures for distribution system(s) and storage tank(s).
6. The telephone number of the appropriate field office of the Office of Drinking Water in the Virginia Department of Health.
7. The names and telephone numbers of the waterworks personnel who should be notified.
8. The name and telephone number of the Local Emergency Coordinator designated by the Virginia Department of Emergency Management.

9. The names and telephone numbers of the electric power, natural gas, and propane distributors, or other energy supplier to the waterworks.

VA.R. Doc. No. R05-96; Filed August 21, 2006, 3:24 p.m.

STATE MENTAL HEALTH, MENTAL RETARDATION AND SUBSTANCE ABUSE SERVICES BOARD

Proposed Regulation

Title of Regulation: **12 VAC 35-115. Rules and Regulations to Assure the Rights of Individuals Receiving Services From Providers of Mental Health, Mental Retardation, or Substance Abuse Services (amending 12 VAC 35-115-10 through 12 VAC 35-115-150, 12 VAC 35-115-170 through 12 VAC 35-115-250; adding 12 VAC 35-115-145 and 12 VAC 35-115-146; and repealing 12 VAC 35-115-160).**

Statutory Authority: §§ 37.2-203 and 37.2-400 of the Code of Virginia.

Public Hearing Dates:

October 11, 2006 - 4 p.m. (Staunton)

October 17, 2006 - 4 p.m. (Wytheville)

October 19, 2006 - 4 p.m. (Danville)

October 24, 2006 - 4 p.m. (Norfolk)

November 8, 2006 - 4 p.m. (Glen Allen)

November 9, 2006 - 6 p.m. (Fairfax)

Public comments may be submitted until November 17, 2006.

(See Calendar of Events section for additional information)

Agency Contact: Margaret Walsh, Director, Office of Human Rights, Department of Mental Health, Mental Retardation and Substance Abuse Services, P.O. Box 1797, 1220 Bank Street, Richmond, VA 23218, telephone (804) 786-3988, FAX (804) 371-2308, or email cohrreg@co.dmhmrzas.virginia.gov.

Basis: Section 37.2-203 of the Code of Virginia authorizes the board to adopt regulations that may be necessary to carry out the provisions of Title 37.2 of the Code of Virginia and other laws of the Commonwealth administered by the commissioner or the department.

Section 37.2-400 of the Code of Virginia authorizes the board to promulgate regulations to ensure that consumers in a hospital, training center, other facility, or program operated, funded, or licensed by the Department of Mental Health, Mental Retardation and Substance Abuse Services, excluding those operated by the Department of Corrections, are assured their legal rights and care consistent with basic human dignity insofar as it is within the reasonable capabilities and limitations of the department, funded program, or licensee and is consistent with sound therapeutic treatment.

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Purpose: The purpose of the proposed action is to clarify terminology and various procedures in order to improve the human rights protections provided by these regulations. This action will also align outdated provisions with applicable federal and state laws and regulations, including regulations for health information pursuant to the Health Insurance Portability and Accountability Act of 1996 (HIPAA).

These regulations are essential to ensure the protection of the legal and human rights of individuals who are receiving services from providers who are funded, licensed and operated by the Department of Mental Health, Mental Retardation and Substance Abuse Services (DMHMRSAS). These changes are being made to respond to the needs of the individuals receiving services, service providers, and the public and are intended to provide a practical administrative framework and the necessary legal guidance to implement these human right protections. The goals of these regulations are to:

1. Clearly articulate the human rights of every individual receiving care and treatment in facilities and programs licensed, funded, and operated by DMHMRSAS.
2. Clearly articulate the responsibilities of providers of mental health, mental retardation, and substance abuse care and treatment in ensuring the rights of individuals receiving services, and any exceptions and conditions placed on these responsibilities.
3. Clearly articulate the complaint review and resolution process and specify the procedures and time frames for the review of complaints of rights violations.
4. Protect the public health, safety, and welfare with the least possible costs and intrusiveness to the citizens and businesses of the Commonwealth.

Substance: The following summarizes the substantive changes to the regulations:

1. A number of definitions are revised and new definitions added. These changes have been made to clarify the provisions and to update the definitions and terms to conform to current state and federal law.
2. Specific sections of the regulations are reorganized for clarity. This involved consolidation of all provisions that address a particular right into a single section about that right, by moving the content from the exceptions and conditions to the provider's duties to the section on the corresponding right.
3. Changes are made to clarify provisions for dignity rights and circumstances under which these rights may be limited.
4. Changes are made to clarify the provisions for consent and informed consent and the administrative requirements for each.

5. Sections on confidentiality and access to records are revised to comply with federal HIPAA regulations.

6. Revisions are made to clarify the language regarding seclusion, restraint and time out.

7. A new part is added to address surrogate decision-making, which includes provisions to guide determinations of capacity to give consent and authorization and provisions regarding authorized representatives.

8. The section on informal complaints is repealed and provisions moved to the complaint resolution section.

9. Changes are made to clarify the complaint resolution process.

10. The section that provides special procedures for local human rights committee (LHRC) reviews of consent and authorization is clarified and revised.

11. There are minor changes to administrative duties of providers and LHRCs.

Issues: The proposed action is intended to clarify and update the existing human rights regulations. The following are the primary advantages of this action to the public and stakeholders:

1. The changes will promote the protection of the public health, safety, and welfare with the least possible costs and intrusiveness to the citizens and businesses of the Commonwealth. This action should improve the administrative processes and safeguards for the human rights of every individual receiving care and treatment in facilities and programs licensed, funded, and operated by DMHMRSAS.

2. The revisions clarify the responsibilities of providers of mental health, mental retardation, and substance abuse care and treatment in ensuring the rights of individuals receiving services, and any exceptions and conditions placed on these responsibilities.

3. The revisions clarify the complaint review and resolution process and expedite the process and time frames for the review of complaints of rights violations.

No disadvantage to the public or stakeholders is noted.

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 majority of the proposed regulations will incorporate the recent changes in federal and state laws, reformat the sections to improve readability, and clarify some of the current requirements. Another proposed change will discontinue the use of isolated time out as a treatment technique. Finally, another proposed change will establish a procedure for temporary variances.

Estimated economic impact. These regulations establish the rights of individuals receiving services from providers of the Department of Mental Health, Mental Retardation and Substance Abuse Services (the department). The department oversees the provision of services to approximately 200,000 patients in a year. In 2003, the department received a total of 2,286 abuse allegations and 1,132 human rights complaints. Of the abuse allegations received, 385 were founded.

The majority of the proposed changes include incorporation of the requirements of the federal Health Insurance Portability and Accountability Act (HIPAA), incorporation of the changes resulted from recodification of Title 37.1 of the Code of Virginia, reformatting of sections to improve readability, and clarification of the current requirements already in the regulations. None of these changes are expected to create any significant economic impact other than improving the clarity of the regulations and consequently preventing potential compliance costs that could result from unclear language.

Another proposed change will discontinue the use of isolated time out as a treatment technique. Under Virginia law, isolated time out is considered as seclusion. However, the Centers for Medicare and Medicaid does not allow the use of seclusion. The department proposes to discontinue the use of isolated time out. This proposed change will primarily affect five state facilities. The practice of isolated time out is unevenly distributed among these five facilities. One of the facilities does not utilize the isolated time out treatment technique. Three facilities have used this technique sparsely ranging from two times to 12 times in a year. However, one of the facilities has used this technique about 500 times in a year. Thus, the proposed discontinuation of the isolated time out technique is not expected to create any significant effects on four of the five facilities.

With the proposed change, one facility will have to substitute other treatment techniques for isolated time out. The cost difference between isolated time out technique and other substitute techniques will be the determining factor whether the proposed change will introduce additional costs on the one facility. It appears that isolated time out is a relatively cheaper method of treatment compared to other alternatives. Thus, some additional compliance costs on this facility are

anticipated. However, there is no information about the size of potential cost increase.

In addition to the compliance costs, this proposed change may affect the potential risks to the patient as well as to other patients and medical staff. It is possible that the use of isolated time out may be more or less risky than the alternatives available.

The main benefit of the proposed change is to conform to the state law where isolated time out is considered as seclusion and avoid a possible problem with complying with the federal law where seclusion is prohibited.

Finally, another proposed change will establish a procedure for temporary variances. The proposed procedure will allow the facility and the department to quickly respond to events where the enforcement of an existing rule may pose health and safety risks. While there does not appear to be a significant cost associated with this proposed change, the benefits of quickly responding to a risky event could be significant.

As currently proposed, the temporary variance procedure does not have an expiration provision attached to it. Without a sunset provision, a temporary variance may be effective indefinitely which may reduce incentives for regulants to obtain standard variances. By definition, a temporary variance is intended to be used in emergency cases where there is limited time to respond. Thus, including an expiration provision to the proposed temporary variance procedure would avoid unintended consequences and maximize the expected benefits.

Businesses and entities affected. The proposed regulations apply to approximately 400 service providers, 16 state facilities, and 200,000 patients receiving services annually.

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

Projected impact on employment. The proposed discontinuation of the isolated time out could increase or decrease the medical staff time required to provide care depending on the differential staffing requirements between the isolated time out technique and available substitutes. However, this change is expected to affect only one state facility mainly and the potential impact on labor demand is unlikely to be large enough to have a statewide impact.

Effects on the use and value of private property. Most of the proposed changes that will affect private providers are editorial and unlikely to have significant impact on the use and value of private property.

Small businesses: costs and other effects. Of the 400 service providers, approximately 300 are estimated to be small businesses. Since the proposed changes affecting service providers are editorial in nature, they are unlikely to create

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any significant costs or other adverse effects on small businesses.

Small businesses: alternative method that minimizes adverse impact. No significant adverse effect is expected on small businesses.

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

Summary:

The proposed amendments conform the regulations to applicable state and federal law, including the federal regulations pursuant to the Health Insurance Portability and Accountability Act (HIPAA) and the recodification of Title 37.1 of the Code of Virginia, which became effective October 1, 2005. The regulations have been substantially reorganized and rewritten to promote clarity. Some administrative processes, such as the process to address complaints and obtain consent for services, have been expedited and simplified.

CHAPTER 115.

RULES AND REGULATIONS TO ASSURE THE RIGHTS OF INDIVIDUALS RECEIVING SERVICES FROM PROVIDERS OF MENTAL HEALTH, MENTAL RETARDATION AND/OR SUBSTANCE ABUSE SERVICES.

PART I.

GENERAL PROVISIONS.

12 VAC 35-115-10. Authority and applicability.

A. The Code of Virginia authorizes these regulations to further define and to protect the rights of individuals receiving services from providers of mental health, mental retardation and/or substance abuse services in the Commonwealth of Virginia. The regulations require providers of services to take specific actions to protect the rights of each individual. The regulations establish remedies when rights are violated or in dispute, and provide a structure for support of these rights.

B. Providers subject to these regulations include:

1. Facilities operated by the department under ~~Article 4 (§ 37.1-1 et seq.) of Chapter 1 of Title 37.1 Chapters 3 (§ 37.2-300 et seq.) and 7 (§ 37.2-700 et seq.) of Title 37.2~~ of the Code of Virginia;
2. Sexually violent predator programs ~~created~~ established under § 37.1-70.10 § 37.2-909 of the Code of Virginia;
3. Community services boards that provide services under Chapter 10 (~~§ 37.1-194 et seq.) of Title 37.1~~ 5 (§ 37.2-500 et seq.) of Title 37.2 of the Code of Virginia;

4. Behavioral health authorities that provide services under Chapter 15 (~~§ 37.1-242 et seq.) of Title 37.1~~ 6 (§ 37.2-600 et seq.) of Title 37.2 of the Code of Virginia;

5. ~~Providers,~~ Public or private, providers that operate programs or facilities licensed by the department under Chapter 8 (~~§ 37.1-179 et seq.) of Title 37.1 Article 2~~ (~~§ 37.2-403 et seq.) of Chapter 4 of Title 37.2~~ of the Code of Virginia except those operated by the Department of Corrections; and

6. Any other providers receiving funding from ~~or through~~ the department.

C. Unless another law takes ~~priority, and to the extent that they are not preempted by the Health Insurance Portability and Accountability Act of 1996 and the regulations promulgated thereto~~ precedence, these regulations apply to all individuals who are receiving services from a public or private provider of services operated, licensed or funded by the Department of Mental Health, Mental Retardation and Substance Abuse Services, except those operated by the Department of Corrections.

D. These regulations apply to individuals under forensic status and individuals committed to the custody of the ~~commissioner~~ department as sexually violent predators, except to the extent that the commissioner may determine these regulations are not applicable to them. The exemption must be in writing and based solely on the need to protect individuals receiving services, employees, or the general public. ~~Thereafter,~~ The commissioner shall ~~submit~~ give the State Human Rights Committee (SHRC) chairperson prior notice of all exemptions and provide the written exemption to the State Human Rights Committee (SHRC) SHRC for its information. ~~The commissioner shall give the SHRC chairperson prior notice regarding all exemptions. Such~~ These exemptions shall be time limited and services shall not be compromised.

12 VAC 35-115-20. Policy.

A. Each individual who receives services shall be assured:

1. Protection to exercise his legal, civil, and human rights related to the receipt of those services;
2. Respect for basic human dignity; and
3. Services that are provided consistent with sound therapeutic practice.

B. Providers shall not deny any ~~person~~ individual his legal rights, ~~privileges or benefits~~ solely because he has been voluntarily or involuntarily admitted, certified for admission or committed to services. These legal rights include, ~~but are not limited to,~~ the right to:

1. Acquire, retain, and dispose of property;
2. Sign legal documents;

3. Buy or sell;
4. Enter into contracts;
5. Register and vote;
6. Get married, separated, divorced, or have a marriage annulled;
7. Hold a professional, occupational, or vehicle operator's license;
8. Make a will and execute an advance directive; and
9. Have access to lawyers and the courts.

12 VAC 35-115-30. Definitions.

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

"Abuse" means any act or failure to act by an employee or other person responsible for the care of an individual in a facility or program operated, licensed, or funded by the department, excluding those operated by the Department of Corrections, that was performed or was failed to be performed knowingly, recklessly, or intentionally, and that caused or might have caused physical or psychological harm, injury, or death to an individual receiving services a person receiving care or treatment for mental illness, mental retardation, or substance abuse. Examples of abuse include but are not limited to the following acts such as:

1. Rape, sexual assault, or other criminal sexual behavior;
2. Assault or battery;
3. Use of language that demeans, threatens, intimidates or humiliates the person;
4. Misuse or misappropriation of the person's assets, goods or property;
5. Use of excessive force when placing a person in physical or mechanical restraint;
6. Use on a person of physical or mechanical restraints on a person that is not in compliance with federal and state laws, regulations, and policies, professionally accepted standards of practice, or the person's individualized services plan; and
7. Use of more restrictive or intensive services or denial of services to punish the person or that is not consistent with his individualized services plan. See ~~§ 37.1-1~~ § 37.2-100 of the Code of Virginia.

"Advance directive" means a document voluntarily executed in accordance with § 54.1-2983 of the Code of Virginia or the laws of another state where executed (ref. § 54.1-2993 of the Code of Virginia). This may include a wellness recovery action plan (WRAP) or similar document as long as it is executed in accordance with § 54.1-2983 of the Code of

Virginia or the laws of another state. A WRAP or similar document may identify the health care agent who is authorized to act as the individual's substitute decision maker.

"Authorization" means a document signed by the individual receiving services or that individual's authorized representative that authorizes the provider to disclose identifying information about the individual. An authorization must be voluntary. To be voluntary, the authorization must be given by the individual receiving services or his authorized representative freely and without undue inducement, any element of force, fraud, deceit, or duress, or any form of constraint or coercion.

"Authorized representative" means a person permitted by law or these regulations to authorize the disclosure of information or to consent to treatment and services or participation in human research. The decision-making authority of an authorized representative recognized or designated under these regulations is specific to the designating provider. Legal guardians, attorneys-in-fact, or health care agents appointed pursuant to § 54.1-2983 of the Code of Virginia may have decision-making authority beyond any specific provider.

"Behavior management" means those principles and methods employed by a provider to help an individual receiving services to achieve a positive outcome and to address ~~and correct inappropriate~~ behavior in a constructive and safe manner. Behavior management principles and methods must be employed in accordance with the individualized service services plan and written policies and procedures governing service expectations, treatment goals, safety, and security.

"Behavioral treatment ~~program plan, functional plan, or behavioral support plan~~" means any set of documented procedures that are an integral part of the ~~interdisciplinary treatment~~ individualized services plan and are developed on the basis of a systemic data collection, such as a functional assessment, for the purpose of assisting an individual receiving services to achieve ~~any or all of the following~~:

1. Improved behavioral functioning and effectiveness;
2. Alleviation of symptoms of psychopathology; or
3. Reduction of serious behaviors.

~~A behavioral treatment program can also be referred to as a behavioral treatment plan or behavioral support plan.~~

"Board" means the State Mental Health, Mental Retardation and Substance Abuse Services Board.

"Caregiver" means an employee or contractor who provides care and support services; medical services; or other treatment, rehabilitation, or habilitation services.

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

"Community services board (" or "CSB)" means ~~a citizens' board~~ the public body established pursuant to ~~§ 37.1-195~~ § 37.2-501 of the Code of Virginia that provides ~~or arranges for the provision of~~ mental health, mental retardation, and substance abuse programs and services to consumers within ~~the political subdivision or subdivisions establishing~~ each city and county that established it. For the purpose of these regulations, community services board also includes a behavioral health authority established pursuant to § 37.2-602 of the Code of Virginia.

"Complaint" is means ~~an expression of dissatisfaction, grievance, or concern by, or on behalf of, an individual receiving services that has been brought to the attention of the provider, an employee of the provider, a human rights advocate, or the protection and advocacy agency, and alleges a violation or potential~~ allegation of a violation of these regulations or program a provider's policies and procedures related to these regulations. A complaint is "informal" when a resolution is pursued prior to contact with the human rights advocate. See 12 VAC 35-115-160.

"Consent" means the voluntary ~~and expressed~~ agreement of an individual, or that individual's legally authorized representative if the individual has one to specific services. ~~Informed consent is needed to disclose information that identifies an individual receiving services. Informed consent is also needed before a provider may provide treatment to an individual which poses risk of harm greater than that ordinarily encountered in daily life or during the performance of routine physical or psychological examinations, tests, or treatments, or before an individual participates in human research. Informed consent is required for surgery, aversive treatment, electroconvulsive treatment, and use of psychoactive medications. Consent to any action for which consent is required under these regulations must be voluntary. To be voluntary, the consent must be given by the individual receiving services, or his legally authorized representative, so situated as to be able to exercise free power of choice without undue inducement or any element of force, fraud, deceit, duress, or any form of constraint or coercion. To be informed, consent must be based on disclosure and understanding by the individual or legally authorized representative, as applicable, of the following kinds of information:~~

- ~~1. A fair and reasonable explanation of the proposed action to be taken by the provider and the purpose of the action. If the action involves research, the provider shall describe the research and its purpose, and shall explain how the results of the research will be disseminated and how the identity of the individual will be protected;~~
- ~~2. A description of any adverse consequences and risks to be expected and, particularly where research is involved, an~~

~~indication whether there may be other significant risks not yet identified;~~

~~3. A description of any benefits that may reasonably be expected;~~

~~4. Disclosure of any alternative procedures that might be equally advantageous for the individual together with their side effects, risks, and benefits;~~

~~5. An offer to answer any inquiries by the individual, or his legally authorized representative;~~

~~6. Notification that the individual is free to refuse or withdraw his consent and to discontinue participation in any prospective service requiring his consent at any time without fear of reprisal against or prejudice to him;~~

~~7. A description of the ways in which the resident or his legally authorized representative can raise concerns and ask questions about the service to which consent is given;~~

~~8. When the provider proposes human research, an explanation of any compensation or medical care that is available if an injury occurs;~~

~~9. Where the provider action involves disclosure of records, documentation must include:~~

~~a. The name of the organization and the name and title of the person to whom the disclosure is made;~~

~~b. A description of the nature of the information to be disclosed, the purpose of the disclosure, and an indication whether the consent extends to information placed in the individual's record after the consent was given but before it expires;~~

~~c. A statement of when the consent will expire, specifying a date, event, or condition upon which it will expire; and~~

~~d. An indication of the effective date of the consent.~~

Consent must be given freely and without undue inducement, any element of force, fraud, deceit, or duress, or any form of constraint or coercion. Consent may be expressed through any means appropriate for the individual, including verbally, through physical gestures or behaviors, in Braille or American Sign Language, in writing, or through other methods.

"Department" means the Department of Mental Health, Mental Retardation and Substance Abuse Services (DMHMRSAS).

"Director" means the chief executive officer of any program provider delivering services.

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

"Disclosure" means the release by a provider of information identifying an individual by a provider.

"Emergency" means a situation that requires a person to take immediate action to avoid harm, injury, or death to an individual ~~receiving services~~ or to others, ~~or to avoid substantial property damage.~~

"Exploitation" means the misuse or misappropriation of the individual's assets, goods, or property. Exploitation is a type of abuse. (See ~~§ 37.1-1~~ § 37.2-100 of the Code of Virginia.) Exploitation also includes the use of a position of authority to extract personal gain from an individual ~~receiving services~~. Exploitation includes ~~but is not limited to~~ violations of 12 VAC 35-115-120 (Work) and 12 VAC 35-115-130 (Research). Exploitation does not include the billing of an individual's third party payer for services. Exploitation also does not include instances of use or appropriation of an individual's assets, goods or property when permission is given by the individual or his ~~legally~~ authorized representative:

1. With full knowledge of the consequences;
2. With no inducements; ~~or~~ and
3. Without force, misrepresentation, fraud, deceit, duress of any form, constraint, or coercion.

"Governing body of the provider" means the person or group of persons ~~who have~~ with final authority to set policy and hire and fire directors.

"Habilitation" ~~refers to~~ means the provision of services that enhance the strengths of, teach functional skills to, or reduce or eliminate problematic behaviors of an individual ~~receiving services~~. These services occur in an environment that suits the individual's needs, responds to his preferences, and promotes social interaction and adaptive behaviors. In order to be considered sound and therapeutic, habilitation must conform to current acceptable professional practice.

"Health care operations" means any activities of the provider to the extent that the activities are related to its provision of health care services. Examples include:

1. Conducting quality assessment and improvement activities, case management and care coordination, contacting of health care providers and patients with information about treatment alternatives, and related functions that do not include treatment;
2. Reviewing the competence or qualifications of health care professionals, evaluating practitioner and provider performance, and training, licensing or credentialing activities;
3. Conducting or arranging for medical review, legal services, and auditing functions, including fraud and abuse detection and compliance programs; and

4. Other activities contained within the definition of health care operations in the Standards for Privacy of Individually Identifiable Health Information, 45 CFR 164.501.

"Health plan" means an individual or group plan that provides or pays the cost of medical care, including any entity that meets the definition of "health plan" in the Standards for Privacy of Individually Identifiable Health Information, 45 CFR 160.103.

"Historical research" means the review of information that identifies individuals receiving services for the purpose of evaluating or otherwise collecting data of general historical significance. See 12 VAC 35-115-80 ~~C-2-j~~ B (Confidentiality).

"Human research" means any systematic investigation ~~that uses human participants who may be exposed to potential physical or psychological injury if they participate and which departs from established and accepted therapeutic methods appropriate to meet the participants' needs, including research development, testing, and evaluation, utilizing human subjects, that is designed to develop or contribute to generalized knowledge.~~ Human research shall not be conducted in compliance with ~~§§ 32.1-162.16 through 32.1-162.20 and 37.1-24.01 of the Code of Virginia, and 12 VAC 35-180-110 et seq., or any applicable federal policies and regulations deemed to include research exempt from federal research regulations pursuant to 45 CFR 46.101(b).~~

"Human rights advocate" means a person employed by the commissioner upon recommendation of the State Human Rights Director to help individuals receiving services exercise their rights under this chapter. See 12 VAC 35-115-250 C.

"Individual" means a person who is receiving services. This term includes the terms "consumer," "patient," "resident," "recipient," and "client."

"Individualized services plan" or "ISP" means a comprehensive and regularly updated written plan of action to meet the needs and preferences of an individual. An ISP describes measurable goals and objectives and expected outcomes of services and is designed to meet the needs of a specific individual. The term ISP includes treatment plan, functional plan, habilitation plan, or plan of care.

"Informed consent" means the voluntary written agreement of an individual, or that individual's authorized representative to surgery, electroconvulsive treatment, use of psychotropic medications, or any other treatment or service that poses a risk of harm greater than that ordinarily encountered in daily life or for participation in human research. To be voluntary, informed consent must be given freely and without undue inducement, any element of force, fraud, deceit, or duress, or any form of constraint or coercion.

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"Inspector general" means a person appointed by the Governor to provide oversight by inspecting, monitoring, and reviewing the quality of services that providers deliver.

"Investigating authority" means any person or entity that is approved by the provider to conduct investigations of abuse and neglect.

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

"Licensed professional" means a physician, licensed clinical psychologist, licensed professional counselor, licensed clinical social worker, licensed or certified substance abuse treatment practitioner, or certified psychiatric nurse specialist.

"Local Human Rights Committee (" or "LHRC)" means a group of at least five people appointed by the State Human Rights Committee. See 12 VAC 35-115-250 D for membership and duties.

"Mechanical restraint" means the use of any mechanical device that restricts the freedom of movement or voluntary functioning of an individual's limb or a portion of his body when the individual does not have the option to remove the device.

~~"Neglect" means the failure by an individual a person, program, or facility operated, licensed, or funded by the department, excluding those operated by the Department of Corrections, responsible for providing services to provide do so, including nourishment, treatment, care, goods, or services necessary to the health, safety, or welfare of a person receiving care or treatment for mental illness, mental retardation, or substance abuse. See § 37.1-1 § 37.2-100 of the Code of Virginia.~~

~~"Next friend" means a person whom a provider may appoint designated by a director in accordance with 12 VAC 35-115-70 B 9-e 12 VAC 35-115-146 to serve as the legally authorized representative of an individual who has been determined to lack capacity to give consent or authorize the disclosure of identifying information, when required under these regulations.~~

"Peer-on-peer harm" means a physical act or verbal expression by an individual against or to another individual that results in harm to the individual. Harm includes hitting and threatening behavior with the means to carry out the threat. Incidents of harm shall be investigated as potential neglect pursuant to 12 VAC 35-115-50 D 3.

"Program rules" means the operational rules and expectations that providers establish to promote the general safety and well-being of all individuals in the program and that set standards for how individuals will interact with one another

in the program. Program rules include any expectation that produces a consequence for the individual within the program. Program rules may be included in a handbook or policies.

~~"Protection and advocacy agency" means the state agency designated under the federal Protection and Advocacy for Individuals with Mental Illness (PAIMI) Act and the Developmental Disabilities (DD) Act. The protection and advocacy agency is the Department for the Rights of Virginians with Disabilities (DRVD) Virginia Office for Protection and Advocacy.~~

"Provider" means any person, entity, or organization offering services that is licensed, funded, or operated by the department.

"Psychotherapy notes" means comments recorded in any medium by a health care provider who is a mental health professional documenting and analyzing an individual or a group, joint, or family counseling session that are separated from the rest of the individual's health record. Psychotherapy notes shall not include annotations relating to medication and prescription monitoring, counseling session start and stop times, treatment modalities and frequencies, clinical test results, or any summary of any symptoms, diagnosis, prognosis, functional status, treatment plan, or the individual's progress to date.

~~"Research review committee" or "institutional review board" means a committee of professionals to provide complete and adequate review of research activities. The committee shall be sufficiently qualified through maturity, experience, and diversity of its members, including consideration of race, gender, and cultural background, to promote respect for its advice and counsel in safeguarding the rights and welfare of participants in human research. (See § 37.1-24.01 § 37.2-402 of the Code of Virginia and 12 VAC 35-180-110 et seq 12 VAC 35-180.)~~

~~"Residential setting" means a place where an individual lives and services are available from a provider on a 24-hour basis. This includes hospital settings.~~

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

1. Mechanical restraint means the use of an approved mechanical device that cannot be removed by the individual to restrict the freedom of movement or functioning of a limb or a portion of an individual's body.

2. Pharmacological restraint means the use of a medication that is administered involuntarily for the emergency control of an individual's behavior when the administered

medication is not a standard treatment for the individual's medical or psychiatric condition.

3. Physical restraint, also referred to as manual hold, means the use of a physical intervention or hands-on hold to prevent an individual from moving his body.

Restraints may be used for the following behavioral, medical, or protective purposes:

1. A restraint used for "Behavioral" purposes means ~~the use of an approved~~ using a physical hold, a psychotropic medication, or a mechanical device that is used for the purpose of controlling to control behavior or involuntarily restricting restrict the freedom of movement of ~~the an~~ individual in an instance when all of the following conditions are met: (i) ~~in which there is an imminent risk of an individual harming himself or others, including staff; there is an emergency,~~ (ii) ~~when~~ nonphysical interventions are not viable, and (iii) ~~when~~ safety issues require an immediate response.

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

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

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

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

6. A "physical restraint" (also referred to "manual hold") means ~~the use of approved physical interventions or "hands on" holds to prevent an individual from moving his body to engage in a behavior that places him or others at risk of physical harm. Physical restraint does not include the use of "hands on" approaches that occur for extremely~~

~~brief periods of time and never exceed more than a few seconds duration and are used for the following purposes:~~

~~a. To intervene in or redirect a potentially dangerous encounter in which the individual may voluntarily move away from the situation or hands-on approach; or~~

~~b. To quickly de-escalate a dangerous situation that could cause harm to the individual or others.~~

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

"Seclusion" means the involuntary placement of an individual ~~receiving services alone; in a locked room or secured an area from which he is physically prevented from leaving secured by a door that is locked or held shut by a staff person, by physically blocking the door, or by any other physical or verbal means, so that the individual cannot leave it.~~

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

"Services" means mental health, mental retardation and substance abuse care; treatment; training; habilitation; or other supports, including medical care, delivered by a provider.

~~"Services plan" means a plan that defines and describes measurable goals and objectives and expected outcomes of service and is designed to meet the needs of a specific individual. The term "services plan" also includes, but is not limited to, individualized services plan, treatment plan, habilitation plan or plan of care.~~

"Services record" means all written information a provider keeps about an individual who receives services.

"State Human Rights Committee (" or "SHRC)" means a committee of nine members appointed by the board that is accountable for the duties prescribed in ~~12 VAC 35-115-230~~ 12 VAC 35-115-250 E. See 12 VAC 35-115-250 E for membership and duties.

"State Human Rights Director" means the person employed by and reporting to the commissioner who is responsible for carrying out the functions prescribed in 12 VAC 35-115-250 F.

~~"Time out" means assisting an individual to regain emotional control by removing the individual from his immediate environment to a different, open location until he is calm or the problem behavior has subsided the involuntary removal of an individual by a staff person from a source of reinforcement to a different, open location for a specified period of time or until the problem behavior has subsided to discontinue or reduce the frequency of problematic behavior.~~

"Treatment" means the individually planned, sound, and therapeutic interventions that are intended to improve or

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maintain functioning of an individual ~~receiving services~~ in those areas that show impairment as the result of mental ~~disability, substance addiction illness, mental retardation, substance use (alcohol or other drug dependence or abuse) disorders~~, or physical impairment. In order to be considered sound and therapeutic, the treatment must conform to current acceptable professional practice.

PART II. ASSURANCE OF RIGHTS.

12 VAC 35-115-40. Assurance of rights.

A. These regulations protect the rights established in ~~§ 37.1-84.1~~ § 37.2-400 of the Code of Virginia.

B. Individuals are entitled to know what their rights are under these regulations; therefore, providers shall take the following actions:

1. Display, in areas most likely to be noticed by the individual, a document listing the rights of individuals under these regulations and how individuals can contact a human rights advocate.
2. Notify each individual and his authorized representative; ~~as applicable~~, about these rights and how to file a complaint. The notice shall be in writing and in any other form most easily understood by the individual. The notice shall tell an individual how he can contact the human rights advocate and give a short description of the human rights advocate's role. The provider shall give this notice at the time an individual begins services and every year thereafter.
3. Ask the individual or ~~legally~~ his authorized representative ~~as applicable~~ to sign the notice of rights. File the signed notice in the individual's services record. If the individual or ~~legally~~ his authorized representative cannot or will not sign the notice, the person who gave the notice shall document that fact in the individual's services record.
4. Give a complete copy of these regulations to anyone who asks for one.
5. Display and provide information as requested by the protection and advocacy agency director that informs individuals of their right to contact the protection and advocacy agency.
6. Display and provide written notice of rights in the most frequently used languages.

C. Every individual ~~receiving services~~ has a right to seek ~~informal~~ resolution and file a human rights complaint. Any individual ~~receiving services~~ or anyone acting on his behalf who thinks that a provider has violated any of his rights under these regulations may file a complaint and get help in filing the complaint in Part IV accordance with Part V (12 VAC 35-115-150 et seq.) of this chapter.

D. Other rights and remedies may be available. These regulations shall not prevent any individual from pursuing any other legal right or remedy to which he may be entitled under federal or state law.

PART III. EXPLANATION OF INDIVIDUAL RIGHTS AND PROVIDER DUTIES.

12 VAC 35-115-50. Dignity.

A. Each individual ~~receiving services~~ has a right to exercise his legal, civil, and human rights, including constitutional rights, statutory rights, and the rights contained in these regulations, except as specifically limited herein. Each individual also has the right to be protected, respected, and supported in exercising these rights. Providers shall not partially or totally take away or limit these rights solely because an individual has a mental illness, mental retardation, or substance ~~abuse problem~~ use disorder and is receiving services for these conditions or has any physical or sensory condition that may pose a barrier to communication or mobility.

B. In receiving all services, each individual has the right to:

1. Use his preferred or legal name. The use of an individual's preferred name may be limited when a licensed professional makes the determination that the use of the name will result in demonstrable harm or have significant negative impact on the program itself or the individual's treatment, progress, and recovery. The director shall inform the individual and human rights advocate of the reasons for the restriction prior to implementation and the reasons for the restriction shall be documented in the individual's services record. The need for the restriction shall be reviewed by the treatment team every month and documented in the services record.
2. Be protected from harm including abuse, neglect, and exploitation.
3. Have help in learning about, applying for, and fully using any public service or benefit to which he may be entitled. These services and benefits include ~~but are not limited to~~ educational or vocational services, housing assistance, services or benefits under Titles II, XVI, XVIII, and XIX of the Social Security Act, United States Veterans Benefits, and services from legal and advocacy agencies.
4. Have opportunities to communicate in private with lawyers, judges, legislators, clergy, licensed health care practitioners, ~~legally~~ authorized representatives, advocates, the inspector general, and employees of the protection and advocacy agency.
5. Be provided with general information about program services and policies in a manner easily understood by the individual.

C. In services provided in residential and inpatient settings, each individual has the right to:

1. Have sufficient and suitable clothing for his exclusive use.
2. Receive a nutritionally adequate, varied, and appetizing diet prepared and served under sanitary conditions and served at appropriate times and temperatures.
3. Live in a safe, sanitary, and humane physical environment that gives each individual, at a minimum:
 - a. Reasonable privacy and private storage space;
 - b. An adequate number and design of private, operating toilets, sinks, showers, and tubs;
 - c. Direct outside air provided by a window that opens or by an air conditioner;
 - d. Windows or skylights in all major areas used by individuals;
 - e. Clean air, free of bad odors; and
 - f. Room temperatures that are comfortable year round and compatible with health requirements.
4. Practice a religion and participate in religious services subject to their availability, provided that such services are not dangerous to self the individual or others and do not infringe on the freedom of others.
 - a. Religious services or practices that present a danger of bodily injury to any individual or interfere with another individual's religious beliefs or practices may be limited.
 - b. Participation in religious services or practices may be reasonably limited by the provider in accordance with other general rules limiting privileges or times or places of activities.
5. Have paper, pencil and stamps provided free of charge for at least one letter every day upon request. If an individual has funds for clothing and to buy paper, pencils, and stamps to send a letter every day, the provider does not have to pay for them.
6. Communicate privately with any person by mail and have help in writing or reading mail as needed.
 - a. An individual's access to mail may be limited if the provider has reasonable cause to believe that the mail contains illegal material or anything dangerous. If so, the director may open the mail, but not read it, in the presence of the individual.
 - b. An individual's ability to communicate by mail may be limited if, in the judgment of a licensed professional, the individual's communication with another person or persons will result in demonstrable harm to the individual's mental health.

c. The director shall inform the individual and human rights advocate of the reasons for any restriction prior to implementation and the reasons for the restriction shall be documented in the individual's services record. The need for the restriction shall be reviewed by the treatment team every month and documented in the services record.

7. Communicate privately with any person by ~~mail or~~ telephone and ~~get~~ have help in doing so. Use of the telephone may be limited to certain times and places to make sure that other individuals have equal access to the telephone and that they can eat, sleep, or participate in an activity without being disturbed.

a. An individual's access to the telephone may be limited if, in the judgment of a licensed professional, communication with another person or persons will result in demonstrable harm to the individual or significantly affect his treatment.

b. The director shall inform the individual and the human rights advocate of the reasons for any restriction prior to implementation and the reasons for the restriction shall be documented in the individual's services record. The need for the restriction shall be reviewed by the treatment team every month and documented in the individual's services record.

c. Residential substance abuse services providers may develop policies and procedures that limit the use of the telephone during the initial phase of treatment when sound therapeutic practice requires restriction, subject to the following conditions:

(1) Prior to implementation and when it proposes any changes or revisions, the provider shall submit policies and procedures, program handbooks, or program rules to the LHRC and the human rights advocate for review and approval.

(2) When an individual applies for admission, the provider shall notify him of these restrictions.

8. Have or refuse visitors.

a. An individual's access to visitors may be limited or supervised when, in the judgment of a licensed professional, the visits result in demonstrable harm to the individual or significantly affect the individual's treatment or when the visitors are suspected of bringing contraband or threatening harm to the individual in any other way.

b. The director shall inform the individual and the human rights advocate of the reasons for any restriction prior to implementation and the restriction shall be documented in the individual's services record. The need for the restriction shall be reviewed by the treatment team every

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month and documented in the individual's services record.

c. Residential substance abuse service providers may develop policies and procedures that limit visitors during the initial phase of treatment when sound therapeutic practice requires the restriction, subject to the following conditions:

(1) Prior to implementation and when proposing any changes or revisions, the provider shall submit policies and procedures, program handbooks, or program rules of conduct to the LHRC and the human rights advocate for review and approval.

(2) The provider shall notify individuals who apply for admission of these restrictions.

9. Nothing in these provisions shall prohibit a provider from stopping, reporting, or intervening to prevent any criminal act.

D. The provider's duties.

1. Providers shall recognize, respect, support, and protect the dignity rights of each individual at all times. In the case of a minor, providers shall take into consideration the expressed preferences of the minor and the parent or guardian.

2. Providers shall develop, carry out, and regularly monitor policies and procedures that assure the protection of each individual's rights.

3. Providers shall assure the following relative to abuse, neglect, and exploitation:

a. Policies and procedures governing harm, abuse, neglect, and exploitation of individuals receiving their services shall require that, as a condition of employment or volunteering, any employee, volunteer, consultant, or student who knows of or has reason to believe that an individual may have been abused, neglected, or exploited at any location covered by these regulations, shall immediately report this information directly to the director.

b. The director shall immediately take necessary steps to protect the individual ~~receiving services~~ until an investigation is complete. This may include the following actions:

(1) Direct the employee or employees involved to have no further contact with the individual. In the case of incidents of peer-on-peer harm, protect the individuals from the aggressor in accordance with sound therapeutic practice and these regulations.

(2) Temporarily reassign or transfer the employee or employees involved to a position that has no direct contact with individuals receiving services.

(3) Temporarily suspend the involved employee or employees pending completion of an investigation.

c. The director shall immediately notify the human rights advocate and the ~~legally~~ individual's authorized representative, ~~as applicable~~. In no case shall notification ~~exceed be later than 24 hours from~~ after the receipt of the initial allegation of abuse, neglect, or exploitation.

d. In no case shall the director punish ~~or~~ or retaliate against an employee, volunteer, consultant, or student for reporting an allegation of abuse, neglect, or exploitation to an outside entity.

e. The director shall initiate an impartial investigation within 24 hours of receiving notification. The investigation shall be conducted by a person trained to do investigations and who is not involved in the issues under investigation.

(1) The investigator shall make a final report to the director or the investigating authority and to the human rights advocate within 10 working days of appointment. Exceptions to this timeframe may be requested and approved by the department if submitted prior to the close of the sixth day.

(2) The director or investigating authority shall, based on the investigator's report and any other available information, decide whether the abuse, neglect or exploitation occurred. Unless otherwise provided by law, the standard for deciding whether abuse, neglect, or exploitation has occurred is preponderance of the evidence.

(3) If abuse, neglect or exploitation occurred, the director shall take any action required to protect the individual and other individuals. All actions must be documented and reported as required by 12 VAC 35-115-230.

(4) In all cases, the director shall provide his written ~~notice decision, including actions taken as a result of the investigation, within seven working days following the completion of the investigation of the decision and all actions taken~~ notice decision, including actions taken as a result of the investigation, within seven working days following the completion of the investigation ~~of the decision and all actions taken~~ to the individual or the individual's ~~legally~~ authorized representative, the human rights advocate, the investigating authority, and the involved employee or employees.

(5) If the individual affected by the alleged abuse, neglect, or exploitation or his ~~legally~~ authorized representative is not satisfied with the director's actions, he or his ~~legally~~ authorized representative, or anyone acting on his behalf, may file a petition for an LHRC hearing under 12 VAC 35-115-180.

f. The director shall cooperate with any external investigation, including those conducted by the inspector

general, the protection and advocacy agency, or other regulatory and or enforcement agencies.

g. If at any time the director has reason to suspect that an individual may have been abused or neglected, the director shall immediately report this information to the appropriate local Department of Social Services (see §§ 63.1-55.3 and 63.1-248.3 §§ 63.2-1509 and 63.2-1606 of the Code of Virginia) and cooperate fully with any investigation that results.

h. If at any time the director has reason to suspect that the abusive, neglectful or exploitive act is a crime, the director shall immediately contact the appropriate law-enforcement authorities and cooperate fully with any investigation that results.

E. Exceptions and conditions to the provider's duties.

~~1. If an individual has funds for clothing and to buy paper, pencils, and stamps to send a letter every day, the provider does not have to pay for them.~~

~~2. The provider may prohibit any religious services or practices that present a danger of bodily injury to any individual or interfere with another individual's religious beliefs or practices. Participation in religious services or practices may be reasonably limited by the provider in accordance with other general rules limiting privileges or times or places of activities.~~

~~3. If a provider has reasonable cause to believe that an individual's mail contains illegal material or anything dangerous, the director may open the mail, but not read it, in the presence of the individual. The director shall inform the individual of the reasons for the concern. An individual's ability to communicate by mail may also be limited if, in the judgment of a licensed physician or doctoral level psychologist (in the exercise of sound therapeutic practice), the individual's communication with another person or persons will result in demonstrable harm to the individual's mental health. The reasons for the restriction shall be documented in the individual's service record, the human rights advocate shall be notified prior to implementation.~~

~~4. Providers may limit the use of a telephone in the following ways:~~

~~a. Providers may limit use to certain times and places to make sure that other individuals have equal access to the telephone and that they can eat, sleep, or participate in an activity without being disturbed.~~

~~b. Providers may limit use by individuals receiving services for substance abuse, but only if sound therapeutic practice requires the restriction and the human rights advocate is notified.~~

~~e. Providers may limit an individual's access to the telephone if communication with another person or persons will result in demonstrable harm to the individual and is significantly impacting treatment in the judgment of a licensed physician or doctoral level psychologist. The reasons for the restriction shall be documented in the individual's service record and the human rights advocate shall be notified prior to implementation.~~

~~5. Providers may limit or supervise an individual's visitors when, in the judgment of a licensed physician or doctoral level psychologist, the visits result in demonstrable harm to the individual and significantly impact the individual's treatment; or when the visitors are suspected of bringing contraband or in any other way are threatening harm to the individual. The reasons for the restriction shall be documented in the individual's service record, and the human rights advocate shall be notified prior to implementation.~~

~~6. Providers may stop, report or intervene to prevent any criminal act.~~

12 VAC 35-115-60. Services.

A. Each individual receiving services shall receive those services according to law and sound therapeutic practice.

B. The provider's duties.

1. Providers shall develop, carry out, and regularly monitor policies and procedures governing discrimination in the provision of services. Providers shall comply with all state and federal laws, including any applicable provisions of the Americans with Disabilities Act (42 USC § 12101 et seq.), that prohibit discrimination on the basis of race, color, religion, ethnicity, age, sex, disability, or ability to pay. These policies and procedures shall require, at a minimum, the following:

a. An individual or anyone acting on his behalf may complain to the director if he believes that his services have been limited or denied due to discrimination.

b. If an individual ~~makes a complaint~~ complains of discrimination, the director shall assure that an appropriate investigation is conducted immediately. The director shall make a decision, take action, and document the action within 10 working days of receipt of the complaint.

c. A written copy of the decision and the director's action shall be forwarded to the individual, the human rights advocate, and any employee or employees involved.

d. If the individual or his ~~legally~~ authorized representative, ~~as applicable,~~ is not satisfied with the director's decision or action, he may file a petition for an LHRC hearing under 12 VAC 35-115-180.

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2. Providers shall ensure that all clinical services, including medical services and treatment, are at all times delivered ~~within~~ in accordance with sound therapeutic practice. Providers may deny or limit an individual's access to services if sound therapeutic practice requires limiting the service to individuals of the same sex or similar age, disability, or legal status.

3. Providers shall develop and implement policies and procedures that address emergencies. These policies and procedures shall:

- a. Identify what caregivers may do to respond to an emergency;
- b. Identify qualified clinical staff who are accountable for assessing emergency conditions and determining the appropriate intervention;
- c. Require that the director immediately notify the individual's ~~legally~~ authorized representative, ~~if there is one,~~ and the advocate if an emergency results in harm or injury to any individual; and
- d. Require documentation in the individual's services record of all facts and circumstances surrounding the emergency.

4. Providers shall assign a specific person or group of persons to carry out each of the following activities:

- a. Medical, mental health, and behavioral screenings and assessments, as applicable, upon admission and during the provision of services;
- b. Preparation, implementation, and appropriate changes in an individual's services plan based on the ongoing review of the medical, mental, and behavioral needs of the individual ~~receiving services~~; and
- c. Preparation and implementation of an individual's discharge plan; and
- d. Approval of seclusion and restraint.

5. Providers shall not ~~prepare or~~ deliver any service for ~~any~~ to an individual without a services plan that is tailored specifically to the needs and expressed preferences of the individual ~~receiving services~~ and, in the case of a minor, the minor and the minor's parent or guardian. Services provided in response to emergencies or crises shall be deemed part of the services plan and thereafter documented in the individual's services plan.

6. Providers shall write the services plan and discharge plan in clear, understandable language.

7. When preparing and or changing an individual's services or discharge plan, providers shall ensure that all services received by the individual are integrated. With the individual's or the individual's authorized representative's consent, providers may involve family members in services

and discharge planning. When the individual or his authorized representative requests such involvement, the provider shall take all reasonable steps to do so. In the case of services to minors, the parent or guardian or other person authorized to consent to treatment pursuant to § 54.1-2969 A of the Code of Virginia shall be involved in discharge planning.

8. Providers shall ensure that the entries in an individual's services record are at all times authentic, accurate, complete, timely, and pertinent.

~~C. Exceptions and conditions to the provider's duties.~~

~~1. Providers may deny or limit an individual's access to a service or services if sound therapeutic practice requires limiting the service to individuals of the same sex, or similar age, disability, or legal status.~~

~~2. With the individual's or legally authorized representative's consent, providers may involve family members in services and discharge planning. When the individual or the legally authorized representative requests such involvement, the provider shall take all reasonable steps to do so.~~

12 VAC 35-115-70. Participation in decision making and consent.

A. Each individual has a right to participate meaningfully in decisions regarding all aspects of services affecting him. This includes the right to:

~~1. Participate meaningfully in the preparation, implementation and any changes to the individual's services and discharge plans.~~

~~2. Express his preferences and have them incorporated into the services and discharge plans consistent with his condition and need for services and the provider's ability to provide.~~

~~3. Object to any part of a proposed services or discharge plan.~~

~~4. Give or not give consent for treatment, including medical treatment. See Consent 12 VAC 35-115-30.~~

~~5. Give or not give written informed consent for electroconvulsive treatment prior to the treatments or series of treatments.~~

~~a. Informed consent shall be documented on a form that shall become part of the individual's services record. In addition to containing the elements of informed consent as set forth in the definition of "consent" in 12 VAC 35-115-30, this form shall:~~

~~(1) Specify the maximum number of treatments to be administered during the series;~~

~~(2) Indicate that the individual has been given the opportunity to view an instructional video presentation~~

about the treatment procedures and their potential side effects;

~~(3) Be signed by the individual receiving the treatment, or the individual's legally authorized representative, where applicable; and~~

~~(4) Be witnessed in writing by a person not involved in the individual's treatment who attests that the individual has been counseled and informed about the treatment procedures and the potential side effects of the procedures.~~

~~b. Separate consent, documented on a separate consent form, shall be obtained for any treatments exceeding the maximum number of treatments indicated on the initial consent form.~~

~~c. Providers shall inform the individual receiving services or the legally authorized representative, as applicable, that the individual may obtain a second opinion before receiving electroconvulsive treatment and shall document such notification in the individual's services record.~~

~~d. Before initiating electroconvulsive treatment for any individual under age 18 years, two qualified child psychiatrists must concur with the treatment. The psychiatrists must be trained or experienced in treating children and adolescents and not directly involved in treating the individual. Both must examine the individual, consult with the prescribing psychiatrist, and document their concurrence with the treatment in the individual's services record.~~

~~6. Give or not give informed consent for participation in human research.~~

~~7. Give or not give consent to the disclosure of information the provider keeps about him. See 12 VAC 35-115-80.~~

~~8. Have a legally authorized representative make decisions for him in cases where the individual lacks capacity to give informed consent.~~

~~9. Object to any decision that allows a legally authorized representative to make decisions for him. This includes having a professional assessment of capacity to consent and, at the individual's own expense, an independent assessment of capacity.~~

~~10. Be accompanied by someone the individual trusts as his representative when participating in services planning.~~

~~11. Indicate by signature in the service record, the individual's participation in and agreement to services plan, discharge plan, changes to these plans, and all other significant aspects of treatment and services he receives.~~

~~12. Request admission to or discharge from any service any time.~~

1. Consent or not consent to receive or participate in services.

a. The ISP and discharge plan shall incorporate the individual's preferences consistent with his condition and need for service and the provider's ability to address them;

b. The individual's services record shall include evidence that the individual has participated in the development of his ISP and discharge plan, in changes to these plans, and in all other significant aspects of his treatment and services; and

c. The individual's services record shall include the signature or other indication of the individual's or his authorized representative's consent.

2. Give or not give informed consent to receive or participate in treatment or services that pose a risk of harm greater than ordinarily encountered in daily life and to participate in human research except research that is exempt under § 37.2-162.17 of the Code of Virginia. Informed consent is always required for surgery, electroconvulsive treatment, or use of psychotropic medications.

a. To be informed, consent for any treatment or service must be based on disclosure of and understanding by the individual or his authorized representative of the following information:

(1) An explanation of the treatment, service, or research and its purpose;

(2) When proposing human research, the provider shall describe the research and its purpose, explain how the results of the research will be disseminated and how the identity of the individual will be protected, and explain any compensation or medical care that is available if an injury occurs;

(3) A description of any adverse consequences and risks associated with the research, treatment, or service;

(4) A description of any benefits that may be expected from the research, treatment, or service;

(5) A description of any alternative procedures that might be considered, along with their side effects, risks, and benefits;

(6) Notification that the individual is free to refuse or withdraw his consent and to discontinue participation in any treatment, service, or research requiring his consent at any time without fear or reprisal against or prejudice to him;

(7) A description of the ways in which the individual or his authorized representative can raise concerns and

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ask questions about the research or treatment to which consent is given; and

(8) When the provider proposes human research, an explanation of any compensation or medical care that is available if an injury occurs.

b. Evidence of informed consent shall be documented in an individual's services record and indicated by the signature of the individual or his authorized representative on a form or the ISP.

c. Informed consent for electroconvulsive treatment requires the following additional components:

(1) Informed consent shall be in writing, documented on a form that shall become part of the individual's services record. This form shall:

(a) Specify the maximum number of treatments to be administered during the series;

(b) Indicate that the individual has been given the opportunity to view an instructional video presentation about the treatment procedures and their potential side effects; and

(c) Be witnessed in writing by a person not involved in the individual's treatment who attests that the individual has been counseled and informed about the treatment procedures and potential side effects of the procedures.

(2) Separate consent, documented on a separate consent form, shall be obtained for any treatments exceeding the maximum number of treatments indicated on the initial consent form.

(3) Providers shall inform the individual receiving services or his authorized representative that the individual may obtain a second opinion before receiving electroconvulsive treatment and the individual is free to refuse or withdraw his consent and to discontinue participation at any time without fear of reprisal against or prejudice to him. The provider shall document such notification in the individual's services record.

(4) Before initiating electroconvulsive treatment for any individual under age 18 years, two qualified child psychiatrists must concur with the treatment. The psychiatrists must be trained or experienced in treating children or adolescents and not directly involved in treating the individual. Both must examine the individual, consult with the prescribing psychiatrist, and document their concurrence with the treatment in the individual's services record.

3. Have an authorized representative make decisions for him in cases where the individual lacks capacity to consent or authorize the disclosure of information.

a. If an individual who has an authorized representative who is not his legal guardian objects to the disclosure of

specific information or a specific proposed treatment or service, the director shall immediately notify the human rights advocate and authorized representative. A petition for LHRC review of the objection may be filed under 12 VAC 35-115-200.

b. If the authorized representative objects or refuses to consent to a specific proposed treatment or service for which consent is necessary, the provider shall not institute the proposed treatment, except in an emergency in accordance with this section.

4. Be accompanied, except during forensic evaluations, by someone whom the individual trusts as his representative when he participates in services planning, assessments, and evaluations, including discussions and evaluations of the individual's capacity to consent, and discharge planning.

5. Request admission to or discharge from any service at any time.

B. The provider's duties.

1. Providers shall respect, protect, and help develop each individual's ability to participate meaningfully in decisions regarding all aspects of services affecting him. This shall be done by involving the individual, to the extent permitted by his capacity, in ~~decision-making~~ decision making regarding all aspects of services.

2. Providers shall ask the individual to express his preferences about decisions regarding all aspects of services that affect him and shall honor these preferences to the extent possible.

3. Providers shall give each individual the opportunity, and any help he needs, to participate meaningfully in the preparation of his services plan, discharge plan, and changes to these plans, and all other aspects of services he receives. Providers shall document these opportunities in the individual's services record.

~~4. Providers shall obtain and document in the individual's services record the individual's consent prior to disclosing any information about him. See 12 VAC 35-115-80 for the rights, duties, exceptions, and conditions relating to disclosure.~~

~~5.~~ 4. Providers shall obtain and document in the individual's services record the individual's or his authorized representative's consent for any treatment, ~~including medical treatment,~~ before ~~the treatment~~ it begins. If the individual is a minor in the legal custody of a natural or adoptive parent, the provider shall obtain this consent from at least one parent. The consent of a parent is not needed if a court has ordered or consented to treatment or services pursuant to § 16.1-241 D, 16.1-275, or 54.1-2969 B of the Code of Virginia, or a local department of social services with custody of the minor has provided consent. Reasonable efforts must be made, however, to notify the

parent or legal custodian promptly following the treatment or services. Additionally, a competent minor may independently consent to treatment of for sexually transmitted or contagious diseases, family planning or pregnancy, or outpatient services or treatment for mental illness, emotional disturbance, or addictions substance use disorders pursuant to § 54.1-2969 E of the Code of Virginia.

5. Providers may initiate, administer, or undertake a proposed treatment without the consent of the individual or the individual's authorized representative in an emergency. All emergency treatment or services and the facts and circumstances justifying the emergency shall be documented in the individual's services record within 24 hours of the treatment or services.

a. Providers shall immediately notify the authorized representative of the provision of treatment without consent during an emergency.

b. Providers shall continue emergency treatment without consent beyond 24 hours only following a review of the individual's condition and if a new order is issued by a professional who is authorized by law and the provider to order treatment.

c. Providers shall notify the human rights advocate if emergency treatment without consent continues beyond 24 hours.

d. Providers shall develop and integrate treatment strategies into the ISP to address and prevent future emergencies to the extent possible following provision of emergency treatment without consent.

6. Providers shall obtain and document in the individual's services record the individual's informed consent of the individual or his authorized representative to continue any treatment initiated in an emergency that lasts longer than 24 hours after the emergency began.

7. ~~If the capacity of an individual to give consent is in doubt, the provider shall make sure that a professional qualified by expertise, training, education, or credentials and not directly involved with the individual conducts an evaluation and makes a determination of the individual's capacity.~~

8. ~~If the individual or his family objects to the results of the qualified professional's determination, the provider shall immediately inform the human rights advocate.~~

~~a. If the individual or family member wishes to obtain an independent evaluation of the individual's capacity, he may do so at his own expense and within reasonable timeframes consistent with his circumstances. The provider shall take no action for which consent is required, except in an emergency, pending the results of~~

~~the independent evaluation. The provider shall take no steps to designate a legally authorized representative until the independent evaluation is complete.~~

~~b. If the independent evaluation is consistent with the provider's evaluation, the evaluation is binding, and the provider shall implement it accordingly.~~

~~e. If the independent evaluation is not consistent with the provider's evaluation, the matter shall be referred to the LHRC for review and decision under Part IV (12 VAC 35-115-150 et seq.) of this chapter.~~

9. ~~When it is determined that an individual lacks the capacity to give consent, the provider shall designate a legally authorized representative. The director shall have the primary responsibility for determining the availability of and designating a legally authorized representative in the following order of priority:~~

~~a. An attorney in fact currently authorized to give consent under the terms of a durable power of attorney, a health care agent appointed by an individual under an advance directive pursuant to § 54.1-2983 of the Code of Virginia, a legal guardian of the individual not employed by the provider and currently authorized to give consent, or, if the individual is a minor, a parent having legal custody of the individual.~~

~~b. The individual's next of kin. In designating the next of kin, the director shall select the best qualified person, if available, according to the following order of priority unless, from all information available to the director, another person in a lower priority is clearly better qualified: spouse, an adult child, a parent, an adult brother or sister, any other relative of the individual. If the individual expresses a preference for one family member over another in the same category, the director shall appoint that family member.~~

~~e. If no other person specified in subdivisions a and b is available and willing to serve, a provider may appoint a next friend of the individual, after a review and finding by the LHRC that the proposed next friend has shared a residence with or provided support and assistance to the individual for a period of at least six months prior to the designation, the proposed next friend has appeared before the LHRC and agreed to accept these responsibilities, and the individual has no objection to this proposed next friend being appointed authorized representative.~~

10. ~~No provider, director, or employee of a provider or director may serve as legally authorized representative for any individual receiving services delivered by that provider or director unless the employee is a relative or legal guardian.~~

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~~11. If a provider documents that the individual lacks capacity and no person is available or willing to act as a legally authorized representative, the provider shall:~~

~~a. Attempt to identify a suitable person who would be willing to serve as guardian and ask the court to appoint said person to provide consent; or~~

~~b. Ask a court to authorize treatment. See § 37.1-134.21 of the Code of Virginia.~~

~~12. If the individual who has a legally authorized representative objects to the disclosure of specific information or a specific proposed treatment, the director shall immediately notify the human rights advocate and the legally authorized representative, as applicable. A petition for a LHRC review may be filed under 12 VAC 35-115-180.~~

~~13. Providers shall make sure that an individual's capacity to consent is reviewed at least every six months or as the individual's condition warrants according to sound therapeutic practice to assess the continued need for a surrogate decision maker. Such reviews, or decisions not to review, shall be documented in the individual's services record and communicated in writing to the surrogate decision maker. Providers shall also consider an individual's request for review in a timely manner.~~

7. Providers may provide treatment in accordance with a court order or in accordance with other provisions of law that authorize such treatment or services including the Health Care Decisions Act (§ 54.1-2981 et seq. of the Code of Virginia). The provisions of these regulations are not intended to be exclusive of other provisions of law but are cumulative (e.g., see § 54.1-2970 of the Code of Virginia).

14. 8. Providers shall respond to an individual's request for discharge according to requirements set forth in statute and shall make sure that the individual is not subject to punishment, reprisal, or reduction in services because he makes a request. However, if an individual leaves a service "against medical advice," any subsequent billing of the individual by his private third party payer shall not constitute punishment or reprisal on the part of the provider.

a. Voluntary admissions.

(1) Individuals admitted under ~~§ 37.1-65~~ § 37.2-805 of the Code of Virginia to ~~mental health facilities state hospitals~~ operated by the department who notify the director of their intent to leave shall be ~~released~~ discharged when appropriate, but no later than eight hours after notification, unless another provision of law authorizes the director to ~~detain~~ retain the individual for a longer period.

(2) Minors admitted under § 16.1-338 or 16.1-339 of the Code of Virginia shall be released to the parent's

(or legal guardian's) custody within 48 hours of the consenting parent's (or legal guardian's) notification of withdrawal of consent, unless a petition for continued hospitalization pursuant to § 16.1-340 or 16.1-345 of the Code of Virginia is filed.

b. Involuntary ~~commitment~~ admissions.

(1) When a minor involuntarily ~~committed~~ admitted under § 16.1-345 of the Code of Virginia no longer meets the commitment criteria, the director shall take appropriate steps to arrange the minor's discharge.

(2) When an individual involuntarily ~~committed~~ admitted under ~~§ 37.1-67.3~~ § 37.2-817 of the Code of Virginia has been receiving services for more than 30 days and makes a written request for discharge, the director shall determine whether the individual continues to meet the criteria for involuntary ~~commitment~~ admission. If the director denies the request for discharge, he shall notify the individual in writing of the reasons for denial and of the individual's right to seek relief in the courts. The request and the reasons for denial shall be included in the individual's services record. Anytime ~~an~~ the individual meets any of the criteria for discharge set out in ~~§ 37.1-98 A~~ § 37.2-837 or 37.2-838 of the Code of Virginia, the director shall take all necessary steps to arrange the individual's discharge.

(3) If at any time it is determined that an individual involuntarily admitted under Chapter 11 (§ 19.2-167 et seq.) or Chapter 11.1 (§ 19.2-182.2 et seq.) of Title 19.2 of the Code of Virginia no longer meets the criteria ~~upon~~ under which the individual was admitted and retained, the director ~~shall notify the or commissioner who, as appropriate,~~ shall seek judicial authorization to discharge or transfer the individual. Further, pursuant to § 19.2-182.6 of the Code of Virginia, the commissioner shall petition the committing court for conditional or unconditional release at any time he believes the acquittee no longer needs hospitalization.

c. Certified admissions. If an individual certified for admission under ~~§ 37.1-65.1 or 37.1-65.3~~ § 37.2-806 of the Code of Virginia requests discharge, the director ~~will~~ shall determine whether the individual continues to meet the criteria for ~~certification~~ admission. If the director denies the request for discharge, the individual and the individual's ~~legally~~ authorized representative shall be notified in writing of the reasons for the denial and of the individual's right to seek relief in the courts. The request and the reasons for denial ~~will~~ shall be included in the individual's services record.

~~C. Exceptions and conditions to the provider's duties.~~

~~1. Providers, in an emergency, may initiate, administer, or undertake a proposed treatment without the consent of the individual or the individual's legally authorized representative. All emergency treatment shall be documented in the individual's services record within 24 hours.~~

~~a. Providers shall immediately notify the legally authorized representative, as applicable, of the provision of treatment without consent during an emergency.~~

~~b. Providers shall continue emergency treatment without consent beyond 24 hours only following a review of the individual's condition and if a new order is issued by a professional who is authorized by law and the provider to order the treatment.~~

~~c. Providers shall notify the human rights advocate if emergency treatment without consent continues beyond 24 hours.~~

~~d. Providers shall develop and integrate treatment strategies to address and prevent future such emergencies to the extent possible, into the individual's services plan, following the provision of emergency treatment without consent.~~

~~2. Providers may provide treatment without consent in accordance with a court order or in accordance with other provisions of law that authorize such treatment including the Health Care Decisions Act (§ 54.1-2981 et seq.). The provisions of these regulations are not intended to be exclusive of other provisions of law but are cumulative (e.g., see § 54.1-2970 of the Code of Virginia).~~

12 VAC 35-115-80. Confidentiality.

A. Each individual is entitled to have all identifying information that a provider maintains or knows about him remain confidential. Each individual has a right to give his ~~consent~~ authorization before the provider shares identifying information about him or his care unless another ~~law, federal state law or regulation;~~ or these regulations specifically require or permit the provider to disclose certain specific information.

B. The provider's duties.

1. Providers shall maintain the confidentiality of any information that identifies an individual ~~receiving services from the provider.~~ If an individual's services record pertains in whole or in part to referral, diagnosis, or treatment of substance abuse, providers shall ~~release~~ disclose information only according to applicable federal regulations (see 42 CFR Part 2, Confidentiality of Alcohol and Drug Abuse Patient Records).

2. Providers shall obtain and document in the individual's services record the individual's authorization prior to

disclosing any identifying information about him. The authorization must contain the following elements:

a. The name of the organization and the name or other specific identification of the person or persons or class of persons to whom the disclosure is made;

b. A description of the nature of the information to be disclosed, the purpose of the disclosure, and an indication whether the authorization extends to the information placed in the individual's record after the authorization was given but before it expires;

c. An indication of the effective date of the authorization and the date the authorization will expire, or the event or condition upon which it will expire; and

d. The signature of the individual and the date. If the authorization is signed by an authorized representative, a description of the authorized representative's authority to act.

~~2.~~ 3. Providers shall tell each individual, and his legally authorized representative if he has one, about the individual's confidentiality rights. This shall include how information can be disclosed and how others might get information about the individual without his consent authorization. If a disclosure is not required by law, the providers shall give strong consideration to any objections from the individual or his authorized representative in making the decision to disclose information (see Virginia Government Data Collection and Dissemination Practices Act (§ 2.2-3800 et seq. of the Code of Virginia)).

~~3.~~ 4. Providers shall prevent unauthorized disclosures of information from services records and shall convey maintain and disclose the information in a secure manner.

~~4. If consent to disclosure is required, providers shall get the written consent of the individual or the legally authorized representative, as applicable, before disclosing information.~~ 5. In the case of a minor, the consent authorization

of the custodial parent or other person authorized to consent to the minor's treatment under § 54.1-2969 is required, except as provided below:

a. Section 54.1-2969 E of the Code of Virginia permits a minor to authorize the ~~release~~ disclosure of ~~records~~ information related to medical or health services for a sexually transmitted or contagious disease ~~or~~ family planning ~~but requires parental consent for release of records related to~~ or pregnancy, and outpatient care, treatment, or rehabilitation for substance use disorders, mental illness, or emotional disturbance.

~~b. A minor may authorize the release of outpatient substance abuse records without parental consent in programs governed by 42 CFR Part 2~~ The concurrent

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authorization of the minor and parent is required to disclose inpatient substance abuse records.

c. The minor and the parent shall authorize the disclosure of identifying information related to the minor's inpatient psychiatric hospitalization when the minor is 14 years of age and older and has consented to the admission.

~~5- 6.~~ When providers disclose identifying information, they shall attach a statement that informs the person receiving the information that it must not be disclosed to anyone else unless the individual ~~consents~~ authorizes the disclosure or unless ~~the state law or regulation~~ allows or requires further disclosure without consent authorization.

~~6. Upon request, providers shall tell individuals the sources of information contained in their services records and the names of anyone, other than employees of the provider, who has received information about them from the provider. Individuals receiving services should be informed that the department may have access to their records.~~

C. Exceptions and conditions to the provider's duties.

~~1- 7.~~ Providers may encourage individuals to name family members, friends, and others who may be told of their presence in the program and general condition or well-being. ~~Consent must be obtained and documented in the services record for the provider to contact family members, friends, or others. Nothing in this provision shall prohibit providers from taking steps necessary to secure a legally authorized representative.~~ Except for information governed by 42 CFR Part 2, providers may disclose to a family member, other relative, a close personal friend, or any other person identified by the individual, information that is directly relevant to that person's involvement with the individual's care or payment for his health care, if (i) the provider obtains the individual's agreement, (ii) the provider provides the individual with the opportunity to object to the disclosure, and (iii) the individual does not object or the provider reasonably infers from the circumstances, based on the exercise of professional judgment, that the individual does not object to the disclosure. If the opportunity to agree or object cannot be provided because of the individual's incapacity or an emergency circumstance, the provider may, in the exercise of professional judgment, determine whether the disclosure is in the best interest of the individual and, if so, disclose only the information that is directly relevant to the person's involvement with the individual's health care.

~~2- 8.~~ Providers may disclose the following identifying information without ~~consent~~ authorization or violation of the individual's confidentiality, but only under the conditions specified in ~~this subdivision and in subdivision 3~~ the following subdivisions of this subsection. Providers should always consult 42 CFR Part 2, Confidentiality of Alcohol and Drug Abuse Patient Records, if applicable, because these federal regulations may prohibit some of the

disclosures addressed in this section. See also § 32.1-127.1:03 of the Code of Virginia for a list of circumstances under which records may be disclosed without ~~consent~~ authorization.

a. Emergencies: Providers may disclose information in an emergency to any person who needs that particular information for the purpose of preventing injury, or death or substantial property destruction in an emergency. The provider shall not disclose any information that is not needed for these specific purposes.

b. ~~Employees:~~ Providers or health plans: Providers may ~~disclose to~~ permit any full- or part-time employee, consultant, agent, or contractor of the provider, to use identifying information or disclose to another provider, a health plan, the department, or a CSB, information required to give services to the individual or to get payment for the services.

~~c. Insurance companies and other third party payers: Disclosure may be made to insurance companies and other third party payers according to Chapter 12 (§ 37.1-225 et seq.) of Title 37.1 of the Code of Virginia.~~

~~d. c.~~ Court proceedings: If the individual, or someone acting for him, introduces any aspect of his mental condition or services as an issue before a court, administrative agency, or medical malpractice review panel, the provider may disclose any information relevant to that issue. The provider may also disclose any records if they are properly subpoenaed, if a court orders them to be produced, or if involuntary ~~commitment~~ admission or certification for admission is being proposed ~~or~~ conducted.

~~e. d.~~ Legal counsel: Providers may disclose information to their own legal counsel, or to anyone working on behalf of their legal counsel, in providing representation to the provider. Providers of state-operated services may disclose information to the Office of the Attorney General, or to anyone appointed by or working on behalf of that office, in providing representation to the Commonwealth of Virginia.

~~f. e.~~ Human rights committees: Providers may disclose to the LHRC and the SHRC any information necessary for the conduct of their responsibilities under these regulations.

~~g. f.~~ Others authorized or required by the commissioner, CSB, or private program director: Providers may disclose information to other persons if authorized or required ~~by the commissioner, CSB or private program director~~ for the following activities:

- (1) Licensing, human rights, or certification or accreditation reviews;

(2) Hearings, reviews, appeals, or investigations under these regulations;

(3) Evaluation of provider performance and individual outcomes (see ~~§ 37.1-98.2~~ §§ 37.2-508 and 37.2-608 of the Code of Virginia);

(4) Statistical reporting;

(5) Preauthorization, utilization reviews, financial and related administrative services reviews, and audits; or

(6) Similar oversight and review activities.

~~h. g.~~ Preadmission screening, services, and discharge planning: Providers may disclose to the department, the CSB, or to other providers information necessary to prescreen individuals or to prepare and carry out a comprehensive individualized services or discharge plan (see ~~§ 37.1-98.2~~ § 37.2-505 of the Code of Virginia).

~~i. h.~~ Protection and advocacy agency: Providers may disclose information to the protection and advocacy agency ~~any information that may establish probable cause to believe that an individual receiving services has been abused or neglected and any information concerning the death or serious injury of any individual while receiving services, whatever the suspected cause of the death~~ in accordance with that agency's legal authority under federal and state law.

~~j. i.~~ Historical research: Providers may disclose information to persons engaging in bona fide historical research if all of the following conditions are met:

~~(1)~~ The request for historical research shall include, at a minimum, a summary of the scope and purpose of the research, a description of the product to result from the research and its expected date of completion, a rationale explaining the need to access otherwise private information, and the specific identification of the type and location of the records sought.

~~(2)~~ The commissioner, CSB executive director, or private program director ~~authorizes~~ has authorized the research;

~~(3)~~ The individual or individuals who are the subject of the disclosure are deceased;

~~(4)~~ There are no known living persons ~~authorized~~ permitted by law to ~~consent to~~ authorize the disclosure; and

~~(5)~~ The disclosure would in no way reveal the identity of any person who is not the subject of the historical research.

~~k. A request for historical research shall include, at a minimum:~~

~~(1) A summary of the scope and purpose of the research;~~

~~(2) A description of the product to result from the research and its expected date of completion;~~

~~(3) A rationale explaining the need to access otherwise confidential records; and~~

~~(4) Specific identification of the type and location of the records sought.~~

~~l. j.~~ Protection of the public safety: If ~~a provider reasonably believes~~ an individual receiving services is a present threat to a specifically makes a specific threat to cause serious bodily injury or death to an identified or readily identifiable person or the public and the provider reasonably believes that the individual has the intent and the ability to carry out the threat immediately or imminently, the provider may ~~communicate only~~ disclose those facts necessary to alleviate the potential threat.

~~m. k.~~ Inspector general: Providers may disclose to the inspector general any individual services records and other information relevant to the provider's delivery of services.

~~n. l.~~ Virginia Patient Level Data System: Providers may disclose financial and services information to Virginia Health Information as required by law (see Chapter 7.2 (§ 32.1-276.2 et seq.) of Title 32.1 of the Code of Virginia).

~~o. m.~~ Psychotherapy notes: Providers shall obtain an individual's authorization for any disclosure of psychotherapy notes, except when disclosure is made:

(1) For the provider's own training programs in which students, trainees, or practitioners in mental health are being taught under supervision to practice or improve their skills in group, joint, family, or individual counseling;

(2) To defend the provider or its employees or staff against any accusation of wrongful conduct;

(3) In discharge of the provider's duty, in accordance with § 54.1-2400.1 B of the Code of Virginia, to take precautions to protect third parties from violent behavior or other serious harm;

(4) As required in the course of an investigation, audit, review, or proceeding regarding a provider's conduct by a duly authorized law-enforcement, licensure, accreditation, or professional review entity; or

(5) When otherwise required by law.

~~p. n.~~ Other statutes or regulations: Providers may disclose information to the extent required or permitted by any

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~~other state or federal statute law or regulations regulation.~~

~~3. If information is disclosed without consent to anyone other than employees of the department, CSB or other provider, providers shall take the following steps before the disclosure (or, in an emergency, promptly afterward):~~

~~a. Put a written notation of the information disclosed, the name of the person who received the information, the purpose of disclosure, and the date of disclosure permanently in the individual's services record.~~

~~b. Give the individual or his legally authorized representative written notice of the disclosure, including the name of each person who received the information and the nature of the information.~~

~~4. If the disclosure is not required by law, give strong consideration to any objections from the individual or his legally authorized representative in making the decision to release information (see Virginia Government Data Collection and Dissemination Practices Act, § 2.2-3800 et seq. of the Code of Virginia).~~

9. Upon request, the provider shall tell the individual or his authorized representative the sources of information contained in his services records and provide a written listing of disclosures of information made without authorization, except for disclosures:

a. To employees of the department, CSB, the provider, or other providers;

b. To carry out treatment, payment, or health care operations;

c. That are incidental or unintentional disclosures that occur as a by-product of engaging in health care communications and practices that are already permitted or required;

d. To an individual or his authorized representative;

e. Pursuant to an authorization;

f. For national security or intelligence purposes; or

g. To correctional institutions or law-enforcement officials.

10. The provider shall include the following information in the listing of disclosures of information provided to the individual or his authorized representative under subdivision 9 of this subsection:

a. The name of the person or organization that received the information and the address, if known;

b. A brief description of the information disclosed; and

c. A brief statement of the purpose for the disclosure or, in lieu of such a statement, a copy of the written request for disclosure.

11. If the provider makes multiple disclosures of information to the same person or entity for a single purpose, the provider shall include the following:

a. The information required in subdivision 10 of this subsection for the first disclosure made during the requested period;

b. The frequency, periodicity, or number of disclosures made during the period for which the individual is requesting information; and

c. The date of the last disclosure during that time period.

12. The provider need not inform an individual whom it believes to be a victim of abuse or neglect:

a. If the provider, in the exercise of professional judgment, believes that informing the individual would place the individual at risk of serious harm; or

b. If the provider would inform the authorized representative, and the provider reasonably believes that the authorized representative is responsible for the abuse or neglect and that informing such person would not be in the best interest of the individual.

12 VAC 35-115-90. Access to and ~~correction~~ amendment of services records.

~~A. Each individual has a right to see, read, and get a copy of his own services record. Minors must have their parent or guardian's permission first. If this right is restricted according to law, the individual has a right to let certain other people see his record. Each individual has a right to challenge, correct or explain anything in his record. Whether or not corrections are made as a result, each individual has a right to let anyone who sees his record know that he tried to correct or explain his position and what happened as a result. An individual's legally authorized representative has the same rights as the individual himself has (see § 2.2-3806 of the Code of Virginia). With respect to his own services record, each individual and his authorized representative has the right to:~~

1. See, read, and get a copy of his own services record, except psychotherapy notes, information that is privileged pursuant to § 8.01-581.17 of the Code of Virginia, and information compiled by the provider in reasonable anticipation of or for use in a civil, criminal, or administrative action or proceeding;

2. Let certain other people see, read, or get a copy of his own services record if the individual is restricted by law from seeing, reading, or receiving a copy;

3. Challenge, amend, or receive an explanation of anything in his services record; and

4. Let anyone who sees his record, regardless of whether amendments to the record have been made, know that the individual has tried to amend the record or explain his position and what happened as a result.

B. Except in the following circumstances, minors must have their parent's or guardian's permission before they can access their services record:

1. A minor may access his services record without the permission of a parent only if the records pertain to treatment for sexually transmitted or contagious diseases, family planning or pregnancy, outpatient care, treatment or rehabilitation for substance use disorders, mental illness or emotional disturbance, or inpatient psychiatric hospitalization when a minor is 14 years of age or older and has consented to the admission.

2. A parent may access his minor child's services record unless parental rights have been terminated, a court order provides otherwise, or the minor's treating physician or clinical psychologist has determined, in the exercise of professional judgment, that the disclosure to the parent would be reasonably likely to cause substantial harm to the minor or another person.

B. C. The provider's duties.

1. Providers shall tell each individual, and his legally authorized representative if he has one, how he can access and ~~provide corrections to~~ request amendment of his own services records record.

2. Providers shall permit each individual to see his records services record when he requests ~~them~~ it and to ~~provide corrections~~ request amendments if necessary.

a. Access to all or a part of an individual's services record may be denied or limited only if a physician or a clinical psychologist involved in providing services to the individual talks to the individual, examines the services record as a result of the individual's request for access, and signs and puts in the services record permanently a written statement that he thinks access to the services record by the individual at this time would be reasonably likely to endanger the life or physical safety of the individual or another person or that the services record makes reference to a person other than a health care provider and the access requested would be reasonably likely to cause substantial harm to the referenced person. The physician or clinical psychologist must also tell the individual as much about his services record as he can without risking harm to the individual.

b. If access is denied in whole or in part, the provider shall give the individual or his authorized representative a written statement that explains the basis for the denial, the individual's review rights, as set forth in the following subdivisions, how he may exercise them, and how the individual may file a complaint with the provider or the United States Department of Health and Human Services, if applicable. If restrictions or time limits are placed on access, the individual shall be notified of the restrictions and time limits and conditions

for their removal. These time limits and conditions also shall be specified in the services record.

(1) If the individual requests a review of denial of access, the provider shall designate a physician or clinical psychologist who was not directly involved in the denial to review the decision to deny access. The physician or clinical psychologist must determine within a reasonable period of time whether or not to deny the access requested in accordance with the standard in subdivision 2 a of this subsection. The provider must promptly provide the individual notice of the physician's or psychologist's determination and provide or deny access in accordance with that determination.

(2) At the individual's option, the individual may designate at his own expense a reviewing physician or clinical psychologist who was not directly involved in the denial to review the decision to deny access in accordance with the standard in subdivision 2 a of this subsection. If the individual chooses this option, the provider is not required to designate a physician or clinical psychologist to review the decision.

c. If the provider limits or refuses to let an individual see his services record, the provider shall also notify the advocate and tell the individual that he can ask to have a lawyer of his choice see his record. If the individual makes this request, the provider shall disclose the record to that lawyer (§ 8.01-413 of the Code of Virginia).

3. Providers shall, without charge, give individuals any help they may need to read and understand their services records record and ~~provide corrections~~ request amendments to ~~them~~ it.

4. If the provider limits or refuses to let an individual see his services records, the provider shall notify the advocate and tell the individual that he can ask to have a lawyer, physician, or psychologist of his choice see his records. If the individual makes this request, the provider shall disclose the record to that lawyer, physician, or psychologist (§§ 2.2-3705, 32.1-127.1:03 and 8.01-413 of the Code of Virginia).

5. The provider shall document in the record the decision and reasons for the decision to limit or refuse access to the individual's medical record. The individual shall be notified of time limits and conditions for removal of the restriction. These time limits and conditions shall also be specified in the record.

6. 4. If an individual asks to challenge, ~~correct~~ amend, or explain any information contained in his services record, the provider shall investigate and file in the services record a written report concerning the individual's request.

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a. If the report finds that the services record is incomplete, inaccurate, not pertinent, not timely, or not necessary, the provider shall:

(1) Either mark that part of the services record clearly to say so, or else remove that part of the services record and file it separately with an appropriate cross reference to indicate that the information was removed;

(2) Not disclose the original services record without separate specific ~~consent~~ authorization or legal authority (e.g., if compelled by subpoena or other court order);

(3) Obtain the individual's identification of and agreement to have the provider notify the relevant persons of the amendment; and

(4) Promptly notify in writing all persons who have received the incorrect information and all persons identified by the individual that the services record has been corrected and request that recipients acknowledge the correction.

b. ~~If the report does not result in action satisfactory to the individual, the provider shall, upon a request to amend the services record is denied, the provider shall give the individual a written statement containing the basis for the denial and notify the individual of his right to submit a statement of disagreement and how to submit such a statement. The provider shall also give the individual (i) a statement that if a statement of disagreement is not submitted that the individual may request the provider to disclose the request for amendment and the denial with future disclosures of information and (ii) a description of how the individual may complain to the provider or the Secretary of Health and Human Services, if applicable. Upon request, the provider shall file in the services record the individual's statement explaining his position. If needed, the provider shall help the individual to write this statement. If a statement is filed, the provider shall:~~

(1) Give all persons who have copies of the record a copy of the individual's statement.

(2) Clearly note in any later disclosure of the record that it is disputed and include a copy of the statement with the disputed record.

~~C. Exceptions and conditions to the provider's duties. A provider may deny access to all or a part of an individual's services record only if a physician or a licensed psychologist involved in providing services to the individual talks to the individual, looks over the services record as a result of the individual's request for access, signs and puts in the services record permanently a written statement that he thinks access to the services records by the individual at this time would be physically or mentally harmful to the individual. The physician or licensed psychologist must also tell the~~

~~individual as much about his services record as he can without risking harm to the individual.~~

12 VAC 35-115-100. Restrictions on freedoms of everyday life.

A. From admission until discharge from a service, each individual is entitled to:

1. Enjoy all the freedoms of everyday life that are consistent with his need for services, his protection, and the protection of others, and that do not interfere with his services or the services of others. These freedoms include ~~the following:~~

a. Freedom to move within the service setting, its grounds, and the community;

b. Freedom to communicate, associate, and meet privately with anyone the individual chooses;

c. Freedom to have and spend personal money;

d. Freedom to see, hear, or receive television, radio, books, and newspapers, whether privately owned or in a library or public area of the service setting;

e. Freedom to keep and use personal clothing and other personal items;

f. Freedom to use recreational facilities and enjoy the outdoors; and

g. Freedom to make purchases in canteens, vending machines, or stores selling a basic selection of food and clothing.

2. Receive services in that setting and under those conditions that are least restrictive of his freedom.

B. The provider's duties.

1. Providers shall encourage each individual's participation in normal activities and conditions of everyday living and support each individual's freedoms.

2. Providers shall not limit or restrict any individual's freedom more than is needed to achieve a therapeutic benefit, maintain a safe and orderly environment, or intervene in an emergency.

3. Providers shall not impose any restriction on an individual unless the restriction is justified and carried out according to these regulations. If a provider imposes a restriction, except as provided in 12 VAC 35-115-50, the following conditions shall be met:

a. A qualified professional involved in providing services has, in advance, assessed and documented all possible alternatives to the proposed restriction, taking into account the individual's medical and mental condition, behavior, preferences, nursing and medication needs, and ability to function independently.

b. A qualified professional involved in providing services has, in advance, determined that the proposed restriction is necessary for effective treatment of the individual or to protect him or others from personal harm, injury, or death.

c. A qualified professional involved in providing services has, in advance, documented in the individual's services record the specific reason for the restriction.

d. A qualified professional involved in providing services has explained, so that the individual can understand, the reason for the restriction, the criteria for removal, and the individual's right to a fair review of whether the restriction is permissible.

e. A qualified professional regularly reviews the restriction and that the restriction is discontinued when the individual has met the criteria for removal.

f. If a court has ordered the provider to impose the restriction or if the provider is otherwise required by law to impose the restriction, the restriction shall be documented in the individual's services record.

~~4. Providers shall make sure that a qualified professional regularly reviews every restriction and that the restriction is discontinued when the individual has met the criteria for removal.~~

~~5. Providers shall not place any restriction on the physical or personal freedom of any individual solely because criminal or delinquency charges are pending against that individual, except in the situation where the individual is transferred directly from jail or detention for the purpose of receiving an evaluation or treatment.~~

C. Exceptions and conditions on the provider's duties.

~~1. Except as provided in 12VAC 35-115-50 E, providers may impose restrictions if a qualified professional involved in providing services to the individual has, in advance:~~

~~a. Assessed and documented all possible alternatives to the proposed restriction, taking into account the individual's medical and mental condition, behavior, preferences, nursing and medication needs, and the ability to function independently;~~

~~b. Determined that the proposed restriction is necessary for effective treatment of the individual or to protect him or others from personal harm, injury or death;~~

~~c. Documented in the individual's services record the specific reason for the restriction; and~~

~~d. Explained, so the individual can understand, the reason for the restriction, the criteria for removal, and the individual's right to a fair review of whether the restriction is permissible.~~

~~2. Providers may impose a restriction if a court has ordered the provider to impose the restriction or if the provider is otherwise required by law to impose such restriction. Such restriction shall be documented in the individual's services record.~~

~~3. 4. Providers may develop and enforce written program rules of conduct, but only if the rules do not conflict with these regulations or any individual's services plan; and the rules are needed to maintain a safe and orderly environment.~~

~~4. 5. Providers shall, in the development of these program rules of conduct:~~

~~a. Get as many suggestions as possible from all individuals who are expected to obey the rules;~~

~~b. Apply these rules in the same way to each individual;~~

~~c. Give the rules to and review them with each individual and his legally authorized representative in a way that the individual can understand them. This includes explaining possible consequences for violating the rules, including explaining possible consequences for violating them;~~

~~d. Post the rules in summary form in all areas to which individuals and their families have regular access;~~

~~e. Submit the rules to the LHRC for review and approval before putting them into effect, before any changes are made to the rules, and upon request of the advocate or LHRC; and~~

~~f. Prohibit individuals from disciplining other individuals, except as part of an organized self-government program conducted according to a written policy approved in advance by the LHRC.~~

12 VAC 35-115-110. Use of seclusion, restraint, and time out.

A. Each individual is entitled to be completely free from any unnecessary use of seclusion, restraint, and or time out.

B. The provider's duties.

~~1. Providers shall not use seclusion or restraint as punishment, reprisal, or for the convenience of staff.~~

~~2. Providers shall limit each authorization for seclusion or behavioral restraint to four hours for individuals 18 and older, two hours for children and adolescents ages 9 to 17, and one hour for children under age 9.~~

~~3. Providers shall monitor the combined use of seclusion and restraint by a continuous face to face observation, not solely by an electronic surveillance device.~~

~~4. Providers shall ensure that seclusion and restraint may only be implemented, monitored, and discontinued by staff~~

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~~who have been trained in the proper and safe use of seclusion and restraint techniques.~~

~~5. Providers shall not utilize seclusion or restraint unless it is justified and carried out according to these regulations.~~

~~a. The justification for any seclusion or restraint procedure must be documented in the individual's services plan.~~

~~b. The authorization for the use of seclusion or restraint must be documented in the individual's services plan and include behavioral criteria the individual must meet for release.~~

~~e. The authorization for the use of seclusion or restraint must be time limited. Authorizations for the use of seclusion or restraint procedures may not be given on an as needed basis.~~

~~d. The authorizing professional must document that he has taken into account any physical or psychological conditions that would place the individual at greater risk during restraint or seclusion.~~

~~6. Providers shall make sure that a qualified professional regularly reviews every use of seclusion or restraint and that the procedure is discontinued when the individual has met the criteria for removal.~~

~~7. Providers shall not use seclusion or restraint solely because criminal or delinquency charges are pending against the individual.~~

~~8. Providers who use seclusion or restraint shall develop written seclusion and restraint policies and procedures that comply with applicable federal and state statutes and regulations, accreditation standards, third party payer requirements, and sound therapeutic practice. These policies and procedures shall include the following requirements at a minimum:~~

~~a. Providers shall submit all proposed seclusion and restraint policies and procedures to the LHRC for review and comment before they are implemented, when changes are proposed, and upon request by the human rights advocate or the LHRC. The SHRC may request these policies and procedures be transmitted to the SHRC for review.~~

~~b. Providers shall make sure that each individual who requires seclusion or restraint is given the opportunity for motion and exercise, to eat at normal meal times and take fluids, to use the restroom, and bathe as needed.~~

~~e. Providers shall make sure that the medical and mental condition of each individual in seclusion or restraint is continuously monitored by trained, qualified staff for the duration of the restriction.~~

~~d. Each use of seclusion or restraint shall end immediately when criteria for removal is met.~~

~~e. Incidents of seclusion and restraint, including the rationale, type and duration of the restraint, shall be reported to the department as provided in 12 VAC 35-115-230.~~

~~9. Providers shall not consider the use of seclusion or restraint unless other less restrictive techniques have been considered and documented in the individual's services plan to demonstrate that these less restrictive techniques did not or would not succeed in reducing or eliminating behaviors that are self injurious or dangerous to other people.~~

~~10. Only inpatient hospital settings and residential facilities for children or adolescents licensed under the Mandatory Certification/Licensure Standards for Treatment Programs for Residential Facilities for Children (12 VAC 35-40-10 et seq.) of the Standards for Interdepartmental Regulation of Children's Residential Facilities (22 VAC 42-10-10 et seq.) may use seclusion.~~

~~11. Providers shall comply with all applicable state and federal laws and regulations, accreditation standards, and third party payer requirements as they relate to seclusion and restraint. Whenever an inconsistency exists between these regulations and federal regulations, accreditation standards, or the requirements of third party payers, the provider will be held to the higher standard.~~

~~12. Providers shall notify the department whenever a regulatory or accreditation agency or third party payer identifies problems in the provider's compliance with any applicable seclusion or restraint standard.~~

~~13. Providers shall ensure that no individual is in time out for more than 30 minutes per episode and that the instruction to the individual to move or remain in the alternative location may not take the form of a threat.~~

~~14. Providers shall ensure that isolated time out as defined by the U.S. Health Care Financing Administration (HCFA) may be used only in compliance with HCFA requirements. Isolated time out may only be used as part of a behavioral treatment program that has been approved by the LHRC and incidents of isolated time out shall be limited to one hour.~~

~~C. Exceptions and conditions on the provider's duties.~~

~~1. Providers who use seclusion and restraint may impose seclusion or restraint in an emergency, but only to the extent necessary to stop the emergency and only if:~~

~~a. Less restrictive measures have been exhausted; or~~

~~b. The emergency is so sudden that no less restrictive measure is possible.~~

~~2. Providers who use seclusion and restraint may use seclusion or restraint if a qualified professional involved in providing services to the individual has, in advance:~~

a. Assessed and documented why alternatives to the proposed use of seclusion or restraint have not been successful in changing the behavior or not attempted, taking into account the individual's medical and mental condition, behavior, preferences, nursing and medication needs, and ability to function independently;

b. Determined that the proposed seclusion or restraint is necessary for effective treatment of the individual or to protect him or others from personal harm, injury, or death;

c. Documented in the individual's service record the specific reasons for the seclusion or restraint; and

d. Explained, so that the individual can understand, the reason for using restraint or seclusion, the criteria for its removal, the individual's right to a fair review of whether the restriction is permissible.

3. Providers who use seclusion and restraint may use restraint or seclusion in a behavioral treatment plan, but only if the plan has been developed according to policies and procedures. All plans involving the use of restraints for behavioral purposes and all plans involving the use of seclusion shall be reviewed in advance by the LHRC. Such procedures shall ensure that:

a. Plans are initiated, developed, carried out, and monitored by professionals who are qualified by expertise, training, education or credentials.

b. Individual plans are submitted to and approved by an independent review committee, comprised of professionals with training and experience in applied behavior analysis, which shall assess the technical adequacy of the plan and data collection procedures; and the LHRC, which shall review the plans to ensure that the rights of the individuals are protected. All approvals shall be documented in the individual's services record before implementation.

c. Information about the individual plans or aggregate data about all plans is available anytime:

(1) Upon request by the human rights advocate, the LHRC, the SHRC, the Inspector General, and the department; and

(2) According to relevant reporting requirements.

d. Seclusion and restraint shall only be included in plans:

(1) To address behaviors that present an immediate danger to the individual or others, but only after it has been demonstrated by a detailed and systematic analysis of the behavior itself and the situations in which the behavior occurs. Providers shall document the lack of success or of probable success of less restrictive procedures attempted and that the risks

associated with not treating the behavior are greater than any risks associated with the use of restraint or seclusion.

(2) After review by the LHRC. If the LHRC finds that a behavioral treatment plan that utilizes seclusion or restraint violates or has the potential to violate the rights of the individual, the LHRC will notify and make recommendations to the director.

(3) If the plans include nonrestrictive procedures and environmental modifications that address the targeted behavior.

e. Plans that include the use of seclusion and restraint shall also be reviewed quarterly by the independent review committee and by the LHRC to assess if the use of restrictions has resulted in improvements in functioning.

4. Providers may use time out, but only according to policies and procedures that comply with sound therapeutic practice. These policies and procedures shall be documented in the individual's services plan with the justification and purpose for using time out instead of other less restrictive techniques.

1. Providers shall meet with the individual or his authorized representative upon admission to discuss the individual's preferred interventions should it become necessary to use seclusion, restraint, or time out.

2. Providers shall document all known contraindications to the use of seclusion, time out, or any form of physical or mechanical restraint, including medical contraindications and a history of trauma, in the individual's services record and the record shall be flagged to alert and communicate this information to staff.

3. Only residential facilities for children that are licensed under the Regulations for Providers of Mental Health, Mental Retardation, and Substance Abuse Residential Services for Children (12 VAC 35-45) and inpatient hospitals may use seclusion and only in an emergency.

4. Providers shall not use seclusion, restraint, or time out as a punishment or reprisal or for the convenience of staff.

5. Providers shall not use seclusion or restraint solely because criminal charges are pending against the individual.

6. Providers shall not use seclusion or restraint for any behavioral, medical, or protective purpose unless other less restrictive techniques have been considered and documentation is placed in the individual's services plan that these less restrictive techniques did not or would not succeed in reducing or eliminating behaviors that are self-injurious or dangerous to other people or that no less

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restrictive measure was possible in the event of a sudden emergency.

7. Providers that use seclusion, restraint, or time out shall develop written policies and procedures that comply with applicable federal and state statutes, regulation, accreditation, or certification standards, third party payer requirements, and sound therapeutic practice. These policies and procedures shall include at least the following requirements:

a. Individuals shall be given the opportunity for motion and exercise, to eat at normal meal times and take fluids, to use the restroom, and to bathe as needed.

b. Trained, qualified staff monitors the individual's medical and mental condition continuously for the duration of the restriction.

c. Each use of seclusion, restraint, or time out shall end immediately when criteria for removal are met.

d. Incidents of seclusion and restraint, including the rationale for and the type and duration of the restraint are reported to the department as provided in 12 VAC 35-115-230 C.

8. Providers shall submit all proposed seclusion, restraint, and time out policies and procedures to the LHRC for review and comment before implementing them, when proposing changes, or upon request of the human rights advocate, the LHRC, or the SHRC.

9. Providers shall comply with all applicable state and federal laws and regulations, certification and accreditation standards, and third party requirements as they relate to seclusion and restraint.

a. Whenever an inconsistency exists between these regulations and federal regulations, accreditation or certification standards, or the requirements of third party payers, the provider shall comply with the higher standard.

b. Providers shall notify the department whenever a regulatory, accreditation, or certification agency or third party payer identifies problems in the provider's compliance with any applicable seclusion and restraint standard.

10. Providers shall ensure that only staff who have been trained in the proper and safe use of seclusion, restraint, and time out techniques may initiate, monitor, and discontinue their use.

11. Providers shall ensure that a qualified professional who is involved in providing services to the individual reviews every use of any restraint as soon as possible after it is carried out.

12. Providers shall ensure that review and approval by a qualified professional for the use or continuation of

restraint is documented in the individual's services record. Approval for the use of restraint may not be given on an as needed basis. Documentation includes:

a. Justification for any restraint;

b. Time-limited approval for the use or continuation of restraint; and

c. Any physical or psychological conditions that would place the individual at greater risk during restraint.

13. Providers may use seclusion or mechanical restraint for behavioral purposes only in an emergency and only if a qualified professional involved in providing services to the individual has, within one hour of the initiation of the procedure:

a. Conducted a face-to-face assessment of the individual placed in seclusion or mechanical restraint and documented why alternatives to the proposed use of seclusion and mechanical restraint have not been successful in changing the behavior or were not attempted, taking into account the individual's medical and mental condition, behavior, preferences, nursing and medication needs, and ability to function independently;

b. Determined that the proposed seclusion or mechanical restraint is necessary to protect the individual or others from harm, injury, or death;

c. Documented in the individual's services record the specific reason for the seclusion or mechanical restraint;

d. Documented in the individual's services record the behavioral criteria that the individual must meet for release from seclusion or mechanical restraint; and

e. Explained to the individual, in a way that he can understand, the reason for using mechanical restraint or seclusion, the criteria for its removal, and the individual's right to a fair review of whether the mechanical restraint or seclusion is permissible.

14. Providers shall limit each approval for restraint for behavioral purposes or seclusion to four hours for individuals age 18 and older, two hours for children and adolescents ages 9 through 17, and one hour for children under age nine.

15. Providers shall limit each approval for time out to no more than 30 minutes.

16. Providers shall monitor the use of restraint for behavioral purposes or seclusion through continuous face-to-face observation, rather than by an electronic surveillance device.

17. Providers may use restraint or time out in a behavioral treatment plan to address behaviors that present an immediate danger to the individual or others, but only after a qualified professional has conducted a detailed and

systemic analysis of the behavior and the situations in which the behavior occurs.

a. Providers shall develop any behavioral treatment plan involving the use of restraint or time out for behavioral purposes according to its policies and procedures, which ensure that:

(1) Behavioral treatment plans are initiated, developed, carried out, and monitored by professionals who are qualified by expertise, training, education, or credentials to do so.

(2) Behavioral treatment plans include nonrestrictive procedures and environmental modifications that address the targeted behavior.

(3) Behavioral treatment plans are submitted to and approved by an independent review committee comprised of professionals with training and experience in applied behavior analysis who have assessed the technical adequacy of the plan and data collection procedures.

b. Providers shall document in the individual's services record that the lack of success, or probable success, of less restrictive procedures attempted and the risks associated with not treating the behavior are greater than any risks associated with the use of restraint.

c. Prior to the implementation of any behavioral treatment plan involving the use of restraint or time out, the provider shall obtain approval of the LHRC. If the LHRC finds that the plan violates or has the potential to violate the rights of the individual, the LHRC shall notify and make recommendations to the director.

d. Behavioral treatment plans involving the use of restraint or time out shall be reviewed quarterly by the independent review committee and by the LHRC to determine if the use of restraint has resulted in improvements in functioning of the individual.

18. Providers may not use seclusion in a behavioral treatment plan.

12 VAC 35-115-120. Work.

A. Individuals have a right to engage or not engage in work or work-related activities consistent with their service needs while receiving services. Personal maintenance and personal housekeeping by individuals receiving services in residential settings are not subject to this provision.

B. The provider's duties.

1. Providers shall not require, entice, persuade, or permit any individual or his family member to perform labor for the provider as a condition of receiving services. If an individual voluntarily chooses to perform labor for the provider, the labor must be consistent with his

individualized services plan. All policies and procedures, including pay, must be consistent with the Fair Labor Standards Act (29 USC § 201 et seq.).

2. Providers shall consider individuals who are receiving services for employment opportunities on an equal basis with all other job applicants and employees according to the Americans with Disabilities Act (42 USC § 12101 et seq.).

3. Providers shall give individuals and employers information, training, and copies of policies affecting the employment of individuals receiving services upon request.

4. If vocational training, extended employment services, or ~~supportive~~ supported employment services are offered, providers shall establish procedures for documenting the decision on employment and training and the methodology for establishing consumer wages. Providers shall give a copy of the procedures and information about possible consequences for violating the procedures to all individuals and their ~~legally~~ authorized representatives.

5. Providers who employ individuals receiving services shall not deduct the cost of services from an individual's wages unless ordered to do so by a court.

6. Providers shall not sell to or purchase goods or services from an individual receiving services except through established governing body policy that is consistent with U.S. Department of Labor standards.

12 VAC 35-115-130. Research.

A. Each individual has a right to choose to participate or not participate in human research.

B. The provider's duties.

1. Providers shall ~~get~~ obtain prior, written, informed consent of the individual or his ~~legally~~ authorized representative before any individual begins to participate in human research unless the research is exempt under § 32.1-162.17 of the Code of Virginia.

2. Providers shall comply with all other applicable state and federal laws and regulations regarding human research, including the provisions under Chapter 5.1 (§ 32.1-162.16 et seq.) of Title 32.1 of the Code of Virginia and the regulations ~~promulgated~~ adopted under ~~that statute~~ § 37.2-402 of the Code of Virginia.

3. Providers shall ~~solicit consultation and~~ obtain review ~~by and approval from~~ an institutional review board or research review committee prior to ~~participation~~ performing or participating in a human research protocol.

4. All providers shall inform the ~~Local Human Rights Committee~~ LHRC before an individual receiving services may participate in any human research project and provide

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periodic updates on the status of the individual's participation to the committee.

12 VAC 35-115-140. Complaint and fair hearing.

A. Each individual has a right to:

1. Complain that ~~his~~ the provider has violated any of the rights assured under these regulations;
2. Have a timely and fair review of any complaint according to the procedures in Part ~~IV~~ V (12 VAC 35-115-150 et seq.) of this chapter;
3. Have someone file a complaint on his behalf;
4. Use these and other complaint procedures; and
5. Complain under any other applicable law, including complain to the protection and advocacy agency.

B. The provider's duties.

1. If an individual makes a complaint, ~~his~~ the provider shall make every attempt to resolve the complaint ~~to the individual's satisfaction~~ at the earliest possible step.
2. Providers shall not take, threaten to take, permit, or condone any action to retaliate against anyone filing a complaint or prevent anyone from filing a complaint or helping an individual to file a complaint.
3. Providers shall assist the complainant in understanding the full complaint process ~~of complaint~~, the options for resolution including the formal and informal processes, and the confidentiality elements ~~of confidentiality~~ involved.

PART IV.

SUBSTITUTE DECISION MAKING.

12 VAC 35-115-145. Determination of capacity to give consent or authorization.

A. If the capacity of an individual to consent to treatment, services, or research, or authorize the disclosure of information is in doubt, the provider shall obtain an evaluation from a professional who is qualified by expertise, training, education, or credentials and not directly involved with the individual to determine whether the individual has capacity to consent or to authorize the disclosure of information.

1. Capacity evaluations shall be obtained for all individuals who may lack capacity, even if they requested that an authorized representative be designated or agree to submit to a recommended course of treatment.
2. In conducting this evaluation, the professional may seek comments from a representative accompanying the individual pursuant to 12 VAC-35-115-70 A 4 about the individual's capacity to consent or authorize disclosure.
3. Providers shall determine the need for an evaluation of an individual's capacity to consent or authorize disclosure

of information and the need for a substitute decision maker whenever the individual's condition warrants, the individual requests such a review, at least every six months, and at discharge, except for individuals receiving acute inpatient services.

a. If the individual's record indicates that the individual is not expected to obtain or regain capacity, the provider shall document annually that it has reviewed the individual's capacity to make decisions and whether there has been any change in that capacity.

b. Providers of acute inpatient services shall determine the need for an evaluation of an individual's capacity to consent or authorize disclosure of information whenever the individual's condition warrants or at least at every treatment team meeting. Results of such reviews shall be documented in the treatment team notes and communicated to the individual and the authorized representative.

4. Capacity evaluations shall be conducted in accordance with accepted standards of professional practice and shall indicate the specific type or level of decision for which the individual's capacity is being evaluated (e.g., medical, treatment planning) and shall indicate what specific type of decision the individual has or does not have the capacity to make.

5. If the individual or his family objects to the results of the qualified professional's determination, the provider shall immediately inform the human rights advocate.

a. If the individual or family member wishes to obtain an independent evaluation of the individual's capacity, he may do so at his own expense and within reasonable timeframes consistent with his circumstances. If the individual or family member cannot pay for an independent evaluation, the individual may request that the LHRC consider the need for an independent evaluation pursuant to 12 VAC 35-115-200 B. The provider shall take no action for which consent or authorization is required, except in an emergency, pending the results of the independent evaluation. The provider shall take no steps to designate an authorized representative until the independent evaluation is complete.

b. If the independent evaluation is consistent with the provider's evaluation, the provider's evaluation is binding, and the provider shall implement it accordingly.

c. If the independent evaluation is not consistent with the provider's evaluation, the matter shall be referred to the LHRC for review and decision under 12 VAC 35-115-200 through 12 VAC 35-115-250.

12 VAC 35-115-146. Authorized representatives.

A. When it is determined in accordance with 12 VAC-35-115-145 that an individual lacks the capacity to consent or authorize the disclosure of information, the provider shall recognize and obtain consent or authorization for those decisions for which the individual lacks capacity from the following:

1. An attorney-in-fact who is currently empowered to consent or authorize the disclosure under the terms of a durable power of attorney;
2. A health care agent appointed by the individual under an advance directive or power of attorney in accordance with the laws of Virginia; or
3. A legal guardian of the individual, or if the individual is a minor, a parent with legal custody of the minor or other person authorized to consent to treatment pursuant to § 54.1-2969 A of the Code of Virginia.

B. If an attorney-in-fact, health care agent or legal guardian is not available, the director shall designate a substitute decision maker as authorized representative in the following order of priority:

1. The individual's family member. In designating a family member, the director shall select the best qualified person, if available, according to the following order of priority unless, from all information available to the director, another person in a lower priority is clearly better qualified. The director shall ask the individual and if the individual expresses a preference for one family member over another in the same category, the director shall designate that family member, unless there is a compelling clinical reason not to do so.

- a. A spouse;
- b. An adult child;
- c. A parent;
- d. An adult brother or sister; or
- e. Any other relative of the individual.

2. Next friend of the individual. If no other person specified above is available and willing to serve as authorized representative, a provider may designate a next friend of the individual, after a review and finding by the LHRC that the proposed next friend has, for a period of six months within two years prior to the designation either:

- a. Shared a residence with the individual; or
- b. Had regular contact or communication with the individual and provided significant emotional, personal, financial, spiritual, psychological, or other support and assistance to the individual.

3. In addition to the conditions set forth in subdivision 2 of this subsection, the individual must have no objection to the proposed next friend being designated as the authorized representative.

4. The person designated as next friend also shall:

- a. Personally appear before the LHRC, unless the LHRC has waived the personal appearance; and
- b. Agree to accept these responsibilities and act in the individual's best interest and in accordance with the individual's preferences, if known.

5. The LHRC shall have the discretion to waive a personal appearance by the proposed next friend and to allow that person to appear before it by telephone, video, or other electronic means of communication as the LHRC may deem appropriate under the circumstances. Waiving the personal appearance of the proposed next friend should be done in very limited circumstances.

6. If, after designation of a next friend, an appropriate family member becomes available to serve as authorized representative, the director shall replace the next friend with the family member.

C. No director, employee, or agent of a provider may serve as an authorized representative for any individual receiving services delivered by that provider unless the authorized representative is a relative or the legal guardian. When a provider, or the director, an employee, or agent of the provider is also the individual's guardian, the provider shall assure that the individual's preferences are included in the services plan and that the individual can make complaints about any aspect of the services he receives.

D. The provider shall document the recognition or designation of an authorized representative in the individual's services record, including evidence of consultation with the individual about his preference, copies of applicable legal documents such as the durable power of attorney, advance directive, or guardianship order, names and contact information for family members, and, when there is more than one potential family member available for designation as authorized representative, the rationale for the designation of the particular family member as the authorized representative.

E. If a provider documents that the individual lacks capacity to consent and no person is available or willing to act as an authorized representative, the provider shall:

1. Attempt to identify a suitable person who would be willing to serve as guardian and ask the court to appoint that person to provide consent or authorization; or
2. Ask a court to authorize treatment (See § 37.2-1101 of the Code of Virginia).

Regulations

F. Court orders authorizing treatment shall not be viewed as substituting or eliminating the need for an authorized representative.

1. Providers shall review the need for court-ordered treatment and determine the availability of and seek an authorized representative whenever the individual's condition warrants, the individual requests such a review, or at least every six months except for individuals receiving acute inpatient treatment.

2. Providers of acute inpatient services shall review the need for court-ordered treatment and determine the availability of and seek an authorized representative whenever the individual's condition warrants or at least at every treatment team meeting. All such reviews shall be documented in the individual's services record and communicated to the individual.

3. When the provider recognizes or designates an authorized representative, the provider shall notify the court that its order is no longer needed and shall immediately suspend its use of the court order.

G. Conditions for removal of an authorized representative. Whenever an individual has regained capacity to consent as indicated by a capacity evaluation or clinical determination, the director shall immediately remove any authorized representative designated pursuant to subdivision B 1 or 2 of this section, notify the individual and the authorized representative, and ensure that the services record reflects that the individual is capable of making his own decisions. Whenever an individual with an authorized representative who is his legal guardian has regained his capacity to give informed consent, the director shall use the applicable statutory provisions to remove the authorized representative. (See § 37.2-1012 of the Code of Virginia.) Powers of attorney and health care agents' powers should cease of their own accord when a clinician has determined that the individual is no longer incapacitated.

1. The director shall remove the authorized representative designated pursuant to subdivision B 1 or 2 of this section if the authorized representative becomes unavailable, unwilling, or unqualified to serve. The individual or the advocate may appeal the director's decision to remove an authorized representative to the LHRC under the procedures set out at 12 VAC-35-115-180, and the LHRC may reinstate the authorized representative if it determines that the director's action was unjustified.

2. Prior to any removal under this authority, the director shall notify the individual of the decision to remove the authorized representative, of his right to request that the LHRC review the decision, and of the reasons for the removal decision. This information shall be placed in the individual's services record. If the individual requests, the director shall provide him with a written statement of the

facts and circumstances upon which the director relied in deciding to remove the authorized representative.

The LHRC may recommend the removal of a next friend pursuant to 12 VAC 35-115-200 when the next friend is not acting in accordance with the individual's best interest.

3. The director may otherwise seek to replace an authorized representative recognized pursuant to this section who is an attorney-in-fact currently authorized to consent under the terms of a durable power of attorney, a health care agent appointed by an individual under an advance directive, a legal guardian of the individual, or, if the individual is a minor, a parent with legal custody of the individual, only by a court order under applicable statutory authority.

PART ~~IV~~ V.

COMPLAINT RESOLUTION, HEARING, AND APPEAL PROCEDURES.

12 VAC 35-115-150. General provisions.

A. The parties to any complaint are the individual and the director. Each party can also have anyone else to represent him during resolution of the complaint resolution.

B. Meetings, reviews, and hearings will generally be closed to other people unless the individual making the complaint requests that other people attend or if an open meeting is required by the Virginia Freedom of Information Act (§ 2.2-3700 et seq. of the Code of Virginia).

1. The LHRC and SHRC may conduct a closed hearing to protect the confidentiality of persons who are not a party to the complaint, but only if a closed meeting is otherwise allowed under the Virginia Freedom of Information Act (§ 2.2-3700 et seq. see § 2.2-3711 of the Code of Virginia).

2. If any person alleges that implementation of an LHRC recommendation would violate the individual's rights or those of other individuals, the person may file a petition for a hearing with the SHRC, according to 12 VAC 35-115-210.

C. In no event shall a pending hearing, review, or appeal prevent a director from taking corrective action based on the advice of the provider's legal counsel that such action is required by law or he otherwise thinks such action is correct and justified.

D. The LHRC or SHRC, on the motion of any party or on its own motion, may, for good cause, extend any time periods ~~either~~ before or after the expiration of that time period. No director may extend any time periods for any actions he is required to take under these procedures without prior approval of the LHRC or SHRC.

E. Except in the case of emergency proceedings, if a time period in which action must be taken under this part is not extended by the LHRC or SHRC, the failure of a party to act

within that time period shall waive that party's further rights under these procedures.

F. In making their recommendations regarding complaint resolution, the LHRC and the SHRC shall identify any rights or regulations that the provider violated and any policies, practices, or conditions that contributed to the violations. They shall also recommend appropriate corrective actions, including changes in policies, practices, or conditions, to prevent further violations of the rights assured under these regulations.

G. If it is impossible to carry out the recommendations of the LHRC or the SHRC within a specified time, the LHRC or the SHRC, as appropriate, shall recommend any necessary interim action that gives appropriate and possible immediate remedies.

H. Any action plan submitted by the director or commissioner in the course of these proceedings shall fully address both final and interim recommendations made by the LHRC or the SHRC and identify financial or other constraints, if any, which that prevent efforts to fully remedy the violation.

12 VAC 35-115-160. Informal complaint process. (Repealed.)

~~A. Step 1. Anyone who believes that a provider has violated an individual's rights under these regulations may report the alleged violation to the director or the director's designee.~~

~~B. Step 2. The director or his designee shall attempt to resolve the complaint immediately. If the complaint is resolved to the individual's or legally authorized representative's satisfaction, no further action is required.~~

~~C. Step 3. The director or his designee shall refer any complaint that is not resolved to the individual's or legally authorized representative's satisfaction, within five working days, to the human rights advocate per 12 VAC 35-115-170.~~

~~D. Step 4. If the individual or his legally authorized representative, as applicable, is not satisfied with the resolution then the director or the director's designee shall immediately notify the human rights advocate per 12 VAC 35-115-170.~~

~~E. The individual or the legally authorized representative, as applicable, may contact the human rights advocate at any time to pursue a formal complaint per 12 VAC 35-115-170.~~

~~F. The human rights advocate shall have access to information regarding all informal complaints upon request.~~

~~G. Complaints made under this section will not be reported to the department under 12 VAC 35-115-230.~~

12 VAC 35-115-170. Formal Complaint resolution process.

A. The following steps apply if:

~~1. The informal complaint process did not resolve the complaint to the individual's satisfaction within five working days; or~~

~~2. The individual chooses to not pursue the informal complaint process.~~

~~B. Step 1:~~ A. Anyone who believes that a provider has violated an individual's rights under these regulations may report it to the director and or the human rights advocate, ~~or either of them~~, for resolution.

1. If the report is made only to the director ~~or his designee~~, the director or his designee shall immediately notify the human rights advocate. If the report is made on a weekend or holiday, then the director or his designee shall notify the human rights advocate on the next business day.

2. If the report is made only to the human rights advocate, the human rights advocate shall immediately notify the director ~~or his designee~~. If the report is made on a weekend or holiday, then the human rights advocate shall notify the director ~~or his designee~~ on the next business day. ~~The human rights advocate or the director or his designee shall notify the individual of his right to pursue his complaint through all available means under this part.~~

~~3. If the human rights advocate concludes, after an initial investigation, that there is substantial risk that serious and irreparable harm will result if the complaint is not resolved immediately, the human rights advocate shall inform the director, the provider, the provider's governing body, and the LHRC. Steps 2 through 6 below shall not be followed. Instead, the LHRC shall conduct a hearing according to the special procedures for emergency hearings in 12 VAC 35-115-190.~~

3. The human rights advocate or director or his designee shall discuss the report with the individual and notify the individual of his right to pursue a complaint through the process established in these regulations. The individual shall be given the choice of pursuing the complaint through the informal or formal complaint process. If the individual does not make a choice, the complaint shall be managed through the informal process.

4. The following steps apply if the complaint is pursued through the informal process:

Step 1: The director or his designee shall attempt to resolve the complaint immediately. If the complaint is resolved, no further action is required.

Step 2: If the complaint is not resolved within five working days, the director or his designee shall refer it for resolution under the formal process. The individual may extend the informal process five-day time frame for good cause. All such extensions shall be reported to the human rights advocate by the director or his designee.

Regulations

5. The following steps apply if the complaint is pursued through the formal process:

~~C. Step 2~~ Step 1: The director or his designee shall try to resolve the complaint by meeting ~~within 24 hours of receipt of the complaint~~ with the individual, any representative the individual chooses, the human rights advocate, and others as appropriate, ~~and by conducting an investigation if necessary within 24 hours of receipt of the complaint or the next business day if that day is a weekend or holiday. The director or his designee shall conduct an investigation of the complaint, if necessary.~~

~~D. Step 3~~ Step 2: The director or his designee shall give the individual and his chosen representative a written preliminary decision and, where appropriate, an action plan for resolving the complaint within 10 working days of receiving the complaint. Along with the action plan, the director shall provide written notice to the individual about the time frame for the individual's response pursuant to Step 3 of this subdivision and a statement the complaint will be closed if the individual does not respond.

~~E. Step 4~~ Step 3: If the individual ~~is not satisfied at this step~~ disagrees with the director's preliminary decision or action plan, he can respond to the director in writing within ~~5~~ five working days after receiving the ~~director's or the designee's written preliminary decision and action plan. If the individual has not responded within five working days, the complaint will be closed.~~

~~F. Step 5~~ Step 4: If the individual disagrees with the preliminary decision or action plan, the director shall investigate further as appropriate and shall make a final decision regarding the complaint. The director shall forward a written copy of his final decision and action plan to the individual, his chosen representative, and the human rights advocate within 10 ~~five~~ working days after the director ~~received~~ receives the individual's written response. Along with the action plan, the director shall provide written notice to the individual about the time frame for the individual's response pursuant to Step 5 of this subdivision and a statement that if the individual does not respond that the complaint will be closed.

~~G. Step 6~~ Step 5: If the individual ~~is not satisfied~~ disagrees with the director's final decision or action plan, he may file a petition for a hearing by the LHRC using the procedures prescribed in 12 VAC 35-115-180. If the individual has accepted the relief offered by the director, the matter is not subject to further review.

B. If at any time during the formal complaint process the human rights advocate concludes that there is substantial risk that serious or irreparable harm will result if the complaint is not resolved immediately, the human rights advocate shall inform the director, the provider, the provider's governing body, and the LHRC. Steps 1 through 5 of subdivision A 5 of this section shall not be followed. Instead, the LHRC shall

conduct a hearing according to the special procedures for emergency hearings in 12 VAC 35-115-180.

12 VAC 35-115-180. Local Human Rights Committee hearing and review procedures.

A. Any individual or ~~legally his~~ legally his authorized representative ~~as applicable who is not satisfied with~~ does not accept the relief offered by the director or disagrees with (i) a director's final decision and action plan resulting from the complaint resolution; (ii) a director's final action following a report of abuse, neglect, or exploitation; or (iii) a director's final decision following a complaint of discrimination in the provision of services may request an LHRC hearing by following the steps provided in subsections B through I of this section.

B. Step 1: The individual or his authorized representative must file the petition ~~must be filed~~ for a hearing with the chairperson of the LHRC within 10 working days of the director's action or final decision ~~for which there is a~~ on the complaint.

1. The petition for hearing must be in writing. It should contain all facts and arguments surrounding the complaint and reference any section of the regulations that the individual believes the provider violated.

2. The human rights advocate or any person the individual chooses may help the individual in filing the petition. If the individual chooses a person other than the human rights advocate to help him, he and his chosen representative may request the human rights advocate's assistance in filing the petition.

C. Step 2: The LHRC chair shall forward a copy of the petition to the director and the human rights advocate as soon as he receives it. A copy of the petition shall also be forwarded to the provider's governing body.

D. Step 3: Within five working days, the director shall submit ~~the following~~ to the LHRC:

1. A written response to everything contained in the petition; and

2. A copy of the entire written record of the complaint.

E. Step 4: The LHRC shall hold a hearing within ~~15~~ 20 working days of receiving the petition.

1. The parties shall have at least five working days' notice of the hearing.

2. The director or his ~~chosen representative~~ designee shall attend the hearing.

~~3.~~ 3. The individual or ~~legally his~~ legally his authorized representative, ~~as applicable,~~ making the complaint shall attend the hearing.

~~3.~~ 4. At the hearing, the parties and ~~their~~ their chosen representatives and designees have the right to present

witnesses and other evidence and the opportunity to be heard.

F. Step 5: Within 10 working days after the hearing ends, the LHRC shall give, ~~in writing,~~ its written findings of fact and recommendations to the parties and their representatives. Whenever appropriate, the LHRC shall identify information that it believes the director shall take into account in making decisions concerning discipline or termination of personnel.

G. Step 6: Within five working days of receiving the LHRC's findings and recommendations, the director shall give the individual, the individual's chosen representative, the human rights advocate, the governing body, and the LHRC a written action plan he intends to take to respond to the LHRC's findings and recommendations. Along with the action plan, the director shall provide written notice to the individual about the time frame for the individual's response pursuant to Step 7 (subsection H of this section) and a statement that if the individual does not respond that the complaint will be closed. The plan shall not be implemented for five working days after it is submitted, unless the individual ~~receiving services~~ agrees to its implementation sooner.

H. Step 7: The individual, his chosen representative, the human rights advocate, or the LHRC may object to the action plan within five working days by stating ~~what~~ the objection is and what the director can do to resolve the objection.

1. If an objection is made, the director may not implement the action plan, or may implement only that portion of the plan that the individual making the complaint agrees to, until he resolves the objection as requested or ~~until he~~ appeals to the SHRC for a decision under 12 VAC 35-115-210.

2. If no one objects to the action plan, the director shall begin to implement ~~the plan~~ on the sixth working day after he submitted it.

I. Step 8: If an objection to the action plan is made and the director does not resolve the objection to the action plan to the individual's satisfaction within two working days following the objection its receipt by the director, the individual may appeal to the SHRC under 12 VAC 35-115-210.

12 VAC 35-115-190. Special procedures for emergency hearings by the LHRC.

A. ~~Step 1:~~ If the human rights advocate informs the LHRC of a substantial risk that serious and irreparable harm will result if a complaint is not resolved immediately, the LHRC shall hold and conclude a preliminary hearing within 72 hours of receiving this information.

1. The director or his designee and the human rights advocate shall attend the hearing. The individual and ~~the~~

~~legally~~ his authorized representative may attend the hearing.

2. The hearing shall be conducted according to the procedures in 12 VAC 35-115-180, but it shall be concluded on an expedited basis.

B. ~~Step 2:~~ At the end of the hearing, the LHRC shall make preliminary findings and, if a violation is found, shall make preliminary recommendations to the director, the provider, and the provider's governing body.

C. ~~Step 3:~~ The director shall formulate and carry out an action plan within 24 hours of receiving the LHRC's preliminary recommendations. A copy of the plan shall be sent to the human rights advocate, the individual, his authorized representative, and the governing body.

D. ~~Step 4:~~ If the individual or the human rights advocate objects within 24 hours to the LHRC findings or recommendations or to the director's action plan, the LHRC shall conduct a full hearing within five working days of the objection, following the procedures outlined in 12 VAC 35-115-180. This objection shall be in writing to the LHRC chairperson, with a copy sent to the director.

E. ~~Step 5:~~ Either party may appeal the LHRC's decision to the SHRC under 12 VAC 35-115-210.

12 VAC 35-115-200. Special procedures for LHRC reviews involving consent and authorization.

A. ~~Step 1:~~ The LHRC may be requested, in writing, to review whether an individual's personal consent is required in the following situations: individual, his authorized representative, or anyone acting on the individual's behalf may request in writing that the LHRC review the following situations and issue a decision:

1. If an individual objects at any time to a ~~specific treatment, participation in specific human research, or disclosure of specific confidential information,~~ any decision for which consent or authorization is required and has been given by his ~~legally~~ authorized representative, other than a legal guardian, he may ask the LHRC to decide whether ~~his personal consent is required for that treatment, participation in research, or disclosure of information~~ his capacity was properly evaluated, the authorized representative was properly appointed, or his authorized representative's decision was made based on the individual's basic values and any preferences previously expressed by the individual to the extent that they are known, and if unknown or unclear in the individual's best interests.

a. The provider shall take no action for which consent or authorization is required if the individual objects, except in an emergency or as otherwise permitted by law, pending the LHRC review.

Regulations

b. If the LHRC determines that the individual's capacity was properly evaluated, the authorized representative is properly designated, or the authorized representative's decision was made based on the individual's basic values and any preferences previously expressed by the individual to the extent that they are known, or if unknown or unclear in the individual's best interests, then the provider may proceed according to the decision of the authorized representative.

c. If the LHRC determines that the individual's capacity was not properly evaluated or the authorized representative was not properly designated, then the provider shall take no action for which consent is required except in an emergency or as otherwise required or permitted by law, until the capacity review and authorized representative designation is properly done.

d. If the LHRC determines that the authorized representative's decision was not made based on the individual's basic values and any preferences previously expressed by the individual to the extent known, and if unknown or unclear, in the individual's best interests, then the provider shall take steps to remove the authorized representative pursuant to 12 VAC 35-115-146.

2. If an individual or his family member has obtained an independent evaluation of the individual's capacity to give any informed consent to treatment or participation services or to participate in human research under 12 VAC 35-115-70, or authorize the disclosure of information under 12 VAC 35-115-90, and the opinion of that evaluator conflicts with the opinion of the provider's evaluator, the LHRC may be requested to decide whether the individual's personal consent is required for any treatment or participation in research which evaluation will control.

a. If the LHRC agrees that the individual lacks the capacity to consent to treatment or services, or authorize disclosure of information, the director may begin or continue treatment or research, or disclose information, but only with the appropriate consent or authorization of the authorized representative. The LHRC shall advise the individual of his right to appeal this determination to the SHRC under 12 VAC 35-115-210.

b. If the LHRC does not agree that the individual lacks the capacity to consent to treatment or services, or authorize disclosure of information, the director shall not begin any treatment, research, or disclose information with the individual's consent or authorization, or shall take immediate steps to discontinue any actions begun without the consent or authorization of the individual. The director may appeal to the SHRC under 12 VAC 35-115-210 but may not take any further action until the SHRC issues its opinion.

3. If a director makes a decision that affects an individual and the individual believes that the decision requires his personal consent or authorization or that of his legally authorized representative, he may object and ask the LHRC to decide whether consent or authorization is required.

NOTE: If the individual is a minor, the consent of the parent or legal guardian must be obtained, unless the treatment provided is for treatment referenced under § 54.1-2969 E of the Code of Virginia, including outpatient medical or health services for substance abuse, or mental illness or emotional disturbance, in which case the minor alone may provide the consent as if an adult. If treatment involves admission to an inpatient treatment program, the consent of a minor 14 years of age and older, in addition to that of the parent, must also be obtained in accordance with § 16.1-338 of the Code of Virginia.

Regardless of the individual's capacity to consent to treatment or services, or authorize disclosure of information, if the LHRC determines that a decision made by a director requires consent or authorization that was not obtained, the director shall immediately rescind the action unless and until such consent or authorization is obtained. The director may appeal to the SHRC under 12 VAC 35-115-210 but not take any further action until the SHRC issues its opinion.

B. Step 2: The LHRC may ask that a physician or licensed clinical psychologist not employed by the provider and at the provider's expense, evaluate the individual and give an opinion about his capacity to consent. The LHRC may not make a decision until it reviews the action proposed by the director, any determination of lack of capacity, the opinion of the independent evaluator if applicable, and the individual's reasons for objecting to that determination. Before making such a decision, the LHRC shall review the action proposed by the director, any determination of lack of capacity, the opinion of the independent evaluator if applicable, and the individual's or his authorized representative's reasons for objecting to that determination. To facilitate its review, the LHRC may ask that a physician or licensed clinical psychologist not employed by the provider, evaluate the individual at the provider's expense, and give an opinion about his capacity to consent to treatment or authorize information.

C. Step 3: The LHRC shall issue its notify all parties and the human rights advocate of the decision within 10 working days of the initial request.

1. If the LHRC agrees that the individual lacks the capacity to consent, the director may begin or continue treatment or research, or disclose the information, but only with the appropriate consent of the legally authorized representative. The LHRC shall advise the individual of his right to appeal this determination to the SHRC under 12 VAC 35-115-210.

~~2. If the LHRC does not agree that the individual lacks the capacity to consent, the director shall not begin any treatment, research or information disclosure without the individual's consent, or shall take immediate steps to discontinue use of medication if it has already begun. The director may appeal to the SHRC under 12 VAC 35-115-210 but may not take any further action until the SHRC issues its opinion.~~

~~3. If, regardless of the individual's capacity to consent, the LHRC determines that a decision made by a director requires consent that was not obtained, the director shall immediately rescind the action unless and until such consent is obtained. The director may appeal to the SHRC under 12 VAC 35-115-210 but may not take any further action until the SHRC issues its opinion.~~

12 VAC 35-115-210. State Human Rights Committee appeals procedures.

A. Any party may appeal to the ~~State Human Rights Committee~~ SHRC if he is not satisfied with any of the following:

1. An LHRC's final findings of fact and recommendations following a hearing;
2. A director's final action plan following an LHRC hearing;
3. An LHRC's final decision regarding the capacity of an individual to consent to treatment, services, or research, or authorize disclosure of ~~confidential~~ information; or
4. An LHRC's final decision concerning whether consent or authorization is needed for the director to take a certain action.

The steps for filing an appeal are provided in subsections B through I of this section.

B. Step 1: Appeals shall be filed in writing with the SHRC by a party within 10 working days of receipt of the final action.

1. The appeal shall explain the reasons the final action is not satisfactory.
2. The human rights advocate or any other person may help in filing the appeal. If the individual chooses a person other than the human rights advocate to help him, he and his chosen representative may request the human rights advocate's help in filing the appeal.
3. The party appealing must give a copy of the appeal to the other party, the human rights advocate, and the LHRC.
4. If the director is the party appealing, he shall first request and get written permission to appeal from the commissioner or governing body of the provider, as appropriate. If the director does not get this written

permission and note the appeal within 10 working days, his right to appeal is waived.

C. Step 2: If the director is appealing, the individual may file a written statement with the SHRC within five working days after receiving a copy of the appeal. If the individual is appealing, the director shall file a written statement with the SHRC within five working days after receiving a copy of the appeal.

D. Step 3: Within five working days of noting or being notified of an appeal, the director shall forward a complete record of the LHRC hearing to the SHRC. The record shall include, at a minimum:

1. The original petition or information filed with the LHRC and any statement filed by the director in response;
2. Parts of the individual's services record that the LHRC considered and any other parts of the services record submitted to, but not considered by the LHRC that either party considers relevant;
3. All written documents and materials presented to and considered by the LHRC, including any independent evaluations conducted;
4. A tape or ~~word for word~~ transcript of the LHRC proceedings; if available;
5. The LHRC's findings of fact and recommendations;
6. The director's action plan, if any; and
7. Any written objections to the action plan or its implementation.

E. Step 4: The SHRC shall hear the appeal ~~within 20 working days~~ at its next scheduled meeting after the ~~chair~~ chairperson receives the appeal.

1. The SHRC shall give the parties at least 10 working days' notice of the appeal hearing.
2. The following rules govern appeal hearings:
 - a. The SHRC shall not hear any new evidence.
 - b. The SHRC is bound by the LHRC's findings of fact subject to subdivision 3 of this subsection.
 - c. The SHRC shall limit its review to whether the facts, as found by the LHRC, establish a violation of these regulations and a determination of whether the LHRC's recommendations or the action plan adequately address the alleged violation.
 - d. All parties and their representatives shall have the opportunity to appear before the SHRC to present their position and answer questions the SHRC may have.
 - e. The SHRC ~~will~~ shall notify the inspector general of the appeal.

Regulations

3. If the SHRC decides that the LHRC's findings of fact are clearly wrong or that the hearing procedures employed by the LHRC were inadequate, the SHRC may ~~either~~:

a. Send the case back to the LHRC for another hearing to be completed within a time period specified by the SHRC; or

b. Conduct its own fact-finding hearing. If the SHRC chooses to conduct its own fact-finding hearing, it may appoint a subcommittee of at least three of its members as fact finders. The fact-finding hearing shall be conducted within 30 working days of the SHRC's initial hearing.

In either case, the parties shall have 15 working days' notice of the date of the hearing and the opportunity to be heard and to present witnesses and other evidence.

F. Step 5: Within 20 working days after the SHRC appeal hearing, the SHRC shall submit a report, its findings of fact, if applicable, and recommendations to the commissioner and to the provider's governing body, with copies to the parties, the LHRC, and the human rights advocate.

G. Step 6: Within 10 working days after receiving the SHRC's report, in the case of appeals involving a state facility, the commissioner shall submit an outline of actions to be taken in response to the SHRC's recommendations. In the case of appeals involving CSBs and private providers, ~~both~~ the commissioner and the provider's governing body shall each outline in writing the action or actions they will take in response to the recommendations of the SHRC. They shall also explain any reasons for not carrying out any of the recommended actions. Copies of their responses shall be forwarded to the SHRC, the LHRC, the director, the human rights advocate, and the individual.

H. Step 7: If the SHRC objects in writing to the commissioner's or governing body's proposed actions, or both, their actions shall be postponed. The commissioner or governing body, or both, shall meet with the SHRC at its next regularly scheduled meeting to attempt to arrange a mutually agreeable resolution.

I. Step 8: In the case of services provided directly by the department, the commissioner's action plan shall be final and binding on all parties. However, when the SHRC believes the commissioner's action plan is incompatible with the purpose of these regulations, it shall notify the board, the protection and advocacy agency, and the inspector general.

In the case of services delivered by all other providers, the action plan of the provider's governing body shall be reviewed by the commissioner. If the commissioner determines that the provider has failed to develop and carry out an acceptable action plan, the commissioner shall notify the protection and advocacy agency and shall inform the SHRC ~~what~~ of the sanctions the department will impose against the provider.

J. Step 9: Upon completion of the process outlined in subsections B through I of this section, the SHRC shall notify the parties and the human rights advocate of the final outcome of the complaint.

PART ~~V~~ VI. VARIANCES.

12 VAC 35-115-220. Variances.

A. Variances to these regulations shall be requested and approved only when the provider has tried to implement the relevant requirement without a variance and can provide objective, documented information that continued operation without a variance is not feasible or will prevent the delivery of effective and appropriate services and supports to individuals.

B. Only directors may apply for variances, and they must first be approved by the provider, the governing body of the provider, or the commissioner, as appropriate, before consideration by an LHRC or the SHRC.

C. Upon receiving approval from the governing body, and after notifying the human rights advocate and other interested persons, the director shall file a formal application for variance with the LHRC. This application shall reference the specific part of these regulations to which a variance is needed, the proposed wording of the substitute rule or procedure, and the justification for seeking a variance. The application shall also describe time limits and other conditions for duration and the circumstances that will end the applicability of the variance.

1. When the LHRC receives the application, it shall invite, and provide ample time to receive, oral or written statements about the application from the human rights advocate and other interested persons.

2. The LHRC shall review the application and prepare a written report of facts, which shall include its recommendation for approval, disapproval, or modification. The LHRC shall send its report, recommendations, and a copy of the original application to the State Human Rights Director, the SHRC, and the director making application for the variance.

D. When the SHRC receives the application and the LHRC's report, the SHRC shall do the following:

1. Invite oral or written statements about the application from the applicant director, LHRC, advocate, and other interested persons by publishing the request for variance in the next issue of the Virginia Register of Regulations;

2. Notify the inspector general of the request for variance; and

3. After considering all available information, prepare a written decision deferring, disapproving ~~or~~ or modifying, or approving the application. All variances shall be approved

for a specific time period and must be reviewed at least annually.

- a. A copy of this decision including conditions, time frames, circumstances for removal, and the reasons for the decision shall be given to the applicant director, the commissioner or governing body, ~~where appropriate~~, the state human rights director, the human rights advocate, any person commenting on the request at any stage, and the LHRC.
- b. The decision and reasons shall also be published in the next issue of the Virginia Register of Regulations.

E. Directors shall implement any approved variance in strict compliance with the written application as amended, modified, or approved by the SHRC.

F. Providers shall develop policies and procedures for monitoring the implementation of any approved variances. These policies and procedures shall specify that at no time can a variance approved for one individual be extended to general applicability. These policies and procedures shall assure the ongoing collection of any data relevant to the variance and the presentation of any later report concerning the variance as requested by the commissioner, the state human rights director, the human rights advocate, the LHRC or the SHRC.

G. The decision of the SHRC granting or denying a variance shall be final.

H. If an individual is in immediate danger due to a provider's implementation of these regulations, the provider may request a temporary variance pending approval pursuant to the process described in this section. Such a request shall be submitted in writing to the commissioner, chairperson of the SHRC, and state human rights director. The commissioner, chairperson of the SHRC, and state human rights director shall issue a decision within 48 hours of the receipt of such a request.

PART ~~VI~~ VII.
REPORTING REQUIREMENTS.

12 VAC 35-115-230. Provider requirements for reporting to the department.

A. Providers shall collect, maintain and report the following information concerning abuse, neglect, and exploitation:

- 1. The director of a facility operated by the department shall report allegations of abuse and neglect in accordance with all applicable operating instructions issued by the commissioner or his designee.
- 2. The director of a service licensed or funded by the department shall report each allegation of abuse or neglect to the assigned human rights advocate within 24 hours from the receipt of the allegation (see 12 VAC 35-115-50).

3. The investigating authority shall provide a written report of the results of the investigation of abuse or neglect to the director and human rights advocate within 10 working days from the date the investigation began unless an exemption has been granted by the department (see 12 VAC 35-115-50). This report shall include ~~but not be limited to the following~~:

- a. Whether abuse, neglect, or exploitation occurred;
- b. The type of abuse; and
- c. Whether the act resulted in physical or psychological injury.

B. Providers shall collect, maintain and report the following information concerning deaths and serious injuries:

1. The director of a facility operated by the department shall report to the department deaths and serious injuries in accordance with all applicable operating instructions issued by the commissioner or his designee.

2. The director of a service licensed or funded by the department shall report deaths and serious injuries in writing to the department within 24 hours of discovery and by telephone to the ~~legally~~ authorized representative, ~~as applicable~~, within 24 hours.

3. All reports of death and serious injuries shall include ~~but not be limited to~~ the following:

- a. Date and place of ~~death/injury~~ the death or injury;
- b. Nature of the injuries and treatment required; and
- c. Circumstances of ~~death/serious~~ the death or serious injury.

C. Providers shall collect, maintain and report the following information concerning seclusion and restraint:

1. The director of a facility operated by the department shall report each instance of seclusion or restraint or both in accordance with all applicable operating instructions issued by the commissioner or his designee.

2. The director of a service licensed or funded by the department shall submit an annual report of each instance of seclusion or restraint or both by the 15th of January each year, or more frequently if requested by the department.

3. Each instance of seclusion or restraint or both shall be compiled on a monthly basis and the report shall include but not be limited to the following:

- a. Type(s) to include:
 - (1) Physical restraint (manual hold);
 - (2) Mechanical restraint;
 - (3) Pharmacological ~~(chemical restraint)~~; and

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- (4) Seclusion.
- b. Rationale for the use of seclusion or restraint to include:
- (1) Behavioral purpose;
 - (2) Medical purpose; or
 - (3) Protective purpose.
- c. Duration of the seclusion or restraint, as follows:
- (1) The duration of seclusion and restraint used for behavioral purposes is defined as the actual time the individual is in seclusion or restraint from the time of initiation of seclusion or restraint until the individual is released.
 - (2) The duration of restraint for medical and protective purposes is defined as the length of the episode as indicated in the order.

4. Any instance of seclusion or restraint that does not comply with these regulations or approved variances, or that results in injury to an individual, shall be reported to the ~~legally~~ authorized representative, as applicable, and the assigned human rights advocate within 24 hours.

~~D. Providers shall collect, maintain and report the following information concerning human rights activities:~~

~~1. D. The director shall provide to the human rights advocate, at least monthly, and the LHRC information on the type, resolution level, and findings of each complaint of a human rights violation; reports shall be made to the LHRC upon request and implementation of variances in accordance with the LHRC meeting schedule or as requested by the advocate.~~

~~2. The director shall provide to the human rights advocate and the LHRC, at least monthly, reports regarding the implementation of any variances.~~

E. Reports required under this section shall be submitted to the department on forms or in an automated format or both developed by the department.

F. The department shall compile all data reported under this section and make this data available to the public and the inspector general upon request.

1. The department shall provide the compiled data in writing or by electronic means.
2. The department shall remove all provider-identifying information and all information that could be used to identify a person as an individual receiving services.

G. In the reporting, compiling and releasing of information and statistical data provided under this section, the department and all providers shall take all measures necessary to ensure that any consumer-identifying information is not released to the public, including encryption of data transferred by electronic means.

H. Nothing in this section is to be construed as requiring the reporting of proceedings, minutes, records, or reports of any committee or nonprofit entity providing a centralized credentialing service which are identified as privileged pursuant to § 8.01-581.17 of the Code of Virginia.

I. Providers shall report to the Department of Health Professions, Enforcement Division, violations of these regulations that constitute reportable conditions under ~~§ 54.1-2906~~ §§ 54.1-2400.4, 54.1-2909, and 54.1-2900.6 of the Code of Virginia.

PART ~~VII~~ VIII. ENFORCEMENT AND SANCTIONS.

12 VAC 35-115-240. Human rights enforcement and sanctions.

A. The commissioner may invoke the sanctions enumerated in ~~§ 37.1-185.1~~ § 37.2-419 of the Code of Virginia upon receipt of information that a provider licensed or funded by the department is:

1. In violation of (i) the provisions of ~~§ 37.1-84.1~~ § 37.2-400 and ~~§§ 37.1-179 through 37.1-189.2~~ §§ 37.2-403 through 37.2-422 of the Code of Virginia; (ii) these regulations; ~~or,~~ and (iii) provisions of the licensing regulations promulgated pursuant to ~~§§ 37.1-179.1 and 37.1-182~~ §§ 37.2-404 and 37.2-411 of the Code of Virginia; and

2. ~~Such~~ The violation adversely ~~impacts~~ affects the human rights of individuals receiving services or poses an imminent and substantial threat to the health, safety, or welfare of individuals receiving services.

The commissioner shall notify the provider in writing of the specific violation or violations found and of his intention to convene an informal conference pursuant to § 2.2-4019 of the Code of Virginia at which the presiding officer will be asked to recommend issuance of a special order.

B. The sanctions contained in the special order shall remain in effect ~~during the pendency~~ for the duration of any appeal of the special order.

PART ~~VIII~~ IX. RESPONSIBILITIES AND DUTIES.

12 VAC 35-115-250. Offices, composition and duties.

A. Providers and their directors shall:

1. Identify a person or persons accountable for helping individuals to exercise their rights and resolve complaints regarding services.
2. Comply with all state laws governing the reporting of abuse and neglect and all procedures set forth in these regulations for reporting allegations of abuse, neglect, or exploitation.

3. Require competency-based training on these regulations upon employment and at least annually thereafter. Documentation of such competency shall be maintained in the employee's personnel file.

4. Take all steps necessary to assure compliance with these regulations in all services provided.

5. Communicate information about the availability of a human rights advocate ~~and assure an LHRC to all individuals receiving services and authorized representatives.~~

6. ~~Assure that appropriate staff attend all LHRC meetings to report on human rights activities as directed by the human rights advocate or the LHRC bylaws one LHRC affiliation within the region as defined by the SHRC. The SHRC may require multi-site providers to have more than one LHRC affiliation within a region if the SHRC determines that additional affiliations are necessary to protect individuals' human rights.~~

7. Assure that the appropriate staff attend LHRC meetings in accordance with the LHRC meeting schedule to report on human rights activities, to impart information to the LHRC at the request of the human rights advocate or LHRC, and discuss specific concerns or issues with the LHRC.

~~7. 8. Cooperate with the human rights advocate and the LHRC to investigate and correct conditions or practices interfering with the free exercise of individuals' human rights and make sure that all employees cooperate with the human rights advocate and the LHRC in carrying out their duties under these regulations. Notwithstanding the requirements for complaints pursuant to Part V (12 VAC 35-115-150 et seq.) of this chapter, the provider shall submit a written response indicating intended action to any written recommendation made by the human rights advocate or LHRC within 15 days of the receipt of such recommendation.~~

~~8. 9. Provide the advocate unrestricted access to individuals and individual services records whenever the human rights advocate deems access necessary to carry out rights protection, complaint resolution, and advocacy.~~

~~9. 10. Submit to the human rights advocate for review and comment any proposed policies, procedures, or practices that may affect individual human rights.~~

~~10. 11. Comply with requests by the SHRC, LHRC, and human rights advocate for information, policies, procedures, and written reports regarding compliance with these regulations.~~

~~11. 12. Name a liaison to the LHRC, who shall give the LHRC suitable meeting accommodations, clerical support and equipment, and assure the availability of records and~~

employee witnesses upon the request of the LHRC. Oversight and assistance with the LHRC's substantive implementation of these regulations shall be provided by the SHRC. See subsection E of this section.

~~12. 13. Submit applications for variances to these regulations only as a last resort.~~

~~13. 14. Post in program locations information about the existence and purpose of the human rights program.~~

~~14. 15. Not influence or attempt to influence the appointment of any person to an LHRC associated with the provider or director.~~

~~15. 16. Perform any other duties required under these regulations.~~

B. Employees of the provider shall, as a condition of employment:

1. Become familiar with these regulations, comply with them in all respects, and help individuals understand and assert their rights.

2. Protect individuals from any form of abuse, neglect ~~and or~~ exploitation (i) by not abusing, neglecting or exploiting any individual; (ii) by not permitting or condoning anyone else ~~to abuse, neglect, or exploit~~ abusing, neglecting, or exploiting any individual; and (iii) by reporting all suspected abuse to the program director. Protecting individuals receiving services from abuse also includes using the minimum force necessary to restrain an individual.

3. Cooperate with any investigation, meeting, hearing, or appeal held under these regulations. Cooperation includes; ~~but is not limited to,~~ giving statements or sworn testimony.

4. Perform any other duties required under these regulations.

C. The human rights advocate shall:

1. Represent any individual making a complaint or, upon request, consult with and help any other representative the individual chooses.

2. Monitor the implementation of an advocacy system for individuals receiving services from the provider or providers to which the advocate is assigned.

3. Promote and monitor provider compliance with these and other applicable individual rights laws, regulations, and policies.

4. Investigate and try to prevent or correct, informally or formally, any alleged rights violations by interviewing, mediating, negotiating, advising, and consulting with providers and their respective governing bodies, directors, and employees.

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5. Whenever necessary, file a written complaint with the LHRC for an individual ~~receiving services~~ or, where general conditions or practices interfere with individuals' rights, for ~~the~~ a group of individuals.
 6. Investigate and examine all conditions or practices ~~which~~ that may interfere with the free exercise of individuals' rights.
 7. Help the individual or the individual's chosen representative during any meeting, hearing, appeal, or other proceeding under these regulations unless the individual or his chosen representative chooses not to involve the human rights advocate.
 8. Provide orientation, training, and technical assistance to the LHRCs for which ~~they are~~ he is responsible.
 9. Tell the LHRC about any recommendations made to the director, the provider, the provider's governing body, the state human rights director, or the department for changes in policies, procedures, or practices that have the potential to adversely affect the rights of individuals.
 10. Make recommendations to the state human rights director concerning the employment and supervision of other advocates where appropriate.
 11. Submit regular reports to the state human rights director, the LHRC, and the SHRC about provider implementation of and compliance with these regulations.
 12. Provide consultation to individuals, providers and their governing bodies, directors and employees regarding individuals' rights, providers' duties, and complaint resolution.
 13. Perform any other duties required under these regulations.
- D. The Local Human Rights Committee shall:
1. Consist of five or more members appointed by the SHRC.
 - a. Membership shall be broadly representative of professional and consumer interests. At least one-third of the members on each committee shall be individuals who are receiving services ~~and~~ or family members of similar individuals with at least two individuals who are receiving services or who have received ~~within the five years of their initial appointment~~ public or private mental health, mental retardation, or substance abuse treatment or habilitation services on each committee within five years of their initial appointment. Remaining appointments shall include persons with interest, knowledge, or training in the mental health, mental retardation, or substance abuse field.
 - b. ~~No member shall be an employee of the department or an employee or board member of the provider for which~~ the LHRC provides oversight. At least one member shall be a health care provider.
 - c. No current employee of the department or a provider shall serve as a member of any LHRC that serves an oversight function for the employing facility or provider.
 - e. ~~d.~~ Initial appointments to an LHRC shall be staggered, with approximately one-third of the members appointed for a term of three years, approximately one-third for a term of two years, and the remainder for a term of one year. After that, all appointments shall be for a term of three years.
 - e. ~~e.~~ A person may be appointed for no more than two consecutive three-year terms. A person appointed to fill a vacancy may serve out that term, and then be eligible for two additional consecutive terms.
 - e. ~~f.~~ Nominations for membership to LHRCs shall be submitted directly to the SHRC through the state human rights director at the department's Office of Human Rights.
2. Permit affiliations of local providers in accordance with the recommendations from the human rights advocate. SHRC approval is required for the denial of an affiliation request.
 2. ~~3.~~ Receive complaints of alleged rights violations filed by or for individuals receiving services from providers with which the LHRC is ~~associated~~ affiliated and hold hearings according to the procedures set forth in Part ~~IV~~ V (12 VAC 35-115-150 et seq.) of this chapter.
 3. ~~4.~~ Conduct investigations as requested by the SHRC.
 4. ~~5.~~ Upon the request of the human rights advocate, provider, director, or an individual or individuals receiving services, or on its own initiative, an LHRC may review any existing or proposed policies, procedures, ~~or~~ practices, or behavioral treatment plans that could jeopardize the rights of ~~one or more~~ individuals receiving services from the provider with which the LHRC is affiliated. In conducting this review, the LHRC may consult with any human rights advocate, employee of the director, or anyone else. After this review, the LHRC shall make recommendations to the director concerning changes in these plans, policies, procedures, and practices.
 5. ~~6.~~ Receive, review, and act on applications for variances to these regulations according to 12 VAC 35-115-220.
 6. ~~7.~~ Receive, review and comment on all ~~restrictive behavioral treatment programs and seclusion and plans involving the use of restraint or time out and seclusion, restraint, or time out~~ restraint, or time out policies for affiliated providers.
 7. ~~8.~~ Adopt written bylaws that address procedures for conducting business, electing the ~~chair~~ chairperson,

secretary, and other officers, designating standing committees, and setting the frequency of meetings.

~~8-~~ 9. Elect from its own members a ~~chair~~ chairperson to coordinate the activities of the LHRC and to preside at regular committee meetings and any hearings held pursuant to these regulations.

~~9-~~ 10. Conduct a meeting every quarter or more frequently as necessary to adhere to all time lines as set forth in these regulations.

~~10-~~ 11. Require members to recuse themselves from all cases wherein they have a financial, ~~family~~ or other conflict of interest.

12. The LHRC may delegate summary decision-making authority to a subcommittee when expedited decisions are required before the next scheduled LHRC meeting to avoid seriously compromising an individual's quality of care, habilitation, or quality of life. The decision of the subcommittee shall be reviewed by the full LHRC at its next meeting.

~~11-~~ 13. Perform any other duties required under these regulations.

E. The ~~State Human Rights Committee~~ (SHRC) shall:

1. Consist of nine members appointed by the board.

a. Members shall be broadly representative of professional and consumer interests and of geographic areas in the Commonwealth. At least two members shall be individuals who are receiving services or have received ~~within five years of their initial appointment~~ public or private mental health, mental retardation, or substance abuse treatment or habilitation services within five years of their initial appointment. At least one-third of the members shall be consumers or family members ~~of similar individuals of consumers~~. Remaining appointments shall include persons with interest, knowledge, or training in the mental health, mental retardation, or substance abuse field.

b. At least one member shall be a health care professional.

~~b-~~ c. No member can be an employee or board member of the department or a CSB.

~~e. All appointments after November 21, 2001, shall be for a term of three years.~~

d. If there is a vacancy, interim appointments may be made for the remainder of the unexpired term.

e. A person may be appointed for no more than two consecutive three-year terms. A person appointed to fill a vacancy may serve out that term, and then be eligible for two additional consecutive terms.

2. Elect a ~~chair~~ chairperson from its own members who shall:

- a. Coordinate the activities of the SHRC;
- b. Preside at regular meetings, hearings and appeals; and
- c. Have direct access to the commissioner and the board in carrying out these duties.

3. Upon request of the commissioner, human rights advocate, provider, director, or an individual ~~or individuals~~ receiving services; or on its own initiative, a SHRC may review any existing or proposed policies, procedures, or practices that could jeopardize the rights of ~~one or more~~ individuals receiving services from any provider. In conducting this review, the SHRC may consult with any human rights advocate, employee of the director, or anyone else. After this review, the SHRC shall make recommendations to the director or commissioner concerning changes in these policies, procedures, and practices.

4. Determine the appropriate number and geographical boundaries of LHRCs and consolidate LHRCs serving only one provider into regional LHRCs whenever consolidation would assure greater protection of rights under these regulations.

5. Appoint members of LHRCs with the advice of ~~and consultation with~~ the commissioner and the state human rights director.

6. Advise ~~and consult with~~ the commissioner in about the employment of the state human rights director and human rights advocates.

7. Conduct at least eight regular meetings per year.

8. Review decisions of LHRCs and, if appropriate, hold hearings and make recommendations to the commissioner, the board, and providers' governing bodies regarding alleged violations of individuals' rights according to the procedures specified in these regulations.

9. Provide oversight and assistance to LHRCs in the performance of their duties hereunder, including the development of guidance documents such as sample bylaws, affiliation agreements, and minutes to increase operational consistency among LHRCs.

10. Review denials of LHRC affiliations.

~~10-~~ 11. Notify the commissioner and the State Human Rights Director whenever it determines that its recommendations in a particular case are of general interest and applicability to providers, human rights advocates, or LHRCs and assure the availability of the opinion or report to providers, human rights advocates, and LHRCs as appropriate. No document made available shall identify the name of individuals or employees in a particular case.

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- ~~11.~~ 12. Grant or deny variances according to the procedures specified in Part ~~V~~ VI (12 VAC 35-115-220) of this chapter and review approved variances at least once every year.
 - ~~12.~~ 13. Make recommendations to the board concerning proposed revisions to these regulations.
 - ~~13.~~ 14. Make recommendations to the commissioner concerning revisions to any existing or proposed laws, regulations, policies, procedures, and practices to ensure the protection of individuals' rights.
 - ~~14.~~ 15. Review the scope and content of training programs designed by the department to promote responsible performance of the duties assigned under these regulations by providers, employees, human rights advocates, and LHRC members, and, where appropriate, make recommendations to the commissioner.
 - ~~15.~~ 16. Evaluate the implementation of these regulations and make any necessary and appropriate recommendations to the board, the commissioner, and the state human rights director concerning interpretation and enforcement of the regulations.
 - ~~16.~~ 17. ~~Submit a report on its activities to the board each year and publish an annual report of its activities and the status of human rights in mental health, mental retardation, and substance abuse treatment and services in Virginia and make recommendations for improvement.~~
 - ~~17.~~ 18. Adopt written bylaws that address procedures for conducting business; making membership recommendations to the board; electing a ~~chair~~ chairperson, vice ~~chair~~ chairperson, secretary, and other officers; appointing members of LHRCs; designating standing committees and their responsibilities; establishing ad hoc committees; and setting the frequency of meetings.
 - ~~18.~~ 19. Review and approve the bylaws of LHRCs.
 - ~~19.~~ Publish an annual report of the status of human rights in the mental health, mental retardation, and substance abuse treatment and services in Virginia and make recommendations for improvement.
 20. Require members to recuse themselves from all cases where they have a financial, ~~family~~ or other conflict of interest.
 21. Perform any other duties required under these regulations.
- F. The state human rights director shall:
1. Lead the implementation of the statewide human rights program and make ongoing recommendations to the commissioner, the SHRC, and ~~the~~ LHRCs for continuous improvements in the program.
 2. Advise the commissioner concerning the employment and retention of human rights advocates.
3. Advise providers, directors, advocates, LHRCs, the SHRC, and the commissioner concerning their responsibilities under these regulations and other applicable laws, regulations and departmental policies that protect individuals' rights.
 4. Organize, coordinate, and oversee training programs designed to promote responsible performance of the duties assigned under these regulations.
 5. Periodically visit service settings to monitor the free exercise of ~~these~~ rights enumerated in these regulations.
 6. Supervise human rights advocates in the performance of their duties under these regulations.
 7. Support the SHRC and LHRCs in carrying out their duties under these regulations.
 8. Review LHRC decisions and recommendations for general applicability and provide suggestions for training to appropriate entities.
 9. Monitor implementation of corrective action plans approved by the SHRC.
 10. Perform any other duties required under these regulations.
- G. The commissioner shall:
1. Employ the state human rights director after ~~advice and~~ consultation with the SHRC.
 2. Employ advocates following consultation with the state human rights director.
 3. Provide or arrange for assistance and training necessary to carry out and enforce these regulations.
 4. Cooperate with the SHRC and the state human rights director to investigate providers and correct conditions or practices that interfere with the free exercise of individuals' rights.
 5. Advise and consult with the SHRC and the state human rights director concerning the appointment of members of LHRCs.
 6. Maintain current and regularly updated data and perform regular trend analyses to identify the need for corrective action in the areas of abuse, neglect, and exploitation; seclusion and restraint; complaints; deaths and serious ~~incidents~~ injuries; and variance applications.
 7. Assure regular monitoring and enforcement of these regulations, including authorizing unannounced compliance reviews at any time.
 8. Perform any other duties required under these regulations.
- H. The board shall:

1. ~~Promulgate~~ Adopt regulations defining the rights of individuals receiving services from providers covered by these regulations.
2. Appoint members of the SHRC.
3. Review and approve the bylaws of the SHRC.
4. Perform any other duties required under these regulations.

VA.R. Doc. No. R05-146; Filed August 16, 2006, 1:44 p.m.

◆ **TITLE 16. LABOR AND EMPLOYMENT** ◆

SAFETY AND HEALTH CODES BOARD

Proposed Regulation

Titles of Regulations: 16 VAC 25-75. **General Industry Standard for Telecommunications, General, Approach Distances (adding 16 VAC 25-75-10).**

16 VAC 25-90. Federal Identical General Industry Standards (29 CFR Part 1910) (repealing 16 VAC 25-90-1910.268 (b) (7)).

Statutory Authority: § 40.1-22 of the Code of Virginia; Occupational Safety and Health Act of 1970 (P.L. 91-596).

Public Hearing Date: N/A -- Public comments may be submitted until 5 p.m. on November 18, 2006.

(See Calendar of Events section for additional information)

Agency Contact: John Crisanti, Policy Analyst Senior, Department of Labor and Industry, Powers Taylor Building, 13 South 13th Street, Richmond, VA 23219, telephone (804) 786-4300, FAX (804) 786-8418, or email john.crisanti@doli.virginia.gov.

Basis: The Safety and Health Codes Board is authorized by § 40.1-22(5) of the Code of Virginia to: "... adopt, alter, amend, or repeal rules and regulations to further, protect and promote the safety and health of employees in places of employment over which it has jurisdiction and to effect compliance with the federal OSH Act of 1970...as may be necessary to carry out its functions established under this title."

"In making such rules and regulations to protect the occupational safety and health of employees, the Board shall adopt the standard which most adequately assures, to the extent feasible, on the basis of the best available evidence that no employee will suffer material impairment of health or functional capacity."

"However, such standards shall be at least as stringent as the standards promulgated by the Federal Occupational Safety

and Health Act of 1970 (P.L. 91-596). In addition to the attainment of the highest degree of health and safety protection for the employee, other considerations shall be the latest available scientific data in the field, the feasibility of the standards, and experience gained under this and other health and safety laws."

Purpose: Given the similarity of situational exposure in this instance between the General Industry Standard for Electrical Power General Transmission and Distribution, 16 VAC 25-90-1910.269(1)(2)(i), and General Industry Standard for Telecommunications, 16 VAC 25-90-1910.268(b)(7), equivalent safety precautions are appropriate to eliminate employee exposure to the equivalent hazards. The purpose of the proposed change is to amend the telecommunications standard to provide equivalent protection to telecommunication employees working in similar proximity to power lines as their counterparts under the electrical power generation, transmission and distribution standard.

Substance: This proposed regulatory amendment would replace the current regulatory language found in 16 VAC 25-90-1910.268(b)(7), Telecommunications, General, Approach Distances, and replace it with new language found in 16 VAC 25-75, General Industry Standard for Telecommunications, General, Approach Distances. This new unique regulation will include subsection A, which specifies that the wearing of protective gloves and sleeves only qualifies as insulation for the live electrical part upon which the employee is actually working. The new subsection B, Approach Distances to Exposed Energized Overhead Power Lines and Parts, includes Table R-2, which covers voltage range and the corresponding minimum approach distances (inches).

The effect of the proposed regulatory amendment is that, in addition to the live electrical part the employee is working on, all other nearby live or "hot" electrical parts and power lines must be insulated so an employee cannot accidentally contact an energized part or power line with some other uninsulated part of his body, or other conductive object(s). The extensive use of insulating equipment to cover energized parts in the employee work area should prevent employee upper arms and shoulders from contacting live parts. Moreover, if every energized part within reach of the employee were insulated, electrical contacts involving other parts of the body, such as the employees head or back would be averted as well.

Issues: This proposed action would require employers to further ensure the safety of their employees during work on power lines. The regulation would necessitate telecommunications employers to implement protective measures for its electrical transmission workers equivalent to those afforded general industry and construction transmission workers.

Since telecommunication electrical transmission workers are already required to be trained on methods for de-energizing or isolating or insulating themselves from live electrical parts

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through the use of blankets and other protective measures already included in 16 VAC 25-90-1910.268, no significant additional cost or implementation impact for employers is anticipated.

The existing regulation allows an employee to be exposed to many uninsulated live electrical parts in the work area, but only actually be protected from touching them with hands and arms through the use of gloves with sleeves. The effect of the proposed regulation is that, except for the live electrical part the employee is working on, all other live or "hot" electrical parts and power lines would be insulated so an employee could not accidentally contact an energized part or power line with some other uninsulated part of his body, or other conductive object(s).

The primary advantage to the department is the uniformity of the regulations for General Industry, Construction, and Telecommunication workers performing the same type of electrical transmission work in proximity to high voltage lines. There are no disadvantages to the department.

There are no anticipated disadvantages to the public or the Commonwealth.

Department of Planning and Budget's Economic Impact Analysis:

Summary of the proposed regulation. The Safety and Health Codes Board proposes to require that telecommunications workers protect themselves from both electrical parts upon which they are directly working and from electric wires adjacent to any area in which they are working.

Result of analysis. So long as The Department of Labor and Industry (DOLI) amends this regulation as agreed, the benefits of this proposed regulatory change will likely exceed the costs associated with its implementation.

Estimated economic impact. Current regulation requires telecommunications workers to wear gloves and/or protective sleeves when they are working on electrified parts or parts that might become electrified. Regulation explicitly states that gloves and/or sleeves will be considered adequate protection so wearing gloves and/or sleeves is sufficient action to meet this safety requirement and avoid citation if there is an accident. DOLI's Safety and Health Codes Board seeks to amend the regulation so that gloves and/or sleeves will only be considered sufficient protection against electrical parts that telecommunications workers are directly working on.

The proposed regulation will require some other safety measure be taken to protect workers from electrical parts that they are not working on but that are closer to workers than minimum approach distance standards require. When approach distances are certain to be breached, telecommunications workers must call the electric company that controls the power lines that work is near. The electric company then can either cover the power lines that may pose

a danger or temporarily cut power to those lines altogether. After meeting with members of its regulated community, DOLI has concluded that (except for four problematic work activities that will be addressed by changes in the proposed regulation or the issuance of guidance documents) telecommunications workers rarely have reason to breach specified approach distances and these workers would not have to change their current safety practices because of this proposed regulatory change.

As noted above, there are four work activities that have been identified by telecommunications companies as potentially problematic and enormously costly if regulatory language is not changed or inserted (or if guidance documents binding on DOLI are not issued) as this regulatory action moves forward. These four work activities are:

1. Setting poles in power.
2. Telecommunications work during storms or emergencies.
3. The required testing of street light brackets.
4. The placement of new cables through use of silver strand.

Telecommunications workers are sometimes tasked with putting up new line poles. When these new poles are to hold existing power and telecommunications lines, the poles must be set in a position that has the top of the pole closer than the specified approach distances to energized lines. Telecommunications workers follow current safety practice and wrap the top of the poles, where they might meet electrified lines, with insulating material. Workers wear insulating gloves during this work activity. After poles are set, telecommunications workers will not breach approach distances for parts they know are electrified. They may, however, be close to the neutral line as they move telecommunications equipment to the new poles. Neutral lines are not electrified, but they can become electrified if they are hit by lightning or if an accident somewhere else along the line causes other electrified lines to lay directly on the neutral line. If telecommunications workers were to have to call out the electric company to cut power or insulate power lines each time poles were set in power, or installation of equipment brought them closer to the neutral line than would be allowed if DOLI were to treat it as an electrified part, costs for performing this work would rise dramatically and might prove devastating to both the telecommunications companies and their customers, who would see these costs reflected in their phone, Internet and cable bills. This work activity could potentially cost telecommunications companies tens of millions more than it currently costs them.

At DOLI's meeting with its regulants, Dominion Power stated that they do not consider neutral lines to be energized and do not treat them as such. DOLI agreed with this assessment of neutral lines and agreed to issue interpretive

language that stated neutral lines would not be considered “energized parts.” Further, DOLI assured the representative telecommunications companies that their current practice with respect to setting poles in power would meet the safety requirements of the proposed regulation. So long as binding interpretive language stating that DOLI agrees to treat neutral lines as nonelectrified parts is issued, telecommunications companies will not have to change their current practice with regard to this work activity; consequently, they will likely incur no extra costs for this activity once the proposed regulation is promulgated.

Telecommunications companies expressed concern for what effect the proposed regulation would have on their ability to respond to interruption of services, including interruption of things like phone service to emergency personnel and 911 call centers, during storms and emergencies. While it is their policy to always wait for the electric company to resolve any electrical safety issues, situations might arise such that telecommunications workers would inadvertently violate the proposed regulation because of the tumult that often accompanies emergency situations. This concern has the potential to increase the cost of, and slow the response time for, telecommunications workers responding to storms and emergencies.

DOLI assured representative telecommunications workers that, for a set period after an emergency or a storm, DOLI would be in “consultation mode,” where they would be available to advise on how to best deal with safety issues, rather than enforcement mode. DOLI also plans to issue interpretive language that will address this work activity. So long as the interpretive language that delineates DOLI’s role during, and immediately after, a storm or emergency is binding on DOLI, telecommunications companies will not have to change their current practice with regard to this work activity; consequently, they will likely incur no extra costs for this activity once the proposed regulation is promulgated.

When working near street lights, telecommunications workers are required to test the street light brackets to determine if they are energized. It is expected that, just like neutral lines, these brackets would only be electrified under extreme circumstances. This testing must be done bare-handed, but the tool that workers use for testing will protect them from electrical charges of up to 20,000 volts. If a bracket is found to be electrified, workers would cease any planned work and report the problem to the electric company.

Again DOLI has agreed that street light brackets will not be treated as electrified parts and they plan to issue interpretive language that will address this work activity. So long as the interpretive language that specifies that street light brackets will not be treated as electrified parts is binding on DOLI, telecommunications companies will not have to change their current practice with regard to this work activity;

consequently, they will likely incur no extra costs for this activity once the proposed regulation is promulgated.

The fourth work activity that is potentially problematic is the placement of cables through use of silver strand line. When a silver strand line is first strung between poles, it is stretched taut. As equipment is added to the taut line it will sag down to where it would normally lie below the neutral line. Until equipment is added, however, silver strand lines could very well be closer to the neutral line than would be allowed (by the approach distance table) if the neutral line were treated as an electrified part.

As noted above, DOLI does not plan to treat neutral lines as electrified parts and will, additionally, issue interpretive language to address this work activity. Again, so long as binding interpretive language stating that DOLI agrees to treat neutral lines as nonelectrified parts is issued, telecommunications companies will not have to change their current practice with regard to this work activity; consequently, they will likely incur no extra costs for this activity once the proposed regulation is promulgated.

Businesses and entities affected. All telecommunications companies, and their employees, will be affected by the proposed regulation. The State Corporation Commission (SCC) reports that 181 companies are licensed to provide local phone service within the Commonwealth, another 93 companies provide long distance phone service. The SCC also reports there are four cooperative phone companies that operate in Virginia but do not require a license to do so. Additionally, all companies that provide local cable service and/or high speed Internet service fall into the category of telecommunications companies, and will also be affected by the proposed regulation.

Localities particularly affected. All localities in the Commonwealth will be affected by the proposed regulation.

Projected impact on employment. With agreed upon changes, the proposed regulation will likely have no effect on employment in the Commonwealth.

Effects on the use and value of private property. The proposed regulation, with agreed upon changes, will likely have no negative effect on the use and value of private property.

Small businesses: costs and other effects. Again, so long as DOLI incorporates agreed upon changes into the proposed regulation, the 165 telecommunications companies that qualify as small businesses will likely accrue no additional bookkeeping, or other, costs.

Small businesses: alternative method that minimizes adverse impact. DPB is satisfied that DOLI has agreed to make all changes necessary to minimize costs for the regulated community while still ensuring the safety of telecommunications workers.

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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: No additional cost to the state or to localities is anticipated. The individuals and businesses or other entities likely to be affected by the regulation are telecommunication electrical transmission companies and their employees. The agency's best estimate of the number of small businesses that employ fewer than 500 employees or have gross annual sales of less than \$6 million that will be affected is approximately 165 companies. No additional financial impact is anticipated as projected costs of the regulation for affected individuals, businesses, or other entities since telecommunications electrical transmission workers are already required to be trained on methods for de-energizing or isolating or insulating themselves from live electrical parts through the use of blankets and other protective measures.

Summary:

The proposed regulatory action provides that telecommunications workers be required to protect themselves from both electrical parts upon which they are currently working and from electric wires adjacent to any area in which they are working by repealing language in the current telecommunications standard (29 CFR 1910.268) of the federal identical regulation and replacing it with a more stringent standard patterned on the requirements in the electric power generation, transmission, and distribution standard (29 CFR 1910.269).

CHAPTER 75. GENERAL INDUSTRY STANDARD FOR TELECOMMUNICATIONS, GENERAL, APPROACH DISTANCES.

16 VAC 25-75-10. General; approach distances.

A. No employee shall be permitted to approach or take any conductive object without an approved insulating handle closer to exposed energized parts than shown in subsection B (Table R-2) of this section unless:

1. The employee is insulated or guarded from the energized parts (insulating gloves or insulating gloves and sleeves worn in accordance with 16 VAC 25-90-1910.269(1)(3) are considered insulation of the employee only with regard to the energized part upon which work is being performed);
2. The energized part is insulated or guarded from him and any other conductive object at a different potential; or
3. The power conductors and equipment are de-energized and grounded.

B. Approach distances to exposed energized overhead power lines and parts.

TABLE R-2.

Approach Distances to Exposed Energized Overhead Power Lines and Parts.

<u>Voltage range (phase to phase, RMS)</u>	<u>Approach distance (inches)</u>
<u>300 V and less</u>	<u>(1)</u>
<u>Over 300 V, not over 750V</u>	<u>12</u>
<u>Over 750 V not over 2 kV</u>	<u>18</u>
<u>Over 2 kV, not over 15 kV</u>	<u>24</u>
<u>Over 15 kV, not over 37 kV</u>	<u>36</u>
<u>Over 37 kV, not over 87.5 kV</u>	<u>42</u>
<u>Over 87.5 kV, not over 121 kV</u>	<u>48</u>
<u>Over 121 kV, not over 140kV</u>	<u>54</u>

⁽¹⁾ Avoid contact.

EDITOR'S NOTE: The Safety and Health Codes Board is repealing subdivision (b)(7) of 16 VAC 25-90-1910.268. The portion of the regulation being repealed is set out; the remainder of the section is not set out.

16 VAC 25-90-1910.268. Telecommunications.

*** * ***

(b) General.

~~(7) Approach distances to exposed energized overhead power lines and parts. The employer shall ensure that no employee approaches or takes any conductive object closer to any electrically energized overhead power lines and parts than prescribed in Table R-2, unless:~~

- ~~(i) The employee is insulated or guarded from the energized parts (insulating gloves rated for the voltage involved shall be considered adequate insulation), or~~
- ~~(ii) The energized parts are insulated or guarded from the employee and any other conductive object at a different potential, or~~
- ~~(iii) The power conductors and equipment are deenergized and grounded.~~

VA.R. Doc. No. R05-234; Filed August 29, 2006, 3:35 p.m.

◆ ————— ◆

TITLE 18. PROFESSIONAL AND OCCUPATIONAL LICENSING

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

Final Regulation

Title of Regulation: 18 VAC 10-20. Board for Architects, Professional Engineers, Land Surveyors, Certified Interior Designers and Landscape Architects Rules and Regulations (amending 18 VAC 10-20-10, 18 VAC 10-20-15, 18 VAC 10-20-20, 18 VAC 10-20-35 through 55, 18 VAC 10-20-70, 18 VAC 10-20-75, 18 VAC 10-20-90 through 18 VAC 10-20-420, 18 VAC 10-20-440 through 18 VAC 10-20-560, 18 VAC 10-20-570 through 18 VAC 10-20-620, 18 VAC 10-20-630 through 18 VAC 10-20-660, and 18 VAC 10-20-670 through 18 VAC 10-20-795; adding 18 VAC 10-20-17, 18 VAC 10-20-25, and 18 VAC 10-20-85; and repealing 18 VAC 10-20-30, 18 VAC 10-20-60, 18 VAC 10-20-80, 18 VAC 10-20-565, 18 VAC 10-20-625, and 18 VAC 10-20-665).

Statutory Authority: §§ 54.1-201, 54.1-404 and 54.1-411 of the Code of Virginia.

Effective Date: February 1, 2007.

Agency Contact: Mark N. Courtney, Executive Director of the Board of Architects, Professional Engineers, Land Surveyors, Certified Interior Designers and Landscape Architects, 3600 West Broad Street, Richmond, VA 23230-4917, telephone (804) 367-8514, FAX (804) 367-2475, or email apelscidla@dpor.virginia.gov.

Summary:

The amendments (i) repeal the requirement that applicants for architect licensure be enrolled in the National Council of Architectural Registration Board's (NCARB) Intern Development Program (IDP) for at least one year prior to submitting an application for original licensure; (ii) require that applicants for any of the board's licenses or certifications demonstrate that they are aware of relevant regulatory and statutory issues by providing answers to questions in their application package; (iii) change the required number of days prior to the architecture, landscape architecture, principles and practice of engineering, and principles and practice of land surveying exams that applicants must submit full applications from 120 days to 130 days; (iv) require that responsible persons for registered professional corporations, registered professional limited liability companies, and other registered business entities notify the board in writing of any changes in their employment status within 30 days of such change; (v) eliminate certain requirements when using electronic seals and signatures; and (vi) make numerous changes for clarification.

Changes made since the proposed include (i) increasing the fee for replacing a wall certificate to \$25; (ii) updating the reference to the most recent edition of the NCARB Handbook for Interns and Architects (2006-2007); (iii) changing the limit from 10 weeks to eight weeks to match the current NCARB IDP standards; (iv) adding language to state that passing scores for divisions of the ARE will be retained in accordance with NCARB procedures (due to the five-year rolling clock that went into effect on January 1, 2006); (v) modifying this language to say that Virginia will accept divisions that "were taken and passed in accordance with national standards" to match the changes being made to 18 VAC 10-20-140 C for the five-year rolling clock; (vi) adding the District of Columbia to the list of jurisdictions from which a licensed professional engineer is an acceptable reference; and (vii) updating references to FIDER so that the references read: the Council for Interior Design Accreditation/CIDA (formerly known as the Foundation for Interior Design Education Research/FIDER).

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.

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CHAPTER 20.

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

18 VAC 10-20-10. Definitions.

~~As used in this chapter, unless the context requires a different meaning:~~

~~Section 54.1-400 of the Code of Virginia provides definitions of the following terms and phrases as used in this chapter:~~

~~Architect~~

~~Board~~

~~Certified interior designer~~

~~Certified landscape architect~~

~~Interior design by a certified interior designer~~

~~Land surveyor~~

~~Practice of architecture~~

~~Practice of engineering~~

~~Practice of land surveying~~

~~Practice of landscape architecture~~

~~Professional engineer~~

~~The following words, terms, and phrases when used in this chapter shall have the meanings ascribed to them except where the context clearly indicates or requires different meanings:~~

~~"Application" means a completed application with the appropriate fee and any other required documentation, including, but not limited to, references, employment verification, degree verification, and verification of examination and licensure or certification.~~

~~"Board" means the Board for Architects, Professional Engineers, Land Surveyors, Certified Interior Designers and Landscape Architects.~~

~~"Certified" means an individual holding a valid certification issued by the board that has not been suspended, revoked, or surrendered, and is currently registered with the board to practice in the Commonwealth in accordance with § 54.1-405 or 54.1-414 of the Code of Virginia.~~

~~"Comity" means the recognition of licenses or certificates issued by other states, the District of Columbia, or any territory or possession of the United States as permitted by § 54.1-103 C of the Code of Virginia.~~

~~"Department" means the Department of Professional and Occupational Regulation.~~

~~"Direct control and personal supervision" shall be that degree of supervision by a person overseeing the work of another whereby the supervisor has both control over and detailed professional knowledge of the work prepared under his supervision and words and phrases of similar import mean that the professional shall have control over the decisions on~~

technical matters of policy and design, and exercises his professional judgment in all professional matters that are embodied in the work and the drawings, specifications, or other documents involved in the work; and the professional has exercised critical examination and evaluation of an employee's, consultant's, subcontractor's, or project team members' work product, during and after preparation, for purposes of compliance with applicable laws, codes, ordinances, regulations and usual and customary standards of care pertaining to professional practice. Further, it is that degree of control a professional is required to maintain over decisions made personally or by others over which the professional exercises direct control and personal supervision. "Direct control and personal supervision" also includes the following:

1. The degree of control necessary for a professional to be in direct control and personal supervision shall be such that the professional:

a. Personally makes professional decisions or reviews and approves proposed decisions prior to their implementation, including the consideration of alternatives, whenever professional decisions that could affect the health, safety, and welfare of the public are made; and

b. Determines the validity and applicability of recommendations prior to their incorporation into the work, including the qualifications of those making the recommendations.

2. Professional decisions that must be made by and are the responsibility of the professional in direct control and personal supervision are those decisions concerning permanent or temporary work that could affect the health, safety, and welfare of the public, and may include, but are not limited to, the following:

a. The selection of alternatives to be investigated and the comparison of alternatives for designed work; and

b. The selection or development of design standards and materials to be used.

3. A professional shall be able to clearly define the scope and degree of direct control and personal supervision and how it was exercised and to demonstrate that the professional was answerable within said scope and degree of direct control and personal supervision necessary for the work for which the professional has signed and sealed; and

4. No sole proprietorship, partnership, corporation, limited liability company, joint venture, professional corporation, professional limited liability corporation, or other entity shall practice, or offer to practice, any profession regulated under this chapter unless there is a resident professional for that service providing direct control and personal supervision of such service in each separate office in which such service is performed or offered to be performed.

"Good moral character" ~~shall include, but shall not be limited to, compliance with the standards of practice and conduct as set forth in this chapter. may be established if the applicant or regulant:~~

1. Has not been convicted of a felony or misdemeanor that has a reasonable relationship to the functions of the employment or category for which the license or certification is sought;
2. Has not, within 10 years of application for licensure, certification, or registration, committed any act involving dishonesty, fraud, misrepresentation, breach of fiduciary duty, negligence, or incompetence reasonably related to the applicant's proposed area of practice;
3. Has not engaged in fraud or misrepresentation in connection with the application for licensure, certification, or registration, or related examination;
4. Has not had a license, certification or registration revoked or suspended for cause by this state or by any other jurisdiction, or surrendered a license, certificate, or registration in lieu of disciplinary action;
5. Has not practiced without the required license, registration, or certification in this state or in another jurisdiction within the five years immediately preceding the filing of the application for licensure, certification, or registration by this Commonwealth; or
6. Has not, within 10 years of application for licensure, certification, or registration, committed an act that would constitute unprofessional conduct, as set forth in Part XII of this chapter.

"Landscape architect" means an individual who has been certified as a landscape architect pursuant to the provisions of this chapter and is in good standing with the board to practice in the Commonwealth in accordance with § 54.1-409 of the Code of Virginia.

"Licensed" means an individual who holds a valid license issued by the board, ~~which that~~ has not been suspended, or revoked, or surrendered and who is currently registered with the board to practice in the Commonwealth in accordance with § 54.1-405 of the Code of Virginia.

"Place of business" means any location which offers to practice or practices through licensed or certified professionals the services of architecture, engineering, land surveying, certified landscape architecture ~~and or~~ certified interior design, or any combination thereof. A temporary field office ~~set up~~ established and utilized for project-specific services is the duration of a specific project shall not qualify as a place of business under this chapter.

"Profession" means the practice of architecture, engineering, land surveying, certified landscape architecture, or certified interior design.

"Professional" means an architect, professional engineer, land surveyor, landscape architect or ~~certified interior designer who is licensed or certified, as appropriate, pursuant to the provisions of this chapter and is in good standing with the board to practice his profession in this Commonwealth.~~

"Registrant" means a business currently registered with the board to offer or provide one or more of the professions regulated by the board.

"Regulant" means a licensee, certificate holder or registrant.

"Resident" means ~~a professional who is physically present in~~ in said place of business a majority of the operating hours of the place of business.

~~"Responsible charge" means there shall be a professional in direct control and exercising personal supervision of each professional service offered or practiced. Direct control and personal supervision requires more than reviewing the work prepared by another person.~~

"Responsible person" means the individual named by the entity to be responsible and have control of the regulated services offered, or rendered, or both, by the entity.

18 VAC 10-20-15. Board organization.

The board's organization shall be consistent with applicable provisions of the Code of Virginia. The board may have the following sections: Architects, Professional Engineers, Land Surveyors, Certified Interior Designers, and Landscape Architects. Each section may meet as necessary.

18 VAC 10-20-17. Replacement of wall certificate.

Any licensee or certificate holder may obtain a replacement for a lost, destroyed, or damaged wall certificate upon submission of a [~~\$20~~ \$25] fee accompanied by a written request indicating that the certificate was lost, destroyed, or damaged.

18 VAC 10-20-20. General application requirements.

A. All applicants must be of good moral character.

B. 1. Except as otherwise provided in subdivisions 2 and 3 of this subsection, a fully documented applications with the noted exception in subdivision 2 of this subsection application shall be submitted by applicants seeking consideration for licensure, certification or registration with the appropriate fee(s) (check or money order only made payable to the Treasurer of Virginia) to be received in the board's office no later than ~~420~~ 130 days prior to the scheduled examination. The date the ~~completely fully~~ fully documented application ~~and fee are~~ is received in the board's office shall determine if an application has been received by the deadline set by the board. All applications should shall be completed according to in accordance with the instructions contained herein and on the application. Applications are will not be considered complete until all required documents;

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~~including but not limited to references, employment verifications and verification of registration~~ are received by the board. All applications, accompanying materials and references ~~are~~ become the property of the board upon receipt by the board.

2. Applicants for the Fundamentals of Engineering examination ~~enrolled in an ABET accredited curriculum who are within 12 months of completion of degree requirements applying pursuant to subdivision 1 of 18 VAC 10-20-190~~ may submit applications to be received in the board's office no later than 60 days prior to the scheduled examination.

3. Applicants for the Fundamentals of Land Surveying examination who are applying pursuant to subdivision 1 of 18 VAC 10-20-300 may submit applications to be received in the board's office no later than 60 days prior to the scheduled examination.

4. Applicants for the National Council of Interior Design Qualification (NCIDQ) examination shall apply directly to NCIDQ for the examination.

C. Applicants shall meet applicable entry requirements at the time application is made.

D. Applicants who have been found ineligible for any reason may request further consideration by submitting in writing evidence of additional qualifications, training or experience. No additional fee will be required provided the requirements for licensure, certification or registration are met within a period of three years from the date the original application is received by the board. After such period, a new application shall be required.

E. The board may make further inquiries and investigations with respect to the qualifications of ~~the~~ an applicant and all ~~references, etc., documentation and information~~ to confirm or amplify information supplied. The board may also require a personal interview with ~~the~~ an applicant.

F. Failure of an applicant to comply with a written request from the board for additional evidence or information within 60 days of receiving such notice, except in such instances where the board has determined ineligibility for a clearly specified period of time, may be sufficient and just cause for disapproving the application.

G. Applicants shall be held to the ~~same~~ standards of practice and conduct as set forth in this chapter.

18 VAC 10-20-25. References.

In addition to the requirements found in 18 VAC 10-20-130 and 18 VAC 10-20-220, as applicable, references that are submitted as part of an application must comply with the following:

1. Written references shall be no more than one year old at the time the application is received by the board;

2. Individuals who provide references may not also verify experience; and

3. The individual providing the reference must have known the applicant for at least one year.

18 VAC 10-20-30. Determining qualifications of applicants. (Repealed.)

~~In determining the qualifications of an applicant for a license or certificate, a majority vote of only the members of the profession involved shall be required.~~

18 VAC 10-20-35. Experience.

All experience or training requirements contained in this chapter are based on the applicant working ~~at least a~~ minimum of 35 hours per week. All applications will be evaluated against the experience or training requirements ~~based on~~ evaluated by this standard. Any experience gained at a rate of less than 35 hours per week may be prorated in the sole discretion of the board.

18 VAC 10-20-40. Good standing of eomity applicants.

A. An applicant licensed, certified, or registered to practice architecture, engineering, land surveying, landscape architecture, or interior design in another jurisdiction shall be in good standing in every jurisdiction where licensed, certified, or registered, and shall not have had a license, certificate, or registration suspended, revoked, or surrendered in connection with a disciplinary action or ~~who has~~ been the subject of discipline in another jurisdiction ~~prior to applying for licensure, certification or registration in Virginia.~~ An applicant who was formerly licensed, certified, or registered to practice architecture, engineering, land surveying, landscape architecture, or interior design in another jurisdiction shall not have had a license, certificate, or registration suspended, revoked, or surrendered in connection with a disciplinary action or have been the subject of discipline in another jurisdiction.

B. Applicants who do not meet the requirements of subsection A of this section may be approved following consideration by the board in accordance with the provisions of Administrative Process Act of the Code of Virginia.

18 VAC 10-20-50. Transfer of scores to other boards.

The board, in its discretion and upon proper application, may forward the grades achieved by an applicant in the various examinations given under the board's jurisdiction to any other duly constituted registration board for use in evaluating such applicant's eligibility for registration within such board's jurisdiction or evaluation of such applicant's national certification. ~~The~~ An applicant requesting transfer of his score to another registration board shall state his reason for requesting transfer and such transfer shall terminate the applicant's application pending before the board in writing.

18 VAC 10-20-55. Language and comprehension.

Every applicant applying for licensure or certification shall be able to speak and write English to the satisfaction of the board. Applicants ~~from a non-English speaking country or a country wherein the primary language is other than English, who have not graduated from a college or university in the United States, whose primary language is not English or who have not graduated from a college or university in which English is the language of instruction, including, but not limited to, those born in a non-English speaking country,~~ shall submit to the board a Test of English as a Foreign Language (TOEFL (Test of English as a Foreign Language) score report that reflects a score acceptable to the board, and a TSE (Test of Spoken English (TSE) score report that reflects a score acceptable to the board. Score reports shall not be over two years old at the time of application and, to support the application, must reflect a score acceptable to the board.

18 VAC 10-20-60. Replacement of wall certificate. (Repealed.)

~~Any licensee or certificate holder may obtain a replacement for a lost, destroyed, or damaged wall certificate only upon submission of a \$25 fee accompanied by a written request indicating that the certificate was lost, destroyed, or damaged.~~

18 VAC 10-20-70. Modifications to examination administration.

The board and the department ~~of Professional and Occupational Regulation~~ support and fully comply with the provisions of the Americans with Disabilities Act (ADA), 42 USC § 12101 et seq. Contracts between the board, department, and the vendors for examinations contain ~~the necessary~~ provisions for compliance with the ADA. Requests for accommodations must be in writing and received by the board within a reasonable time before the examination. The board may require a report from ~~a medical professional~~ professional along with supporting data confirming the nature and extent of the disability. It is the responsibility of the applicant to provide the required information in a timely manner and the costs for providing such information are the responsibility of the applicant. The board ~~shall will~~ determine, consistent with applicable law, what, if any, accommodations will be made.

18 VAC 10-20-75. Conduct at examination.

Examinees will be given specific instructions as to the conduct of each division of the exam at the exam site. Examinees are required to follow these instructions to assure fair and equal treatment to all examinees during the course of the examination. Evidence of misconduct may result in removal from the examination site, voided examination scores, or both.

18 VAC 10-20-80. Dishonored checks. (Repealed.)

~~In the event that a check, money draft or similar instrument for payment of a fee required by statute or regulation is not honored by the bank or financial institution named, the applicant or regulant shall be required to remit fees sufficient to cover the original fee, plus an additional processing charge specified in the regulations.~~

18 VAC 10-20-85. Examination on regulations.

All applicants for licensure or certification must achieve a passing score on a board-supplied examination pertaining to the board's regulations and relevant statutes. The examination will be provided as part of the application.

18 VAC 10-20-90. Fee schedule.

All fees are nonrefundable and shall not be prorated.

Application	\$75
Renewal	\$55
Dishonored checks	\$25

18 VAC 10-20-110. Education.

A. All applicants for original licensure shall hold a professional degree in architecture ~~where the degree from a program has been~~ accredited by the National Architectural Accrediting Board (NAAB) not later than two years after the applicant's graduation from said program.

B. Foreign degrees must be evaluated for equivalency to a NAAB-accredited degree. The board reserves the right to reject, for good cause, any evaluation submitted. Any cost of translation and evaluation ~~will~~ shall be borne by the applicant.

18 VAC 10-20-120. Experience.

A. The successful completion of the National Council of Architectural Registration Boards (NCARB) Intern Development Program (NCARB-IDP) shall be required of all applicants for original licensure. ~~An applicant shall be enrolled in NCARB IDP for a period of one year or more prior to submitting an application for original licensure in Virginia.~~ IDP training requirements shall be in accordance with ~~the National Council of Architectural Registration Boards'~~ NCARB's Handbook for Interns and Architects, [2001-2002 2006-2007] Edition.

B. All applicants must have a minimum of 36 months experience/training prior to submitting an application for examination. Any experience/training of less than ~~[40 eight]~~ consecutive weeks will not be considered in satisfying this requirement.

C. All applicants must have a minimum of 12 months experience/training in architecture as an employee in the office of a licensed architect prior to submitting an

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application for examination. An organization will be considered to be an office of a licensed architect if:

1. The architectural practice of the organization in which the applicant works is under the charge of a person practicing as a principal, where a principal is a licensed architect in charge of an organization's architectural practice either alone or with other licensed architects, and the applicant works under the direct supervision of a licensed architect; and
2. The practice of the organization encompasses the comprehensive practice of architecture, including the categories set forth in the NCARB IDP requirements.

18 VAC 10-20-130. References.

Eligibility for licensure is determined in part by the applicant's demonstrated competence and integrity to engage in the practice of architecture. Applicants shall submit three references with the application, all of whom are licensed architects in a jurisdiction or territory of the United States or a province of Canada. In addition to the requirements found in 18 VAC 10-20-25, these professionals shall have personal knowledge of the applicant's architectural experience and have known the applicant for at least one year. References shall be current for one year. Individuals who provide references may not also verify experience/training.

18 VAC 10-20-140. Examination.

A. All applicants for original licensure in Virginia are required to pass an NCARB-prepared examination after meeting the education and experience/training requirements as provided in this chapter. Provided all other requirements are met, a license as an architect will be issued upon passing the NCARB examination.

B. The Virginia board is a member board of ~~the National Council of Architectural Registration Boards (NCARB)~~ and as such is authorized to make available the NCARB-prepared examination.

C. Grading of the examination shall be in accordance with the national grading procedure administered by NCARB. The board shall utilize the scoring procedures recommended by NCARB. [Grades for each division of the examination passed on or after January 1, 2006, shall be valid in accordance with the procedure established by NCARB.]

D. The NCARB-prepared examination will be offered at least once a year at a time designated by the board.

E. The board may approve transfer credits for parts of the NCARB-prepared examination taken [and passed] in accordance with national standards.

F. Unless otherwise stated, applicants approved to sit for an examination shall register and submit the required examination fee. Applicants not properly registered ~~shall~~ will not be allowed into the examination site.

G. Applicants approved to sit for the examination shall follow NCARB procedures.

H. Examinees will be ~~advised only~~ notified by the board of passing or failing the examination. ~~Only the board and its staff shall have access to documentation.~~

I. Should an applicant ~~not fail to~~ fail to pass the NCARB-prepared examination within three years after being approved to sit for the examination, the applicant must reapply. If the applicant has not been taking the examination on a continuous basis during the three-year eligibility period, ~~and the applicant does not or fails to~~ reapply within six months of after the end of his the three-year eligibility period, or both, then the applicant shall meet the entry requirements current at the time of reapplication.

18 VAC 10-20-150. License Licensure by comity.

A. Any person who is or has been licensed in another state, jurisdiction, possession or territory of the United States, or a province of Canada, may be granted a license provided that:

1. The applicant meets all the requirements for licensing in Virginia that were in effect at the time of the original licensure or the applicant possesses an NCARB certificate; and
2. The applicant holds a ~~currently an~~ active valid license in good standing in another state, jurisdiction, possession or territory of the United States, or a province of Canada.

If the applicant does not possess an NCARB certificate, or does not meet the requirements for licensure in Virginia that were in effect at the time of original licensure, the applicant shall be required to meet the entry requirements current at the time the completed application for comity is received in the board's office.

B. Applicants licensed in foreign countries other than Canada may be granted a license in Virginia based on an NCARB certificate.

18 VAC 10-20-160. Definitions.

The following ~~definitions shall apply in the regulations relating to the licensing of professional engineers words, terms, and phrases when used in this part shall have the meanings ascribed to them except where the context clearly indicates or requires different meanings:~~

"ABET" means the Accreditation Board for Engineering and Technology.

"Approved engineering curriculum" means an undergraduate engineering curriculum of four years or more, or a graduate engineering curriculum, approved by the board. ABET-approved engineering curricula are approved by the board. Curricula that are accredited by ABET not later than two years after an applicant's graduation shall be deemed as ABET approved.

~~"Approved engineering experience" means a specific record of acceptable professional experience which the board, in its discretion, judges to be pertinent in acquiring engineering skills, on engineering projects of a grade and character indicating that the applicant may be competent to practice engineering.~~

"Approved engineering technology curriculum" means an undergraduate engineering technology curriculum of four years or more approved by the board. ABET-approved engineering technology curricula of four years or more are approved by the board. Curricula that are accredited by ABET not later than two years after an applicant's graduation shall be deemed as ABET approved.

~~"Engineering examination" means an NCEES examination in the Fundamentals of Engineering and an NCEES examination in the Principles and Practice of Engineering where required.~~

"Engineer-in-training (EIT)" means an applicant who has completed any one of several combinations of education, or education and experience, and has passed the Fundamentals of Engineering examination.

"Related science curriculum" includes, but is not limited to, a four-year curriculum in biology, chemistry, geology, geophysics, mathematics, physics, or other curriculum approved by the board.

~~"Qualifying engineering experience" means a specific record of engineering experience which the board, in its discretion,~~

judges to be pertinent in acquiring engineering skills, on engineering projects of a grade and character indicating that the applicant may be competent to practice engineering progressive experience on engineering work during which the applicant has made a practical utilization of acquired knowledge and has demonstrated progressive improvement, growth, and development through the utilization of that knowledge as revealed in the complexity and technical detail of the applicant's work product or work record. The applicant must show progressive assumption of greater individual responsibility for the work product over the relevant period. The progressive experience on engineering work shall be of a grade and character that indicates to the board that the applicant is minimally competent to practice engineering. Qualifying engineering experience shall be progressive in complexity and based on a knowledge of engineering mathematics, physical and applied sciences, properties of materials, and fundamental principles of engineering design.

18 VAC 10-20-170. Fee schedule.

All fees are nonrefundable and shall not be prorated.

Fundamentals of Engineering Application	\$30
Principles of Engineering Application	\$60
Renewal	\$80
Comity	\$60
FE/PE out-of-state proctor	\$100
Dishonored check	\$25

18 VAC 10-20-190. Requirements for the Fundamentals of Engineering (FE) exam.

In order to be approved to sit for the FE examination, an applicant must satisfy one of the following:

EDUCATIONAL REQUIREMENTS	NUMBER OF REQUIRED YEARS OF PROGRESSIVE, QUALIFYING ENGINEERING EXPERIENCE
1. <u>(i) Enrolled in an ABET-accredited undergraduate curriculum and within 12 months of completion of degree requirements; or (ii) enrolled in an ABET-accredited graduate master's or doctorate curriculum, or enrolled in a graduate curriculum that is ABET accredited at the undergraduate level at the institution at which the graduate degree is being sought, and within six months of completion of graduate degree requirements. In order to be considered pursuant to clause (i) or (ii) of this subdivision, all applications must be accompanied by a certificate of good standing from the dean of the engineering school.</u>	0
2. Graduated from an approved engineering or an approved engineering technology curriculum.	0
3. Obtained an undergraduate engineering degree of four years or more from an institution in a curriculum without ABET accreditation and <u>obtained a graduate-level master's or doctorate engineering degree from an institution in a curriculum that is ABET accredited at the undergraduate level.</u>	0
4. Graduated from a nonapproved engineering curriculum or <u>from</u> a related science curriculum of four years or more.	2
5. Graduated from a nonapproved engineering technology curriculum or not graduated from an engineering or related science curriculum of four years or more Not meeting any of the above	6

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requirements, but who, in the judgment of the board, has obtained the equivalent of such ~~graduation~~ education by documented academic course work that meets the requirements of ABET accreditation for the baccalaureate engineering technology curricula.

18 VAC 10-20-200. Requirements for engineer-in-training (EIT) designation.

An applicant who is qualified to sit for the FE examination under subdivision 1 of 18 VAC 10-20-190 must provide verification of his degree prior to receiving the EIT designation. All other applicants who qualify to sit for the FE examination under subdivisions 2 through 5 of 18 VAC 10-20-190 will receive the EIT designation upon achieving a passing examination score as established by the National Council of Examiners for Engineering and Surveying (NCEES). The EIT designation will remain valid indefinitely.

18 VAC 10-20-210. Requirements for the Principles of Engineering (PE) examination.

In order to be approved to sit for the PE examination, an applicant must satisfy one of the following:

EDUCATIONAL REQUIREMENTS	EIT REQUIRED?	NUMBER OF REQUIRED YEARS OF PROGRESSIVE, QUALIFYING ENGINEERING EXPERIENCE
1. Graduated from an approved engineering curriculum of four years or more.	YES	4
2. Awarded both <u>Graduated from</u> an ABET-accredited undergraduate engineering degree curriculum and <u>awarded</u> a doctorate degree in engineering from an engineering curriculum which is ABET-accredited at the undergraduate level.	NO	4
3. Graduated from a nonapproved engineering curriculum <u>of four years or more</u> , a related science curriculum, or an approved engineering technology curriculum, all of which shall be four years or more.	YES	6
4. Graduated from a nonapproved engineering technology curriculum of four years or more; or without graduation from an engineering or related science curriculum of four years or more but who, in the judgment of the board, has obtained the equivalent of such graduation by documented academic course work that meets the requirements of ABET accreditation for the engineering technology curricula.	YES	10
5. Not meeting any of the above requirements, but who, in the judgment of the board, has obtained the equivalent of such education by documented academic course work that meets that requirements of ABET accreditation for the baccalaureate engineering technology curricula.	<u>YES</u>	<u>10</u>
5. <u>6.</u> Graduated from an engineering, engineering technology, or related science curriculum of four years or more.	NO	20

18 VAC 10-20-215. Requirements for the PE license.

In order to obtain the Professional Engineer license, an applicant must satisfy the requirements of at least one subsection of 18 VAC 10-20-210 and pass the PE examination. An applicant will receive his license to practice engineering upon achieving a passing examination score as established by NCEES.

18 VAC 10-20-220. References.

In addition to the requirements found in 18 VAC 10-20-25:

A. References for Fundamentals of Engineering examination:

1. Applicants for the Fundamentals of Engineering examination only shall provide one reference from a professional engineer, or from the dean of the engineering school or a departmental professor in the school attended

by the applicant, or an immediate work supervisor. Any reference provided shall be from a person who has known the applicant for at least one year. Individuals who provide references may not also verify qualifying experience. References shall be no more than one year old at the time the application is received.

~~B. References for Principles and Practice of Engineering examination.~~

~~2. Applicants for the Principles and Practice of Engineering examination must indicate competence and integrity to engage in the engineering profession by submitting three references from professional engineers licensed in a state or territory or possession of the United States [, or the District of Columbia,] each having personal knowledge of the applicant's engineering experience and having known the applicant for at least one year. References shall be no more than one year old at the time the application is received. Individuals who provide references may not also verify qualifying experience.~~

C. References for comity applicants.

3. Applicants for comity shall submit must indicate competence and integrity to engage in the engineering profession by submitting three references with the application, all of whom are licensed from professional engineers licensed in a jurisdiction or state, territory, or possession of the United States. These professionals shall have each having personal knowledge of the applicant's engineering experience and have known the applicant for at least one year. Individuals who provide references may not also verify qualifying experience. References shall be no more than one year old at the time the application is received.

18 VAC 10-20-230. Education.

Any applicant who has earned a degree from an institution outside the United States shall have the degree authenticated and evaluated by an educational credential evaluation service or by ABET if credit for such education is sought, unless the applicant has also earned an equivalent or higher level engineering degree from a United States institution where the program has been accredited by ABET. The board reserves the right to reject, for good cause, any evaluation submitted by the applicant.

18 VAC 10-20-240. Experience.

~~Qualifying engineering experience shall be progressive in complexity and based on a knowledge of engineering mathematics, physical and applied sciences, properties of materials, and fundamental principles of engineering design, provided:~~

~~1. In general, experience in sales, drafting, estimating, field surveying, nonengineering military service, and inspection are considered nonqualifying;~~

Applicants shall submit a written narrative or narratives, on the board provided application form, documenting all of the applicant's engineering experience. Such narrative or narratives shall: clearly describe the engineering work that the applicant personally performed; delineate the role of the applicant in any group engineering activity; provide an overall description of the nature and scope of work; and include a detailed description of the engineering work personally performed by the applicant. Experience in claims consulting, drafting, estimating, and field surveying are considered nonqualifying.

In general, the required experience shall be applied as follows:

1. Construction experience, in order to be qualifying, must include a demonstrated use of engineering computation and problem-solving skills. The mere execution as a contractor of work designed by others, the supervision of construction, and similar nonengineering tasks will not be considered qualifying experience.

2. Military experience, in order to be qualifying must have been spent in engineering work and must be of a character substantially equivalent to that required in the civilian sector for like work. Nonengineering military training and supervision will not be considered qualifying experience.

3. Sales experience, in order to be qualifying, must include a demonstrated use of engineering computational and problem-solving skills. The mere selection of data or equipment from a company catalogue or similar publication or database will not be considered qualifying experience.

4. Industrial experience, in order to be qualifying, should be directed toward the identification and solution of practice problems in the applicant's area of engineering specialization. This experience should include engineering analysis of existing systems or the design of new ones.

~~2. 5. Engineering experience gained by successfully completing a graduate engineering study degree or by engineering teaching as an instructor or higher in an institution approved by the board may be deemed qualifying engineering experience;~~

a. Successful completion of a master's or doctorate degree in an engineering curriculum may be accepted as one year of equivalent engineering experience credit.

b. For teaching experience to be considered by the board, the applicant must have taught in an engineering curriculum approved by the board and must have been employed in the grade of instructor or higher.

~~3. 6. Engineering experience gained during a board-approved co-op program may be deemed qualifying~~

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engineering experience to a maximum of one year of credit;

4. 7. The board, in its sole discretion, may permit partial credit, not to exceed 1/2 of that required, for approved qualifying engineering experience obtained prior to graduation from an engineering curriculum.

18 VAC 10-20-260. Examinations.

A. The Virginia board is a member board of ~~the National Council of Examiners for Engineering and Surveying (NCEES)~~ and as such is authorized to administer the NCEES examinations.

B. The Fundamentals of Engineering examination consists of ~~a an~~ NCEES exam on the fundamentals of engineering ~~and is given at times designated by the board.~~

C. The Principles and Practice of Engineering examination consists of ~~a an~~ NCEES exam on applied engineering ~~and is given at times designated by the board.~~

D. Unless otherwise stated, applicants approved to sit for an examination shall register and submit the required examination fee to be received in the board office, or by the board's designee, at a time designated by the board. Applicants not properly registered ~~shall~~ will not be allowed into the examination site.

E. A candidate eligible for admission to both parts of the examination must first successfully complete the fundamentals of engineering examination before being admitted to the principles and practice of engineering examination.

F. ~~Grading of the examinations shall be in accordance with national grading procedures established by NCEES.~~

~~Each part of the written examination will have a value of 100. A passing score shall be 70 and above. Candidates will be notified of passing or failing and their actual scores.~~

~~G. F.~~ Should an applicant ~~not~~ fail to pass an examination within three years after being approved to sit for an examination, the applicant must reapply and meet all current entry requirements at the time of reapplication.

~~H. G.~~ The examination may not be reviewed by the candidates. Examination scores are final and are not subject to change.

18 VAC 10-20-270. ~~License~~ Licensure by comity.

A person in good standing and holding a valid license to engage in the practice of engineering, issued to the applicant by other states in another state, the District of Columbia, or any territory or possession of the United States ~~based on requirements that do not conflict with and are at least as rigorous as these regulations and supporting statutes of this board that were in effect at the time of original licensure,~~ may be licensed ~~without further examination,~~ provided the

applicant submits verifiable documentation to the board that the education, experience, and examination requirements by which the applicant was first licensed in the original jurisdiction were substantially equivalent to those existing in Virginia at the time of the applicant's original licensure. No person shall be so licensed, however, who has not passed an examination in another jurisdiction ~~which that~~ that was substantially equivalent to that approved by the board at ~~that~~ the time of the applicant's original licensure. If the applicant does not meet the requirements for licensure in Virginia that were in effect at the time of original licensure, the applicant shall be required to meet the entry requirements current at the time the completed application for comity is received in the board's office.

18 VAC 10-20-280. Fee schedule.

All fees are nonrefundable and shall not be prorated.

Application for Fundamentals of <u>Land</u> Surveying	\$60
Application for Principles <u>and Practice of Land</u> Surveying	\$90
Application for Land Surveyor B	\$90
Renewal	\$90
Comity	\$90
Out-of-state proctor	\$100
Dishonored check	\$25

18 VAC 10-20-295. Definitions.

"Approved land surveying experience" means ~~diversified training in land surveying under the supervision and direction of a licensed land surveyor or under the supervision and direction of an individual authorized by statute to practice land surveying.~~ This experience shall have been acquired in positions requiring the exercise of independent judgment, initiative and professional skill in the office and field and written verification of such work experience shall be on forms provided by the board. Experience may be gained either prior to or after education is obtained a record of progressive experience under the direct control and personal supervision of a licensed land surveyor, or an individual authorized by statute to practice land surveying, on land surveying work during which the applicant has made practical utilization of acquired knowledge and has demonstrated continuous improvement, growth, and development through the utilization of that knowledge as revealed in the complexity and technical detail of the applicant's work product or work record. The applicant must show continuous assumption of greater individual responsibility for the work product over the relevant period. The progressive experience on land surveying work shall be of a grade and character that indicates to the board that the applicant is minimally competent to practice land surveying. Notwithstanding the definition of "approved land surveying experience," the requirements set forth in 18 VAC 10-20-310 shall not be waived.

18 VAC 10-20-300. Requirements for land surveyor-in-training (LSIT SIT) designation.

~~The education or experience, or both, and examination requirements for the LSIT designation are as follows: In order to be approved to sit for the Fundamentals of Land Surveying examination (FLS), an applicant must satisfy the following:~~

1. An applicant who has graduated from, or is enrolled in, a ~~board approved~~ surveying or surveying technology curriculum of four years or more approved by the board and is within 12 months of completion of degree requirements ~~is eligible for~~ shall be admitted to an examination in the Fundamentals of Land Surveying examination, provided the applicant is otherwise qualified. Upon passing such examination, and providing evidence of graduation, the applicant ~~will~~ shall receive the LSIT SIT designation, provided the applicant is otherwise qualified. For those applicants who are within 12 months of completion of degree requirements, their application must be accompanied by a certificate of good standing from the dean of the school;
2. An applicant who has graduated from a curriculum ~~of four years or more~~ related to surveying ~~as of four years or more~~ approved by the board and with a ~~specific record~~ minimum of one year of approved land surveying experience shall be admitted to an examination in the Fundamentals of Land Surveying, provided the applicant is otherwise qualified. Upon passing such examination, the applicant shall receive the LSIT SIT designation, provided the applicant is otherwise qualified;
3. An applicant who has earned at least a four-year bachelor's degree in a field unrelated to surveying ~~approved by the board~~ and with a ~~specific record~~ minimum of three years of approved land surveying experience ~~that is progressive in complexity.~~ The applicant shall be admitted to an examination in the Fundamentals of Land Surveying, provided the applicant is otherwise qualified. Upon passing such examination, the applicant shall receive the LSIT SIT designation, provided the applicant is otherwise qualified;
4. An applicant who has graduated from a surveying curriculum of two years or more approved by the board with a ~~specific record~~ minimum of four years of approved land surveying experience ~~that is progressive in complexity~~ shall be admitted to an examination in the Fundamentals of Land Surveying, provided the applicant is otherwise qualified. Upon passing such examination, the applicant shall receive the LSIT SIT designation, provided the applicant is otherwise qualified;
5. An applicant who has successfully completed a survey apprenticeship program approved by the board with ~~at least~~ a minimum of 480 hours of surveying-related classroom

~~instruction with a specific record~~ minimum of six years of approved land surveying experience ~~that is progressive in complexity~~ shall be admitted to an examination in the Fundamentals of Land Surveying, provided the applicant is otherwise qualified. Upon passing such examination, the applicant shall receive the LSIT SIT designation, provided the applicant is otherwise qualified; or

6. An applicant who has graduated from high school and who has evidence of successful completion of courses in algebra, geometry and trigonometry with a ~~specific record~~ minimum of eight years of approved land surveying experience ~~that is progressive in complexity~~ shall be admitted to an examination in the Fundamentals of Land Surveying, provided the applicant is otherwise qualified. Upon passing such examination, the applicant shall receive the LSIT SIT designation, provided the applicant is otherwise qualified.

7. Applicants who have accumulated college credits may apply credit hours approved by the board to help meet the experience requirement. A maximum of one year of experience credit will be given for each 40 semester hours approved college credit.

18 VAC 10-20-310. Requirements for a licensed land surveyor.

An LSIT SIT who, after meeting the requirements of 18 VAC 10-20-300, has a ~~specific record~~ minimum of four years of approved land surveying experience ~~of which a minimum of three years experience has been progressive in complexity,~~ and has been ~~on~~ land surveying projects under the direct control and personal supervision of a licensed land surveyor, shall be admitted to an examination in the Principles and Practice of Land Surveying and the Virginia state-specific examination, provided the applicant is otherwise qualified. Upon passing such examination, the applicant shall be granted a license to practice land surveying, provided the applicant is otherwise qualified.

18 VAC 10-20-320. Requirements for a licensed land surveyor B.

A. An applicant shall hold a valid license as a land surveyor and present satisfactory evidence of a minimum of two years of land surveying experience that is progressive in complexity in land surveyor B land surveying, as defined in § 54.1-408 of the Code of Virginia, under the direct control and personal supervision ~~and direction~~ of a licensed land surveyor B or professional engineer.

B. An applicant shall also present satisfactory evidence of having passed college-level courses in hydraulics acceptable to the board.

C. An applicant shall pass an examination as developed by the board. Upon passing such examination, the applicant

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shall be granted a license as a Land Surveyor B ~~if he is,~~ provided the applicant is otherwise qualified.

18 VAC 10-20-330. Education.

Any applicant who has attended an institution ~~not located in~~ outside of the United States shall have his degree authenticated and evaluated by an education evaluation service approved by the board if credit for such education is sought. The board reserves the right to reject, for good cause, any evaluation submitted by the applicant. Any cost of evaluation shall be borne by the applicant.

18 VAC 10-20-340. Experience standards.

An applicant shall submit written verification from each employment engagement that has been gained under the direct control and personal supervision of a licensed land surveyor or an individual authorized by statute to practice land surveying ~~of work experience from each employment engagement utilized as land surveying experience~~ on forms provided by the board to be considered by the board as approved land surveying experience.

18 VAC 10-20-350. ~~Examinations; grading; reexamination.~~

~~A. The examination for land surveying under § 54.1-400 of the Code of Virginia shall consist of two parts. Part I shall consist of the Fundamentals of Land Surveying. Part II shall consist of an examination in the Principles and Practice of Land Surveying and a Virginia state specific examination. These examinations shall be given semiannually at times designated by the board. The Fundamentals of Land Surveying examination consists of the National Council of Examiners for Engineering and Surveying (NCEES) examination on the fundamentals of land surveying.~~

~~B. The Principles and Practice of Land Surveying examination consists of an NCEES examination on applied land surveying and a Virginia state-specific examination.~~

~~B. C.~~ The examination for land surveying under § 54.1-408 of the Code of Virginia (Land Surveyor B) shall be given at times designated by the board.

~~C. D.~~ Unless otherwise stated, applicants approved to sit for an examination must register and submit the required examination fee to be received in the board office, or by the board's designee, at a time designated by the board. Applicants not properly registered ~~shall~~ will not be allowed into the examination site.

~~D. Candidates~~ E. Applicants shall be notified by the board of passing or failing the examination but shall not be notified of actual scores. Only the board and its staff shall have access to examination papers, scores, and answer sheets. Examinations may not be reviewed.

~~E. F.~~ Should the applicant ~~not~~ fail to pass an examination within three years after being authorized to take the

examination, the applicant must reapply and meet all current entry requirements at the time of reapplication.

18 VAC 10-20-360. Licensure by comity.

A person in good standing and holding a current valid license to engage in the practice of land surveying, ~~issued to the applicant by other states in another state,~~ the District of Columbia, or any territory or possession of the United States ~~based on requirements that do not conflict with and are at least as rigorous as these regulations and supporting statutes of this board that were in effect at the time of original licensure,~~ may be licensed without further examination except for the Virginia state specific examination, provided the applicant submits verifiable documentation to the board that the education, experience, and examination requirements by which the applicant was first licensed in the original jurisdiction were substantially equivalent to those existing in Virginia at the time of the applicant's original licensure. No person shall be so licensed, however, who has not passed an examination in another jurisdiction that was substantially equivalent to that approved by the board ~~at that the time of the applicant's original licensure.~~ If the applicant does not meet the requirements for licensure in Virginia that were in effect at the time of original licensure, the applicant shall be required to meet the entry requirements current at the time the completed application for comity is received in the board's office. All applicants shall be required to pass a written Virginia state-specific examination. The examination shall include questions on law, procedures and practices pertaining to land surveying in Virginia.

18 VAC 10-20-370. Minimum standards and procedures for land boundary surveying practice.

A. The minimum standards and procedures set forth in this section are to be used for land boundary surveys performed in the Commonwealth of Virginia. The application of the professional's seal, signature and date as required by these regulations shall be evidence that the land boundary survey is correct to the best of the professional's knowledge, information, and belief, and complies with the minimum standards and procedures set forth in this chapter.

B. Research procedure. The professional shall search the land records for the proper description of the land to be surveyed and obtain the description of adjoining ~~land~~ land(s) as it pertains to the common boundaries. The professional shall have the additional responsibility to utilize any such other available data pertinent to the survey being performed from any other ~~source that is known~~ sources(s). Evidence found, from all known sources, including evidence found in the field, shall be carefully compared ~~with that located and found in the field survey~~ in order to aid in the establishment of the correct boundaries of the land being surveyed. The professional shall clearly ~~note~~ identify on the plats, maps, and reports inconsistencies found in the research of common boundaries between the land being surveyed and the

adjoining ~~land~~ land(s). It is not the intent of this regulation to require the professional to research the question of title or encumbrances on the land involved.

C. Minimum field procedures.

1. Angular measurement. Angle measurements made for traverse or land boundary survey lines will be made by using a properly adjusted transit-type instrument which allows a direct reading to a minimum accuracy of 30 seconds of arc or metric equivalent. The number of angles turned at a given station or corner will be the number which, in the judgment of the professional, can be used to substantiate the average true angle considering the condition of the instrument being used and the existing field conditions.

2. Linear measurement. Distance measurement for the lines of traverse or lines of the land boundary survey shall be made with metal tapes which have been checked and are properly calibrated as to incremental distances, or with properly calibrated electronic distance measuring equipment following instructions and procedures established by the manufacturer of such equipment. All linear measurements shall be reduced to the horizontal plane, and other necessary corrections shall be performed before using such linear measurements for computing purposes.

3. Field traverse and land boundary closure and accuracy standards. ~~a. For a land boundary survey located in a rural area, the maximum permissible error of closure for a field traverse in connection with a land boundary survey located in a rural area shall be one part in 10,000 (1/10,000). The attendant angular closure shall be that which will sustain the one part in 10,000 (1/10,000) maximum error of closure. For a land boundary survey located in an urban area, the maximum permissible error of closure for a traverse in connection with a land boundary survey located in an urban area shall be one part in 20,000 (1/20,000). The attendant angular closure shall be that which will sustain the one part in 20,000 (1/20,000) maximum error of closure.~~

~~b.~~ The maximum permissible positional uncertainty based on the 95% confidence level of any independent boundary corner or independent point located on a boundary that has been established by utilizing global positioning systems ~~will~~ shall not exceed the positional tolerance of 0.07 feet (or 20 mm + 50 ppm).

4. Monumentation. As a requisite for completion of the work product, each land boundary survey of a tract or parcel of land shall be monumented with objects made of permanent material at all corners and changes of direction on the land boundary with the exceptions of meanders, such as meanders of streams, tidelands, lakes, swamps and prescriptive ~~road~~ rights-of-way², and each such monument,

other than a natural monument, shall, when feasible, be identified by a temporary witness ~~stake (which may be wooden)~~ marker. Where it is not feasible to set actual corners, appropriate reference monuments shall be set, preferably on line, and the location of each shall be shown on the plat or map of the land boundary.

All boundaries, both exterior and interior, of the original survey for any division or partition of land shall be monumented in accordance with the provisions of this subdivision, when such monumentation is not otherwise regulated by the provisions of a local subdivision ordinance.

5. For land boundary surveys providing for a division when only the division, in lieu of the entire parcel, is being surveyed, any new corners established along existing property lines shall require that those existing property lines be established through their entire length. This shall include the recovery or reestablishment of the existing corners for each end of the existing property lines.

D. Office procedures.

1. Computations. The computation of field work data shall be accomplished by using the mathematical routines that produce closures and mathematical results that can be compared with descriptions and data of record. Such computations shall be used to determine the final land boundary of the land involved.

2. Plats and maps. The following information shall be shown on all plats or maps, or both, used to depict the results of the land boundary survey:

a. The title of the land boundary plat identifying the land surveyed and showing the district, town, and county or city in which the land is located and scale of drawing.

b. The name of the owner of record and deed book reference where the acquisition was recorded.

c. Names of all adjoining owners of record with deed book references, or subdivision lot designations.

d. The professional shall clearly note inconsistencies found in the research of common boundaries between the land being surveyed and the adjoining land(s).

~~d. e.~~ Names of highways and roads with route number, and widths of right-of-way, or distance to the center of the physical pavement and pavement width, name of railroads, streams adjoining ~~or running through the land, crossing, or in close proximity to the boundary~~ and other prominent or well-known objects ~~or areas which that~~ are informative as to the location of the land boundary survey ~~including but not limited to a distance to the nearest road intersection, or prominent or well-known object. In cases of remote areas, a scaled position with the latitude and longitude must be provided.~~

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f. A distance to the nearest road intersection, or prominent or well-known object. In cases of remote areas, a scaled position with the latitude and longitude must be provided.

g. Items crossing any property lines such as, but not limited to, physical encroachments, and evidence of easements such as utilities and other physical features pertinent to the boundary of the property.

e. h. Bearings of all property lines and meanders to nearest 10 seconds of arc; or metric equivalent.

f. i. Adequate curve data to accomplish mathematical closures.

g. j. Distances of all property lines and meanders to the nearest one hundredth (.01) of a foot or metric equivalent.

k. Pursuant to subdivision C 5 of this section, the bearing and distances from the new corners to the existing corners on each end of the existing property lines.

h. l. For property located in rural areas, area to the nearest hundredth (.01) of an acre or metric equivalent for rural located surveys.

i. m. For property located in urban areas, area to the nearest square foot or thousandth (0.001) of an acre or metric equivalent for urban located surveys.

j. n. North arrow and source of meridian used for the survey.

k. o. For interior surveys, a reference bearing and distance to a property corner of an adjoining owner or other prominent object, including, but not limited to, intersecting streets or roads.

l. p. Tax map designation or geographic parcel identification number if available.

m. q. Description of each monument found and each monument set by the professional.

n. r. A statement that the land boundary survey shown is based on a current field survey. The application of the land surveyor's seal, signature and date shall constitute compliance with all the current standards of a land boundary survey as of the date of the application of signature unless otherwise clearly stated in the title of the plat that the plat is to be construed otherwise.

s. A statement as to whether or not a current title report has been furnished to the professional.

o. t. If the land boundaries shown on the plat are the result of a compilation from deed or plats, or both, or based on a survey by others, that fact will be clearly stated and the title of the plat shall clearly depict that the plat does not represent a current land boundary survey.

u. A statement as to whether any or all easements are shown on the plat.

p. v. Name and address of the land surveyor or the registered business.

w. The professional's seal, signature and date.

3. Metes and bounds description. The professional shall prepare a metes and bounds description in narrative form, if requested by the client or ~~their~~ his agent, for completion of any newly performed land boundary survey. The description shall reflect all metes and bounds, the area of the property described, all pertinent monumentation, names of record owners or other appropriate identification of all adjoiners, and any other data or information deemed as warranted to properly describe the property. Customarily, the metes and bounds shall be recited in a clockwise direction around the property. The professional shall clearly identify in the metes and bounds description any inconsistencies found in the research of common boundaries between land being surveyed and the adjoining land(s). For subdivisions, the professional shall prepare a metes and bounds description in narrative form for only the exterior boundaries of the property.

No metes and bounds description shall be required for the verification or resetting of the corners of a lot or other parcel of land in accordance with a previously performed land boundary survey, such as a lot in a subdivision where it is unnecessary to revise the record boundaries of the lot.

18 VAC 10-20-380. Minimum standards and procedures for surveys determining the location of physical improvements; field procedures; office procedures.

A. The following minimum standards and procedures are to be used for surveys determining the location of physical improvements on any parcel of land or lot containing less than two acres or metric equivalent (sometimes also known as "building location survey," "house location surveys," "physical surveys," ~~etc.~~ and the like) in the Commonwealth of Virginia. The application of the professional's seal, signature and date as required by these regulations shall be evidence that the survey determining the location of physical improvements is correct to the best of the professional's knowledge, information, and belief, and complies with the minimum standards and procedures set forth in this ~~section~~ chapter.

B. The professional shall determine the position of the lot or parcel of land in accordance with the intent of the original survey and shall set or verify permanent monumentation at each corner of the property, consistent with the monumentation provisions of subdivision C 4 of 18 VAC 10-20-370. All such monumentation, other than natural monumentation, shall, when feasible, be identified by temporary witness markers (~~which may be wooden~~).

When the professional finds discrepancies of sufficient magnitude to warrant, in his opinion, the performance of a land boundary survey (pursuant to the provisions of 18 VAC 10-20-370), he shall so inform the client or the client's agent that such land boundary survey is deemed warranted as a requisite to completion of the physical improvements survey.

The location of the following shall be determined in the field:

1. Fences in the near proximity to the land boundary lines and other fences which may reflect lines of occupancy or possession.
2. Other physical improvements on the property and all man-made or installed structures, including buildings, stoops, porches, chimneys, visible evidence of underground features (such as manholes, catch basins, telephone pedestals, power transformers, etc.), ~~power utility lines and poles, and telephone lines and poles.~~
3. Cemeteries, if known or disclosed in the process of performing the survey; roads or travelways crossing the property which serve other properties; and streams, creeks, and other defined drainage ways.
4. Other visible evidence of physical encroachment on the property.

C. The plat reflecting the work product shall be drawn to scale and shall show the following, unless requested otherwise by the client and so noted on the plat:

1. The bearings and distances for the boundaries and the area of the lot or parcel of land shall be shown in accordance with record data, unless a current, new land boundary survey has been performed in conjunction with the physical improvements survey. If needed to produce a closed polygon, the meander lines necessary to verify locations of streams, tidelands, lakes and swamps shall be shown. All bearings shall be shown in a clockwise direction, unless otherwise indicated.
2. North arrow, in accordance with record data.
3. Fences in the near proximity to the land boundary lines and other fences which may reflect lines of occupancy or possession.
4. Improvements and other pertinent features on the property as located in the field pursuant to subsection B of this section.
5. Physical encroachment, including fences, across a property line shall be identified and dimensioned with respect to the property line.
6. On parcels where compliance with restriction is in question, provide the closest dimension (to the nearest 0.1 foot) or metric equivalent) from the front property line, side property line, and if pertinent, rear property line to the principal walls of each building. Also, all principal

building dimensions (to the nearest 0.1 foot) or metric equivalent).

7. Building street address numbers, as displayed on the premises, or so noted if no numbers are displayed.
8. Stoops, decks, porches, chimneys, balconies, floor projections, and other similar type features.
9. Street name(s), as posted or currently identified, and as per record data, if different from posted name.
10. Distance to nearest intersection, based upon record data. If not available from record data, distance to nearest intersection may be determined from best available data, and so qualified.
11. Building restriction or setback line(s) per restrictive covenants, if shown or noted on the record subdivision plat.
12. The caption or title of the plat shall include the type of survey performed; lot number, block number, section number, and name of subdivision, as appropriate, or if not in a subdivision, the name(s) of the record owner; town or county, or city; date of survey; and scale of drawing.
13. Adjoining property identification.
14. Easements and other encumbrances set forth on the record subdivision plat, and those otherwise known to the professional.
15. A statement as to whether or not a current title report has been furnished to the professional.
- ~~16.~~ 16. The professional shall clearly note inconsistencies found in the research of common boundaries between the land being surveyed and the adjoining land(s).
- ~~17.~~ 17. Professional's seal, signature and date.
- ~~18.~~ 18. Name and address of the land surveyor or registered business.

D. Notwithstanding the monumentation provisions of subsection B of this section or any other provision of these regulations, a professional, in performing a physical improvements survey, shall not be required to set corner monumentation on any property when corner monumentation is otherwise required to be set pursuant to the provisions of a local subdivision ordinance as mandated by § 15.2-2240 of the Code of Virginia, or by subdivision A 7 of § 15.2-2241 of the Code of Virginia, or where the placing of such monumentation is covered by a surety bond, cash escrow, set-aside letter, letter of credit, or other performance guaranty. When monumentation is not required, the surveyor shall clearly note on the plat "no corner markers set" and the reason to include name of guarantors.

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E. Notwithstanding anything to the contrary in this chapter, this chapter shall be construed as to comply in all respects with § 54.1-407 of the Code of Virginia.

F. In no event may this chapter be interpreted or construed to require the professional to perform work of a lesser quality or quantity than that which is prudent or warranted under the existing field conditions and circumstances.

18 VAC 10-20-390. Geodetic surveys.

All geodetic surveys, including the determination and publication of horizontal and vertical values utilizing Global Positioning Systems (GPS), which relate to the practice of land surveying as defined in § 54.1-400 of the Code of Virginia, shall be performed under the direct control and personal supervision of a licensed land surveyor as defined in Part I of these regulations.

18 VAC 10-20-400. Fee schedule.

All fees are nonrefundable and shall not be prorated.

Application	\$125
Renewal	\$110
Out of state proctor	\$100
Dishonored checks	\$25

18 VAC 10-20-420. Requirements for certification.

The ~~education or experience, or both, and examination~~ requirements for certification as a landscape architect are as follows:

1. An applicant who has graduated from an accredited landscape architecture curriculum approved by the Landscape Architectural Accreditation Board shall be admitted to a CLARB-prepared examination ~~or equivalent approved by the board~~. Upon passing such examination, the applicant shall be certified as a landscape architect, if otherwise qualified; or
2. An applicant who has obtained eight years of combined education and experience, evaluated in accordance with the Landscape Architect Equivalency Table, shall be admitted to a CLARB-prepared examination ~~or equivalent approved by the board~~. Upon passing such examination, the applicant shall be certified as a landscape architect, if otherwise qualified.

18 VAC 10-20-440. Examination.

A. All applicants for original certification in Virginia are required to pass the CLARB-prepared examination ~~or equivalent after meeting the education and experience requirements as provided in these regulations~~.

B. The Virginia board is a member of the Council of Landscape Architectural Registration Boards (CLARB) and as such is authorized to administer the CLARB examinations.

C. The CLARB-prepared examination will be offered at least once per year at a time designated by the board.

D. Grading of the examination shall be in accordance with the national grading procedures established by CLARB. The board shall adopt the scoring procedures recommended by CLARB.

E. Unless otherwise stated, applicants approved to sit for an examination shall register and submit the required examination fee to be received in the board office ~~no later than 75 days before the next administration of the examination, or by the board's designee, at a time designated by the board~~. Applicants not properly registered ~~shall~~ will not be allowed into the examination site.

F. Examinees will be advised only of their passing or failing score and the CLARB minimum passing or failing score. Only the board and its staff shall have access to examination papers, scores, and answer sheets.

G. Upon written request to the board within 30 days of receiving examination results, examinees will be permitted to view ~~individually their own~~ the performance problems ~~for failed sections only contained within the section that they failed~~. Examination appeals are permitted in accordance with the CLARB score verification process.

H. Should an applicant ~~not fail to~~ pass an examination within three years after being approved to sit for an examination, the applicant must reapply and meet all current entry requirements at the time of reapplication.

18 VAC 10-20-450. Certification by comity.

A person in good standing and holding a current valid license or certification to engage in the practice of landscape architecture, ~~issued to the applicant by other states in another state~~, the District of Columbia, or any territory or possession of the United States ~~based on requirements that do not conflict with and are at least as rigorous as these regulations and supporting statutes of this board that were in effect at the time of original licensure~~, may be licensed ~~without further examination~~ certified, provided the applicant submits verifiable documentation to the board that the education, experience, and examination requirements by which the applicant was first licensed or certified in the original jurisdiction were substantially equivalent to those existing in Virginia at the time of the applicant's original licensure or certification. No person shall be so ~~licensed~~ certified, however, who has not passed an examination in another jurisdiction that was substantially equivalent to that approved by the board at ~~that~~ the time of the applicant's original licensure or certification. If the applicant does not meet the requirements for ~~licensure~~ certification in Virginia that were in effect at the time of original licensure or certification, the applicant shall be required to meet the entry requirements current at the time the completed application for comity is

received in the board's office or shall hold a CLARB certificate.

LANDSCAPE ARCHITECT EQUIVALENCY TABLE.
TABLE OF EQUIVALENTS FOR EDUCATION AND EXPERIENCE.

DESCRIPTIONS	Education Credits			Experience Credits	
	First 2 Years	Succeeding Years	Max. Credit Allowed	Credit Allowed	Max. Credit Allowed
A-1. Credits toward a degree in landscape architecture from an accredited school of landscape architecture.	100%	100%	4 years		
A-2. Degree in landscape architecture or credits toward that degree from a nonaccredited school of landscape architecture.	100%	100%	4 years		
A-3. Degree or credits toward that degree in an allied professional discipline, i.e., such as architecture, civil engineering, or environmental science, approved by the board.	75%	100%	3 years		
A-4. Any other bachelor degree or credits toward that degree.	50%	75%	2 years		
A-5. Qualifying experience in landscape architecture under the direct control and personal supervision of a landscape architect.				100%	no limit
A-6. Qualifying experience directly related to landscape architecture when under the direct control and personal supervision of an architect, professional engineer, or land surveyor.				50%	4 years
EXPLANATION OF REQUIREMENTS					
<p>B-1. Education Credits. Education credits shall be subject to the following conditions:</p> <p>B-1.1. Applicants with a degree specified in A-1 through A-4 will be allowed the credit shown in the Maximum Credit Allowed column, regardless of the length of the degree program.</p> <p>B-1.2. With a passing grade, 32 semester credit hours or 48 quarter hours is considered to be one year. Fractions greater than one-half year will be counted one-half year and smaller fractions will not be counted.</p>					
<p>B-2. Experience Credits. Experience credits shall be subject to the following conditions:</p> <p>B-2.1. Every applicant must earn at least two years of experience credit under category A-5.</p>					

18 VAC 10-20-460. Definitions.

The following definitions shall apply in the regulations relating to the certification of interior designers words, terms, and phrases when used in this part shall have the meanings ascribed to them except where the context clearly indicates or requires different meanings.

"Diversified experience" includes the identification, research and creative solution of problems pertaining to the function and quality of the interior environment.

"Monitored experience" means diversified experience in interior design under the direct control and personal supervision of a certified or licensed interior designer, an architect, or a professional engineer.

"Professional program approved by the board" means (i) a minimum of a four-year degree in an interior design program that has been evaluated and is deemed by the board to be substantially equivalent, at the time of the applicant's graduation, to a four-year interior design degree program from an institution accredited by [the Council for Interior Design Accreditation (CIDA), formerly known as the] Foundation of Interior Design Education Research (FIDER) or (ii) a master's degree in interior design plus a four-year degree, the combination of which has been evaluated and is deemed by the board to be substantially equivalent, at the time of the applicant's graduation, to a four-year degree program from an institution accredited by [CIDA, formerly known as] FIDER. Any cost of evaluation shall be borne by the applicant. The board reserves the right to reject, for good cause, any evaluation submitted.

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18 VAC 10-20-470. Fee schedule.

All fees are nonrefundable and shall not be prorated.

Application	\$45
Renewal	\$45
Dishonored check	\$25

18 VAC 10-20-490. Requirements for certification.

The education, experience and examination requirements for certification as an interior designer are as follows:

1. The applicant shall ~~hold be a graduate of~~ a four-year professional degree from an institution program accredited by ~~the Foundation for Interior Design Education Research [CIDA, formerly known as] (FIDER) [,]~~ not later than one year after the applicant's graduation from said program, or an equivalent accrediting organization, or a professional program approved by the board; ~~have a minimum of two years of monitored experience;~~ and have passed the board-approved examination for certification as an interior designer.

2. Monitored experience gained under the direct control and personal supervision of a professional engineer shall be reduced by 50% ~~with a maximum credit of six months.~~ The total experience credit for such experience shall not exceed six months.

18 VAC 10-20-505. Certification by comity.

~~The board may accept satisfactory evidence of licensing or certification in another state or country or the District of Columbia where the qualifications required are equal, in the opinion of the board, to those required by the provisions of this chapter as of the date of application, and in which the applicant is the holder of a license or certificate in good standing. A person in good standing and holding a valid license or certificate to engage in the practice of interior design in another state, the District of Columbia, or any territory or possession of the United States may be certified provided the applicant submits verifiable documentation to the board that the education, experience, and examination requirements by which the applicant was first licensed or certified in the original jurisdiction were equal to those existing in Virginia at the time of the applicant's original licensure or certification. No person shall be so certified, however, who has not passed an examination in another jurisdiction that was equivalent to that approved by the board at the time of the applicant's original licensure or certification. If the applicant does not meet the requirements for certification in this state that were in effect at the time of original licensure or certification, the applicant shall be required to meet the entry requirements current at the time the completed application for comity is received in the board's office. Upon receipt of such satisfactory evidence and provided all other requirements of this chapter are complied with, a certificate shall be issued to the applicant.~~

18 VAC 10-20-510. Definitions.

Section 13.1-543 of the Code of Virginia provides the definition of the following term:

Professional Corporation ("P.C.")

The following words, terms, and phrases when used in this part shall have the meanings ascribed to them except where the context clearly indicates or requires different meanings:

"Employee" of a corporation, for purposes of stock ownership, is a person regularly employed by the corporation who devotes 60% or more of his gainfully employed time to that of the corporation.

18 VAC 10-20-520. Fee schedule.

All fees are nonrefundable and shall not be prorated.

Application	\$30
Designation for branch office	\$30
Renewal	\$25
Renewal of branch office	\$25
Reinstatement of branch office	\$30
Dishonored check	\$25

18 VAC 10-20-530. Application requirements.

A. All applicants shall have been incorporated in the Commonwealth of Virginia or, if a foreign professional corporation, shall have obtained a certificate of authority to ~~do~~ conduct business in Virginia from the State Corporation Commission in accordance with § 13.1-544.2 of the Code of Virginia. The corporation shall be in good standing with the State Corporation Commission at the time of application to the board office and at all times when the registration is in effect.

B. Each application shall include certified true copies of the certificate of incorporation issued by the state of incorporation (in Virginia, such certificate issued by the State Corporation Commission), articles of incorporation, bylaws and charter, and, if a foreign professional corporation, the certificate of authority issued by the State Corporation Commission.

C. Articles of incorporation and bylaws. The following statements are required:

1. The articles of incorporation or bylaws shall specifically state that cumulative voting is prohibited.

2. ~~The bylaws shall state that at least 2/3 of the capital stock must be held by persons duly licensed to render the services of an architect, professional engineer or land surveyor, or duly certified to render the services of a landscape architect or certified interior designer. For those corporations using the title of certified interior designers and providing the services of architects, professional engineers or land surveyors, or any combination thereof, the capital stock of the corporation shall be held by individuals in accordance with § 13.1-549 of the Code of~~

Virginia. ~~The remainder of the stock may be issued only to and held by individuals who are employees of the corporation. Pursuant to § 13.1-549 of the Code of Virginia, the bylaws of a corporation rendering the services of architects, professional engineers, or land surveyors, or using the title of certified landscape architects or certified interior designers, or any combination thereof, shall provide that not less than two-thirds of its capital stock shall be issued to individuals duly licensed to render the services of architect, professional engineer, or land surveyor, or to individuals legally authorized to use the title of certified landscape architect or certified interior designer. Similarly, for those corporations using the title of certified interior designers and providing the services of architects, professional engineers or land surveyors, or any combination thereof, the bylaws shall provide that not less than two-thirds of the capital stock of the corporation shall be held by individuals who are duly licensed. The bylaws shall further provide that the remainder of said stock may be issued only to and held by individuals who are employees of the corporation whether or not such employees are licensed to render professional services or authorized to use a title. Notwithstanding the above limitations, the bylaws may provide that the corporation may issue its stock to a partnership each of the partners of which is duly licensed or otherwise legally authorized to render the same professional services as those for which the corporation was incorporated.~~

3. The bylaws shall state that nonlicensed or noncertified individuals will not have a voice or standing in any matter affecting the practice of the corporation requiring professional expertise or ~~considered in any matter constituting professional practice, or both.~~

D. Board of directors. A corporation may elect to its board of directors not more than ~~4/3~~ one-third of its members who are employees of the corporation and are not authorized to render professional services.

At least ~~2/3~~ two-thirds of the board of directors shall be licensed to render the services of an architect, professional engineer or land surveyor, or be duly certified to ~~render the services~~ use the title of a certified landscape architect or certified interior designer, or any combination thereof.

At least one director currently licensed or certified in each profession offered or practiced shall be resident at the business to provide effective supervision and control of the final professional product.

E. Joint ownership of stock. Any type of joint ownership of the stock of the corporation is prohibited. Ownership of stock by nonlicensed or noncertified employees shall not entitle those employees to vote in any matter affecting the practice of the professions herein regulated.

F. The name of the business and any assumed, fictitious, trading as, or doing business as names of the firm shall be disclosed on the application.

G. Branch offices. If professional services are offered or rendered in a branch office, a separate branch office designation form shall be completed for each branch office. Responsible persons ~~in responsible charge~~ shall be designated in accordance with this chapter. At least one currently licensed or certified ~~individual~~ responsible person in each profession offered or practiced at each branch office shall be resident at each branch office to provide effective supervision and control of the final professional product.

18 VAC 10-20-540. Certificates of authority.

Certificates of authority shall be issued by the board. The certificate of authority will permit a corporation to practice only the professions shown on its certificate of authority; ~~architecture, engineering, land surveying, certified landscape architecture, certified interior design, or any combination thereof.~~

18 VAC 10-20-550. Foreign corporations.

The bylaws shall state that the corporation's activities in Virginia shall be limited to rendering the services of architects, professional engineers, land surveyors, certified landscape architects and certified interior designers, or any combination thereof. A foreign corporation ~~is not required to comply with the provisions of 18 VAC 10-20-530-C-2~~ must meet every requirement of this chapter except the requirement that two-thirds of its stockholders be licensed or certified to perform the professional service in Virginia.

The corporation shall provide the name ~~and~~ and address, and Virginia license or certificate number of each stockholder or employee of the corporation who will be providing the professional service(s) in Virginia ~~and the Virginia license or certificate number of each stockholder or employee.~~

18 VAC 10-20-560. Amendments and changes.

A. Amendments to charter, articles of incorporation or bylaws. A corporation holding a certificate of authority to practice in one or in any combination of the professions covered in these regulations shall file with the board, within 30 days of its adoption, a certified true copy of any amendment to the articles of incorporation, bylaws or charter.

B. Change in directors or shareholders. In the event there is a change in corporate directors or shareholders, whether the change is temporary or permanent and whether it may be caused by death, resignation or otherwise, the certificate of authority shall be limited to that professional practice permitted by those pertinent licenses or certificates held by the remaining directors and shareholders of the corporation unless an employee of the firm holds the appropriate license or certificate and is competent to render such professional

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services. In the event that such change results in noncompliance with the requirements of this chapter and applicable statutes relating to ownership of capital stock or composition of the board of directors, the certificate of authority shall be suspended until such time as the corporation comes into compliance with this chapter. The corporation shall notify the board within 30 days of any such change.

C. Change of name, address and place of business. Any change of name (including assumed names), address, place of business in Virginia, or responsible person(s) ~~in responsible charge~~ of the profession(s) practiced or offered at each place of business shall be reported to the board by the registered entity within 30 days of such an occurrence. In addition, any licensed or certified employee responsible for such practice shall notify the board in writing of any changes of his employment status within ~~40~~ 30 days of such change.

18 VAC 10-20-565. Renewal of branch offices. (Repealed.)

~~Branch office registrations expire the last day of February of each even numbered year. If the renewal fee for a branch office is not received by the board within 30 days following the expiration date noted on the registration, a reinstatement fee of \$30 will be required in addition to the renewal fee.~~

18 VAC 10-20-570. Definitions.

Section 13.1-1102 of the Code of Virginia provides the definition of the following term:

Professional Limited Liability Company ("P.L.C.," "PLC," "P.L.L.C.," or "PLLC")

The following words and terms when used in this part shall have the following meanings, unless the context clearly indicates otherwise, terms, and phrases when used in this part shall have the meanings ascribed to them except where the context clearly indicates or requires different meanings:

"Manager" is a person or persons designated by the members of a limited liability company to manage the professional limited liability company as provided in the articles of organization or an operating agreement, and who is duly licensed or otherwise legally authorized to render one or more of the professional services of architects, professional engineers, land surveyors, certified landscape architects, or certified interior designers in the Commonwealth of Virginia.

"Member" means an individual or professional business entity that owns an interest in a professional limited liability company.

~~"Professional limited liability company" means a limited liability company organized in accordance with Chapter 13 (§ 13.1-1100 et seq.) of Title 13.1 of the Code of Virginia for the sole and specific purpose of rendering one or more of the professional services of architects, professional engineers, land surveyors, landscape architects or certified interior designers.~~

18 VAC 10-20-580. Fee schedule.

All fees are nonrefundable and shall not be prorated.

Application	\$100
Designation for branch office	\$50
Renewal	\$50
Renewal of branch office	\$50
Reinstatement of branch office	\$30
Dishonored check	\$25

18 VAC 10-20-590. Application requirements.

A. All applicants shall have obtained a certificate of organization in the Commonwealth of Virginia or, if a foreign professional limited liability company, shall have obtained a certificate of registration to ~~do~~ conduct business in Virginia from the State Corporation Commission, in accordance with § 13.1-1105 of the Code of Virginia. The company shall be in good standing with the State Corporation Commission at the time of application to the board office and at all times when the registration is in effect.

B. Each application shall include a certified true copy of the certificate of organization or, if a foreign professional limited liability company, a certificate of registration issued by the State Corporation Commission. Each application must also include certified true copies of the articles of organization, operating agreement, or both.

C. Each application shall ~~be accompanied by~~ include a written affirmative affidavit that attests to the following inclusions to the articles of organization or operating agreement.

1. The articles of organization or operating agreement shall state the specific purpose of the professional limited liability company.

~~2. The articles of organization or operating agreement shall attest that membership is composed of one or more individuals or professional business entities, and at least 2/3 of the membership interests are held by individuals or professional business entities which are duly licensed, certified or registered to render professional services within the Commonwealth of Virginia. For those professional limited liability companies using the title of certified interior designers and providing the services of architects, professional engineers or land surveyors, or any combination thereof, the membership interests of the professional limited liability company shall be held by individuals in accordance with § 13.1-1111 of the Code of Virginia. The remaining membership interest may be held only by employees of the company whether or not they are licensed, certified or otherwise legally authorized to render professional services. Pursuant to § 13.1-1111 of the Code of Virginia, the articles of organization or operating agreement shall provide that not less than two-thirds of the membership interests of a PLLC rendering the services of~~

architects, professional engineers, or land surveyors, or using the title of certified landscape architects or certified interior designers, or any combination thereof, shall be held by individuals duly licensed or professional business entities legally authorized to render the services of architects, professional engineers, or land surveyors, or by individuals or professional business entities legally authorized to use the title of certified landscape architects or certified interior designers. Similarly, for those PLLCs using the title of certified interior designers and providing the services of architects, professional engineers, or land surveyors, or any combination thereof, the articles of organization or operating agreement shall provide that not less than two-thirds of the membership interests of the company shall be held by individuals who are duly licensed. The articles of organization or operating agreement shall further provide that the remainder of the membership interests of the PLLC may be held only by individuals who are employees of the PLLC whether or not those employees are licensed to render professional services or authorized to use a title.

3. The articles of organization or operating agreement shall attest that all members, managers, employees and agents who render professional services of architects, professional engineers, or land surveyors, or use the title of certified landscape architects, or certified interior designers are duly licensed or certified to provide those services.

~~4. The person executing the affidavit shall sign it and state beneath his signature his name and the capacity in which he signs. If the person signing the affidavit is not a manager of the limited liability company, the affidavit shall also state that the individual has been authorized by the members of the limited liability company to execute the affidavit for the benefit of the company.~~

The person executing the affidavit shall sign it and state beneath his signature his name and the capacity in which he signs. If the person signing the affidavit is not a manager of the PLLC, the affidavit shall also state that the individual has been authorized by the members of the PLLC to execute the affidavit for the benefit of the company.

D. Pursuant to § 13.1-1118 of the Code of Virginia, unless the articles of organization or ~~an~~ operating agreement provides for management of a ~~professional limited liability company~~ the PLLC by a manager or managers, management of a ~~limited liability company~~ the PLLC shall be vested in its members pursuant to § 13.1-1118 of the Code of Virginia.

If the articles of organization or an operating agreement provides for management of the ~~professional limited liability company~~ PLLC by a manager or managers, the manager or managers must be an individual or ~~professional business entity~~ individuals duly licensed or otherwise legally authorized to render the same professional services within the Commonwealth for which the company was formed. ~~At least~~

~~one member or manager currently licensed or certified in each profession offered or practiced shall be resident at the business to provide effective supervision and control of the final professional product.~~

Only members or managers duly licensed or otherwise legally authorized to render the same professional services within this Commonwealth shall supervise and direct the provision of professional services within this Commonwealth. At least one member or manager currently licensed or certified in each profession offered or practiced shall be resident at the business to provide effective supervision and control of the final professional product.

E. The name of the business and any assumed, fictitious, trading as, or doing business as names of the firm shall be disclosed on the application.

F. If professional services are offered or rendered in a branch office, a separate branch office designation form shall be completed for each branch office. Responsible persons ~~in~~ responsible charge shall be designated in accordance with this chapter. At least one currently licensed or certified ~~individual~~ responsible person in each profession offered or practiced at each branch office shall be resident at each branch office to provide effective supervision and control of the final professional product.

18 VAC 10-20-600. Certificates of authority.

A certificate of authority shall be issued by the board. The certificate of authority will permit a ~~professional limited liability company~~ PLLC to practice only the professions shown on its certificate of authority, ~~architecture, engineering, land surveying, certified landscape architecture, certified interior design, or any combination thereof.~~

18 VAC 10-20-610. Foreign professional limited liability companies.

The articles of organization or operating agreement shall state that the ~~professional limited liability company's~~ PLLC's activities in Virginia shall be limited to rendering the professional services of architects, professional engineers, land surveyors, certified landscape architects, and certified interior designers, or any combination thereof. ~~A foreign company is not required to comply with the provisions of 18 VAC 10-20-590-C-2. The foreign company must meet every requirement of this chapter except for the requirement that two-thirds of its members and managers be licensed or certified to perform the professional service in this Commonwealth.~~

The ~~professional limited liability company~~ PLLC shall provide the name ~~and~~ a address, and Virginia license or certificate number of each manager or member who will be providing the professional service(s) in Virginia ~~and the Virginia license or certificate number of each manager or member.~~

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18 VAC 10-20-620. Amendments to articles of organization, operating agreements or certificate of organization; change in managers or members; change in name, address and place of business.

A. A ~~professional limited liability company~~ PLLC holding a certificate of authority to practice in one or in any combination of the professions covered in these regulations shall file with the board, within 30 days of its adoption, a certified true copy of any amendment to the articles of organization, operating agreement or certificate of organization.

B. In the event there is a change of ~~professional limited liability company~~ managers or members of the PLLC, whether the change is temporary or permanent and whether it may be caused by death, resignation, or otherwise, the certificate of authority shall be automatically modified to be limited to that professional practice permitted by those pertinent licenses or certificates held by the remaining managers or members of the ~~professional limited liability company~~ PLLC unless an employee of the ~~professional limited liability company~~ PLLC holds the appropriate license or certificate and is competent to render such professional services. Unless otherwise provided, in the event that such change results in noncompliance with the requirements of this chapter and applicable statutes relating to ownership of the membership interests, the certificate of authority shall be automatically suspended until such time as the ~~professional limited liability company~~ PLLC comes into compliance with these regulations. The ~~professional limited liability company~~ PLLC shall notify the board within 30 days of any such change.

No member of the ~~professional limited liability company~~ PLLC may transfer or sell its membership interest in the company, except to the company, or unless at least ~~2/3~~ two-thirds of the remaining membership interest is held by individuals or professional business entities duly licensed or otherwise authorized to render the professional services of the company.

C. Any change of name (including assumed names), address, place of business in Virginia, registered agent, or responsible person(s) in responsible charge of the profession(s) practiced or offered shall be reported by the registered entity to the board within 30 days of such an occurrence. In addition, any licensed or certified employee responsible for such practice shall notify the board in writing of any changes of his employment status within ~~40~~ 30 days of such change.

18 VAC 10-20-625. Renewal of branch offices. (Repealed.)

~~Branch office registrations expire the last day of February of each even numbered year. If the renewal fee for a branch office is not received by the board within the 30 days following the expiration date noted on the registration, a reinstatement fee of \$30 will be required in addition to the renewal fee.~~

18 VAC 10-20-630. Fee schedule.

All fees are nonrefundable and shall not be prorated.

Application	\$100
Designation for branch office	\$50
Renewal	\$50
Renewal of branch office	\$50
Reinstatement of branch office	\$30
Dishonored check	\$25

18 VAC 10-20-640. Application requirements.

A. In accordance with § 54.1-411 of the Code of Virginia, ~~applicants~~ any corporation, partnership, limited liability company, or other entity, including but not limited to joint ventures, shall register with the board on a form approved by the board.

B. If a partnership or limited partnership, a ~~certified true~~ copy of the partnership agreement shall be included with the application. The partnership agreement shall state that all professional services of the partnership shall be under the ~~direction and direct control and personal~~ of a licensed or certified professional. The limited partnership application shall also include a copy of the certificate of limited partnership issued by the Virginia State Corporation Commission. If a foreign limited partnership, a certification of registration of the foreign limited partnership issued by the Virginia State Corporation Commission shall be required in lieu of the certificate of limited partnership.

C. If a corporation, the application shall include ~~certified true~~ copies of the certificate of incorporation issued by the Virginia State Corporation Commission articles of incorporation, bylaws and charter, ~~and~~. If a foreign corporation, a certificate of authority issued by the Virginia State Corporation Commission shall be required in lieu of the certification of incorporation.

D. If a limited liability company, the application shall include a ~~certified true~~ copy of the certificate of organization issued by the State Corporation Commission, and, if a foreign limited liability company, a certified true copy of the certificate of authority issued by the State Corporation Commission.

E. If professional services are offered or rendered in a branch office, a separate branch office designation form shall be completed for each branch office. Responsible persons resident ~~and in responsible charge~~ shall be designated in accordance with this chapter.

F. The name of the business and any assumed, fictitious, trading as, or doing business as names of the firm shall be disclosed on the application.

18 VAC 10-20-650. Registration certification.

The application shall contain an affidavit by an authorized official in the corporation, partnership, sole proprietorship, limited liability company, or other entity unit that the practice of architecture, engineering, land surveying, certified

landscape architecture or certified interior design to be done by that entity shall be under the direct control and personal supervision of the licensed or certified full-time employees or licensed or certified resident principals identified in the application as responsible persons for the practice. In addition, the licensed or certified employees or principals responsible for the practice shall sign their names indicating that they are responsible persons who are resident employees or principals and in responsible charge, and that they understand and shall comply with all statutes and regulations of the board.

18 VAC 10-20-660. Change of status.

Any changes of status, including but not limited to change in entity, name (including assumed names), address, place of business or responsible persons in responsible charge of the professions practiced or offered at each place of business, shall be reported to the board by the registered entity within 30 days of such an occurrence. In addition, any licensed or certified employee responsible for such practice shall notify the board in writing of any changes of his employment status within ~~40~~ 30 days of such change.

In the event there is a change in the ~~licensed or certified employees in responsible charge~~ responsible person, whether the change is temporary or permanent and whether it may be caused by death, resignation or otherwise, the registration shall be automatically modified to be limited to that professional practice permitted by the remaining licensed or certified employees, or shall be automatically suspended until such time as the entity comes into compliance with these regulations.

18 VAC 10-20-665. Renewal of branch offices. (Repealed.)

~~Branch office registrations expire the last day of February of each even-numbered year. If the renewal fee for a branch office is not received by the board within the 30 days following the expiration date noted on the registration, a reinstatement fee of \$30 will be required in addition to the renewal fee.~~

18 VAC 10-20-670. Expiration and renewal.

A. Prior to the expiration date shown on the license, certificate or registration, licenses, certificates or registrations shall be renewed for a two-year period upon completion of a renewal application and payment of a fee established by the board. An applicant must certify continued compliance with the Standards of Practice and Conduct as established by the board. Registrations for professional corporations, professional limited liability companies and business entities shall expire on December 31 of each odd-numbered year. Branch office registrations expire the last day of February of each even-numbered year. If the renewal fee for a branch office is not received by the board within 30 days following the expiration date noted on the registration, a reinstatement fee of \$25 will be required in addition to the renewal fee. Branch

offices may not renew until the main office registration is properly renewed.

B. Failure to receive a renewal notice and application shall not relieve the regulant of the responsibility to renew. If the regulant fails to receive the renewal notice, a copy of the license, certificate or registration may be submitted with the required fee as an application for renewal, accompanied by a signed statement indicating that the applicant continues to comply with the Standards of Practice and Conduct of the board under whose authority the license, certificate or registration is issued.

C. Board discretion to deny renewal. The board may deny renewal of a license, certificate or registration for the same reasons as it may refuse initial licensure, certification or registration or discipline a regulant.

D. If the renewal fee is not received by the board within 30 days following the expiration date noted on the license, certificate or registration, a late renewal fee equal to the regular fee plus \$25 shall be required, unless a reinstatement fee is otherwise noted.

18 VAC 10-20-680. Reinstatement.

A. If the license, certificate or registration has expired for six months or more, but less than five years, the regulant shall be required to submit a new reinstatement application, which shall be evaluated by the board to determine if the applicant meets the renewal requirements. In addition, a reinstatement fee equal to the regular renewal fee plus \$100 shall be required.

B. If the license, certificate or registration has expired for five years or more, ~~the regulant will~~ an application for reinstatement shall be required to submit a new application, which shall be evaluated by the board to determine if the applicant meets the renewal requirements remains qualified to be a regulant of the board, and submit a reinstatement fee equal to the regular renewal fee plus \$250 shall be submitted. In addition, the board may require an individual applicant to submit to an examination.

C. Board discretion to deny reinstatement. The board may deny reinstatement of a license, certificate or registration for the same reasons as it may refuse initial licensure, certification or registration or discipline a regulant.

D. The date the renewal application and fee are received in the office of the board shall determine whether a license, certificate or registration shall be renewed without late renewal or reinstatement, or shall be subject to reinstatement application procedures.

E. A license, certificate or registration that is reinstated shall be regarded as having been continuously licensed, certified or registered without interruption. Therefore, the license, certificate or registration holder who is not subject to the

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licensure for life provisions of § 54.1-405 of the Code of Virginia shall remain under the disciplinary authority of the board during the entire period and shall be accountable for his activities during the period. A license, certificate or registration that is not reinstated and is not subject to the licensure for life provisions of § 54.1-405 of the Code of Virginia shall be regarded as unlicensed, uncertified or unregistered from the expiration date forward. Nothing in this chapter shall divest the board of its authority to discipline a license, certificate or registration holder for a violation of the law or regulation during the period of time for which the regulant was licensed, certified or registered.

18 VAC 10-20-690. Responsibility to the public.

The primary obligation of the professional is to the public. The professional shall recognize that the health, safety, and welfare of the general public are dependent upon professional judgments, decisions, and practices. If the professional judgment of the ~~regulant~~ professional is overruled under circumstances when the ~~safety, health, property safety, and welfare, or any combination thereof,~~ safety, health, property safety, and welfare, of the public are endangered, the professional shall inform the employer or client of the possible consequences and notify appropriate authorities.

18 VAC 10-20-700. Public statements.

A. The professional shall be truthful in all professional matters. The professional shall include all relevant and pertinent information in professional reports, statements, or testimony, which shall include the date indicating when such information was current.

B. When serving as an expert or technical witness, the professional shall express an opinion only when it is based on an adequate knowledge of the facts in the issue ~~and~~ and on a background of competence in the subject matter, and upon honest conviction. Except when appearing as an expert witness in court or an administrative proceeding when the parties are represented by counsel, the professional shall issue no statements, reports, criticisms, or arguments on matters relating to professional practice which are inspired or paid for by an interested party or parties, unless the regulant has prefaced the comment by disclosing the identities of the party or parties on whose behalf the professional is speaking, and by revealing any self-interest.

C. A professional shall not knowingly make a materially false statement or fail deliberately to disclose a material fact requested in connection with his application for licensure, certification, registration, renewal or reinstatement.

D. A professional shall not knowingly make a materially false statement or fail to deliberately disclose a material fact requested in connection with an application submitted to the board by any individual or business entity for licensure, certification, registration, renewal or reinstatement.

18 VAC 10-20-710. Conflicts of interest.

A. The ~~professional~~ regulant shall promptly and fully inform an employer or client of any business association, interest, or circumstance ~~or circumstances~~ which may influence the professional's judgment or the quality of service.

B. The ~~professional~~ regulant shall not accept compensation, financial or otherwise, from more than one party for services on or pertaining to the same project, unless the circumstances are fully disclosed to, and agreed to by, all interested parties in writing ~~to all parties of current interest.~~

C. The ~~professional~~ regulant shall neither solicit nor accept financial or other valuable consideration from material or equipment suppliers for specifying their products or services.

D. The ~~professional~~ regulant shall not solicit or accept gratuities, directly or indirectly, from contractors, their agents, or other parties dealing with a client or employer in connection with work for which the ~~professional~~ regulant is responsible.

18 VAC 10-20-720. Solicitation of work or employment.

In the course of soliciting work or employment:

1. The regulant shall not ~~bribe give, solicit, or receive, either directly or indirectly, any gratuity, contribution, or unlawful consideration to influence the award of a contract by a public authority, or that may reasonably be construed as having the effect of intending to influence the awarding of such a contract.~~ The regulant shall not offer or provide any gift or other valuable consideration in order to secure work. The regulant shall not pay a commission, percentage, or brokerage fee in order to secure work, except to a full-time employee or established commercial or marketing agency retained by them.

2. The regulant shall not falsify or permit misrepresentation of ~~the regulant's work~~ his or an associate's academic or professional qualifications or work, nor shall the regulant misrepresent the degree of responsibility for prior assignments. Materials used in the solicitation of employment shall not misrepresent facts concerning employers, employees, associates, joint ventures or past accomplishments of any kind.

18 VAC 10-20-730. Competency for assignments.

A. The professional shall undertake to perform professional assignments only when qualified by education or experience, or both, and licensed or certified in the profession involved. Licensed professionals may perform ~~professional~~ assignments related to landscape architecture or interior design provided they do not hold themselves out as certified in either of these professions unless they are so certified by this board. The professional may accept an assignment requiring education or experience outside of the field of the professional's competence, but only to the extent that services are restricted to those phases of the project in which the

professional is qualified. All other phases of such project shall be the responsibility of licensed or certified associates, consultants or employees.

B. A professional shall not misrepresent to a prospective or existing client or employer his qualifications and the scope of his responsibility in connection with work for which he is claiming credit.

C. The professional shall adhere to ~~all~~ the minimum standards and requirements pertaining to the practice of his own profession, as well as other professions if incidental work is performed.

18 VAC 10-20-740. Professional responsibility.

A. The ~~professional~~ regulant shall not knowingly associate in a business venture with, or permit the use of the ~~professional's~~ regulant's name or ~~firm name~~, by any person or firm ~~where~~ when there is reason to believe that person or firm is engaging in activity of a fraudulent or dishonest nature or is violating statutes or any of these regulations.

B. A ~~professional~~ regulant who has direct knowledge or reason to believe that any individual, ~~including himself~~, or firm may have violated or may currently be violating any of these provisions, or the provisions of Chapters 1 through 4 of Title 54.1 or Chapters 7 and 13 of Title 13.1 of the Code of Virginia, shall immediately inform the ~~secretary of the board~~ in writing and shall cooperate in furnishing any further information or assistance that may be required by the board or any of its agents.

C. The ~~professional~~ regulant shall, upon request or demand, produce to the board, or any of its agents, any plan, document, book, record or copy thereof in his or its possession concerning a transaction covered by this chapter, and shall cooperate in the investigation of a complaint filed with the board against a ~~licensee or certificate holder~~ regulant.

D. A ~~professional~~ regulant shall not utilize the design, drawings, specifications, or work of another ~~professional~~ regulant to, ~~including but not limited to~~, complete the design, drawings, specifications, or work, or to replicate like design, drawings, specifications, or work without the knowledge and written consent of the person or organization that owns the design, drawings, specifications, or work.

E. A professional who has received permission to modify or otherwise utilize the designs, drawings, specifications, or work of another professional pursuant to subsection D of this section may seal that work only after a thorough review of the design, drawings, specifications, or work to the extent that full responsibility shall be assumed for all design, drawings, specifications, or work.

F. The information contained in recorded plats or surveys may be utilized by another professional without permission.

If modifications are made to the plats or surveys, the professional must conduct a thorough review and verification of the work to the extent that full responsibility shall be assumed for any changes or modifications to the plats or surveys.

18 VAC 10-20-750. Good standing in other jurisdictions.

A. A regulant licensed, certified, or registered to practice architecture, engineering, land surveying, landscape architecture or interior design in other jurisdictions shall be in good standing in every jurisdiction where licensed, certified, or registered, and shall not have had a license, certificate, or registration suspended, revoked or surrendered in connection with a disciplinary action or who has been the subject of discipline in another jurisdiction.

B. A regulant who has received a reprimand, civil penalty, or monetary penalty, or whose license, certificate or registration is revoked, suspended, denied, or surrendered as a result of a disciplinary action by another jurisdiction, shall be subject to discipline by the board if the regulant's action constitutes a violation of the provisions of Chapters 1 (§ 54.1-100 et seq.) through 4 (§ 54.1-400 et seq.) of Title 54.1, or Chapters 7 (§ 13.1-542 et seq.) and 13 (§ 13.1-1100 et seq.) of Title 13.1 of the Code of Virginia, or the regulations adopted by the board.

C. A regulant who has received a reprimand, civil penalty, or monetary penalty, or whose license, certificate or registration is revoked, suspended, denied, or surrendered as a result of a disciplinary action by another jurisdiction, must notify the board of such action within 30 days.

18 VAC 10-20-760. Use of seal.

A. The application of a professional seal shall indicate that the professional has exercised ~~complete direction and direct control and personal supervision~~ over the work to which it is affixed. Therefore, no ~~regulant~~ professional shall affix a name, seal or certification to a plat, design, specification or other work constituting the practice of the professions regulated which has been prepared by an unlicensed or uncertified person ~~or firm~~ unless such work was performed under the ~~direction and direct control and personal supervision of the regulant professional while under the regulant's contract or while employed by the same firm as the regulant~~ said unlicensed or uncertified person was an employee of the same firm as the professional or was under written contract to the same firm that employs the professional. If a ~~regulant~~ the original professional of record is no longer employed by the regulant or is otherwise unable to seal completed professional work, such work may be sealed by another ~~regulant~~ professional, but only after a thorough review ~~and verification~~ of the work by the professional affixing the professional seal to verify that the work has been accomplished to the same extent that would have been exercised if the work had been done under the complete

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~~direction and~~ direct control and personal supervision of the ~~regulant professional~~ affixing the professional seal.

B. ~~A regulant~~ An appropriately licensed or certified professional shall apply a ~~stamp, or a preprinted or electronic~~ seal to final and complete original cover sheets of plans, drawings, plats, technical reports and specifications and to each original sheet of plans, drawings or plats, prepared by the ~~regulant professional~~ or someone under his direct control and personal supervision.

1. All seal imprints on the cover or first sheet of final documents shall bear an original signature and date. "Final Documents" are completed documents or copies submitted on a client's behalf for approval by authorities or recordation. In such cases, the cover sheet of the documents or copies shall contain a list of drawings or plats included in the set on which a seal, original signature and date shall be affixed for all regulated disciplines. Every page of the submission, other than the cover, may be reproduced from originals which contain the seal, original signature and date by each discipline responsible for the work.

a. An electronic seal, signature and date ~~is~~ are permitted to be used in lieu of an original seal, signature and date when the following criteria, and all other requirements of this section, are met:

- (1) It is a unique identification of the professional;
- (2) It is verifiable; and
- (3) It is under the professional's direct ~~and sole~~ control;
- (4) ~~It is linked to the document file in such a manner that changes are readily determined and visually displayed if any data contained in the document file was changed subsequent to the electronic seal, signature and date having been affixed to the document; and~~
- (5) ~~Changes to the document after affixing the electronic seal, signature and date shall cause the electronic seal, signature and date to be removed or altered in such a way as to invalidate the electronic seal, signature and date.~~

b. ~~In addition, once the electronic seal, signature and date is applied to the document, the document shall be in a view only format if the document is to be electronically transmitted. A professional should not seal original documents made of mylar, linen, sepia, or other materials, or that are transmitted electronically, which can be changed by the person or entity with whom the documents are filed, unless the professional accompanies such documents with a signed and sealed letter making the recipient of such documents aware that copies of the original documents as designed by the~~

professional have been retained by the professional and that the professional cannot assume responsibility for any subsequent changes to the reproducible original documents that are not made by the professional or those working under his direct control and personal supervision.

2. Incomplete plans, documents and sketches, whether advance or preliminary copies, shall be so identified on the plan, document or sketch and need not be sealed, signed or dated.

3. All plans, drawings or plats prepared by the ~~regulant professional~~ shall bear the ~~regulant's professional's~~ name or firm name, address and project name.

4. The seal of each ~~regulant professional~~ responsible for each profession shall be used and shall be on each document that was prepared under the ~~regulant's professional's~~ direction and for which that professional is responsible. If one of the exemptions found in § 54.1-402 of the Code of Virginia is applicable, a professional licensed or certified by this board shall nevertheless apply his seal to the exempt work.

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

6. The seal shall conform in detail and size to the design illustrated below and shall be two inches in diameter. The designs below may not be shown to scale:



*The number referred to is the last six-digit number as shown on the license or certificate. The number is permanent. Leading zeros contained in the six-digit number may be omitted from the seal.

18 VAC 10-20-770. Organization and styling of practice.

Nothing shall be contained in the name, letterhead or other styling of a professional practice implying a relationship, ability or condition which does not exist. Professional services that the firm is not properly registered to provide may not be included in the name.

An assumed, fictitious or corporate name shall not be misleading as to the identity, responsibility or status of those practicing thereunder. Advertisements, signs, letterheads, business cards, directories, or any other form of representation shall avoid any reference to any service that cannot be provided for under a resident responsible person.

18 VAC 10-20-780. Professional required at each place of business.

Any legal entity or professional maintaining a place of business from which the offering to practice or practice of ~~architecture, entity or professional offers or provides architectural, engineering, land surveying, certified landscape architecture architectural, or certified interior design is to be performed~~ services in Virginia shall name for each profession offered or practiced at each place of business a ~~Virginia professional resident at the place of business and in responsible charge~~ resident, responsible person. The named professional resident, responsible person must hold a current

valid Virginia license or certificate in the profession being offered or practiced.

Each named professional shall exercise ~~supervision and direct control and personal supervision~~ of the work being offered or practiced at the place of business for which he is named. Each named professional shall be ~~in~~ responsible ~~charge of for~~ only one location at a time. A named professional may be ~~in~~ responsible ~~charge of for~~ more than one location provided that he is resident at the place of business ~~and is in responsible charge~~ during a majority of the hours of operation at each location.

18 VAC 10-20-790. Sanctions.

A. No license, certificate, or registration shall be suspended or revoked, nor shall any regulant be fined unless a majority of the members of the entire board ~~and a majority of the board members of the profession involved~~, who are eligible to vote, vote for the action. The board may suspend or revoke any license, certificate, certificate

of authority or registration, or fine any regulant, if the board finds that:

1. The license, certification or registration was obtained or renewed through fraud or misrepresentation;

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2. The regulant has been found guilty by the board, or by a court of competent jurisdiction, of any material misrepresentation in the course of professional practice, or has been convicted, pleaded guilty or found guilty, regardless of adjudication or deferred adjudication, of any felony or misdemeanor which, in the judgment of the board, adversely affects the regulant's ability to perform satisfactorily within the regulated discipline. Any plea of nolo contendere shall be considered a conviction for the purposes of this chapter;

3. The regulant is guilty of professional incompetence ~~or~~, negligence, or gross negligence;

4. The regulant has abused drugs or alcohol to the extent that professional competence is adversely affected;

5. The regulant violates any standard of practice and conduct, as defined in this chapter; or

6. The regulant violates or induces others to violate any provision of Chapters 1 through 4 of Title 54.1 or Chapters 7 and 13 of Title 13.1 of the Code of Virginia, or any other statute applicable to the practice of the professions herein regulated, or any provision of this chapter.

B. If evidence is furnished to the board which creates doubt as to the competency of a regulant to perform professional assignments, the board may require the regulant to prove competence by interview, presentation or examination. Failure to appear before the board, pass an examination, or otherwise demonstrate competency to the board shall be grounds for revocation or suspension of the license, certification or registration.

18 VAC 10-20-795. Change of address.

All regulants shall notify the board of any change of address, in writing, within 30 days of making the change. When submitting a change of address, any regulant holding more than one license, certificate or registration shall inform the board of all licenses, certificates or registrations affected by the change. A physical address is required. A post office box will not be accepted.

[DOCUMENTS INCORPORATED BY REFERENCE

~~Intern Development Program Guidelines, 2001-2002 Handbook for Interns and Architects, 2006-2007 Edition, National Council of Architectural Registration Boards, 1801 K Street, NW, Suite 1100-K, Washington, DC 20006, www.ncarb.org]~~

NOTICE: The forms used in administering 18 VAC 10-20, Board for Architects, Professional Engineers, Land Surveyors, Certified Interior Designers and Landscape Architects 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 Regulation, 3600 West Broad Street, Richmond, Virginia, or at the office of the Registrar of Regulations, General Assembly Building, 2nd Floor, Richmond, Virginia.

FORMS

~~Architect Information Sheet, 0401INFO (eff. 10/20/01).~~

Architect License Application, 0401LIC (rev. ~~5/1/01~~ 8/5/05).

Verification of Architect Examination and Licensure Form, 0401ELVF (rev. ~~11/13/00~~ 3/1/02).

Architect Experience Verification Form, 0401 EXP (rev. ~~10/23/00~~ 3/26/02).

Architect Client Experience Verification Form, 0401CEXP (rev. ~~5/9/00~~ 3/1/02).

Architect Degree Verification Form, 0401DEG (rev. ~~5/9/00~~ 3/1/02).

Architect Reference Form, 0401REF (rev. ~~5/9/00~~ 2/23/05).

Architect License Reinstatement Application, 0401REI (eff. ~~5/1/01~~ rev. 12/1/04).

Architect License Renewal Form, 0401REN, (eff. 4/11/05)

~~Professional Engineer Information Sheet, 0402INFO (eff. 3/29/01).~~

Professional Engineer License Application, 0402LIC (rev. ~~3/30/01~~ 8/5/05).

Professional Engineer Reference Form, 0402REF (rev. ~~3/30/01~~ 3/1/02).

Professional Engineer License Reinstatement Application, 0402REI (eff. ~~3/30/01~~ rev. 12/1/04).

Professional Engineer and Engineer-in-Training Degree Verification Form, 04EDEG (rev. ~~3/29/01~~ 3/1/02).

Professional Engineer and Engineer-in-Training Experience Verification Form, 04EEXP (rev. ~~3/29/01~~ 2/19/04).

Engineer Verification of Examination and Licensure Form, 04EELVF (rev. ~~3/30/01~~ 3/1/02).

~~Engineer in Training Information Sheet, 0420INFO (eff. 9/17/01).~~

Engineer-in-Training Designation Application, 0420DES (rev. ~~9/17/01~~ 12/1/04).

Engineer-in-Training Reference Form, 0420REF (eff. ~~3/29/01~~ rev. 3/1/02).

~~Engineer Examination Scheduling Form, 04EXAM (rev. 9/17/01).~~

Course Requirements for Engineering Technology Program, 0402CREQ (eff. 2/19/03).

Professional Engineer License Renewal Form, 0402REN, (eff. 4/11/05).

~~Land Surveyor Information Sheet, 0403INFO~~ (eff. 11/14/01).

Land Surveyor License Application, 0403LIC (rev. 11/14/01 [~~8/12/05~~ 6/9/06]).

Land Surveyor License Reinstatement Application, 0403REI (eff. ~~6/1/01~~ rev. 12/1/04).

~~Land Surveyor B Information Sheet, 0404INFO~~ (eff. 6/1/01).

Land Surveyor B License Application, 0404LIC (rev. ~~6/1/01~~ 12/1/04).

Land Surveyor B License Reinstatement Application, 0404REI (eff. ~~6/1/01~~ rev. 12/1/04).

Land Surveyor and Land Surveyor-in-Training Degree Verification Form, 04LSDEG (eff. ~~6/1/01~~ rev. 3/1/02).

Land Surveyor Verification of Examination and Licensure Form, 04LSELVF (rev. ~~6/1/01~~ 7/21/03).

Land Surveyor & Land Surveyor-in-Training Experience Verification Form, 04LSEXP (rev. 11/14/01 4/23/03).

~~Land Surveyor & Land Surveyor-in-Training Supplemental Experience Verification Form, 04SLEXP~~ (rev. 11/14/01).

~~Land Surveyor in Training Information Sheet, 0430INFO~~ (eff. 6/1/01).

Land Surveyor-In-Training Designation Application, 0430DES (rev. ~~6/1/01~~ [~~12/1/04~~ 6/9/06]).

~~Surveyor Examination Scheduling Form, LSEXAM~~ (eff. 11/14/01).

Land Surveyor License Renewal Form, 04LSREN, (eff. 4/11/05).

~~Landscape Architect Information Sheet, 0406INFO~~ (eff. 8/21/01).

Landscape Architect Certificate Application, 0406CERT (rev. 8/21/01 8/5/05).

Verification of Landscape Architect Examination and Certification Form, 0406ELVF (rev. 8/21/01 3/1/02).

Landscape Architect Experience Verification Form for Examination and Comity Applicants, 0406EXP (rev. 8/21/01 6/23/05).

Landscape Architect Degree Verification Form, 0406DEG (rev. 8/21/01 3/1/02).

Landscape Architect Certificate Reinstatement Application, 0406REI (eff. 8/21/01 rev. 12/1/04).

Landscape Architect Certificate Renewal Form, 0406REN, (eff. 4/11/05).

~~Interior Designer Information Sheet, 0412INFO~~ (eff. 10/25/01).

Interior Design Certificate Application, 0412CERT (rev. 8/21/01 8/5/05).

Verification of Interior Designer Examination and Certification Form, 0412ELVF (rev. ~~10/25/01~~ 3/1/02).

Interior Designer Degree Verification Form, 0412DEG (rev. 8/21/01 3/1/02).

Interior Designer Experience Verification Form, 0412EXP (rev. 8/21/01 8/11/05).

Interior Designer Certificate Reinstatement Application, 0412REI (eff. 8/21/01 rev. 3/1/02).

Interior Design Certificate Renewal Form, 0412REN, (eff. 4/11/05).

Professional Corporation Registration Application, 04PCREG (rev. ~~6/6/00~~ [~~12/1/04~~ 6/2/06]).

Professional Corporation Branch Office Registration Application, 04BRPC (eff. [~~12/1/04~~ 6/7/06]).

Business Entity Registration Application, 04BUSREG, (rev. 7/23/01 [~~12/1/04~~ 6/2/06]).

Business Entity Branch Office Registration Application, 04BRBUS (eff. [~~12/1/04~~ 6/7/06]).

~~Branch Office Application~~ (rev. 10/1/99).

Professional Limited Liability Company Application Form, 04PLCREG (rev. 10/1/99 [~~12/1/04~~ 6/2/06]).

Professional Limited Liability Company Branch Office Registration Application, 04BRPLC ([~~eff. 12/1/04~~ rev. 6/7/06]).

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BOARD FOR BARBERS AND COSMETOLOGY

Final Regulation

Title of Regulation: **18 VAC 41-30. Hair Braiding Regulations (adding 18 VAC 41-30-10 through 18 VAC 41-30-250).**

Statutory Authority: § 54.1-201 and Chapter 7 (§ 54.1-700 et seq.) of Title 54.1 of the Code of Virginia.

Effective Date: November 1, 2006.

Agency Contact: William H. Ferguson, II, Executive Director, Board for Barbers and Cosmetology, 3600 West Broad Street, Richmond, VA 23230, telephone (804) 367-8590, FAX (804) 367-6295, or email william.ferguson@dpor.virginia.gov.

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Summary:

The proposed regulations establish requirements for obtaining a hair braiding license, and renewal and reinstatement of a license; safety and sanitation procedures; standards of professional conduct to ensure competency and integrity of all licensees and that the health and sanitary standards and safety are adequate in shops, salons, schools, and other facilities where hair braiding services are provided.

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.

CHAPTER 30. HAIR BRAIDING REGULATIONS.

PART I. GENERAL.

18 VAC 41-30-10. Definitions.

The following words and terms when used in this chapter shall have the following meanings unless the context clearly indicates otherwise. All terms defined in Chapter 7 (§ 54.1-700 et seq.) of Title 54.1 of the Code of Virginia are incorporated in this chapter.

"Direct supervision" means that a Virginia licensed cosmetologist or hair braider shall be present in the hair braiding salon at all times when services are being performed by a temporary license holder.

"Endorsement" means a method of obtaining a license by a person who is currently licensed in another state or jurisdiction.

"Licensee" means any individual, partnership, association, limited liability company, or corporation holding a license issued by the Board for Barbers and Cosmetology, as defined in § 54.1-700 of the Code of Virginia.

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

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

"Virginia state institution" for the purposes of this chapter means any institution approved by the Virginia Department of Education or the Virginia Department of Corrections.

PART II. ENTRY.

18 VAC 41-30-20. General requirements for a hair braider license.

A. In order to receive a license as a hair braider, an applicant must meet the following qualifications:

1. The applicant shall be in good standing as a licensed hair braider in every jurisdiction where licensed. The applicant shall disclose to the board at the time of application for licensure any disciplinary action taken in another jurisdiction in connection with the applicant's practice as a cosmetologist or hair braider. The applicant shall disclose to the board at the time of application for licensure whether he has been previously licensed in Virginia as a cosmetologist or hair braider.

2. The applicant shall disclose his physical address. A post office box is not acceptable.

3. The applicant shall sign, as part of the application, a statement certifying that the applicant has read and understands the Virginia hair braiding license laws and the board's hair braiding regulations.

4. In accordance with § 54.1-204 of the Code of Virginia, the applicant shall not have been convicted in any jurisdiction of a misdemeanor or felony that directly relates to the profession of cosmetology or hair braiding. The board shall have the authority to determine, based upon all the information available, including the applicant's record of prior convictions, if the applicant is unfit or unsuited to engage in the profession of hair braiding. The board will decide each case by taking into account the totality of the circumstances. Any plea of nolo contendere shall be considered a conviction for the purposes of this section. The applicant shall provide a certified copy of a final order, decree or case decision by a court with the lawful authority to issue such order, decree or case decision, and such copy shall be admissible as prima facie evidence of such conviction. This record shall be forwarded by the applicant to the board within 10 days after all appeal rights have expired.

5. The applicant shall provide evidence satisfactory to the board that the applicant has passed the board-approved examination, administered either by the board or by independent examiners.

B. Eligibility to sit for board-approved examination.

1. Training in the Commonwealth of Virginia. Any person completing an approved hair braiding training program in a Virginia licensed cosmetology or hair braiding school, or a Virginia public school's hair braiding program approved by the Department of Education shall be eligible for examination.

2. Training outside of the Commonwealth of Virginia, but within the United States and its territories.

Any person completing a hair braiding training program that is substantially equivalent to the Virginia program but is outside of the Commonwealth of Virginia must submit to the board documentation of the successful completion of 170 hours of training to be eligible for examination. If less

than 170 hours of hair braiding training was completed, an applicant must submit a certificate, diploma or other documentation acceptable to the board verifying the completion of a substantially equivalent hair braiding course and documentation of six months of work experience as a hair braider in order to be eligible for the hair braider examination.

18 VAC 41-30-30. License by endorsement.

Upon proper application to the board, any person currently licensed to practice as a hair braider or cosmetologist in any other state or jurisdiction of the United States and who has completed both a training program and a written and practical examination that is substantially equivalent to that required by this chapter, may be issued a hair braider license without an examination. The applicant must also meet the requirements set forth in 18 VAC 41-30-20 A.

18 VAC 41-30-40. Exceptions to training requirements.

A. Virginia licensed cosmetologists shall be eligible for the hair braider examination.

B. Any hair braider applicant having been trained as a hair braider in any Virginia state institution shall be eligible for the hair braiding examination.

C. Any hair braider applicant having a minimum of two years experience in hair braiding in the United States armed forces and having provided documentation satisfactory to the board of that experience shall be eligible for the examination.

18 VAC 41-30-50. Examination requirements and fees.

A. Applicants for initial licensure shall pass a written examination approved by the board. The examination may be administered by the board or by a designated testing service.

B. Any candidate failing to appear as scheduled for examination shall forfeit the examination fee.

C. The fee for examination or reexamination is subject to contracted charges to the board 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 these contracts. The fee shall not exceed \$225 per candidate.

18 VAC 41-30-60. Reexamination requirements.

Any applicant who does not pass a reexamination within one year of the initial examination date shall be required to submit a new application and examination fee.

18 VAC 41-30-70. Examination administration.

A. The examination shall be administered by the board or the designated testing service.

B. The applicant shall follow all procedures established by the board with regard to conduct at the examination. Such procedures shall include any written instructions communicated prior to the examination date and any instructions communicated at the site, either written or oral, on the date of the examination. Failure to comply with all procedures established by the board and the testing service with regard to conduct at the examination may be grounds for denial of application.

18 VAC 41-30-80. Hair braider temporary licenses.

A. A temporary license to work under the [direct] supervision of a currently licensed hair braider or cosmetologist may be issued only to applicants for initial licensure that the board finds eligible for examination. There shall be no fee for a temporary license.

B. The temporary license shall remain in force for 45 days following the examination date. The examination date shall be the first test date after the applicant has successfully submitted an application to the board that an examination is offered to the applicant by the board.

C. Any person continuing to practice hair braiding services after a temporary license has expired may be prosecuted and fined by the Commonwealth under § 54.1-111 A 1 of the Code of Virginia.

D. No applicant for examination shall be issued more than one temporary license.

18 VAC 41-30-90. Salon license.

A. Any individual wishing to operate a hair braiding salon shall obtain a salon license in compliance with § 54.1-704.1 of the Code of Virginia.

B. A hair braiding salon license shall not be transferable and shall bear the same name and address of the business. Any changes in the name, address, or ownership of the salon shall be reported to the board in writing within 30 days of such changes. New owners shall be responsible for reporting such changes in writing to the board within 30 days of the changes.

C. In the event of a closing of a hair braiding salon, the board must be notified by the owners in writing within 30 days of the closing, and the license must be returned by the owners to the board.

18 VAC 41-30-100. School license.

A. Any individual wishing to operate a hair braiding school shall obtain a school license in compliance with § 54.1-704.2 of the Code of Virginia. All instruction and training of hair braiders shall be conducted under the direct supervision of a certified cosmetologist instructor, or licensed hair braider.

B. A hair braiding school license shall not be transferable and shall bear the same name and address as the school. Any changes in the name or address of the school shall be reported

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to the board in writing within 30 days of such change. The name of the school must indicate that it is an educational institution. All signs, or other advertisements, must reflect the name as indicated on the license issued by the board and contain language indicating it is an educational institution.

C. In the event of a change of ownership of a school, the new owners shall be responsible for reporting such changes in writing to the board within 30 days of the changes.

D. In the event of a school closing, the board must be notified by the owners in writing within 30 days of the closing, and the license must be returned.

PART III. FEES.

18 VAC 41-30-110. Fees.

The following fees apply:

FEE TYPE	AMOUNT DUE	WHEN DUE
<u>Individuals:</u>		
<u>Application</u>	<u>\$55</u>	<u>With application</u>
<u>License by Endorsement</u>	<u>\$55</u>	<u>With application</u>
<u>Renewal</u>	<u>\$55</u>	<u>With renewal card prior to expiration date</u>
<u>Reinstatement</u>	<u>\$55</u>	<u>With reinstatement application</u>
<u>Salons:</u>		
<u>Application</u>	<u>\$90</u>	<u>With application</u>
<u>Renewal</u>	<u>\$90</u>	<u>With renewal card prior to expiration date</u>
<u>Reinstatement</u>	<u>\$90</u>	<u>With reinstatement application</u>
<u>Schools:</u>		
<u>Application</u>	<u>\$120</u>	<u>With application</u>
<u>Renewal</u>	<u>\$120</u>	<u>With renewal card prior to expiration date</u>
<u>Reinstatement</u>	<u>\$120</u>	<u>With reinstatement application</u>

18 VAC 41-30-120. Refunds.

All fees are nonrefundable and shall not be prorated.

PART IV. RENEWAL/REINSTATEMENT.

18 VAC 41-30-130. License renewal required.

All hair braider licenses, hair braiding salon licenses, and hair braiding school licenses shall expire two years from the last day of the month in which they were issued.

18 VAC 41-30-140. Notice of renewal.

The Department of Professional and Occupational Regulation will mail a renewal notice to the licensee outlining the procedures for renewal. Failure to receive this notice, however, shall not relieve the licensee of the obligation to renew. If the licensee fails to receive the renewal notice, a copy of the old license may be submitted as evidence of intent to renew, along with the required fee.

18 VAC 41-30-150. Failure to renew.

A. When a licensed individual or entity fails to renew its license within 30 days following its expiration date, the

licensee shall apply for reinstatement of the license by submitting to the Department of Professional and Occupational Regulation a reinstatement application and renewal fee and reinstatement fee.

B. When a hair braider fails to renew his license within two years following the expiration date, reinstatement is no longer possible. To resume practice, the former licensee shall apply for licensure as a new applicant, shall meet all current application requirements, and shall pass the board's current examination. Individuals applying for licensure under this section shall be eligible to apply for a temporary license from the board under 18 VAC 41-30-80.

C. When a hair braiding salon fails to renew its license within two years following the expiration date, reinstatement is no longer possible. To resume practice, the former licensee shall apply for licensure as a new applicant and shall meet all current application requirements.

D. The application for reinstatement for a hair braiding school shall provide the reasons for failing to renew prior to the expiration date, and a notarized statement that all students currently enrolled or seeking to enroll at the school have been notified in writing that the school's license has expired. All of these materials shall be called the application package. Reinstatement will be considered by the board if the school consents to and satisfactorily passes an inspection of the school by the Department of Professional and Occupational Regulation and if the school's records are maintained in accordance with 18 VAC 41-30-210 and 18 VAC 41-30-220. Pursuant to 18 VAC 41-30-160, upon receipt of the reinstatement fee, application package, and inspection results, the board may reinstate the school's license or require requalification or both. If the reinstatement application package and reinstatement fee are not received by the board within six months following the expiration date of the school's license, the board will notify the testing service that prospective graduates of the unlicensed school are not acceptable candidates for the examination. Such notification will be sent to the school and must be displayed in a conspicuous manner by the school in an area that is accessible to the public. No student shall be disqualified from taking the examination because the school was not licensed for a portion of the time the student attended if the school license is reinstated by the board.

When a hair braiding school fails to renew its license within two years following the expiration date, reinstatement is no longer possible. To resume practice the former licensee shall apply for licensure as a new applicant and shall meet all current application requirements.

E. The date a renewal fee is received by the Department of Professional and Occupational Regulation, or its agent, will be used to determine whether the requirement for reinstatement of a license is applicable and an additional fee is required.

F. When a license is reinstated, the licensee shall have the same license number and shall be assigned an expiration date two years from the previous expiration date of the license.

G. A licensee who reinstates his license shall be regarded as having been continuously licensed without interruption. Therefore, a licensee shall be subject to the authority of the board for activities performed prior to reinstatement.

H. A licensee who fails to reinstate his license shall be regarded as unlicensed from the expiration date of the license forward. Nothing in this chapter shall divest the board of its authority to discipline a licensee for a violation of the law or regulations during the period of time for which the individual was licensed.

PART V.
HAIR BRAIDING SCHOOLS.

18 VAC 41-30-160. Applicants for school license.

A. Any person, firm, or corporation desiring to operate a hair braiding school shall submit an application to the board at least 60 days prior to the date for which approval is sought.

B. Hair braiding schools under the Virginia Department of Education shall be exempted from licensure requirements.

18 VAC 41-30-170. General requirements.

A hair braiding school shall:

1. Hold a school license for each and every location.
2. Hold a salon license if the school receives compensation for services provided in its clinic.
3. Employ a staff of licensed and certified cosmetology instructors or licensed hair braiders.
4. Develop individuals for entry level competency in hair braiding.
5. Submit its curricula for board approval. Hair braider curricula shall be based on a minimum of 170 clock hours and shall include performances in accordance with 18 VAC 41-30-190.
6. Inform the public that all services are performed by students if the school receives compensation for services provided in its clinic by posting a notice in the reception area of the salon in plain view of the public.
7. Classroom instruction must be conducted in an area separate from the clinic area where practical instruction is conducted and services are provided.

18 VAC 41-30-180. Curriculum requirements.

Curriculum requirements are as follows:

1. Professional requirements:
 - a. Virginia licensing requirements;

- b. Professional ethics and conduct;
- c. Human relations, retailing and salesmanship; and
- d. Salon management.

2. Safety and health:

- a. Virginia laws and regulations;
- b. Bacteriology, sanitation, and disinfection;
- c. Diseases and disorders, recognition, transmission, and control; and
- d. MSDS sheets, OSHA rules and regulations.

3. Hair and scalp disorders and diseases:

- a. Dandruff;
- b. Alopecia;
- c. Fungal infections;
- d. Infestations; and
- e. Infections.

4. Hair analysis and scalp care:

- a. Hair structure, composition, texture;
- b. Hair growth patterns;
- c. Effects of physical and chemical treatments on the hair;
- d. Combing, brushing, detangling;
- e. Shampoo products, composition and procedures;
- f. Rinsing products, composition and procedures;
- g. Conditioning products, composition and procedures;
- h. Procedures for hair and scalp disorders;
- i. Scalp manipulations; and
- j. Braid removal and scalp care.

5. Client preparation and consultation:

- a. Face and head shapes, facial features;
- b. Client hair and scalp analysis; and
- c. Client education, pre/post care, home care, follow-up services.

6. Hair braiding, locking, weaving and styling:

- a. Basic styling knowledge, history;
- b. Growth patterns, styles, textures, sectioning, partings;
- c. Tools and equipment, types of combs, brushes, hooks, yarn, loops, hook needles, thread, coils;

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d. Preparations for hair braiding, dryer equipment, decorations, beads, ribbons;

e. Types and patterns of braids, twists, knots, multiple strands, corn rows, hair locking;

f. Materials for extensions;

g. Hair braiding and cornrows with extensions;

h. Methods of hair weaving, glued, bonded, woven, sewn-in;

i. Artificial hair design and special effects;

j. Trimming of artificial hair, cutting of perimeter lines, braid ends; and

k. Braid removal and scalp care.

18 VAC 41-30-190. Hours of instruction and performances.

A. Curriculum and performance requirements for hair braiding shall be offered over minimum of 170 clock hours.

B. The curriculum requirements in subdivisions 1 through 5 of 18 VAC 41-30-180 shall be offered over a minimum of 40 clock hours.

C. The curriculum for hair braiding shall include the following minimum performances:

<u>Single braids</u>	<u>5</u>
<u>Single braid with extensions</u>	<u>5</u>
<u>Cornrows</u>	<u>5</u>
<u>Cornrows with extensions</u>	<u>5</u>
<u>Twists</u>	<u>5</u>
<u>Knots</u>	<u>5</u>
<u>Multiple strands</u>	<u>5</u>
<u>Hair locking</u>	<u>5</u>
<u>Weaving - glued</u>	<u>5</u>
<u>Weaving - bonded</u>	<u>5</u>
<u>Weaving - sewn-in</u>	<u>5</u>
<u>TOTAL</u>	<u>55</u>

D. A licensed hair braiding school or cosmetology school with an approved hair braiding program may conduct an assessment of a student's competence in hair braiding and, based on the assessment, give a maximum of 130 hours of credit towards the requirements specified in subdivision 6 of 18 VAC 41-30-180 and 18 VAC 41-30-190. No credit shall be allowed for the 40 hour minimum curriculum requirements in subdivisions 1 through 5 of 18 VAC 41-30-180.

18 VAC 41-30-200. School identification.

Each hair braiding school approved by the board shall identify itself to the public as a teaching institution.

18 VAC 41-30-210. Records.

A. Schools are required to keep upon graduation, termination or withdrawal, written records of hours and performances

showing what instruction a student has received for a period of five years after the student terminates or completes the curriculum of the school. These records shall be available for inspection by the department. All records must be kept on the premises of each school.

B. For a period of five years after a student completes the curriculum, terminates or withdraws from the school, schools are required to provide documentation of hours and performances completed by a student upon receipt of a written request from the student.

C. Prior to a school changing ownership or a school closing, the schools are required to provide to current students documentation of hours and performances completed.

D. For a period of one year after a school changes ownership, schools are required to provide documentation of hours and performances completed by a current student upon receipt of a written request from the student.

18 VAC 41-30-220. Hours reported.

Within 30 days of the closing of a licensed hair braiding school, for any reason, the school shall provide a written report to the board on performances and hours of each of its students who have not completed the program.

PART VI STANDARDS OF PRACTICE.

18 VAC 41-30-230. Display of license.

A. Each salon owner or school owner shall ensure that all current licenses and temporary licenses issued by the board shall be displayed in the reception area of the salon or school in plain view of the public. Duplicate licenses or temporary licenses shall be posted in a like manner in every salon or school location where the regulant provides services.

B. Each salon owner or school owner shall ensure that no licensee or student performs any service beyond the scope of practice for the hair braider license.

C. All licensees and temporary license holders shall operate under the name in which the license or temporary license is issued.

18 VAC 41-30-240. Sanitation and safety standards for salons and schools.

A. Sanitation and safety standards.

1. Any salon or school where hair braiding services are delivered to the public must be clean and sanitary at all times.

2. Compliance with these rules does not confer compliance with other requirements set forth by federal, state and local laws, codes, ordinances, and regulations as they apply to business operation, physical construction and maintenance, safety, and public health.

3. Licensees shall take sufficient measures to prevent the transmission of communicable and infectious diseases and comply with the sanitation standards identified in this section and shall insure that all employees likewise comply.

B. General sanitation and safety requirements.

1. All furniture, walls, floors, and windows shall be clean and in good repair;

2. The floor surface in the immediate work area must be of a washable surface other than carpet. The floor must be kept clean, free of hair, dropped articles, spills and electrical cords;

3. Walls and ceilings in the immediate work area must be in good repair, free of water seepage and dirt. Any mats shall be secured or shall lay flat;

4. A fully functional bathroom with a working toilet and sink must be available for clients. Fixtures must be in good condition. The bathroom must be lighted and sufficiently ventilated. If there is a window, it must have a screen. There must be antibacterial soap and clean individual towels for the client's use. Laundering of towels is allowed, space permitting. The bathroom must not be used as a work area or for the open storage of chemicals;

5. General areas for client use must be neat and clean with a waste receptacle for common trash;

6. Electrical cords shall be placed to prevent entanglement by the client or licensee;

7. Electrical outlets shall be covered by plates;

8. The salon area shall be sufficiently ventilated to exhaust hazardous or objectionable airborne chemicals, and to allow the free flow of air; and

9. Adequate lighting shall be provided.

C. Equipment sanitation.

1. Service chairs, wash basins, shampoo sinks and workstations shall be clean. Floors shall be kept free of hair, and other waste materials. Combs, brushes, towels, scissors, and other instruments shall be cleaned and sanitized after every use and stored free from contamination;

2. The top of workstands or back bars shall be kept clean;

3. The work area shall be free of clutter, trash, and any other items which may cause a hazard;

4. Heat-producing appliances and equipment shall be placed so as to prevent any accidental injury to the client or licensee; and

5. Electrical appliances and equipment shall be in safe working order at all times.

D. Articles, tools and products.

1. Any multiuse article, tool or product that cannot be cleansed or sanitized is prohibited from use;

2. Soiled implements must be removed from the tops of work stations immediately after use;

3. Clean spatulas, other clean tools, or clean disposable gloves shall be used to remove bulk substances from containers;

4. A clean spatula shall be used to remove creams or ointments from jars. Sterile cotton shall be used to apply creams, lotions and powders. Cosmetic containers shall be recovered after each use;

5. All sharp tools, implements, and heat-producing appliances shall be safely stored;

6. Presanitized tools and implements, linens and equipment shall be stored for use in a sanitary enclosed cabinet or covered receptacle;

7. Soiled towels, linens and implements shall be deposited in a container made of cleanable materials and separate from those that are clean or presanitized;

8. No substance other than a sterile styptic powder or sterile liquid astringent approved for homeostasis and applied with a sterile single-use applicator shall be used to check bleeding; and

9. Any disposable material making contact with blood or other body fluid shall be disposed of in a sealed plastic bag and removed from the salon or school in accordance with the guidelines of the Department of Health.

E. Chemical storage and emergency information.

1. Salons and schools shall have in the immediate working area a binder with all Material Safety Data Sheets (MSDS) provided by manufacturers for any chemical products used;

2. Salons and schools shall have a blood spill clean-up kit in the work area;

3. Flammable chemicals shall be stored in a nonflammable storage cabinet or a properly ventilated room; and

4. Chemicals that could interact in a hazardous manner (oxidizers, catalysts and solvents) shall be separated in storage.

F. Client health guidelines.

1. All employees providing client services shall cleanse their hands with an antibacterial product prior to providing services to each client;

2. No salon or school providing hair braiding services shall have on the premises hair braiding products containing hazardous substances that have been banned by the U.S.

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Food and Drug Administration (FDA) for use in hair braiding products;

3. No product shall be used in a manner that is disapproved by the FDA; and

4. Hair braiding salons must be in compliance with current building and zoning codes.

G. In addition to any requirements set forth in this section, all licensees and temporary license holders shall adhere to regulations and guidelines established by the Virginia Department of Health and the Occupational and Safety Division of the Virginia Department of Labor and Industry.

H. All salons and schools shall immediately report the results of any inspection of the salon, or school by the Virginia Department of Health as required by § 54.1-705 of the Code of Virginia.

I. All salons and schools shall conduct a self-inspection on an annual basis and maintain a self-inspection form on file for five years, so that it may be requested and reviewed by the board at its discretion.

18 VAC 41-30-250. Grounds for license revocation or suspension; denial of application, renewal or reinstatement; or imposition of a monetary penalty.

A. The board may, in considering the totality of the circumstances, fine any licensee or temporary license holder, and to suspend or revoke or refuse to renew or reinstate any license or temporary license, or deny any application issued under the provisions of Chapter 7 (§ 54.1-700 et seq.) of Title 54.1 of the Code of Virginia and the regulations of the board if the board finds that:

1. The licensee, temporary license holder or applicant is incompetent, or negligent in practice, or incapable mentally or physically, as those terms are generally understood in the profession, to practice as a hair braider;

2. The licensee, temporary license holder or applicant is convicted of fraud or deceit in the practice or teaching of hair braiding;

3. The licensee, temporary license holder or applicant attempting to obtain, obtained, renewed or reinstated a license or temporary license by false or fraudulent representation;

4. The licensee, temporary license holder or applicant violates or induces others to violate, or cooperates with others in violating, any of the provisions of this chapter or Chapter 7 (§ 54.1-700 et seq.) of Title 54.1 of the Code of Virginia or any local ordinance or regulation governing standards of health and sanitation of the establishment in which any hair braider may practice or offer to practice;

5. The licensee, temporary license holder or applicant fails to produce, upon request or demand of the board or any of

its agents, any document, book, record, or copy thereof in a licensee's or owner's possession or maintained in accordance with this chapter;

6. A licensee or temporary license holder fails to notify the board of a change of name or address in writing within 30 days of the change for each and every license or temporary license. The board shall not be responsible for the licensee's or temporary license holder's failure to receive notices, communications and correspondence caused by the licensee's or temporary license holder's failure to promptly notify the board in writing of any change of name or address or for any other reason beyond the control of the board;

7. The licensee, temporary license holder or applicant publishes or causes to be published any advertisement that is false, deceptive, or misleading;

8. The licensee, temporary license holder or applicant fails to notify the board in writing within 30 days of the suspension, revocation, or surrender of a license or temporary license in connection with a disciplinary action in any other jurisdiction or of any license or temporary license which has been the subject of disciplinary action in any other jurisdiction;

9. In accordance with § 54.1-204 of the Code of Virginia, the licensee or temporary license holder has been convicted in any jurisdiction of a misdemeanor or felony that directly relates to the profession of hair braiding or cosmetology. The board shall have the authority to determine, based upon all the information available, including the regulant's record of prior convictions, if the regulant is unfit or unsuited to engage in the profession of hair braiding. The board will decide each case by taking into account the totality of the circumstances. Any plea of nolo contendere shall be considered a conviction for the purposes of this section. The regulant shall provide a certified copy of a final order, decree or case decision by a court with the lawful authority to issue such order, decree or case decision, and such copy shall be admissible as prima facie evidence of such conviction. This record shall be forwarded by the regulant to the board within 10 days after all appeal rights have expired.

B. In addition to subsection A of this section, the board may, in considering the totality of the circumstances, revoke, suspend or refuse to renew or reinstate the license of any school or impose a fine as permitted by law, or both, if the board finds that:

1. An instructor of the approved school fails to teach the curriculum as provided for in this chapter;

2. The owner or director of the approved school permits or allows a person to teach in the school without a current cosmetology instructor certificate or hair braider license; or

3. The instructor, owner or director is guilty of fraud or deceit in the teaching of hair braiding.

C. In addition to subsection A of this section, the board may, in considering the totality of the circumstances, revoke, suspend or refuse to renew or reinstate the license of any hair braiding salon or impose a fine as permitted by law, or both, if the board finds that:

1. The owner or operator of the salon fails to comply with the sanitary requirements of hair braiding salons provided for in this chapter or in any local ordinances; or

2. The owner or operator allows a person who has not obtained a license or a temporary license to practice as a hair braider.

D. In addition to subsection A of this section, the board may, in considering the totality of the circumstances, revoke, suspend or refuse to renew or reinstate the license of any licensee or impose a fine as permitted by law, or both, if the board finds that the licensee fails to take sufficient measures to prevent transmission of communicable or infectious diseases or fails to comply with any local, state or federal law or regulation governing the standards of health and sanitation for the practice of hair braiding.

NOTICE: The forms used in administering 18 VAC 41-30, Hair Braiding 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 Regulation, 3600 West Broad Street, Richmond, Virginia, or at the office of the Registrar of Regulations, General Assembly Building, 2nd Floor, Richmond, Virginia.

FORMS

Hair Braiding Examination and License Application, 1222 26EX (eff. 08/04).

Training and Experience Verification Form, 1213ETREXP (eff. 08/04).

Temporary Permit Application, 1213TP (eff. 07/04).

License by Endorsement Application, 1213END (eff. 07/04).

Salon, Shop and Parlor License Application, 1213SLSH (eff. 07/04).

VA.R. Doc. No. R03-267; Filed August 29, 2006, 3:09 p.m.

BOARD FOR CONTRACTORS

Emergency Regulation

Title of Regulation: 18 VAC 50-22. Board for Contractors Regulations (amending 18 VAC 50-22-40, 18 VAC 50-22-50, 18 VAC 50-22-60; adding 18 VAC 50-22-300 through 18 VAC 50-22-350).

Statutory Authority: § 54.1-1102 of the Code of Virginia.

Effective Dates: August 21, 2006, through August 20, 2007.

Agency Contact: Eric L. Olson, Executive Director, Board for Contractors, 3600 West Broad Street, Richmond, VA 23230, telephone (804) 367-2785, FAX (804) 367-2474, or email contractor@dpor.virginia.gov.

Preamble:

Chapters 454 and 475 of the 2006 Acts of Assembly require that the Board for Contractors promulgate regulations mandating the successful completion of a board-approved business class as a prerequisite for contractor licensure within 280 days of the enactment of the legislation.

This amendment to the existing regulations will add the prelicense education requirement to the entry section for each class of contractor license and will create a new section containing the eligibility requirements for prelicense education providers and prelicense education courses.

18 VAC 50-22-40. Requirements for a Class C license.

A. A firm applying for a Class C license must meet the requirements of this section.

B. For every classification or specialty in which the firm seeks to be licensed, the firm shall name a qualified individual who meets the following requirements:

1. Is at least 18 years old;
2. Has a minimum of two years experience in the classification or specialty for which he is the qualifier;
3. Is a full-time employee of the firm as defined in this chapter or is a member of the responsible management of the firm;
4. Where appropriate, has passed the trade-related examination or has completed an education and training program approved by the board and required for the specialties listed below:

- Blast/explosive contracting
- Electrical
- Fire sprinkler
- Gas fitting
- HVAC
- Plumbing
- Radon mitigation
- Water well drilling

5. Has obtained, pursuant to the tradesman regulations, a master tradesman license as required for those classifications and specialties listed in 18 VAC 50-22-20 and 18 VAC 50-22-30.

C. The firm shall provide information for the past five years prior to application on any outstanding, past-due debts and judgments; outstanding tax obligations; defaults on bonds; or

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pending or past bankruptcies. The firm, its qualified individual or individuals, and all members of the responsible management of the firm shall submit information on any past-due debts and judgments or defaults on bonds directly related to the practice of contracting as defined in Chapter 11 (§ 54.1-1100 et seq.) of Title 54.1 of the Code of Virginia.

D. The firm, the qualified individual, and all members of the responsible management of the firm shall disclose at the time of application any current or previous contractor licenses held in Virginia or in other jurisdictions and any disciplinary actions taken on these licenses. This includes but is not limited to any monetary penalties, fines, suspensions, revocations, surrender of a license in connection with a disciplinary action, or voluntary termination of a license in Virginia or in any other jurisdiction.

E. In accordance with § 54.1-204 of the Code of Virginia, each applicant shall disclose the following information about the firm, all members of the responsible management, and the qualified individual or individuals for the firm:

1. All misdemeanor convictions within three years of the date of application; and
2. All felony convictions during their lifetime.

Any plea of *nolo contendere* shall be considered a conviction for purposes of this subsection. The record of a conviction received from a court shall be accepted as *prima facie* evidence of a conviction or finding of guilt. The board, in its discretion, may deny licensure to any applicant in accordance with § 54.1-204 of the Code of Virginia.

F. A member of responsible management shall have successfully completed a board-approved basic business course.

18 VAC 50-22-50. Requirements for a Class B license.

A. A firm applying for a Class B license must meet the requirements of this section.

B. A firm shall name a designated employee who meets the following requirements:

1. Is at least 18 years old;
2. Is a full-time employee of the firm as defined in this chapter, or is a member of responsible management as defined in this chapter;
3. Has passed a board-approved examination as required by § 54.1-108 of the Code of Virginia or has been exempted from the exam requirement in accordance with § 54.1-108.1 of the Code of Virginia; and
4. Has followed all rules established by the board or by the testing service acting on behalf of the board with regard to conduct at the examination. Such rules shall include any written instructions communicated prior to the examination

date and any oral or written instructions given at the site on the date of the exam.

C. For every classification or specialty in which the firm seeks to be licensed, the firm shall name a qualified individual who meets the following requirements:

1. Is at least 18 years old;
2. Has a minimum of three years experience in the classification or specialty for which he is the qualifier;
3. Is a full-time employee of the firm as defined in this chapter or is a member of the responsible management of the firm;
4. Where appropriate, has passed the trade-related examination or has completed an education and training program approved by the board and required for the classifications and specialties listed below:

Blast/explosive contracting
Electrical
Fire sprinkler
Gas fitting
HVAC
Plumbing
Radon mitigation
Water well drilling

5. Has obtained, pursuant to the tradesman regulations, a master tradesman license as required for those classifications and specialties listed in 18 VAC 50-22-20 and 18 VAC 50-22-30.

D. Each firm shall submit information on its financial position. Excluding any property owned as tenants by the entirety, the firm shall state a net worth or equity of \$15,000 or more.

E. Each firm shall provide information for the five years prior to application on any outstanding, past-due debts and judgments; outstanding tax obligations; defaults on bonds; or pending or past bankruptcies. The firm, its designated employee, qualified individual or individuals, and all members of the responsible management of the firm shall submit information on any past-due debts and judgments or defaults on bonds directly related to the practice of contracting as defined in Chapter 11 (§ 54.1-1100 et seq.) of Title 54.1 of the Code of Virginia.

F. The firm, the designated employee, the qualified individual, and all members of the responsible management of the firm shall disclose at the time of application any current or previous substantial identities of interest with any contractor licenses issued in Virginia or in other jurisdictions and any disciplinary actions taken on these licenses. This includes but is not limited to any monetary penalties, fines, suspension, revocation, or surrender of a license in connection with a disciplinary action. The board, in its

discretion, may deny licensure to any applicant when any of the parties listed above have had a substantial identity of interest (as deemed in § 54.1-1110 of the Code of Virginia) with any firm that has had a license suspended, revoked, voluntarily terminated or surrendered in connection with a disciplinary action in Virginia or any other jurisdiction.

G. In accordance with § 54.1-204 of the Code of Virginia, each applicant shall disclose the following information about the firm, designated employee, all members of the responsible management, and the qualified individual or individuals for the firm:

1. All misdemeanor convictions within three years of the date of application; and
2. All felony convictions during their lifetime.

Any plea of nolo contendere shall be considered a conviction for purposes of this subsection. The record of a conviction received from a court shall be accepted as prima facie evidence of a conviction or finding of guilt. The board, in its discretion, may deny licensure to any applicant in accordance with § 54.1-204 of the Code of Virginia.

H. The designated employee or a member of responsible management shall have successfully completed a board-approved basic business course.

18 VAC 50-22-60. Requirements for a Class A license.

A. A firm applying for a Class A license shall meet all of the requirements of this section.

B. A firm shall name a designated employee who meets the following requirements:

1. Is at least 18 years old;
2. Is a full-time employee of the firm as defined in this chapter or is a member of the responsible management of the firm as defined in this chapter;
3. Has passed a board-approved examination as required by § 54.1-1106 of the Code of Virginia or has been exempted from the exam requirement in accordance with § 54.1-1108.1 of the Code of Virginia; and
4. Has followed all rules established by the board or by the testing service acting on behalf of the board with regard to conduct at the examination. Such rules shall include any written instructions communicated prior to the examination date and any oral or written instructions given at the site on the day of the exam.

C. For every classification or specialty in which the firm seeks to be licensed, the firm shall name a qualified individual who meets the following requirements:

1. Is at least 18 years old;

2. Has a minimum of five years of experience in the classification or specialty for which he is the qualifier;

3. Is a full-time employee of the firm as defined in this chapter or is a member of the firm as defined in this chapter or is a member of the responsible management of the firm;

4. Where appropriate, has passed the trade-related examination or has completed an education and training program approved by the board and required for the classifications and specialties listed below:

- Blast/explosive contracting
- Electrical
- Fire sprinkler
- Gas fitting
- HVAC
- Plumbing
- Radon mitigation
- Water well drilling

5. Has obtained, pursuant to the tradesman regulations, a master tradesman license as required for those classifications and specialties listed in 18 VAC 50-22-20 and 18 VAC 50-22-30.

D. Each firm shall submit information on its financial position. Excluding any property owned as tenants by the entirety, the firm shall state a net worth or equity of \$45,000.

E. The firm shall provide information for the five years prior to application on any outstanding, past-due debts and judgments; outstanding tax obligations; defaults on bonds; or pending or past bankruptcies. The firm, its designated employee, qualified individual or individuals, and all members of the responsible management of the firm shall submit information on any past-due debts and judgments or defaults on bonds directly related to the practice of contracting as defined in Chapter 11 (§ 54.1-1100 et seq.) of Title 54.1 of the Code of Virginia.

F. The firm, the designated employee, the qualified individual, and all members of the responsible management of the firm shall disclose at the time of application any current or previous substantial identities of interest with any contractor licenses issued in Virginia or in other jurisdictions and any disciplinary actions taken on these licenses. This includes but is not limited to, any monetary penalties, fines, suspensions, revocations, or surrender of a license in connection with a disciplinary action. The board, in its discretion, may deny licensure to any applicant when any of the parties listed above have had a substantial identity of interest (as deemed in § 54.1-1110 of the Code of Virginia) with any firm that has had a license suspended, revoked, voluntarily terminated, or surrendered in connection with a disciplinary action in Virginia or in any other jurisdiction.

G. In accordance with § 54.1-204 of the Code of Virginia, each applicant shall disclose the following information about

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the firm, all members of the responsible management, the designated employee and the qualified individual or individuals for the firm:

1. All misdemeanor convictions within three years of the date of application; and
2. All felony convictions during their lifetime.

Any plea of nolo contendere shall be considered a conviction for purposes of this subsection. The record of a conviction received from a court shall be accepted as prima facie evidence of a conviction or finding of guilt. The board, in its discretion, may deny licensure to any applicant in accordance with § 54.1-204 of the Code of Virginia.

H. The designated employee or a member of responsible management shall have successfully completed a board-approved basic business course.

PART VI. PRELICENSE EDUCATION.

18 VAC 50-22-300. Prelicense education courses.

All courses offered by prelicense education providers must be approved by the board, prior to the initial offering of the course, and shall cover business principles related to the standards of conduct found in 18 VAC 50-22-260 B and other applicable requirements of continued licensure set forth in this chapter. Courses must be eight hours in length. Correspondence and other distance learning courses must include appropriate testing procedures to verify completion of the course.

18 VAC 50-22-310. Requirements for prelicense education providers.

A. Each provider of a prelicense education course shall submit an application for course approval on a form provided by the board. The application shall include but is not limited to:

1. The name of the provider;
2. Provider contact person, address and telephone number;
3. Course contact hours;
4. Schedule of courses, if established, including dates, time and locations;
5. Instructor information, including name, license number(s) if applicable, and a list of other appropriate trade designations;
6. Course and material fees;
7. Course syllabus.

B. All providers must establish and maintain a record for each student. The record shall include: the student's name and address; social security number or DMV control number; the

course name and clock hours attended; the course syllabus or outline; the name or names of the instructor; the date of successful completion and the board's course code. Records shall be available for inspection during normal business hours by authorized representatives of the board. Providers must maintain class records for a minimum of five years.

18 VAC 50-22-320. Reporting of course completion.

All prelicense education providers shall electronically transmit course completion data, to the board, in an approved format, within seven days of the completion of each individual course. The transmittal will include: each student's name; social security number or DMV control number; the date of successful completion of the course and the board's course code.

18 VAC 50-22-330. Posting prelicense education course certificates of approval.

Copies of prelicense education course certificates of approval must be available at the location a course is taught.

18 VAC 50-30-340. Reporting of changes.

Any change in the information provided in 18 VAC 50-22-310 A must be reported to the board within 30 days of the change with the exception of changes in the schedule of courses, which must be reported within 10 days of the change. Failure to report the changes as required may result in the withdrawal of approval of a prelicense education provider by the board.

18 VAC 50-30-350. Denial or withdrawal of approval.

The board may deny or withdraw approval of any prelicense education provider for the following reasons:

1. The courses being offered no longer meet the standards established by the board.
2. The provider, through an agent or otherwise, advertises its services in a fraudulent, or deceptive way.
3. The provider, instructor, or designee of the provider falsify any information relating to the application for approval, course information, student records or fail to produce records required by the Board for Contractors Tradesman Regulations.

/s/ Timothy M. Kaine
Governor
Date: August 7, 2006

NOTICE: The forms used in administering 18 VAC 50-22, Board for Contractors 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

~~Introduction~~ Board for Contractors - Contractor Licensing Information, 27INTRO (6/00 8/06).

Trade-Related Examinations and Qualifications Information, 27EXINFO (6/00 5/05).

License Application, 27LIC (rev. 8/05 8/06).

Class C License Application (Short Form), 27CSF (rev. 8/05 8/06).

~~Sample-~~

~~Sample Guidelines-~~

Additional License Classification/Specialty Designation Application, 27ADDCL (rev. 8/05).

Bank and Credit Reference Form, 27BCREF (7/03).

Change of Qualified Individual Application, 27CHQI (rev. 8/05).

Change of Designated Employee Application, 27CHDE (rev. 8/05).

Change of Corporate Officers Form, 27CHCO (6/00 7/03).

Experience Reference, ~~27EP~~ 27EXP (6/00 7/03).

~~Contractor Examination Candidate Information Bulletin, copyright 2002 by PSI Corporation-~~

~~Virginia Contractors Registration Form (7/02)-~~

~~Building Technical Examination Requirements (4/00)-~~

Financial Statement, 27FINST (7/03).

Additional Qualified Individual Experience Reference Form, 27QIEXP (7/03).

Certificate of License Termination, 27TERM (6/00 7/03).

Education Provider Registration/Course Approval Application, 27EDREG (8/06).

VA.R. Doc. No. R06-339; Filed August 21, 2006, 9:39 a.m.

BOARD FOR WATERWORKS AND WASTEWATER WORKS OPERATORS

Final Regulation

Title of Regulation: **18 VAC 160-20. Board for Waterworks and Wastewater Works Operators Regulations (amending 18 VAC 160-20-10, 18 VAC 160-20-74, 18 VAC 160-20-104, 18 VAC 160-20-106, 18 VAC 160-20-109 and 18 VAC 160-20-140; adding 18 VAC 160-20-95).**

Statutory Authority: §§ 54.1-201 and 54.1-2301 of the Code of Virginia.

Effective Date: December 1, 2006.

Agency Contact: David Dick, Executive Director, Board for Waterworks and Wastewater Works Operators, 3600 West Broad Street, Richmond, VA 23230, telephone (804) 367-2648, FAX (804) 367-6128, or email david.dick@dpor.virginia.gov.

Summary:

The amendments create a provisional license that will require the applicant to meet all of the entry requirements for licensure except the requirement for experience operating a waterworks classified by the Virginia Department of Health or a wastewater works classified by the Virginia Department of Environmental Quality. Experience obtained at comparable nonclassified facilities will qualify an applicant to sit for the board's examination. Those passing the examination will be issued a provisional license. Upon completion of and documentation to the board of one-half of the classified facility work experience required by the regulations, those holding a provisional license will be issued a license authorizing them to operate a classified facility.

Those holding provisional licenses will be required to pay the license renewal fee to maintain their provisional license, to complete continuing professional education (CPE) if they hold a waterworks provisional license, and to be subject to the disciplinary provisions of the board's regulations.

Changes made since the proposed include (i) changing all references to "conditional" licenses and licensees to "provisional" licenses and licensees, (ii) adding "located in Virginia" to the definition of "nonclassified facility," and (iii) amending language related to when a provisional license will be issued to conform to language related to when other licenses are issued.

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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.

18 VAC 160-20-10. 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 Waterworks and Wastewater Works Operators.

"Category" means the two divisions of waterworks and wastewater works operators' licenses, one being waterworks and the second being wastewater works.

"Classification" means the divisions of each category of waterworks and wastewater works operators' licenses into classes where Class "I" represents the highest classification.

"Classified facility" means a waterworks that has been granted a classification by the Virginia Department of Health or a wastewater works that has been granted a classification by the Virginia Department of Environmental Quality.

~~["Conditional licensee" means an individual holding a valid conditional license issued by the board.~~

~~"Conditional licensure" or "conditional license" means a method of regulation whereby the Commonwealth recognizes an individual as having met specific standards but who is not authorized to operate a classified facility until he has met the remaining requirements for licensure and has been issued a license.]~~

"Contact hour" means 50 minutes of participation in a structured training activity.

"Continuing Professional Education (CPE)" means participation in a structured training activity that enables a licensed waterworks operator to maintain and increase the competence required to assure the public's protection.

"Department" means the Virginia Department of Professional and Occupational Regulation.

"Experience" means time spent learning how to physically and theoretically operate the waterworks or wastewater works as an operator-in-training or time spent operating a waterworks or wastewater works for which the operator is currently licensed.

"Licensed operator" means an operator with a license in the category and with a classification equal to or higher than the classification of the waterworks or wastewater works being operated.

"Licensee" means an individual holding a valid license issued by the board.

"Licensure" means a method of regulation whereby the Commonwealth, through the issuance of a license, authorizes a person possessing the character and minimum skills to engage in the practice of a profession or occupation that is unlawful to practice without a license.

"Nonclassified facility" means a facility [located in Virginia] that has not been classified by the Virginia Department of Health or a facility that has not been classified by the Virginia Department of Environmental Quality.

"Operate" means any act of an individual, which may impact on the finished water quality at a waterworks or the plant effluent at a wastewater works.

"Operating staff" means individuals employed or appointed by an owner to work at a waterworks or wastewater works.

"Operator" means any individual employed or appointed by any owner, and who is designated by such owner to be the person in responsible charge, such as a supervisor, a shift operator, or a substitute in charge, and whose duties include testing or evaluation to control waterworks or wastewater works operations. Not included in this definition are superintendents or directors of public works, city engineers, or other municipal or industrial officials whose duties do not include the actual operation or direct supervision of waterworks or wastewater works.

"Operator-in-training" means an individual employed by an owner to work under the direct supervision and direction of an operator holding a valid license in the proper category and classification for the purpose of gaining experience and knowledge in the duties and responsibilities of an operator of a waterworks or wastewater works. An operator-in-training is not an operator.

"Owner" means the Commonwealth of Virginia, or any political subdivision thereof, any public or private institution, corporation, association, or any other entity organized or existing under the laws of this Commonwealth or of any other state or nation, or any person or group of persons acting individually or as a group, who own, manage, or maintain waterworks or wastewater works.

["Provisional licensee" means an individual holding a valid provisional license issued by the board.

"Provisional licensure" or "provisional license" means a method of regulation whereby the Commonwealth recognizes an individual as having met specific standards but who is not authorized to operate a classified facility until he has met the remaining requirements for licensure and has been issued a license.]

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

"Responsible charge" means the designation by the owner of any individual to have the duty and the authority to operate a waterworks or wastewater works.

"Structured training activity" means a formal educational process designed to permit a participant to learn a given subject or subjects through interaction with an instructor in a course, seminar, conference or other performance-oriented format.

"Wastewater works" means a system of (i) sewerage systems or sewage treatment works serving more than 400 persons, as set forth in § 62.1-44.18 of the Code of Virginia; (ii) sewerage systems or sewage treatment works serving fewer than 400 persons, as set forth in § 62.1-44.18 of the Code of Virginia, if so certified by the State Water Control Board; and (iii) facilities for discharge into state waters of industrial wastes or other wastes, if certified by the State Water Control Board.

"Waterworks" means a system that serves piped water for drinking or domestic use to (i) at least 15 connections or (ii) at least 25 of the same individuals for more than six months out of the year. The term waterworks shall include all structures, equipment, and appurtenances used in the storage, collection, purification, treatment and distribution of pure water, except the piping and fixtures inside the building where such water is delivered.

18 VAC 160-20-74. License required.

A. To serve as an operator of a waterworks or wastewater works, it shall be necessary to hold a valid license issued by the board for a classification equal to or greater than the classification of the waterworks or wastewater works to be operated and in the appropriate category. Issuance of a new classification of license shall void all previously issued licenses in the same category. No licensee shall hold two licenses of different classifications in the same category. The board shall issue a license only after an individual has met all experience and examination requirements as set forth in this chapter.

B. ~~[Conditional Provisional]~~ licensure shall not authorize an individual to serve as the operator of a classified facility.

18 VAC 160-20-95. ~~[Conditional Provisional]~~ licensure.

A. Each person desiring ~~[conditional provisional]~~ licensure shall make application in accordance with 18 VAC 160-20-76 and shall meet all of the requirements of 18 VAC 160-20-90 except that the experience requirement may be met through experience gained as an operator of a nonclassified facility provided that:

1. The experience is obtained at a nonclassified facility that is comparable in size and in the treatment processes used to those facilities described in 18 VAC 160-20-120 in the case

of waterworks or to those facilities described in 18 VAC 160-20-130 in the case of wastewater works.

2. The experience is obtained while performing actual facility operation duties that provide experience comparable to that obtained at a classified facility. Experience limited solely 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 qualifying experience. Except that experience limited to water distribution system operation and maintenance at a nonclassified facility that is comparable to a facility classified as a Class V or Class VI waterworks may be counted for a ~~[conditional provisional]~~ Class V or Class VI license.

B. Each applicant meeting the requirements of subsection A of this section shall be eligible to sit for the operator examination for the category and class of operator license that is comparable to the nonclassified facility where the experience was obtained ~~[and shall be issued a conditional license upon obtaining a passing score on the examination.~~ The provisional license shall not be issued until all applicable requirements have been met and satisfactorily verified].

C. Each individual holding ~~[conditional provisional]~~ licensure may apply for licensure by submitting evidence of having met 50% of the experience required by 18 VAC 160-20-90.

18 VAC 160-20-104. Maintenance of license.

A. The licensee ~~or [conditional provisional]~~ licensee shall notify the board in writing within 30 days of any change of name or address.

B. All licensees ~~and [conditional provisional]~~ licensees shall operate under the name in which the license is issued.

18 VAC 160-20-106. Renewal.

A. Licenses ~~and [conditional provisional]~~ licenses for waterworks operators shall expire on the last day of February of each odd-numbered year. Licenses ~~and [conditional provisional]~~ licenses for wastewater works operators shall expire on the last day of February of each even-numbered year.

B. The Department of Professional and Occupational Regulation shall mail a renewal notice to the licensee ~~and the [conditional provisional]~~ licensee outlining the procedures for renewal. Renewal notices shall be mailed to the licensee ~~and to the [conditional provisional]~~ licensee at the last known address of record. Failure to receive written notice shall not relieve the licensee ~~or the [conditional provisional]~~ licensee of the obligation to renew and pay the required fee outlined in 18 VAC 160-20-102.

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C. Each licensee ~~and [conditional provisional] licensee~~ applying for renewal shall return the renewal notice, fee, and, in the case of waterworks licensees ~~and [conditional provisional] licensees~~ only, a statement that the applicant for license renewal has met the CPE requirement established in 18 VAC 160-20-109 prior to the expiration date shown on the license. If the licensee ~~or [conditional provisional] licensee~~ fails to receive the renewal notice, a copy of the expired license ~~or [conditional provisional] license~~ may be submitted in place of the renewal notice along with the required fee and, in the case of waterworks licensees ~~and [conditional provisional] licensees~~ only, a statement that the licensee ~~or [conditional provisional] licensee~~ has met the CPE requirement in 18 VAC 160-20-109.

D. The date on which the renewal fee and any required forms are actually received by the board or its agent shall determine whether an additional fee is due.

E. If the requirements of subsection C of this section are met more than 30 days but less than 12 months after the expiration date on the license ~~or [conditional provisional] license~~, a late penalty fee shall be required as established in 18 VAC 160-20-102. The date on which the renewal application, any required documentation and the required fees are actually received by the board or its agent shall determine whether the licensee ~~or [conditional provisional] licensee~~ is eligible for renewal and whether an additional fee is due.

F. Any individual who fails to renew his license ~~or [conditional provisional] license~~ within 12 months after the expiration date printed on the license ~~or the [conditional provisional] license~~, as appropriate, shall apply for a new license by examination ~~or for a new [conditional provisional] license~~ in accordance with Part II (18 VAC 160-20-74 et seq.) of this chapter. Such individual shall be deemed to be eligible to sit for the examination for the same category and class of license as the expired license ~~or [conditional provisional] license~~.

G. The board may deny renewal of a license ~~or [conditional provisional] license~~ for the same reasons as it may refuse initial licensure ~~or [conditional provisional] licensure~~ or discipline a licensee ~~or [conditional provisional] licensee~~.

18 VAC 160-20-109. Waterworks operator continuing profession education (CPE).

~~A. Effective with the February 2003 license renewal cycle,~~ Each licensed ~~and [conditionally provisionally] licensed~~ waterworks operator shall have completed the following number of CPE contact hours required for his class of license:

1. Class I, II, and III operators shall obtain a minimum of 20 contact hours during each license renewal cycle.
2. Class IV operators shall obtain a minimum of 16 contact hours during each license renewal cycle.

3. Class V operators shall obtain a minimum of eight contact hours during each license renewal cycle.

4. Class VI operators shall obtain a minimum of four contact hours during each license renewal cycle.

CPE provisions do not apply for the renewal of licenses ~~or [conditional provisional] licenses~~ that were held for less than two years on the date of expiration.

B. The subject matter addressed during CPE contact hours shall be limited to the content areas covered by the board's examination.

C. Any course approved by the board for substitution as training credits or formal education semester hours, as provided for in 18 VAC 160-20-160, shall also be acceptable on an hour-for-hour basis for CPE contact hours. One semester hour of college credit shall equal 15 CPE contact hours, and one quarter hour of college credit shall equal 10 CPE credit hours.

D. The following evidence shall be maintained to document completion of the hours of CPE specified in subsection A of this section:

1. Evidence of completion of a structured training activity which shall consist of the name, address and telephone number of the sponsor;
2. The dates the applicant participated in the training;
3. Descriptive material of the subject matter presented; and
4. A statement from the sponsor verifying the number of hours completed.

E. Each licensee ~~and [conditional provisional] licensee~~ shall maintain evidence of the satisfactory completion of CPE for a period of at least one year following the end of the license renewal cycle for which the CPE was taken. Such documentation shall be in the form required by subsection D of this section and shall be provided to the board or its duly authorized agents upon request.

F. The licensee ~~or [conditional provisional] licensee~~ shall not receive CPE credit for the same training course or structured training activity more than once during a single license renewal cycle to meet the CPE requirement unless the same training course or structured training activity is an annual requirement established by Virginia or federal regulations.

G. The licensee ~~or [conditional provisional] licensee~~ may receive CPE credit for a training course or structured training activity which has been mandated by Virginia or federal regulation towards fulfilling the CPE requirement.

H. The licensee ~~or [conditional provisional] licensee~~ may petition the board for additional time to meet the CPE requirement. However, CPE hours earned during a license

renewal cycle to satisfy the CPE requirement of the preceding license renewal cycle shall be valid only for that preceding license renewal cycle.

18 VAC 160-20-140. Discipline.

The board has the power to discipline and fine any licensee or [~~conditional~~ provisional] licensee and to suspend or revoke or refuse to renew or reinstate any license or [~~conditional~~ provisional] license as well as the power to deny any application for a license or [~~conditional~~ provisional] license under the provisions of Chapter 23 (§ 54.1-2300 et seq.) of Title 54.1 of the Code of Virginia and this chapter for any of the following:

1. Obtaining or renewing a license or [~~conditional~~ provisional] license through fraudulent means or misrepresentation;
2. Having been convicted or found guilty by a court in any jurisdiction of any felony or of any misdemeanor involving lying, cheating or stealing, or for activities carried out while engaged in waterworks or wastewater works activities, there being no appeal pending therefrom or the time for appeal having lapsed. 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. The record of conviction certified or authenticated in such form as to be admissible in evidence under the laws of the jurisdiction where convicted shall be admissible as prima facie evidence of such guilt;
3. Not demonstrating reasonable care, judgment, or application of the required knowledge, skill and ability in the performance of the operating duties;
4. Violating or inducing another person to violate any provisions of Chapter 1, 2, 3 or 23 of Title 54.1 of the Code of Virginia, or of any provision of this chapter;
5. Having been found guilty by the board, an administrative body or by a court of any activity in the course of performing his operating duties that resulted in the harm or the threat of harm to human health or the environment;
6. Failing to inform the board in writing within 30 days of pleading guilty or nolo contendere or being convicted or found guilty, regardless of adjudication, of any felony which resulted in the harm or the threat of harm to human health or the environment. Failing to inform the board in writing within 30 days of pleading guilty or nolo contendere or being convicted of or found guilty, regardless of adjudication, of any felony or of any misdemeanor for activities carried out while engaged in waterworks or wastewater works activities or involving lying, cheating or stealing; or

7. Negligence, or a continued pattern of incompetence, in the practice as a waterworks or wastewater works operator.

NOTICE: The forms used in administering 18 VAC 160-20, Board for Waterworks and Wastewater Works Operators 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

- [~~License Application, 19LIC (rev. 12/04).~~
- ~~Re-Examination Application, 19REEX (rev. 12/04).~~]
- Continuing Professional Education (CPE) Certificate of Completion, 19CPE (eff. 3/01).
- Application for Training Course Approval, 19CRS (rev. 7/01).
- [~~Experience Verification Form, 19EXP (rev. 1/03).~~
- ~~Exam Location Request Form, 19EXLOC (rev. 12/03).~~
- ~~Out of State Facility Description Form, 19OOSFAC (eff. 1/03).~~
- ~~Nonclassified Facility Description Form, 19NCFAC (eff. 8/04).~~]

VA.R. Doc. No. R04-67; Filed August 21, 2006, 11:38 a.m.

TITLE 22. SOCIAL SERVICES

STATE BOARD OF SOCIAL SERVICES

Final Regulation

Title of Regulation: **22 VAC 40-745. Assessment in Assisted Living Facilities (amending 22 VAC 40-745-10 through 22 VAC 40-745-50, [22 VAC 40-745-60, 22 VAC 40-745-70,] 22 VAC 40-745-90, 22 VAC 40-745-100 and 22 VAC 40-745-110).**

Statutory Authority: §§ 63.2-217 and 63.2-1732 of the Code of Virginia.

Effective Date: November 1, 2006.

Agency Contact: Gail S. Nardi, Adult Services Program Manager, Department of Social Services, 7 North Eighth Street, Richmond, VA 23219, telephone (804) 726-7537, FAX (804) 726-7895, or email gail.nardi@dss.virginia.gov.

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.

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Summary:

The amendments bring the regulation in line with regulations on licensure of assisted living facilities and with Department of Medical Assistance Services policy regarding reimbursement for assisted living services. The term "assisted living facility" replaces the term "adult care residence." Substantive changes (i) require assessments and reassessments to be conducted face to face, (ii) specify who are considered qualified assessors for the purposes of the initial evaluation and who are considered qualified assessors for all subsequent evaluations for both public pay and private pay individuals, (iii) require assessors to complete a state-approved training course on the state-designed uniform assessment instrument (UAI) and for facilities to maintain supporting documentation of the training, (iv) require assisted living facilities to notify the local department of social services 14 days prior to a resident's planned discharge or within five days after the death of a resident, (v) address notification and relocation for residents of facilities with suspended licenses, (vi) allow the local department of social services to initiate a change in the level of care during an inspection or review, and (vii) require community services boards to be responsible for the assessment and reassessment of its clients for placement in an assisted living facility.

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.

CHAPTER 745.

ASSESSMENT IN ADULT CARE RESIDENCES ASSISTED LIVING FACILITIES.

22 VAC 40-745-10. Definitions.

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

"Activities of daily living (ADLs)" means bathing, dressing, toileting, transferring, bowel control, bladder control, and eating/feeding. A person's degree of independence in performing these activities is a part of determining appropriate level of care and services.

~~"Adult care residence (ACR)" 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 (DSS) 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.~~

"Applicant" means an adult ~~currently residing or planning to reside in an adult care residence~~ assisted living facility.

"Assessment" means a standardized approach using common definitions to gather sufficient information about applicants to and residents of ~~adult care residences~~ assisted living facilities to determine the need for appropriate level of care and services.

~~"Assessor" means the entity specified in this regulation as qualified to perform assessments and authorize service in an adult care residence.~~

"Assisted living [care]" 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. Moderate assistance means dependency in two or more of the activities of daily living. Included in this level of service are individuals who are dependent in behavior pattern (i.e., abusive, aggressive, disruptive). ~~Within assisted living, there are two payment levels for recipients of an auxiliary grant: regular assisted living and intensive assisted living as defined in regulations promulgated by the Department of Medical Assistance Services.~~

"Assisted living facility (ALF)" means [any public or private assisted living facility that is required to be licensed as an assisted living facility by the Department of Social Services under Chapter 17 (§ 63.2-1700 et seq.) of Title 63.2 of the Code of Virginia, specifically,] 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.

["Assisted living facility administrator" means any individual charged with the general administration of an assisted living facility, regardless of whether he has an ownership interest in the facility and meets the requirements of 22 VAC 40-71.]

"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 with an approved rate.

"Case management" means multiple functions designed to link individuals to appropriate services. Case management may include a variety of common components such as initial screening of need, comprehensive assessment of needs, development and implementation of a plan of care, service monitoring, and follow-up.

"Case management agency" means a public human service agency which employs or contracts for case management.

"Case manager" means an employee of a public human [~~service services~~] agency who is qualified and designated to develop and coordinate plans of care.

["~~Community based waiver services~~" means a ~~service program administered by the Department of Medical Assistance Services under a waiver approved by the United States Secretary of Health and Human Services.~~]

"Consultation" means the process of seeking and receiving information and guidance from appropriate human [~~service services~~] agencies and other professionals when assessment data indicate certain social, physical and mental health conditions.

"Department" or "DSS" means the Virginia Department of Social Services.

"Dependent" means, for activities of daily living (ADLs) and instrumental activities of daily living (IADLs), the individual needs the assistance of another person or needs the assistance of another person and equipment or device to safely complete the activity. For medication administration, dependent means the individual needs to have medications administered or monitored by another person or professional staff. For behavior pattern, dependent means the person's behavior is aggressive, abusive, or disruptive.

"Discharge" means the movement of a resident out of the ~~adult care residence~~ assisted living facility.

"Emergency placement" means the temporary status of an individual in an ~~adult care residence~~ assisted living facility when the person's health and safety would be jeopardized by not permitting entry into the facility until requirements for admission have been met. ~~An emergency placement shall occur only when the emergency is documented and approved by a Virginia adult protective services worker or case manager for public pay individuals or by an independent physician or a Virginia adult protective services worker for private pay individuals.~~

"Facility" means an assisted living facility.

"Independent physician" means a physician who is chosen by the resident of the ~~adult care residence~~ assisted living facility and who has no financial interest in the ~~adult care residence~~ assisted living facility, directly or indirectly, as an owner, officer, or employee or as an independent contractor with the ~~residence~~ facility.

"Instrumental activities of daily living (IADLs)" means meal preparation, housekeeping, laundry, and money management. A person's degree of independence in performing these activities is a part of determining appropriate level of care and services.

["Maximum physical assistance" means that an individual has a rating of total dependence in four or more of the seven activities of daily living as documented on the uniform assessment instrument.] ~~An individual who can participate in any way with the performance of the activity is not considered to be totally dependent.~~

"Medication administration" means the degree of assistance required to take medications and is a part of determining the need for appropriate level of care and services.

"Private pay" means that a resident of an ~~adult care~~ assisted living facility is not eligible for benefits under the Auxiliary Grants Program.

"Public human [~~service services~~] agency" means an agency established or authorized by the General Assembly under Chapters 2 and 3 (§§ ~~63-1-31~~ 63.2-203 et seq. and ~~63-1-38~~ 63.2-300 et seq.) of Title ~~63-1~~ 63.2, Chapter ~~24-7~~ (§ ~~2-1-371~~ 2.2-700 et seq.) of Title ~~2-1~~ 2.2, Chapters 1 and 10 (§§ 37.1-1

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et seq. and 37.1-194 et seq.) of Title 37.1, ~~or~~ Article 5 (§ 32.1-30 et seq.) of Chapter 1 of Title 32.1, Chapter 1 (§ 51.5-1 et seq.) of Title 51.5, or §§ 53.1-21 and 53.1-60 of the Code of Virginia, or hospitals operated by the state under Chapters 6.1 and 9 (§§ 23-50.4 et seq. and 23-62 et seq.) of Title 23 of the Code of Virginia and supported wholly or principally by public funds, including but not limited to funds provided expressly for the purposes of case management.

"Public pay" means that a resident of an ~~adult care facility~~ assisted living facility is eligible for benefits under the Auxiliary Grants Program.

"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 adult care residences, or any hospital which has contracted with DMAS to perform nursing facility preadmission screenings~~ 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. For public pay individuals, a qualified assessor is an employee of a public human services agency trained in the completion of the uniform assessment instrument. For private pay individuals, a qualified assessor is staff of the assisted living facility [trained in the completion of the uniform assessment instrument] or an independent private physician [trained in the completion of the uniform assessment instrument].

["Reassessment" means an update of information at any time after the initial assessment. In addition to a periodic reassessment, a reassessment should be completed whenever there is a significant change in the resident's condition.]

"Residence" means an adult care residence.

"Resident" means an individual who resides in an assisted living facility.

"Residential living [care]" 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. Minimal assistance means dependency in only one activity of daily living or dependency in one or more of the selected instrumental 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.

"Significant change" means a change in a resident's condition that is expected to last longer than 30 days. It does not include short-term changes that resolve with or without

intervention, a short-term acute illness or episodic event, or a well-established, predictive, cyclic pattern of clinical signs and symptoms associated with a previously diagnosed condition where an appropriate course of treatment is in progress.

"Targeted case management" means the provision of ongoing case management services by an employee of a public human services agency contracting with the Department of Medical Assistance Services to an auxiliary grant resident of an ~~adult care residence~~ assisted living facility who meets the criteria set forth in Part IV (12 VAC 30-50-410 et seq.) of 12 VAC 30-50.

"Total dependence" means the individual is entirely unable to participate in the performance of an activity of daily living.

"Uniform assessment instrument" means the department-designated assessment form. There is an alternate version of the uniform assessment instrument which may be used for private pay residents; social and financial information which is not relevant because of the resident's payment status is not included on this version.

"User's Manual: Virginia Uniform Assessment Instrument" means the department-designated handbook containing common definitions and procedures for completing the department-designated assessment form.

"Virginia Department of Medical Assistance Services (DMAS)" means the single state agency designated to administer the Medical Assistance [Services] Program in Virginia.

22 VAC 40-745-20. Persons to be assessed.

A. ~~Effective February 1, 1996,~~ All residents of and applicants of ACRs to assisted living facilities must be assessed [face-to-face] using the uniform assessment instrument prior to admission, at least annually, and whenever there is a significant change in the resident's condition [that appears to be permanent].

B. ~~Unless a private pay resident requests the uniform assessment instrument be completed by a case manager or other qualified assessor~~ For private pay individuals, qualified staff of the ACR assisted living facility or an independent private physician may complete the uniform assessment instrument ~~for private pay individuals~~. Qualified staff of the ACR assisted living facility [~~is an~~ are] [~~employee~~ employees] of the facility [~~with documented training~~] in the completion of [by completion of a who have successfully completed] state-approved [course training] on the uniform assessment instrument for either public or private pay assessments. [The assisted living facility maintains documentation of the completed training.] The administrator or the administrator's designated representative must approve and sign the completed uniform assessment instrument for private pay individuals. A private pay individual may request

the assessment be completed by a qualified public human services agency assessor. When a ~~case manager~~ public human services agency assessor completes the UAI uniform assessment instrument for a private pay individual, the ~~case management~~ agency may determine and charge a fee for private pay applicants and residents; the fee may not exceed the fee paid by DMAS for public pay applicants and residents.

C. For public pay individuals, a uniform assessment instrument shall be completed by a case manager or [~~either a~~] qualified assessor to determine the need for residential [~~care~~] or assisted living [~~care~~] services. The assessor is qualified to complete the assessment if [~~he the assessor~~] has completed a state-approved training course on the state-designated uniform assessment instrument. Public human services agency assessors who routinely complete, as part of their job descriptions, uniform assessment instruments for applicants to or residents of assisted living facilities prior to January 1, 2004, may be deemed to be qualified assessors without the completion of the training course. Qualified assessors [~~that who~~] may authorize assisted living facility services for public pay individuals are employees of (i) local departments of social services; (ii) area agencies on aging; (iii) centers for independent living; (iv) community services boards; (v) local departments of health; (vi) state facilities operated by the Department of Mental Health, Mental Retardation and Substance Abuse Services, (vii) acute-care hospitals, and (viii) Department of Corrections Community Release Units; and [~~an~~] independent [~~physician contracting with DMAS physicians~~].

D. The ~~ACR~~ assisted living facility must coordinate with the assessor to ensure that the uniform assessment instrument is completed as required.

22 VAC 40-745-30. Determination of services to be provided.

A. The assessment shall be conducted with the department-designated uniform assessment instrument which sets forth a resident's care needs. The uniform assessment instrument is designed to be a comprehensive, accurate, standardized, and reproducible assessment of individuals seeking or receiving long-term care services. The uniform assessment instrument is comprised of a short assessment and a full assessment. The short assessment is designed to briefly assess the individual's need for appropriate level of care and services and to determine if a full assessment is needed. The uniform assessment instrument shall contain the following items: Full name of the individual; social security number; current address; date of birth; sex; marital status; racial/ethnic background; education; method for communication of needs; primary caregiver or emergency contact or both; usual living arrangements; problems with physical environmental; use of current formal services; annual income; sources of income; legal representatives; benefits or entitlements received; types

of health insurance; performance on functional status which includes ADLs, continence, ambulation and IADLs; physician information; admissions to hospitals, nursing facilities or [~~adult care resides~~ assisted living facilities] for medical or rehabilitation reasons; advance directives; diagnoses and medication profile; sensory functioning; joint motion; presence of fractures/dislocations; missing limbs or paralysis/paresis; nutrition; smoking history; use of rehabilitation therapies; presence of pressure ulcers; need for special medical procedures; need for ongoing medical/nursing needs; orientation; memory and judgment; behavior pattern; life stressors; emotional status; social history which includes activities, religious involvement; contact with family and friends; hospitalization for emotional problems; use of alcohol or drugs; assessment of caregivers; and an assessment summary.

B. Sections of the uniform assessment instrument which must be completed are as follows:

1. The assessment for private pay individuals shall include the following portions of the uniform assessment instrument: name of the individual; social security number; current address; birthdate; sex; marital status; performance on functional status, which includes ADLs, continence, ambulation, IADLs, medication administration, and behavior pattern. In lieu of completing selected parts of the department-designated uniform assessment instrument, the alternate uniform assessment instrument developed for private pay applicants and residents may be used.

2. For public pay individuals, the short form of the uniform assessment instrument shall be completed. The short form consists of sections related to identification and background, functional status, medication administration, and behavior pattern. If, upon assessment, it is determined that the individual is dependent in at least two activities of daily living or is dependent in behavior, then the full assessment must be completed.

C. 1 [~~2~~] The uniform assessment instrument shall be completed within 90 days prior to the date of admission to the ~~ACR~~ assisted living facility. If there has been a [~~significant~~] change in the individual's condition since the completion of the uniform assessment instrument which would affect the admission to an ~~ACR~~ assisted living facility, a new uniform assessment instrument shall be completed as specified in 22 VAC 40-745-20.

2. When a resident moves to an ~~ACR~~ assisted living facility from another ~~ACR~~ assisted living facility a new uniform assessment instrument is not required except that a new uniform assessment instrument shall be completed whenever there is a significant change in the resident's condition ~~that appears to warrant a change in the resident's approved level of care~~ or the assessment was completed more than 12 months ago.

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3. In emergency placements, the uniform assessment instrument must be completed within seven working days from the date of placement. An emergency placement shall occur only when the emergency is documented and approved by a Virginia adult protective services worker ~~or case manager~~ for public pay individuals or by a Virginia adult protective services worker or independent physician for private pay individuals.

D. The uniform assessment instrument shall be completed at least ~~once every 12 months~~ annually on all residents of ~~ACRs~~ assisted living facilities. Uniform assessment instruments shall be completed as needed whenever there is a significant change in the resident's condition that appears to warrant a change in the resident's approved level of care. All uniform assessment instruments shall be completed as required ~~in subsection A of this section~~ by 22 VAC 40-745-20.

E. At the request of the ~~ACR assisted living facility~~, [the resident] the resident's representative, the resident's physician, DSS, or the local department of social services, an independent assessment using the uniform assessment instrument shall be completed to determine whether the resident's care needs are being met in the current placement. An independent assessment is an assessment that is completed by an entity other than the original assessor. The ~~ACR assisted living facility~~ shall assist the resident in obtaining the independent assessment as requested. If the request is for a private pay resident, and the independent assessment confirms that the resident's placement is appropriate, then the entity requesting the independent assessment shall be responsible for payment of the assessment, if applicable.

F. The assessor shall consult with other appropriate human service professionals as needed to complete the assessment.

G. DMAS shall reimburse for completion of assessments and authorization of ~~ACR assisted living facility~~ placement for public pay applicants and residents pursuant to this section.

22 VAC 40-745-40. Discharge.

[A.] Discharge is the process that ends the stay in an ~~ACR assisted living facility~~. Staff of the ~~ACR assisted living facility~~ must plan for post-discharge services when the [public pay] resident is returned to a home-based placement ~~or a nursing facility or other placement~~. ~~ACR Assisted living facility~~ staff shall notify [in writing] the local department of social services financial eligibility worker in the jurisdiction responsible for authorizing the auxiliary grant and the public human [services] agency assessor of the date and place of discharge and ~~case management, if applicable~~ as well as when a resident dies. The assisted living facility must make these notifications [within 10 days of the change in the resident's status 14 days prior to the resident's planned discharge or within five days after the death of the resident. In the event of an emergency discharge as defined by 22 VAC

40-71-160, the notification shall be made as rapidly as possible, but must be made by close of business on the day following the emergency discharge].

[B. Upon issuing a notice of summary order of suspension to an assisted living facility, the Commissioner of the Virginia Department of Social Services or his designee shall contact the appropriate local department of social services to develop a relocation plan. The residents of an assisted living facility whose license has been summarily suspended pursuant to § 63.2-1709 of the Code of Virginia shall be relocated as soon as possible to reduce the risk of jeopardizing the health, safety, and welfare of residents. An assessment of the relocated resident is not required, pursuant to 22 VAC 40-745-30 C 3.]

22 VAC 40-745-50. Authorization of services to be provided.

A. The assessor is responsible for authorizing the individual for the appropriate level of care for admission to and continued stay in an ~~ACR assisted living facility~~.

B. The ~~ACR assisted living facility~~ must be knowledgeable of the criteria for level of care in an ~~ACR assisted living facility~~ and is responsible for discharge of the resident whenever a resident does not meet the criteria for level of care in an ~~ACR assisted living facility~~ upon admission or at any later time.

C. The appropriate level of care must be documented on the uniform assessment instrument, completed in a manner consistent with the definitions of activities of daily living and directions provided in the User's Manual: Virginia Uniform Assessment Instrument.

D. During an inspection or review, staff from either the department, DMAS, or the local department of social services may initiate a change in level of care for any assisted living facility resident for whom it is determined that the resident's uniform assessment instrument is not reflective of the resident's current status.

[22 VAC 40-745-60. Criteria for residential living care.

Individuals meet the criteria for residential living as documented on the uniform assessment instrument when at least one of the following describes their functional capacity:

1. Rated dependent in only one of seven ADLs (i.e., bathing, dressing, toileting, transferring, bowel function, bladder function, and eating/feeding).
2. Rated dependent in one or more of four selected IADLs (i.e., meal preparation, housekeeping, laundry, and money management).
3. Rated dependent in medication administration.

22 VAC 40-745-70. Criteria for assisted living care.

Individuals meet the criteria for assisted living as documented on the uniform assessment instrument when at least one of the following describes their capacity:

1. Rated dependent in two or more of seven ADLs.
2. Rated dependent in behavior pattern (i.e., abusive, aggressive, and disruptive).]

22 VAC 40-745-90. Actions to be taken upon completion of the uniform assessment instrument.**A. Public pay individuals.**

1. Upon completion of the uniform assessment instrument for admission, ~~changes in the individual's approved level of care, a significant change in the resident's condition, or for the 12-month assessment annual reassessment~~, the case manager or a qualified assessor shall forward to the local department of social services financial eligibility worker in the appropriate agency of jurisdiction, in the format specified by the department, the effective date of admission or change in level of care. Qualified assessors who may perform the annual reassessment or a change in level of care for public pay individuals are employees of (i) local departments of social services; (ii) area agencies on aging; (iii) centers for independent living; (iv) community services boards; and (v) local departments of health, or an independent physician [contracting with DMAS] to complete the uniform assessment instrument.

2. ~~A copy of~~ The completed uniform assessment instrument, ~~a copy of~~ the referral to the financial eligibility worker, and other relevant data shall be maintained in the ACR assisted living facility resident's record.

3. The ~~12-month assessment annual reassessment~~ shall be completed by the qualified assessor conducting the initial assessment. If the original assessor is neither willing nor able to complete the assessment and another assessor is not available, the local department of social services where the resident resides following placement in an ACR assisted living facility shall be the assessor.

4. Clients of a community services board shall be assessed and reassessed by [staff of qualified assessors employed by] the community services board.

[5. The facility shall provide to the community services board or behavioral health authority notification of uniform assessment instruments that indicate observed behaviors or patterns of behavior indicative of mental illness, mental retardation, substance abuse, or behavioral disorders, pursuant to § 63.2-1805 B of the Code of Virginia.]

B. For private pay residents, the ACR assisted living facility shall ensure that assessments for all residents at admission and at subsequent intervals are completed as required in this

chapter. The ACR assisted living facility shall maintain in the resident's record ~~a copy of~~ the resident's uniform assessment instrument and other relevant data.

22 VAC 40-745-100. Targeted case management for auxiliary grant recipients.

A. Targeted case management shall be limited to those residents who have multiple needs across multiple providers and this coordination is beyond the scope of the ACR assisted living facility. It shall be the responsibility of the assessor who identifies the individual's need for residential [care] or assisted living [care] in an ACR assisted living facility to assess the need for targeted case management services as defined in Part IV (12 VAC 30-50-410 et seq.) of 12 VAC 30-50.

B. A case management agency must have signed an agreement with DMAS to be reimbursed for the provision of targeted case management services to auxiliary grant recipients.

C. The local department of social services where the adult resides, following placement in an ACR assisted living facility, shall be the case management agency when there is no other qualified case management provider willing or able to provide case management services.

D. A qualified case manager must possess a combination of relevant work experience in human services or health care and relevant education which indicates that the individual possesses the knowledge, skills, and abilities at entry level as defined in Part IV (12 VAC 30-50-410 et seq.) of 12 VAC 30-50. This must be documented on the case manager's job application form or supporting documentation or observable in the job or promotion interview. When the provider agency is a local department of social services, case managers shall meet the qualifications for social work/social work supervisor classification as specified in ~~22 VAC 40-670-10 et seq.~~

22 VAC 40-745-110. Resident appeals.

Assessors shall advise orally and in writing all applicants to and residents of ACRs assisted living facilities for which assessment or targeted case management services or both are provided of the right to appeal the outcome of the assessment, the ~~12-month assessment annual reassessment~~, or determination of level of care. Applicants for auxiliary grants who are denied an auxiliary grants grant because the assessor determines that they do not require the minimum level of services offered in the residential care level have the right to file an appeal with the department of ~~Social Services~~ under ~~§ 63.1-116~~ 63.2-517 of the Code of Virginia. A determination that the individual does not meet the criteria to receive assisted living ~~services and intensive assisted living services~~ is an action which is appealable to DMAS.

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DOCUMENTS INCORPORATED BY REFERENCE

User's Manual: Virginia Uniform Assessment Instrument (UAI), ~~Long Term Care Council, March 1994~~
Commonwealth of Virginia, Revised April 1998.

VA.R. Doc. No. R03-211; Filed August 29, 2006, 9:26 a.m.



TITLE 24. TRANSPORTATION AND MOTOR VEHICLES

DEPARTMENT OF TRANSPORTATION

Proposed Regulation

REGISTRAR'S NOTICE: The Department of Transportation is exempt from the Administrative Process Act pursuant to the third enactment of Chapter 527 of the 2006 Acts of Assembly, which provides that the department is not subject to the Administrative Process Act when promulgating regulations by December 31, 2006, to carry out the provisions of Chapter 527 of the 2006 Acts of Assembly.

Title of Regulation: **24 VAC 30-155. Traffic Impact Analysis Regulations (adding 24 VAC 20-155-10 through 24 VAC 20-155-90).**

Statutory Authority: Chapter 527 of the 2006 Acts of Assembly.

Public Hearing Date: September 25, 2006 - 5:30 p.m.

Public comments may be submitted until October 18, 2006.

(See Calendar of Events section for additional information)

Agency Contact: Robert W. Hofrichter, Assistant Director for Land Use, Asset Management Division, Department of Transportation, 1401 East Broad Street, Richmond, VA 23219, telephone (804) 662-9612, FAX (804) 662-9405, or email chapter527@vdot.virginia.gov.

Summary:

Chapter 527 of the 2006 Acts of Assembly added § 15.2-2222.1 to the Code of Virginia. The amendment establishes procedures by which localities submit proposals that will affect the state-controlled transportation network to the Virginia Department of Transportation (VDOT) for review and comment. The chapter also directs VDOT to promulgate regulations to carry out the provisions of the statute. The intent of the statute is to improve the manner in which land use and transportation planning decisions are coordinated and executed throughout the Commonwealth by establishing standardized methodologies (definitions, analytical methods, etc.) and procedures for analyzing transportation impacts.

Specifically, the proposed regulations set forth procedures and requirements governing VDOT's review of and submission of comments regarding comprehensive plans and amendments to comprehensive plans, rezoning proposals, and subdivision plats, site plans and plans of development and the accompanying traffic impact statements. The regulation also identifies when such comprehensive plans and amendments to comprehensive plans, rezoning proposals, and subdivision plats, site plans and plans of development must be submitted, and the documents and information that must be submitted to VDOT to facilitate the required review and submission of comments. The regulation further establishes the scope and nature of the review and a schedule of fees to be paid upon submission of a proposal to VDOT for review.

The draft regulation has been developed in consultation with a technical advisory committee and a policy advisory committee including representatives from local governments and other stakeholder groups, convened by the Secretary of Transportation.

Though exempt from the Administrative Process Act, VDOT is publishing the draft regulation for the purpose of soliciting input as the regulation is finalized. This draft regulation will also be posted online at www.vdot.virginia.gov, and comments will be accepted by regular mail at: Chapter 527 Public Comment, c/o Virginia Department of Transportation, Policy Office, 1401 East Broad Street, Richmond, VA 23219, or email chapter527@vdot.virginia.gov.

Chapter 527 also requires that the department submit a report to the Governor and the General Assembly by December 1, 2006, identifying the costs of conducting the reviews required by the chapter and recommending a reasonable fee schedule for such reviews. The fee schedule proposed in the draft regulation is intended to provide a basic framework upon which to solicit comment. The final fee structure will be informed by the cost report.

As indicated to the policy advisory committee, in particular the department anticipates the bicycle, pedestrian and transit aspects of the regulation to undergo thorough review and possible revision.

CHAPTER 155.

TRAFFIC IMPACT ANALYSIS REGULATIONS.

24 VAC 30-155-10. Definitions.

"District planning manager" means the VDOT employee assigned to supervise the department's regional and local transportation planning functions within a construction district.

"Locality" means any local government, pursuant to § 15.2-2223 of the Code of Virginia, that must prepare and recommend a comprehensive plan for the physical development of the territory within its jurisdiction.

"Redevelopment site" means any existing use that generates traffic and is intended to be developed as a different or more dense land use.

"Residency administrator" means the VDOT employee assigned to supervise departmental operations within a specified geographical portion of the Commonwealth, or his designee. In districts having centralized functions for the review and approval of site plans, this position may be either the district land development manager or any other position specifically designated to perform plan approval functions.

"State-controlled highway" means a highway in Virginia that is part of the interstate, primary, or secondary systems of state highways and that is maintained by the state under the direction and supervision of the Commonwealth Transportation Commissioner. Highways for which localities receive maintenance payments pursuant to §§ 33.1-23.5:1 and 33.1-41.1 of the Code of Virginia are not considered state-controlled highways for the purposes of this regulation.

"Traffic impact statement" means the document showing how a proposed development will relate to existing and future transportation facilities.

"VDOT" means the Virginia Department of Transportation, the Commonwealth Transportation Commissioner, or a designee.

24 VAC 30-155-20. (Reserved.)

24 VAC 30-155-30. Comprehensive plan and comprehensive plan amendment.

A. Plan and amendment submittal. Prior to adoption of any comprehensive plan pursuant to § 15.2-2223 of the Code of Virginia, any part of a comprehensive plan pursuant to § 15.2-2228 of the Code of Virginia, or any amendment to any comprehensive plan as described in § 15.2-2229 of the Code of Virginia, if required by this section of this chapter, the locality shall submit such plan or amendment to the department for review and comment, such submission should take place at least 90 days prior to anticipated final action by the locality. The Virginia Department of Transportation shall, upon request, provide localities with technical assistance in preparing the transportation component of the comprehensive plan. The comprehensive plan or comprehensive plan amendment package shall be submitted to the department, who shall forward it to the district planning manager, if it is reasonably anticipated to result in substantial changes or impacts to the existing transportation network. For the purposes of this section, a substantial impact shall be defined as a change that would allow the generation of 2,000 additional vehicle trips per day on state-controlled highways assuming the highest density of permissible use in accordance with the Institute of Transportation Engineers Trip Generation Handbook (see 24 VAC 30-155-90) or the regional model as adopted by the local Metropolitan Planning Organization, and

substantial changes shall include those changes that alter future transportation infrastructure, travel patterns, or the ability to improve future transportation facilities on state-controlled highways.

B. Required elements. The submission by the locality to VDOT shall contain sufficient information so that VDOT may evaluate the system of new and expanded transportation facilities, outlined in the transportation plan, that are needed to support the current and planned development of the territory covered by the plan. In order to conduct this evaluation, the package submitted to VDOT shall contain the following items:

1. For a comprehensive plan or a transportation plan, the locality shall provide one copy of the following:

a. A cover sheet, containing:

- (1) Contact information for the locality, and
- (2) Summary of major changes made to the comprehensive plan or transportation plan;

b. The proposed comprehensive plan or transportation plan, and the following elements:

(1) Inventory – an inventory (written or graphic) of the existing transportation network, which shall include at a minimum all roadways within the Federal Aid system that are classified as a collector or above. Additional roads may be included at the discretion of the locality.

(2) Assumptions – planning assumptions shall be detailed, since these assumptions directly influence the demand placed on the transportation system. Population growth, employment growth, location of critical infrastructure such as water and sewer facilities, among others, are examples of planning assumptions that may be addressed.

(3) Needs assessment – written or graphic evaluation of the transportation systems current and projected performance and conditions. The needs assessment identifies specific deficiencies.

(4) Recommendations – proposed improvements or additions to the transportation infrastructure. Recommendations should be specific so that the need, location and nature of the proposed improvements are clear and understandable. Localities are encouraged to include pedestrian, bicycle, transit, rail and other multimodal recommendations as they deem appropriate. The transportation plan shall include a map showing road and transportation improvements, taking into account the current and future needs of residents in the locality while considering the current and future needs of the planning district within which

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the locality is situated. Recommended improvements shall include cost estimates as available from VDOT.

2. For an amendment to a comprehensive plan or transportation plan, the locality shall provide one copy of the following:

a. A cover sheet, containing:

(1) Contact information for the locality;

(2) Summary of proposed amendment or amendments to the comprehensive plan or transportation plan; and

(3) Overview of reasoning and purpose for amendments.

b. Application forms and documentation presented to or prepared by the local jurisdiction.

c. Associated maps or narratives that depict and detail the amendment under consideration.

d. Any changes to the planning assumptions associated with the amendment, and

e. Local assessment of the potential impacts the amendment may have on the transportation system.

f. Those elements identified in subdivision 1 b of this subsection that VDOT determines are needed in order to review and comment on impacts to state-controlled highways.

C. Review process. After formal submission of a proposed plan or plan amendment for review, the department shall forward the plan or plan amendment to the district planning manager. VDOT may, pursuant to § 15.2-2222.1 of the Code of Virginia, request a meeting with the locality to discuss the plan or amendment. The request must be made within 30 days of receipt of the proposal. VDOT must provide written comments to the locality within 90 days of the receipt of the plan or plan amendment or by such later deadline as may be agreed to by the parties. VDOT will conduct its review and provide official comments to the locality for inclusion in the official public record of the locality.

24 VAC 30-155-40. Rezoning.

A. Proposal submittal. The locality shall submit a package to the department within 10 business days of receipt of a complete application for a rezoning proposal if the proposal substantially affects transportation on state-controlled highways. For the purposes of this section, a rezoning proposal shall substantially affect transportation on state-controlled highways if it meets or exceeds one or more of the following trip generation criteria. All trip generation calculations used for the purposes of determining if a proposal meets the criteria shall be based upon the rates or equations published in the Institute of Transportation Engineers Trip Generation (see 24 VAC 30-155-90), and

shall not be reduced through internal capture rates. For redevelopment sites, trips currently generated by existing development that will be removed may be deducted from the total site trips that are generated by the proposed land use.

1. Within a jurisdiction in which VDOT has maintenance responsibility for the secondary highway system, if the proposal generates more than 100 vehicle trips per peak hour of the generator at the site's connection to a state-controlled highway. For a site that does not have an entrance onto a state-controlled highway, the site's connection is assumed to be wherever the road network that the site connects with attaches to a state-controlled highway. In cases where the site has multiple entrances to highways volumes on all entrances shall be combined for the purposes of this determination;

2. Within a jurisdiction in which VDOT does not have maintenance responsibility for the local highway system, if the proposal generates more than 1,000 vehicle trips per day and is within 3,000 feet, measured along roads or streets, of a state-controlled highway; or

3. The proposal generates more than 200 daily vehicle trips on a state-controlled highway and more than doubles the daily traffic volume the highway presently carries. For the purposes of determining whether a proposal must be submitted to VDOT, the traffic carried on the state-controlled highway shall be assumed to be the most recently published amount measured in the last traffic count conducted by VDOT or the locality on that highway.

B. Required proposal elements. The package submitted by the locality to VDOT shall contain sufficient information and data so that VDOT may determine the location of the rezoning, its size, its impact on state-controlled highways, and methodology and assumptions used in the analysis of the impact. Submittal of an incomplete package shall be considered deficient in meeting the submission requirements of § 15.2-2222.1 of the Code of Virginia and shall be returned to the locality identifying the deficiencies noted. A package submitted to VDOT shall contain the following items:

1. A cover sheet containing:

a. Contact information for locality and developer (or owner);

b. Rezoning location, highways adjacent to site, and parcel number or numbers;

c. Proposal summary with development name, size, and proposed zoning; and

d. A statement regarding the proposal's compliance with the comprehensive plan.

2. A traffic impact statement prepared in accordance with 24 VAC 30-155-60.

3. A concept plan of the proposed development.

C. Review process. After formal submission of a rezoning proposal for review, VDOT may, pursuant to § 15.2-2222.1 of the Code of Virginia, request a meeting with the locality and rezoning applicant to discuss potential modifications to the proposal to address any concerns or deficiencies. The request must be made within 45 days of receipt of the proposal. VDOT must provide written comments to the locality within 45 days of the receipt of the proposal if no meeting is scheduled or within 120 days of the receipt of the proposal otherwise. VDOT shall conduct its review and provide official comments to the locality for inclusion in the official public record.

24 VAC 30-155-50. Subdivision plat, site plan, plan of development.

A. Proposal submittal. The locality must submit a package to the department within 10 business days of receipt of a complete development proposal if the proposal substantially affects transportation on state-controlled highways. For the purposes of this section, a development proposal shall substantially affect transportation on state-controlled highways if it meets or exceeds one or more of the following trip generation criteria. All trip generation calculations used for the purposes of determining if a proposal meets these requirements shall be based upon the rates or equations published in the Institute of Transportation Engineers Trip Generation (see 24 VAC 30-155-90), and shall not be reduced through internal capture rates. For redevelopment sites, trips currently generated by existing development that will be removed may be deducted from the total site trips that are generated by the proposed land use.

1. Within a jurisdiction in which VDOT has maintenance responsibility for the secondary highway system, if the proposal generates more than 100 vehicle trips per peak hour of the generator at the site's connection to a state-controlled highway. For a site that does not have an entrance onto a state-controlled highway, the site's connection is assumed to be wherever the road network that the site connects with attaches to a state-controlled highway. In cases where the site has multiple entrances to highways volumes on all entrances shall be combined for the purposes of this determination;

2. Within a jurisdiction in which VDOT does not have maintenance responsibility for the local highway system, if the proposal generates more than 1,000 vehicle trips per day and is within 3,000 feet, measured along roads or streets, of a state-controlled highway; or

3. The proposal generates more than 200 daily vehicle trips on a state-controlled highway and more than doubles the daily traffic volume the highway presently carries. For the purposes of determining whether a proposal must be submitted to VDOT, the traffic carried on the state-

controlled highway shall be assumed to be the most recently published amount measured in the last traffic count conducted by VDOT or the locality on that highway.

B. Required proposal elements.

1. The package submitted by the locality to VDOT shall contain sufficient information and data so that VDOT may determine the location of the development, its size, its impact on state-controlled highways, and methodology and assumptions used in the analysis of the impact. Submittal of an incomplete package shall be considered deficient in meeting the submission requirements of § 15.2-2222.1 of the Code of Virginia and shall be returned to the locality identifying the deficiencies noted. A package submitted to VDOT shall contain the following items.

a. A cover sheet containing:

- (1) Contact information for locality and developer (or owner);
- (2) Development location, highways connected to, and parcel number or numbers; and
- (3) Proposal summary with development name and size in acres.

b. A supplemental traffic analysis, as defined in 24 VAC 30-155-50 C.

c. A concept plan of the proposed development.

C. Supplemental traffic analysis. For the purposes of this subsection, a supplemental traffic analysis will be defined as follows:

1. In cases where a rezoning traffic impact statement has been submitted to VDOT in accordance with 24 VAC 30-155-40, if all assumptions made in the traffic impact statement prepared for the rezoning remain valid and if the submission of the subdivision plat, site plan, or plan of development to the locality occurs within two years of the locality's submission of the rezoning proposal to VDOT in accordance with 24 VAC 30-155-40, the supplemental traffic analysis shall be a letter that provides VDOT with the following information:

- a. A statement that the development's rezoning traffic impact statement is still valid.
- b. The date of the VDOT letter providing the locality comments on the rezoning.

2. In cases where a rezoning traffic impact statement has been submitted to VDOT in accordance with 24 VAC 30-155-40, if all assumptions made in the traffic impact statement prepared for the rezoning remain valid and if the submission of the subdivision plat, site plan, or plan of development to the locality occurs more than two years of the locality's submission of the rezoning proposal to

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VDOT in accordance with 24 VAC 30-155-40, the supplemental traffic analysis shall be a letter that provides VDOT with the following information:

- a. A statement that the development's rezoning traffic impact statement is still valid;
- b. The date of the VDOT letter providing the locality comments on the rezoning;
- c. Documentation supporting the statement that the development's rezoning traffic impact statement is still valid; and
- d. A copy of the original traffic impact statement.

After review of such letter, the department may require submission in accordance with subdivision 3 of this subsection.

3. In cases where the rezoning traffic impact statement has not been submitted to VDOT in accordance with 24 VAC 30-155-40, the assumptions made in such traffic impact statement prepared for the rezoning no longer remain valid, or if required pursuant to subdivision 2 of this section, the supplemental traffic analysis shall contain the information required for rezoning traffic impact statements with 100 to 499 peak hour trips. If the subdivision plat, site plan, or plan of development will generate less than 100 peak hour trips then the lower standard for the rezoning traffic impact statement shall be used.

D. Review process. After formal submission of a subdivision plat, site plan, or plan of development for review, VDOT may, pursuant to § 15.2-2222.1 of the Code of Virginia, request a meeting with the locality to discuss potential modifications to the proposal to address any concerns or deficiencies. The request must be made within 30 days of receipt of the proposal. VDOT must provide written comments to the locality within 30 days of the receipt of the proposal if no meeting is scheduled or within 90 days of the receipt of the proposal otherwise. VDOT will conduct its

review and provide official comments to the locality for inclusion in the official public record.

24 VAC 30-155-60. Traffic impact statement.

A. A Traffic Impact Statement (TIS) assesses the impact of a proposed development on the transportation system and recommends improvements to lessen or negate those impacts. It shall (i) identify any traffic issues associated with access from the site to the existing transportation network, (ii) outline solutions to potential problems, and (iii) present improvements to be incorporated into the proposed development. The TIS shall be reviewed and signed by a licensed professional engineer.

If a TIS is required, data collection shall be by the locality, developer, or owner, as determined by the locality and the locality shall prepare or have the developer or owner prepare the TIS. The completed TIS shall be submitted to the department.

The data and analysis contained in the TIS shall be organized and presented in a manner acceptable to the department and consistent with this regulation. Submittal of an incomplete TIS or one prepared using unapproved methodology or assumptions shall be considered deficient in meeting the submission requirements of § 15.2-2222.1 of the Code of Virginia and shall be returned to the locality identifying the deficiencies noted by the department. The department shall also provide the applicant with a list of deficiencies noted by the department.

B. Required elements. The required elements and scope of a TIS are dependent upon the scale and potential impact of the specific development proposal being addressed by the TIS. The elements required to be addressed in a TIS are shown in the table below. When the type of development proposed would indicate significant potential for walking, bike or transit trips either on- or off-site, the TIS shall estimate multimodal trips.

<u>Item</u>	<u>Site Generated Peak Hour Trips</u>			
	<u>Less than 100</u>	<u>100 to 499</u>	<u>500 to 999</u>	<u>1,000 or more</u>
<u>Background information</u>	-	-	-	-
<u>Map of site location, description of the parcel, general terrain features, and location within the jurisdiction and region.</u>	<u>Required</u>	<u>Required</u>	<u>Required</u>	<u>Required</u>
<u>Description of geographic scope / limits of study area</u>	<u>Within 1,000 ft of site</u>	<u>To nearest off-site intersections or 1 mile, whichever is greater</u>	<u>To nearest off-site signalized intersections or 2 miles, whichever is greater</u>	<u>Within 2-5 miles of site, as determined by VDOT</u>

<u>Plan at an engineering scale of the existing and proposed site uses.</u>	<u>Required</u>	<u>Required</u>	<u>Required</u>	<u>Required</u>
<u>Description and map or diagram of nearby uses, including parcel zoning.</u>	<u>Required</u>	<u>Required</u>	<u>Required</u>	<u>Required</u>
<u>Description and map or diagram of existing roadways.</u>	<u>Required</u>	<u>Required</u>	<u>Required</u>	<u>Required</u>
<u>Description and map or diagram of programmed improvements to roadways, intersections, and other transportation facilities within the study area.</u>	<u>Required</u>	<u>Required</u>	<u>Required</u>	<u>Required</u>
<u>Analysis of Existing Conditions</u>	-	-	-	-
<u>Collected daily and peak hour traffic volumes, tabulated and presented on diagrams with counts provided in an appendix.</u>	<u>Only diagrams required</u>	<u>Required</u>	<u>Required</u>	<u>Required</u>
<u>Analyses for intersections and roadways identified by the Department. Delay and Level of Service (LOS) are tabulated and LOS is presented on diagrams for each lane group.</u>	<u>Only diagrams required</u>	<u>Required</u>	<u>Required</u>	<u>Required</u>
<u>When the type of development proposed would indicate significant potential for walking, bike or transit trips either on or off site, analyses of pedestrian and bicycle facilities under the forecast traffic tabulated and presented on diagrams, if facilities exist.</u>	<u>At frontage, only diagrams required</u>	<u>Within 1,500 ft of site</u>	<u>Within 1,500 ft of site</u>	<u>Within 1,500 ft of site</u>
<u>Speed Study</u>	<u>If requested by VDOT</u>	<u>If requested by VDOT</u>	<u>If requested by VDOT</u>	<u>Required</u>
<u>Crash history near site</u>	<u>If requested by VDOT</u>	<u>If requested by VDOT</u>	<u>Required</u>	<u>Required</u>
<u>Sight distance</u>	<u>If requested by VDOT</u>	<u>If requested by VDOT</u>	<u>Required</u>	<u>Required</u>
<u>Analysis of Future Conditions without Development</u>	-	-	-	-
<u>Description of and justification for the method and assumptions used to forecast future traffic volumes.</u>	<u>Optional</u>	<u>Required</u>	<u>Required</u>	<u>Required</u>
<u>Analyses for intersections and roadways as identified by the Department. Delay and Level of Service (LOS) are tabulated and LOS is presented on diagrams.</u>	<u>Optional</u>	<u>Required</u>	<u>Required</u>	<u>Required</u>

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When the type of development proposed would indicate significant potential for walking, bike or transit trips either on or off site, analyses of pedestrian and bicycle facilities under the forecast traffic tabulated and presented on diagrams, if facilities exist or are planned.

At frontage, only diagrams required

Within 1,500 ft of site

Within 1,500 ft of site

Within 1,500 ft of site

Trip Generation

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Site trip generation, with tabulated data, broken out by analysis year for multi-phase developments, and including justification for deviations from ITE rates, if appropriate.

Required

Required

Required

Required

Description and justification of internal capture reductions for mixed use developments and pass-by trip reductions, if appropriate, including table of calculations used.

Required

Required

Required

Required

Site Traffic Distribution and Assignment

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-

-

Description of methodology used to distribute trips, with supporting data.

Required

Required

Required

Required

Description of the direction of approach for site generated traffic and diagrams showing the traffic assignment to the road network serving the site for the appropriate time periods.

Required

Required

Required

Required

Analysis of Future Conditions With Development

-

-

-

-

Forecast daily and peak hour traffic volumes on the highway network in the study area, site entrances and internal roadways, tabulated and presented on diagrams.

Current traffic + site generated traffic

Future background + site generated traffic, at each expected phase and at buildout or 6 years after start, whichever is later

Future background + site generated traffic, at each expected phase, at buildout, and 6 years after buildout

Future background + site generated traffic, at each expected phase, at buildout, and 6 years after buildout

Analyses for intersections and roadways identified by the Department. Delay and Level of Service (LOS) are tabulated and LOS presented on diagrams for each lane group.

Only diagrams required

Required

Required

Required

When the type of development proposed would indicate significant potential for walking, bike or transit trips either on or off site, analyses of pedestrian and bicycle facilities under the forecast traffic

At frontage, only diagrams required

Within 1,500 ft of site

Within 1,500 ft of site

Within 1,500 ft of site

tabulated and presented on diagrams, if facilities exist or are planned.

Recommended Improvements

Description and diagram of the location, nature, and extent of proposed improvements, with preliminary cost estimates.

Required

Required

Required

Required

Description of methodology used to calculate the effects of travel demand management (TDM) measures, if proposed, with supporting data.

Required if TDM proposed

Required if TDM proposed

Required if TDM proposed

Required if TDM proposed

Analyses for all proposed and modified intersections in the study area under the forecast and site traffic. Delay, and Level of Service (LOS) are tabulated and LOS presented on diagrams. For intersections expected to be signalized, MUTCD Signal Warrant analysis or ITE Manual for Traffic Signal Design, as determined by the department, presented in tabular form.

Only diagrams required

Required

Required

Required

When the type of development proposed would indicate significant potential for walking, bike or transit trips either on or off site, analyses of pedestrian and bicycle facilities under the forecast traffic tabulated and presented on diagrams, if facilities exist or are planned.

At frontage, only diagrams required

Within 1,500 ft. of site

Within 1,500 ft. of site

Within 1,500 ft. of site

Conclusions

Clear, concise description of the study findings.

Required

Required

Required

Required

The geographic scope of the study noted above may be reduced or enlarged based upon layout of the local transportation network, the geographical size of the development, and the traffic volume on the existing network, as determined by VDOT.

C. Methodology and standard assumptions. A TIS shall be prepared based upon methodology and assumptions noted below or as may be agreed upon by the department based upon the results of a study scoping meeting held by VDOT and the locality.

1. Data collection. Preparers shall collect traffic data in accordance with the identified study area. The count data shall include at a minimum, weekday 24-hour counts, and directional turning movement counts during AM and PM peak times of the day. The 24-hour counts shall include

vehicle classification counts. With approval of the department, data collected by the transportation professional preparer within the last 12 months may be used, likewise for data from the VDOT count program.

The preparer shall monitor traffic operations during data collection to ensure extraneous events such as vehicle crashes or special event traffic do not affect integrity of count data. Preparers collecting data for utilization in traffic impact studies shall normally avoid data collection during the following instances:

- a. Holidays or times of the year when the traffic patterns are deemed to be unrepresentative of typical conditions, unless required by VDOT or the locality, or both.
- b. Summer months if school or schools in proximity.

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c. Fridays and weekends unless required by VDOT or the locality, or both.

d. Other times of the year contingent upon existing adjacent land use activities.

e. During times of inclement weather.

2. Trip generation. Estimates of trip generation by a proposed development shall be prepared using the Institute of Transportation Engineers Trip Generation (see 24 VAC 30-155-90), unless the department agrees to allow the use of alternate trip generation rates based upon local trip generation studies. In determining which trip generation process (equation or rate) may be used, VDOT shall follow the guidance presented in the Trip Generation Handbook – an ITE Proposed Recommended Practice (see 24 VAC 30-155-90), which is summarized here. Regression equations to calculate trips as a result of development shall be utilized, provided the following is true:

a. Independent variable falls within range of data; and

b. Either the data plot has at least 20 points; or

c. R^2 greater than 0.75, equation falls within data cluster in plot and standard deviation greater than 110% of weighted average rate.

If the above criteria are not met, then the preparer can use average trip rates, provided at least one of the following applies:

d. At least three data points exist;

e. Standard deviation less than 110% of weighted average rate;

f. R^2 less than 0.75 or no regression equation provided; or

g. Weighted average rate falls within data cluster in plot.

3. Internal capture and pass-by trips.

a. Internal capture rates consider site trips "captured" within a multiuse development, recognizing that trips from one land use can access another land use within a site development without having to access the adjacent street system. Multiuse developments include a combination of residential and nonresidential uses or a combination of nonresidential uses only. Internal capture allows reduction of site trips from adjacent intersections and roadways. Unless otherwise approved by the department, the following internal capture rates should be used if appropriate:

(1) Residential with a mix of nonresidential components - use the smaller of 15% of residential or 15% nonresidential trips generated.

(2) Residential with office use - use the smaller of 5% of residential or 5% of office trips generated.

(3) Residential with retail use - for AM peak hour, use the smaller of 5% residential or 5% retail trips generated; for PM peak hour, use the smaller of 10% residential or 10% retail trips generated; for 24-hour traffic, use the smaller of 15% residential or 15% retail trips generated.

(4) Hotel/motel with office use - use 15% of hotel/motel trips, if overall volume of office traffic is approximately similar to overall hotel/motel traffic.

(5) Multiuse development with more than five million square feet of office and retail - internal capture rate should be determined in consultation with and approval of the department.

b. Pass-by trip reductions consider site trips drawn from the existing traffic stream on an adjacent street, recognizing that trips drawn to a site would otherwise already traverse the adjacent street regardless of existence of the site. Pass-by trip reductions allow a percentage reduction in the forecast of trips otherwise added to the adjacent street from the proposed development. The reduction applies only to volumes on adjacent streets, not to ingress or egress volumes at entrances serving the proposed site. Unless otherwise approved by the department, the following pass-by trip reductions may be used:

(1) Shopping center - 15% of trips generated may be considered pass-by.

(2) Convenience stores, service stations, fast food restaurants, drive-in banks, and similar land uses - 25% of trip generated may be considered pass-by.

4. Trip distribution. In the absence of more detailed information, trip distribution shall be in accordance with logical regional travel patterns as suggested by existing highway directional split and intersection movements or population and destination site distribution. If more detailed information is available from trip origin/destination studies, marketing studies, or regional planning models, this may be used to distribute trips upon approval of the department.

5. Planning horizon. In general, the analysis years shall be related to (i) the opening date of the proposed development, (ii) build-out of major phases of a multiyear development, (iii) long-range transportation plans, and (iv) other significant transportation network changes. The preparer should establish the planning horizon in consultation with and subject to the acceptance of the department.

6. Background traffic growth. Unless directed by the department, geometric growth (or compound growth), based upon historical growth rates, shall generally be used for determining future background traffic levels where extensive traffic-count history is available and capacity

constraint is not appropriate. This growth rate replicates "natural growth" and is typical for projecting urban growth. Where growth within the development area is not stable, or historical data is not adequate as a result of the opening of other major developments, or significant transportation improvements have occurred, background traffic growth may be predicted based on demographic characteristics. For example, traffic growth within a study area could be tied directly to the anticipated population growth. Forecasts made using this method are performed using an average growth rate of two or more factors, including:

- a. Total population based on population growth trends;
- b. Income;
- c. Automobile ownership; or
- d. Land use types within the traffic impact analysis study area.

7. Future conditions. For the purpose of the TIS, future conditions shall include background traffic and additional vehicle trips anticipated to be generated by approved but not yet constructed or improved projects.

8. Level of service calculation. Level of service (LOS) analysis shall utilize the techniques described in the Highway Capacity Manual (see 24 VAC 30-155-90). Neither the intersection capacity utilization method nor the percentile delay method may be used in the traffic impact calculations of delay and level of service. Preparers shall consult with the department on which traffic analysis software package is to be used to conduct the LOS calculations. The results shall be tabulated and displayed graphically, with levels of service provided for each lane group for each peak period. All data used in the calculations must be provided along with the results of the capacity analysis. Any assumptions made that deviate from the programmed defaults must be documented and an explanation provided as to why there was a change. Electronic files used for the analysis shall be provided to VDOT as a digital submission (e.g. .hcs, .sy6, .inp, .trf files), along with the printed report. If intersections analyzed are in close proximity to each other so that queuing may be a factor, the department may require the inclusion of an analysis with a micro simulation model. Unless actual on-ground conditions dictate otherwise, preparers should use the following defaults when utilizing the Highway Capacity Software (HCS) or other approved programs when evaluating roadway components:

- a. Terrain – choose the appropriate terrain type. Most of the state will be level or rolling, but some areas may qualify for consideration as mountainous.
- b. Twelve-foot wide lanes.
- c. No parking or bus activity unless field conditions include such parking or bus activity or unless the locality

has provided VDOT with a written statement of intent for the services to be provided.

d. Peak hour factor – calculate from collected traffic counts (requires at least a peak hour count in 15-minute increments).

e. Heavy vehicle factor – calculate from collected traffic (classification) counts or obtain from VDOT count publications.

f. Area type – noncenter of business district.

The TIS shall identify any existing or proposed bicycle accommodation that would be impacted or enhanced by the proposal. For the purposes of this subsection, a bicycle accommodation is defined as on-street bike lanes, paved shoulders of roadways that are not part of the designated traveled way for vehicles, or exclusive and shared off-street bicycle paths. The LOS for bicycle accommodation shall be determined in accordance with the Highway Capacity Manual (see 24 VAC 30-155-90). The TIS shall provide recommendations for mitigation of impacts where adverse impacts are expected.

The TIS shall identify any pedestrian accommodations that will be affected by the proposal. The TIS shall include LOS analysis for pedestrian queuing areas, crosswalks, walkways, sidewalks, and, where sidewalks are not present, paved and unpaved shoulders of roadways. The TIS shall provide recommendations for mitigations of adverse impacts where the likelihood of non-compliance by pedestrians using these facilities on a state-controlled highway is high, LOS E, or very high, LOS F, according to the guidelines established in the Highway Capacity Manual (see 24 VAC 30-155-90). All LOS analyses shall be prepared in accordance with the Highway Capacity Manual (see 24 VAC 30-155-90).

The TIS shall provide LOS analysis for all bus service with routes that have, or will have a station or stop within 1,500 feet of the proposal. The TIS shall evaluate and discuss potential for increased demand for bus use due to the proposal, addressing whether such increases will demand longer dwell time at stops or more buses on a route. The LOS for bus service shall be determined in accordance with the Highway Capacity Manual (see 24 VAC 30-155-90). Where the LOS on a state-controlled highway is or is expected to drop below a LOS C, the TIS shall analyze the impacts of buses on the LOS of the affected state-controlled highway. The TIS shall provide recommendations for mitigation of adverse impacts where adverse impacts are expected to the LOS to bus service or the LOS on a state-controlled highway

9. Signal warrant analysis. Traffic signal warrant analysis shall be preformed in accordance with the procedures set out in the Manual on Uniform Traffic Control Devices (see

Regulations

24 VAC 30-155-90) or ITE Manual of Traffic Signal Design as determined by the department.

10. Recommended Improvements. Recommendations made in the TIS for improvements to transportation facilities shall be in accordance with the geometric standards contained within the Road Design Manual (see 24 VAC 30-155-90).

24 VAC 30-155-70. Departmental analysis.

After concluding its review of a proposed comprehensive plan or transportation plan or plan amendment, rezoning, or site or subdivision plan, the department shall provide the locality with a written report detailing its analysis and recommending transportation improvements to mitigate any potential adverse impacts on state-controlled highways.

24 VAC 30-155-80. Fees.

A. Locality initiated proposals. No fee shall be charged for review of any comprehensive plan, comprehensive plan amendment or rezoning proposal initiated by a locality, unless the primary purpose of such proposal is to facilitate the development of a privately-owned project.

B. All other proposals.

1. For initial or second review of all comprehensive plans, comprehensive plan amendments, and transportation plans submitted to the department for review, not initiated on behalf of the locality, there shall be a fee of \$1,000 charged to the applicant. This fee shall be paid upon submission of a plan to the department for review. In instances where the actual cost to the department to review the plan is less than \$1,000, the department shall return to the applicant any funds in excess of the actual cost to the department of carrying out its responsibilities pursuant to this chapter.

2. For initial or second review of rezoning proposals there shall be a fee for review determined by the number of vehicle trips generated per peak hour, as follows:

<100 VpPH - \$700

100 to 499 VpPH - \$800

500 to 999 VpPH - \$900

1,000 or more VpPH - \$1,000

The fee shall be paid upon submission of a plan to the department for review. In instances where the actual cost to the department to review the proposal is less than \$1,000, the department shall return to the applicant any funds in excess of the actual cost to the department of carrying out its responsibilities pursuant to this chapter. In instances where the actual cost to the department to review the proposal is more than the initial fee charged, the applicant shall pay the department the remainder, not to exceed a total payment of \$1,000 total, within one month of completion of the department's review.

3. For initial or second review of subdivision or site plans, there shall be a fee for review as follows:

a. For supplemental traffic analyses described in subdivisions 24 VAC 30-155 50 C 1 and 24 VAC 30-155 50 C 2, the fee charged to the applicant for review shall be \$800.

b. For supplemental traffic analyzes described in subdivision 24 VAC 30-155 50 C 3 of this chapter, the fee charged to the applicant for review shall be \$1,000.

c. This fee shall be paid upon submission of a proposal to the department for review. In instances where the actual cost to the department to review the proposal is less than \$1,000, the department shall return to the applicant any funds in excess of the actual cost to the department of carrying out its responsibilities pursuant to this chapter. In instances where the actual cost to the department to review the proposal is more than the initial fee charged, the applicant shall pay the department the remainder, not to exceed a total payment of \$1,000 total, within one month of completion of the department's review.

4. For a third or subsequent submission pursuant to subdivision 1, 2, or 3 of this subsection, that is requested by the department on the basis of the failure of the applicant to address deficiencies previously identified by the department, the applicant shall be required to pay an additional fee as though the third or subsequent submission were an initial submission and requiring the fees identified above.

24 VAC 30-155-90. Listing of documents incorporated by reference.

Requests for information pertaining to the availability and cost of any of these publications should be directed to the address indicated below the specific document. Requests for documents available from VDOT may be obtained from the department's division and representative indicated; however, department documents may be available over the Internet at www.virginiadot.org.

A. Trip Generation (effective November, 2003)

Institute of Transportation Engineers
1099 14th Street NW
Suite 300 West
Washington, DC 20005

B. Trip Generation Handbook – an ITE Proposed Recommended Practice (effective 2004)

Institute of Transportation Engineers
1099 14th Street NW
Suite 300 West
Washington, DC 20005

C. Road Design Manual (effective January 1, 2005)

Location and Design Division (VDOT)
1401 E. Broad Street
Richmond, Virginia 23219

D. Highway Capacity Manual (effective 2000)

Transportation Research Board
500 Fifth Street NW
Washington, DC 20001

E. Manual on Uniform Traffic Control Devices (effective December 22, 2003)

Federal Highway Administration
Superintendent of Documents
U.S. Government Printing Office
P.O. Box 371954
Pittsburgh, Pennsylvania 15250

F. ITE Manual of Traffic Signal Design (effective 1998)

Institute of Transportation Engineers
1099 14th Street NW
Suite 300 West
Washington, DC 20005

VA.R. Doc. No. R06-343; Filed August 29, 2006, 1:11 p.m.

GENERAL NOTICES/ERRATA

DEPARTMENT OF ENVIRONMENTAL QUALITY

Water Quality Implementation Plan for Back Creek in Pulaski County

The Virginia Department of Environmental Quality, Department of Conservation and Recreation and New River-Highlands Resource Conservation & Development invite you to a public meeting to review the draft of the Water Quality Implementation Plan (IP) to address fecal coliform bacteria and sediment impairments in Back Creek in Pulaski County, Virginia. Back Creek was identified as impaired due to violations of Virginia's water quality standards for fecal coliform bacteria and General Standard (benthic). We are seeking written and oral comments from interested persons on the draft IP for Back Creek. The IP is a clean-up plan that identifies ways to meet the pollution reductions outlined in the total maximum daily load (TMDL) studies. The TMDLs for these impairments were completed and approved by the Environmental Protection Agency (EPA) and the Virginia Water Control Board in 2004 and are available on DEQ's website at <http://www.deq.virginia.gov/tmdl>.

The final public meeting on the development of the IP for the Back Creek impairments will be held on October 17, 2006, at 7 p.m., Dublin Town Hall, Dublin, Virginia.

The purpose of the meeting is to solicit public input on the draft implementation plan for the fecal coliform and General Standard (benthic) impairments. Section 62.1-44.19.7 C of the Code of Virginia requires the development of an IP for approved TMDLs. The IP will include the corrective actions needed to reduce bacteria and sediment and their associated costs, benefits and environmental impacts. The IP also provides measurable goals and a timeline of expected achievement of water quality objectives. A fact sheet on the development of the IP is available upon request. The impaired segment addressed in the plan is:

Back Creek: 16.37 miles from mouth of New River to river mile 16.37.

How to comment: The public comment period for this public meeting will start on October 17, 2006, and end on November 30, 2006. Oral comments will be accepted and addressed at the public meeting. Written comments will be accepted by email, FAX or postal mail. Additional questions or information requests should be addressed to Jason Hill. Written comments and inquiries should include the name, address, and telephone number of the person submitting the comments and should be sent to Jason Hill, Virginia Department of Environmental Quality, 3019 Peters Creek Road, Roanoke, VA 24019, telephone (540) 562-6724, FAX (540) 562-6860, or email jrhill@deq.virginia.gov.

Water Quality Study for Pagan River and Jones Creek in Isle of Wight

The Virginia Department of Environmental Quality will host a public meeting on a water quality study for Pagan River and Jones Creek in Isle of Wight on Thursday, September 28, 2006.

The meeting will start at 6:30 p.m. in the Smithfield Center located at 220 North Church Street in Smithfield. 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.

The Middle Pagan River is impaired for recreation use. The Pagan River and Jones Creek are impaired for the shellfish consumption use.

DEQ will accept written public comments by email, fax, or postal mail. A 30-day comment period for the development of the TMDL will be available until October 30, 2006. For additional information or to submit comments, contact Jennifer Howell, Virginia Department of Environmental Quality, Tidewater Regional Office, 5636 Southern Blvd., Virginia Beach VA 23462, telephone (757) 518-2111, or email jshowell@deq.virginia.gov. Additional information is also available on the DEQ website at www.deq.virginia.gov/tmdl.

Total Maximum Daily Load (TMDL) Report for East River in Mathews County

The Department of Environmental Quality (DEQ) will hold a public meeting for interested persons on the review of the draft total maximum daily load (TMDL) report for fecal coliform bacteria in shellfish propagation waters located in the East River in Mathews County, Virginia.

The impaired segments are located in Virginia Department of Health Growing Area 41 containing the Upper East River and Put in Creek tributaries to Mobjack Bay and Chesapeake Bay in Mathews County, Virginia.

The affected water body segments are identified in Virginia's 1998 303(d) TMDL Priority List and Report as impaired due to violations of the state's water quality standard for fecal

coliform bacteria in shellfish waters. Section 303(d) of the Clean Water Act and § 62.1-44.19:7 C of the Code of Virginia require DEQ to develop TMDLs for pollutants responsible for each impaired water contained in Virginia's 303(d) TMDL Priority List and Report.

This is a meeting of concerned citizens, state and local government, to discuss the draft report and possible implementation options in the development of the final draft of the TMDL. The meeting will be held on October 18, 2006, from 6:30 to 9 p.m. at the Old Mathews Courthouse, 27 Court Street, Mathews, Virginia 23109. A copy of the draft TMDL may be found on the DEQ website at <http://www.deq.virginia.gov/tmdl> in the draft reports section. Questions or information requests should be addressed to Chester Bigelow and should include the name, address, and telephone number of the person submitting the comments. Requests should be sent to Chester Bigelow, Department of Environmental Quality, 629 East Main Street, Richmond, VA 23240, telephone (804) 698-4554, FAX (804) 698-4116.

Total Maximum Daily Load (TMDL) - Gloucester County

The Department of Environmental Quality (DEQ), Virginia Department of Health (VDH) and the Department of Conservation and Recreation seek written and oral comments from interested persons on the development of a total maximum daily load (TMDL) for fecal coliform bacteria in five shellfish propagation waters located in Gloucester County, Virginia.

The impaired segments are located in VDH Growing Area 47 containing the Timberneck Creek, Cedarbush Creek, Carter Creek, Aberdeen Creek and Jones Creek tributaries to the York River and Chesapeake Bay in Gloucester County, Virginia.

The affected water body segments are identified in Virginia's 1998 303(d) TMDL Priority List and Report as impaired due to violations of the state's water quality standard for fecal coliform bacteria in shellfish waters. Section 303(d) of the Clean Water Act and § 62.1-44.19:7 C of the Code of Virginia, require DEQ to develop TMDLs for pollutants responsible for each impaired water contained in Virginia's 303(d) TMDL Priority List and Report.

This is the first public meeting to provide information and solicit participation of citizens and local government in the development of the fecal coliform TMDLs to be held on September 21, 2005, from 7 p.m. to 9 p.m. at the Page Middle School, 5628 George Washington Memorial Highway, Gloucester, Virginia 23061. Directions can be obtained by calling Chester Bigelow at (804) 698-4554. A copy of the draft TMDL may be found on the DEQ website at

http://gisweb.deq.virginia.gov/tmdlapp/tmdl_draft_reports.cfm.

The public comment period will begin on September 22, 2006, and end on October 23, 2006. Questions or information requests should be addressed to Chester Bigelow and should include the name, address, and telephone number of the person submitting the comments. Requests should be sent to Chester Bigelow, Department of Environmental Quality, 629 East Main Street, Richmond, VA 23240, telephone (804) 698-4554, FAX (804) 698-4116.

VIRGINIA WASTE MANAGEMENT BOARD

Proposed Consent Order - Martin Resnick East, LLC

Purpose of notice: To invite citizens to comment on a proposed consent order for a facility in Prince William County, Virginia.

Public comment period: September 18, 2006, to October 18, 2006.

Consent order description: The Waste Management Board proposes to issue a consent order to Martin Resnick East, LLC, to address alleged violations of Virginia's regulations. The location of the facility where the alleged violation occurred is The Laundry Salon, 13522 Jefferson Davis Highway, Woodbridge, Virginia. The consent order describes a settlement to resolve the improper treatment, storage, and disposal of dry cleaning waste containing perchloroethylene (PCE).

How to comment: DEQ accepts comments from the public by email, 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: Jennifer Sheedy, Department of Environmental Quality, Northern Virginia Regional Office, 13901 Crown Court, Woodbridge, VA 22193, telephone (703) 583-3938, FAX (703) 583-3841, or email jlsheedy@deq.virginia.gov.

STATE WATER CONTROL BOARD

Proposed Consent Special Order - Minarchi Mobile Home Park, Inc.

Purpose of notice: To invite citizens to comment on a proposed consent order for a facility in Caroline County, Virginia.

Public comment period: September 18, 2006, to October 18, 2006.

Consent order description: The State Water Control Board proposes to issue a consent order to Minarchi Mobile Home

General Notices/Errata

Park, Inc. to address alleged violations at the Minarchi Mobile Home Park Wastewater Treatment Plant governed by permit number VA0061409. The location of the facility where the alleged violation occurred is 12392 Cousteau Street, Woodford, Virginia 22580. The consent order describes a settlement to resolve the late submittal of a Discharge Monitoring Report, requested information, application for a new permit, financial assurance, and the discharge of effluent without a permit.

How to comment: DEQ accepts comments from the public by email, 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: Jennifer Sheedy, Department of Environmental Quality, Northern Virginia Regional Office, 13901 Crown Court, Woodbridge, VA 22193, telephone (703) 583-3938, FAX (703) 583-3841, or email jlsheedy@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

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.virginia.gov 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 website's Legislative Information System (<http://leg1.state.va.us/lis.htm>) and select "Meetings."

VIRGINIA CODE COMMISSION

EXECUTIVE

DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES

Virginia Egg Board

† **September 21, 2006 - 10 a.m.** -- Open Meeting
Roanoke Hotel and Conference Center, 110 Shenandoah Avenue, Roanoke, Virginia.♿ (Interpreter for the deaf provided upon request)

A meeting to (i) review the financial statements, educational programs, advertising programs, and promotional and research projects conducted by the Virginia Egg Council; (ii) receive presentation of a new budget and programming plans for FY 06-07; and (iii) review and approve research proposals for continued research at Virginia Tech, as well as long-term objectives. There will be a chance for public comment. Newly appointed board members will be sworn in by a local judge prior to the meeting.

Contact: Cecilia Glembocki, Secretary, Virginia Egg Board, Department of Agriculture and Consumer Services, 911 Saddleback Court, McLean, VA 22102-1317, telephone (703) 790-1984, email virginiaegg@cox.net.

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, email 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, email shirley.estes@vdacs.virginia.gov.

Virginia Wine Board

† **September 26, 2006 - 11 a.m.** -- Open Meeting
Department of Forestry, 900 Natural Resources Drive, Charlottesville, Virginia.♿

A meeting to (i) approve the minutes of the last meeting held on August 18, 2006; (ii) review the board's financial statement; and (iii) discuss old business arising from the

Calendar of Events

last meeting and any new business to come before the board. The board will entertain public comment at the conclusion of all other business for a period not to exceed 30 minutes. Any person who needs any accommodation in order to participate at the meeting should contact David Robishaw at least five days before the meeting date so that suitable arrangements can be made.

Contact: David Robishaw, Secretary, Virginia Wine Board, Department of Agriculture and Consumer Services, 900 Natural Resources Dr., Suite 300, Charlottesville, VA 22903, telephone (434) 984-0573, FAX (434) 984-4156, email david.robishaw@vdacs.virginia.gov.

STATE AIR POLLUTION CONTROL BOARD

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, email cberndt@deq.virginia.gov.

† October 12, 2006 - 7 p.m. -- Public Hearing
Galax Public Library, 610 West Stuart Drive, Galax, Virginia. 

A public hearing to receive comments on an application for renewal of the Title V operating permit for Galax Energy Concepts, LLC, located in Galax, Virginia. In addition, an information briefing will convene at 6:30 p.m. on the same day and at the same location as the public hearing. The public comment period begins on September 6, 2006, and ends on October 27, 2006.

Contact: Robert Lowe, State Air Pollution Control Board, P.O. Box 1688, Abingdon, VA 24212, telephone (276) 676-4863, FAX (276) 676-4899, email ralowe@deq.virginia.gov.

Small Business Environmental Compliance Advisory Board

† September 26, 2006 - 10 a.m. -- Open Meeting
Department of Environmental Quality, Fredericksburg Office, 806 Westwood Office Park, Fredericksburg, Virginia. 

A regular meeting.

Contact: Richard G. Rasmussen, State Air Pollution Control Board, P.O. Box 10009, Richmond, VA 23240, telephone (804) 698-4394, FAX (804) 698-4264, email rgrasmussen@deq.virginia.gov.

ALCOHOLIC BEVERAGE CONTROL BOARD

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
† December 18, 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 , email curtis.coleburn@abc.virginia.gov.

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

† September 28, 2006 - 9 a.m. -- Open Meeting
Department of Professional and Occupational Regulation, 3600 West Broad Street, Richmond, Virginia. 

An informal fact-finding conference.

Contact: Mark N. Courtney, Executive Director, Board for Architects, Professional Engineers, Land Surveyors, Certified Interior Designers and Landscape Architects, 3600 W. Broad St. Richmond, VA 23230, telephone (804) 367-8514, FAX (804) 367-2475, (804) 367-9753/TTY , email 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 email 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 email 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 email 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 email 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 email 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 email rford@comarchs.com.

VIRGINIA COMMISSION FOR THE ARTS

September 26, 2006 - 10 a.m. -- Open Meeting

Virginia 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 , email peggy.baggett@arts.virginia.gov.

Calendar of Events

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 , email 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 , email peggy.baggett@arts.virginia.gov.

VIRGINIA BOARD FOR ASBESTOS, LEAD, AND HOME INSPECTORS

† **September 28, 2006 - 9 a.m.** -- Open Meeting
† **December 15, 2006 - 9 a.m.** -- Open Meeting
Department of Professional and Occupational Regulation, 3600 West Broad Street, 4th Floor, Room 453, Richmond, Virginia. 

A licensing informal fact-finding conference.

Contact: David Dick, Assistant Director, Virginia Board for Asbestos, Lead, and Home Inspectors, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-8595, FAX (804) 367-2475, (804) 367-9753/TTY , email asbestos@dpor.virginia.gov.

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 , email 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 , email auctioneers@dpor.virginia.gov.

October 5, 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 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 email 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 ♿, email barbercosmo@dpor.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 ♿, email branchpilots@dpor.virginia.gov.

November 1, 2006 - 9:30 a.m. -- Open Meeting
† December 11, 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 ♿, email branchpilots@dpor.virginia.gov.

December 4, 2006 - 9 a.m. -- Open Meeting
† December 5, 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 ♿, email 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 ♿, email 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 email cemetery@dpor.virginia.gov.

CHARITABLE GAMING BOARD

† December 5, 2006 - 10 a.m. -- Open Meeting
 Science Museum of Virginia, 2500 West Broad Street, Richmond, Virginia. ♿

A regular board meeting.

Calendar of Events

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, email clyde.cristman@dca.virginia.gov.

CHESAPEAKE BAY LOCAL ASSISTANCE BOARD

NOTE: CHANGE IN MEETING DATE

September 26, 2006 - 10 a.m. -- Open Meeting
† December 11, 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, email 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, email 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, email 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 email richard.martin@dss.virginia.gov.

STATE CHILD FATALITY REVIEW TEAM

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, email rae.hunter-havens@vdh.virginia.gov.

COMPENSATION BOARD

September 20, 2006 - 11 a.m. -- Open Meeting
† October 18, 2006 - 11 a.m. -- Open Meeting
102 Governor Street, Lower Level, Room LL22, Richmond, Virginia. 

A monthly board meeting.

Contact: Cindy Waddell, Compensation Board, P.O. Box 710, Richmond, VA 23218, telephone (804) 225-3308, FAX (804) 371-0235, email cindy.waddell@scb.virginia.gov.

DEPARTMENT OF CONSERVATION AND RECREATION

† September 21, 2006 - 9:30 a.m. -- Open Meeting
Location to be determined.

A meeting of the Technical Advisory Subcommittee to assist the department in considering revisions to Part II (Stormwater Management Program Technical Criteria) of the Virginia Soil and Water Conservation Board's 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, email david.dowling@dcr.virginia.gov.

† **September 27, 2006 - 10:30 a.m.** -- Open Meeting
James Monroe Building, 101 North 14th Street, 11th Floor
Conference Room, Richmond, Virginia.

A meeting of the Virginia Recreational Trails Fund Advisory Committee to discuss policy and revisions to the Virginia Recreational Trails Fund Grants Manual and changes stemming from SAFETEA-LU.

Contact: Synthia Waymack, Grants Administrator, Department of Conservation and Recreation, 203 Governor St., Suite 326, Richmond, VA 23219, telephone (804) 786-4379, FAX (804) 371-7899, email synthia.waymack@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, email robert.munson@dcr.virginia.gov.

October 3, 2006 - 9 a.m. -- Open Meeting

† **October 16, 2006 - 9 a.m.** -- Open Meeting

† **October 26, 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, email david.dowling@dcr.virginia.gov.

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, email david.dowling@dcr.virginia.gov.

October 12, 2006 - Noon -- Open Meeting

November 9, 2006 - Noon -- Open Meeting

† **December 14, 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, email 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, email 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, email david.dowling@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, email 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.

Calendar of Events

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, email david.dowling@dcr.virginia.gov.

BOARD FOR CONTRACTORS

September 19, 2006 - 9 a.m. -- Open Meeting
† **September 28, 2006 - 9 a.m.** -- Open Meeting
† **October 3, 2006 - 9 a.m.** -- Open Meeting
† **October 12, 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 , email 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 , email 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 , email contractors@dpor.virginia.gov.

BOARD OF CORRECTIONS

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, email 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, email barbara.woodhouse@vadoc.virginia.gov.

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, email 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, email barbara.woodhouse@vadoc.virginia.gov.

BOARD OF DENTISTRY

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 ☎, email sandra.reen@dhp.virginia.gov.

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

† **December 15, 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 ☎, email cheri.emma-leigh@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 ☎, email 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 operator 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 email elaine.yeatts@dhp.virginia.gov.

† **December 7, 2006 - 9 a.m.** -- Open Meeting

Department of Health Professions, 6603 West Broad Street,
5th Floor, Richmond, Virginia ☎

Informal conferences. 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 ☎, email cheri.emma-leigh@dhp.virginia.gov.

† **December 8, 2006 - 9 a.m.** -- Open Meeting

Department of Health Professions, 6603 West Broad Street,
5th Floor, Richmond, 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, Alcoa Bldg., 6603 W. Broad St., 5th Floor, Richmond, VA 23230-1712, telephone (804) 662-9906, FAX (804) 662-7246, (804) 662-7197/TTY ☎, email sandra.reen@dhp.virginia.gov.

Calendar of Events

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 , email rhonda.bishton@dgs.virginia.gov.

BOARD OF EDUCATION

† September 18, 2006 - 7 p.m. -- Public Hearing
Sussex Central High School, 21394 Sussex Drive, Auditorium, Sussex, Virginia.

† September 18, 2006 - 7 p.m. -- Public Hearing
William Fox Elementary School, 2300 Hanover Avenue, Richmond, Virginia.

† September 18, 2006 - 7 p.m. -- Public Hearing
Youth for Tomorrow Auditorium, 11835 Hazel Circle Drive, Bristow, Virginia.

† September 19, 2006 - 7 p.m. -- Public Hearing
Robinson Secondary School, 5035 Sideburn Road, Fairfax, Virginia.

† September 21, 2006 - 7 p.m. -- Public Hearing
Jolliff Middle School, 1021 Jolliff Road, Chesapeake, Virginia.

† September 25, 2006 - 7 p.m. -- Public Hearing
Monticello High School, 1400 Independence Way, Charlottesville, Virginia.

† September 25, 2006 - 7 p.m. -- Public Hearing
Petersburg High School, 3101 Johnson Road, Petersburg, Virginia.

† September 27, 2006 - 7 p.m. -- Public Hearing
Paul Laurence Dunbar School of Innovation, 1200-1208 Polk Street, Lynchburg, Virginia.

Standards of Quality public hearings. The hearings are open to the public, and all speakers are urged to provide a

written copy of their remarks. Speakers are asked to limit their comments to three minutes each.

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, email margaret.roberts@doe.virginia.gov.

† September 22, 2006 - 9:30 a.m. -- Open Meeting
Sheraton Park South Hotel, 9901 Midlothian Turnpike, Richmond, Virginia.

A meeting of the Virginia Advisory Committee for Education of the Gifted. Public comments will be received at the meeting.

Contact: Dr. Barbara McGonagill, Specialist for Gifted Education, Department of Education, P.O. Box 2120, James Monroe Bldg., 101 N. 14th St., 25th Floor, Richmond, VA 23219, telephone (804) 225-2884 or email barbara.mcgonagill@doe.virginia.gov or 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, email margaret.roberts@doe.virginia.gov.

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 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, email 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)

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, email 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)

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, email margaret.roberts@doe.virginia.gov.

SECRETARY OF EDUCATION

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, email kendall.tyree@governor.virginia.gov.

LOCAL EMERGENCY PLANNING COMMITTEE - WINCHESTER

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 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, email 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.

Calendar of Events

Contact: Mary Ann Massie, Department of Environmental Quality, P.O. Box 10009, Richmond, VA 23240, telephone (804) 698-4042, email mamassie@deq.virginia.gov.

† **September 19, 2006 - 7 p.m.** -- Public Hearing
Bedford Central Library, 321 North Bridge Street, Bedford, Virginia. 

A public hearing on an application to modify the Bedford County Landfill permit to allow the implementation of a ground water corrective action plan.

Contact: Larry Syverson, Department of Environmental Quality, P.O. Box 10009, Richmond, VA 23240, telephone (804) 698-4271, email lwsyverson@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, email jshowell@deq.virginia.gov.

† **September 21, 2006 - 7 p.m.** -- Open Meeting
Page Middle School, 5628 George Washington Memorial Highway, Gloucester, Virginia. 

The first public meeting on the development of the fecal coliform TMDLs in five shellfish propagation waters located in Gloucester County. The public notice appears in the Virginia Register on September 18, 2006. The public comment period begins on September 22, 2006, and ends on October 23, 2006.

Contact: Chester Bigelow, Department of Environmental Quality, P.O. Box 10009, Richmond, VA 23240, telephone (804) 698-4554, FAX (804) 698-4116, email cbigelow@deq.virginia.gov.

† **September 28, 2006 - 6:30 p.m.** -- Open Meeting
Smithfield Center, 220 North Church Street, Smithfield, Virginia. 

A public meeting on the development of fecal coliform TMDL for Pagan River and Jones Creek in Isle of Wight County. The public notice appears in the Virginia Register of Regulations on September 18, 2006. The public comment period closes on October 30, 2006.

Contact: Jennifer Howell, Department of Environmental Quality, 5636 Southern Blvd., Virginia Beach, VA 23462, telephone (757) 518-2111, email 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, email jrhill@deq.virginia.gov.

† **October 6, 2006 - 10 a.m.** -- Public Hearing
Department of Environmental Quality, Northern Regional Office, 13901 Crown Court, Woodbridge, Virginia. 

A public hearing on a proposed revision to the Commonwealth of Virginia State Implementation Plan. The hearing will be held to accept testimony concerning the proposed revision. The proposed revision is necessary to demonstrate that the Northern Virginia eight-hour moderate ozone nonattainment area meets the requirements of Reasonably Available Control Technology (RACT) set forth by the federal Clean Air Act (CAA). These jurisdictions are the City of Alexandria, Arlington County, the City of Fairfax, Fairfax County, the City of Falls Church, Loudoun County, the City of Manassas, the City of Manassas Park, and Prince William County. The CAA requires that states achieve the health-based 8-hour ozone National Ambient Air Quality Standard (NAAQS) by specified dates, based on the severity of an area's air quality problem. Furthermore, EPA's Final Rule to Implement the 8-Hour Ozone NAAQS (70 FR 71612, November 29, 2005) states that areas classified as "moderate" nonattainment for ozone must submit a demonstration that their existing rules fulfill the 8-hour ozone RACT requirements. RACT is the lowest emission limit that a particular source is capable of meeting by the application of control technology that is reasonably available considering technological and economic feasibility.

Contact: Doris A. McLeod, Department of Environmental Quality, P.O. Box 10009, Richmond, VA 23240, telephone (804) 698-4197, FAX (804) 698-4510, email damcleod@deq.virginia.gov.

† **October 18, 2006 - 6:30 p.m.** -- Open Meeting
Old Mathews Courthouse, 27 Court Street, Mathews, Virginia. 

A public meeting on the draft TMDL report for fecal coliform bacteria in shellfish propagation waters located in the East River in Mathews County. The public notice appears in the Virginia Register on September 18, 2006.

Contact: Chester Bigelow, Department of Environmental Quality, P.O. Box 10009, Richmond, VA 23240, telephone (804) 698-4554, FAX (804) 698-4116, email cbigelow@deq.virginia.gov.

VIRGINIA FIRE SERVICES BOARD

† **October 12, 2006 - 10 a.m.** -- Open Meeting
South Hill Fire Department, 114 North Brunswick Avenue, South Hill, Virginia.  (Interpreter for the deaf provided upon request)

Meetings of the following committees:

- 10 a.m. - Fire Education and Training
- 2 p.m. - Fire Prevention and Control
- 3 p.m. - Administration, Policy and Finance

Contact: Brook Pittinger, Department of Fire Services, 1005 Technology Park Dr., Glen Allen, VA 23059, telephone (804) 371-0220, email brook.pittinger@vdfp.virginia.gov.

† **October 13, 2006 - 9 a.m.** -- Open Meeting
South Hill Fire Department, 114 North Brunswick Avenue, South Hill, Virginia.  (Interpreter for the deaf provided upon request)

A full board meeting.

Contact: Brook Pittinger, Virginia Fire Services Board, 1005 Technology Park Dr., Glen Allen, VA 23059, telephone (804) 371-0220, email brook.pittinger@vdfp.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 email katya.herndon@dfs.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 , email geology@dpor.virginia.gov.

GEORGE MASON UNIVERSITY

† **October 6, 2006 - 9 a.m.** -- Open Meeting
† **December 6, 2006 - 9 a.m.** -- Open Meeting
Fairfax Campus, Mason Hall, Fairfax, Virginia. 

A meeting of the Board of Visitors. Agenda items will be posted 10 days prior to the meeting.

Contact: Mary Roper, Secretary Pro Tem, George Mason University, 4400 University Dr., Fairfax, VA 22030, telephone (703) 993-8703, toll-free (703) 993-8707, email mroper@gmu.edu.

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, email julie.stanley@governor.virginia.gov.

Calendar of Events

Olmstead Community Integration Oversight Board

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, email
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 email
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 email
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 email 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 email michael.berg@vdh.virginia.gov.

DEPARTMENT OF HEALTH

September 20, 2006 - 1 p.m. -- Open Meeting
Virginia Hospital and Healthcare Association, 4200 Innslake Drive, Glen Allen, Virginia. 

A meeting of the State Medical Facilities Plan 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, email carrie.eddy@vdh.virginia.gov.

† September 21, 2006 - 9 a.m. -- Open Meeting

† November 16, 2006 - 9 a.m. -- Open Meeting
Department of Health, 109 Governor Street, 5th Floor, Conference Room, Richmond.

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 and programs.

Contact: Dwayne Roadcap, Program Manager, Department of Health, 109 Governor St., Richmond, VA 23219, telephone (804) 864-7462, FAX (804) 864-7476, email dwayne.roadcap@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 of the Regulation and Policy Committee to review and finalize initial draft regulations for presentation to the Governor's 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, email 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, VA 23219, telephone (804) 864-7452, FAX (804)

864-7476,
email donald.alexander@vdh.virginia.gov.

† September 22, 2006 - 12:30 p.m. -- Open Meeting
Fan Free Clinic, 1010 North Thompson Street, Richmond, Virginia. 

A meeting to solicit public comment for the Virginia Department of Health use of Ryan White CARE Act Title II funds during the 2007-2008 grant year and issues, barriers and emerging risk behaviors related to HIV prevention. Public hearings in other regions of the Commonwealth are to be determined.

Contact: Ben Alonso, Health Care Planner, Department of Health, 109 Governor St., Room 326, Richmond, VA 23219, telephone (804) 864-8022, FAX (804) 864-8050, email ben.alonso@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, email 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, email nancy.ford@vdh.virginia.gov.

† December 8, 2006 - 10 a.m. -- Open Meeting
Virginia Hospital and Healthcare Association, 4200 Innslake Drive, Glen Allen, 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.

Contact: Pat Dewey, M.Ed, Program Manager, Department of Health, 109 Governor St., Richmond, VA 23219, telephone (804) 864-7713, email pat.dewey@vdh.virginia.gov.

Calendar of Events

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 ☎, email elizabeth.carter@dhp.virginia.gov.

DEPARTMENT OF HEALTH PROFESSIONS

† **October 4, 2006 - 11 a.m.** -- Open Meeting
Department of Health Professions, 6603 West Broad Street,
5th Floor, Board Room 1, Richmond, Virginia. ☎

A meeting of the Prescription Monitoring Program Advisory Committee to review data collected for the Program Evaluation Workplan and receive a progress report on the enhancement and expansion of the program. The committee will discuss the development of criteria to provide these reports and the resource information that will be provided with them. Public comments will be received during this meeting.

Contact: Ralph A. Orr, PMP, Program Manager, Department of Health Professions, Alcoa Bldg., 6603 W. Broad St., 5th Floor, Richmond, VA 23230-1712, telephone (804) 662-9133, FAX (804) 662-9240, (804) 662-7197/TTY ☎, email ralph.orr@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 ☎, email hearingaidspec@dpor.virginia.gov.

VIRGINIA HIGHER EDUCATION TUITION TRUST FUND

Virginia College Savings Plan Board

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 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 ☎, email vespinfo@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 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 ☎, email vespinfo@virginia529.com.

BOARD OF HOUSING AND COMMUNITY DEVELOPMENT

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 ☎, email steve.calhoun@dhcd.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 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 📞, email 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 📞, email judson.mckellar@vhda.com.

VIRGINIA COUNCIL ON HUMAN RESOURCES

September 21, 2006 - 9:30 a.m. -- Open Meeting
† December 14, 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, email charles.reed@dhrm.virginia.gov.

VIRGINIA COUNCIL ON INDIANS

† September 19, 2006 - 6 p.m. -- Open Meeting
General Assembly Building, 9th and Broad Streets, Room 7 West, Richmond, Virginia. ♿

A business meeting.

Contact: Deanna Beacham, Council on Indians, P.O. Box 1475, Richmond, VA 23118, telephone (804) 225-2084, email vci@governor.virginia.gov.

VIRGINIA INFORMATION TECHNOLOGIES AGENCY

Wireless E-911 Services Board

November 8, 2006 - 10 a.m. -- Open Meeting
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, email steve.marzolf@vita.virginia.gov.

JAMESTOWN-YORKTOWN FOUNDATION

October 19, 2006 - Noon -- Open Meeting
† December 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, email 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,

Calendar of Events

Williamsburg, VA 23187, telephone (757) 253-4840, FAX (757) 253-5299, toll-free (888) 593-4682, (757) 253-7236/TTY ☎, email laura.bailey@jyf.virginia.gov.

STATE BOARD OF JUVENILE JUSTICE

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
† **December 14, 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 ☎, email 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 ☎, email jtaylor@lva.lib.va.us.

BOARD OF LONG-TERM CARE ADMINISTRATORS

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 ☎, email 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 email elaine.yeatts@dhp.virginia.gov.

October 31, 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 ☎, email sandra.reen@dhp.virginia.gov.

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 ☎, email 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 ☎, email jane.mccroskey@mrc.virginia.gov.

BOARD OF MEDICAL ASSISTANCE SERVICES

† **December 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 , email nancy.malczewski@dmas.virginia.gov.

DEPARTMENT OF MEDICAL ASSISTANCE SERVICES

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.

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 , email 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 email 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 email 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 email teja.stokes@dmas.virginia.gov.

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 information on the options for developing an integrated acute and long-term care program in Virginia.

Contact: Adrienne T. Fegans, Program Operations Administrator, Department of Medical Assistance Services,

Calendar of Events

600 E. Broad St., Suite 1300, Richmond, VA 23219, telephone (804) 786-4112, FAX (804) 371-4981, (800) 343-0634/TTY ☎, email altc@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 ☎, email 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 ☎, email 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 email 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 email 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 UMCF 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 email 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 ☎, email katina.goodwyn@dmas.virginia.gov.

BOARD OF MEDICINE

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 email 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 email 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 , email katina.goodwyn@dmas.virginia.gov.

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 , email 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 , email 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 , email william.harp@dhp.virginia.gov.

Calendar of Events

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 of the full board 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 ☎, email william.harp@dhp.virginia.gov.

† December 8, 2006 - 8 a.m. -- Open Meeting

Department of Health Professions, 6603 West Broad Street, 5th Floor, Board Room 2, Richmond, Virginia. ☎

A meeting of the Executive Committee to consider regulatory and disciplinary matters as may be presented on the agenda. Public comment on agenda items will be received at the beginning of the meeting.

Contact: William L. Harp, M.D., Executive Director, Board of Medicine, Alcoa Bldg., 6603 W. Broad St., 5th Floor, Richmond, VA 23230-1712, telephone (804) 662-9908, FAX (804) 662-9943, (804) 662-7197/TTY ☎, email 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 ☎, email 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 ☎, email 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 ☎, email 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 ☎, email 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 ☎, email 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 ☎, email 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 ☎, email william.harp@dhp.virginia.gov.

DEPARTMENT OF MENTAL HEALTH, MENTAL RETARDATION AND SUBSTANCE ABUSE SERVICES

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 email 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)

October 17, 2006 - 4 p.m. -- Public Hearing
Mount 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)

November 17, 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 35-115, Rules and Regulations to Assure the Rights of Individuals Receiving Services from Providers of Mental Health, Mental Retardation and Substance Abuse Services**. The purpose of the proposed action is to clarify terminology and procedures and align outdated provisions with applicable federal and state laws.

Statutory Authority: §§ 32.2-203 and 37.2-400 of the Code of Virginia.

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, email margaret.walsh@co.dmhmrzas.virginia.gov.

Calendar of Events

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 email 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 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 email 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 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 email 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 email marion.greenfield@co.dmhmsas.virginia.gov.

Virginia Mental Health Planning Council

† **December 6, 2006 - 10 a.m.** -- Open Meeting
Henrico CSB, 10299 Woodman Road, Conference Room C, Glen Allen, Virginia. (Interpreter for the deaf provided upon request)

A meeting to review MHBG plan, review MHBG Implementation Report, develop plan for 2006 issues, and monitor and evaluate mental health programs.

Contact: Will Ferriss, LCSW, Director, Planning and Evaluation, Office of Mental Health, Department of Mental Health, Mental Retardation and Substance Abuse Services, 1220 Bank St., Richmond, VA 23218, telephone (804) 371-0363, FAX (804) 371-0091, email will.ferriss@co.dmhmsas.virginia.gov.

DEPARTMENT OF MINES, MINERALS AND ENERGY

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, email 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 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 email gavin.bledsoe@dmme.virginia.gov.

DEPARTMENT OF MOTOR VEHICLES

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

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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 email marc.copeland@dmv.virginia.gov.

VIRGINIA MUSEUM OF FINE ARTS

September 20, 2006 - 9 a.m. -- Open Meeting
Virginia Museum of Fine Arts, 200 North Boulevard, Library, Richmond, Virginia. 

The following committees will meet for staff updates:

- 9 a.m. - Fiscal Oversight - Pauley Center
- 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 , email suzanne.broyles@vmfa.museum.

NOTE: CHANGE IN MEETING DATE

† **September 21, 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 Museum Expansion Committee. A request will be made to conduct the meeting 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 , email suzanne.broyles@vmfa.museum.

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 of Trustees. 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 , email suzanne.broyles@vmfa.museum.

October 3, 2006 - 8 a.m. -- Open Meeting

November 7, 2006 - 8 a.m. -- Open Meeting

† **December 5, 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 , email suzanne.broyles@vmfa.museum.

† **October 12, 2006 - 2 p.m.** -- Open Meeting

Virginia Museum of Fine Arts, 201 North Boulevard, Conference Room, Richmond, Virginia. 

A meeting of the Partnership for Virginia Task Force for staff to update the 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 , email suzanne.broyles@vmfa.museum.

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 , email 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, email
 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 ☎, email
 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 ☎, email
 jay.douglas@dhp.virginia.gov.

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 ☎, email
 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
 † **December 5, 2006 - 9 a.m.** -- Open Meeting
 † **December 7, 2006 - 9 a.m.** -- Open Meeting
 † **December 12, 2006 - 9 a.m.** -- Open Meeting
 † **December 13, 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 ☎, email
 nursebd@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.

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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 email elaine.yeatts@dhp.virginia.gov.

JOINT BOARDS OF NURSING AND MEDICINE

October 18, 2006 - 9 a.m. -- Open Meeting

† **December 6, 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 , email jay.douglas@dhp.virginia.gov.

OLD DOMINION UNIVERSITY

September 22, 2006 - 1:30 p.m. -- Open Meeting

† **December 8, 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, email 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, email dmeeks@odu.edu.

BOARD FOR OPTICIANS

† **December 8, 2006 - 9:30 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 Opticians, 3600 W. Broad St., Richmond, VA 23230-4917, telephone (804) 367-8590, FAX (804) 367-6295, (804) 367-9753/TTY , email opticians@dpor.virginia.gov.

BOARD OF OPTOMETRY

† **September 27, 2006 - 8:30 a.m.** -- Open Meeting

Department of Health Professions, 6603 West Broad Street, 5th Floor, Room 4, Richmond, Virginia. 

Informal conference hearings. This is a public meeting; however, public comment will not be received.

Contact: Elizabeth A. Carter, Ph.D., Executive Director, Board of Optometry, Alcoa Bldg., 6603 W. Broad St., 5th Floor, Richmond, VA 23230-1712, telephone (804) 662-9910, FAX (804) 662-7098, (804) 662-7197/TTY , email elizabeth.carter@dhp.virginia.gov.

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, email tcleary@vofonline.org.

BOARD OF PHARMACY

September 27, 2006 - 9 a.m. -- Open Meeting

† **December 13, 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 ☎, email scotti.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 email scotti.russell@dhp.virginia.gov.

POLYGRAPH EXAMINERS ADVISORY BOARD

September 21, 2006 - 10 a.m. -- CANCELED

October 26, 2006 - 11 a.m. -- Open Meeting

† **December 7, 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 ☎, email 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 ☎, email 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 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 email 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, email mark.courtney@dpor.virginia.gov.

Calendar of Events

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 , email evelyn.brown@dhp.virginia.gov.

VIRGINIA PUBLIC GUARDIAN AND CONSERVATOR ADVISORY BOARD

September 28, 2006 - 10 a.m. -- Open Meeting
† December 7, 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 , email 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 email david.lermond@vrc.virginia.gov.

REAL ESTATE APPRAISER BOARD

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 , email reappraisers@dpor.virginia.gov.

REAL ESTATE BOARD

† September 28, 2006 - 9 a.m. -- Open Meeting
† October 11, 2006 - 10:30 a.m. -- Open Meeting
† October 12, 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 , email reboard@dpor.virginia.gov.

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 , email reboard@dpor.virginia.gov.

† December 5, 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 , email reappraisers@dpor.virginia.gov.

† **December 5, 2006 - 8:30 a.m.** -- Open Meeting
Department of Professional and Occupational Regulation,
3600 West Broad Street, Richmond, Virginia. ☎

A meeting to discuss fair housing cases.

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 ☎, email reboard@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 ☎, email 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 ☎, email 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 ☎, email 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 ☎, email 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 Hill Rd., Suite 600, Herndon, VA 20170, telephone (703) 689-3043, FAX (703) 464-1720, email nvorona@cit.org.

SAFETY AND HEALTH CODES BOARD

† **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 Safety and Health Codes Board intends to adopt regulations entitled **16 VAC 25-75, General Industry Standard for Telecommunications, General, Approach Distances**, and amend regulations entitled **16 VAC 25-90-1910.268, Federal Identical General Industry Standards**. The purpose of the proposed action is to provide telecommunications employees with protection from any live electrical part in the area where such employees are working.

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

Contact: John Crisanti, Policy Analyst Senior, Powers-Taylor Bldg., 13 S. 13th St., Richmond, VA

Calendar of Events

23219, telephone (804) 786-4300, FAX (804) 786-8418 or email john.crisanti@doli.virginia.gov.

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, email scott.parsons@dba.virginia.gov.

STATE BOARD OF SOCIAL SERVICES

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 ☎, email judith.mcgreal@dss.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 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 ☎, email judith.mcgreal@dss.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 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 ☎, email kathryn.thomas@dss.virginia.gov.

† **October 18, 2006 - 9 a.m.** -- Open Meeting
Radford University, Radford, Virginia. ☎

A regular meeting. A Poverty Committee meeting is scheduled for 4 p.m.

Contact: Pat Rengnerth, Board Liaison, Department of Social Services, Office of Legislative and Regulatory Affairs, 7 N. 8th St., Room 5214 Richmond, VA 23219, telephone (804) 726-7905, FAX (804) 726-7906, (800) 828-1120/TTY ☎, email patricia.rengnerth@dss.virginia.gov.

† **October 19, 2006 - 9 a.m.** -- Open Meeting
Radford University, Radford, Virginia. ☎

A regular meeting.

Contact: Pat Rengnerth, Board Liaison, Department of Social Services, Office of Legislative and Regulatory Affairs, 7 N. 8th St., Room 5214, Richmond, VA 23219, telephone

(804) 726-7905, FAX (804) 726-7906, (800) 828-1120/TTY ☎, email patricia.rengnerth@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 email 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, reimburseable 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 email 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 email james.grigsby@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 40-540, 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 email 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 email 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

Calendar of Events

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 email celestine.jackson@dss.virginia.gov.

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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 email 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 , email 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 , email 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, email taxclearancestudy@tax.virginia.gov.

COMMONWEALTH TRANSPORTATION BOARD

September 21, 2006 - 8:30 a.m. -- Open Meeting
Virginia Port Authority, 600 World Trade Center, Board Room, Norfolk, Virginia. 

A combined workshop and regularly scheduled meeting to transact board business, such as permits, additions/deletions to the highway system, and other matters requiring board approval. Public comment will be received at the outset of the meeting on items on the agenda

for which the opportunity for public comment has not been afforded the public in another forum. Remarks will be limited to five minutes. Large groups will be asked to select one individual to speak for the group. The board reserves the right to amend these conditions. Separate committee meetings may be held on call of the chairman. Contact VDOT Public Affairs at (804) 786-2715 for schedule.

Contact: Carol A. Mathis, Executive Assistant, Department of Transportation, 1401 E. Broad St., Richmond, VA 23219, telephone (804) 786-2701, email carol.mathis@vdot.virginia.gov.

DEPARTMENT OF TRANSPORTATION

† **September 25, 2006 - 5:30 p.m.** -- Public Hearing
Department of Transportation, 1221 East Broad Street,
Central Auditorium, Richmond, Virginia.

October 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 Department of Transportation intends to adopt regulations entitled **24 VAC 30-155, Traffic Impact Analysis Regulations**. The purpose of the proposed action is to publish a proposed APA-exempt regulation to satisfy the provisions of Chapter 527 of the 2006 Acts of Assembly. The regulation establishes procedures by which localities submit proposals that will affect the state-controlled transportation network to the Virginia Department of Transportation for review and comment to improve the manner in which land use and transportation planning decisions are coordinated and executed throughout the Commonwealth.

Statutory Authority: Chapter 527 of the 2006 Acts of Assembly.

Contact: Robert W. Hofrichter, Assistant Director for Land Use, Department of Transportation, 1401 E. Broad St., Richmond, VA 23219, telephone (804) 662-9612, FAX (804) 662-9405, or email chapter527@vdot.virginia.gov.

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, email braxton.powell@trs.virginia.gov.

DEPARTMENT OF VETERANS SERVICES

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, VVCAC and VSF Program Operations, Department of Veterans Services, 900 E. Main St., telephone (804) 786-0220, FAX (804) 786-0302, email roz.trent@dvs.virginia.gov.

Joint Leadership Council of Veterans Service Organizations

October 11, 2006 - 10 a.m. -- Open Meeting
American Legion Department of Virginia Building, 1708 Commonwealth Avenue, Richmond, Virginia. ♿

A regular meeting. 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, email roz.trent@dvs.virginia.gov.

Veterans Services Foundation

October 4, 2006 - 11 a.m. -- Open Meeting
American Legion Department of Virginia Building, 1708 Commonwealth Avenue, Richmond, Virginia. ♿

A meeting of the 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, email 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 St., Richmond, VA 23219, telephone (804) 786-0286, email rhonda.earman@dvs.virginia.gov.

Calendar of Events

STATE WATER CONTROL BOARD

† **October 3, 2006 - 7 p.m.** -- Open Meeting
Department of Environmental Quality, Valley Regional Office, 4411 Early Road, Harrisonburg, Virginia. ♿

A public hearing to receive comments on the proposed reissuance of a discharge permit for Merck and Co., Inc. located in Elkton. In addition to the public hearing, an informational briefing will be held at the same location beginning at 6:30 p.m. The public comment period ends on October 18, 2006.

Contact: Eric Aschenbach, State Water Control Board, P.O. Box 3000, Harrisonburg, VA 22801, telephone (540) 574-7879, FAX (540) 574-7878, email etaschenbach@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, email varourke@deq.virginia.gov.

† **October 12, 2006 - 2 p.m.** -- Open Meeting
Department of Environmental Quality, Piedmont Regional Office, 4949-A Cox Road, Glen Allen, Virginia. ♿

A public meeting to receive comments on the State Water Control Board's notice of intent to amend the water quality standards. The notice of intent appears in the Virginia Register of Regulations on September 18, 2006. As indicated in the notice of intent, an advisory committee will be established to assist in the development of amendments to the water quality standards. For anyone interested in serving on the advisory committee, the dates of the advisory committee meeting have been scheduled for 10 a.m. on December 1, 2006, February 21, 2007, March 21, 2007, April 18, 2007, and May 9, 2007. The advisory committee meetings will also be at the Piedmont Regional Office.

Contact: Eleanore M. Daub, State Water Control Board, P.O. Box 10009, Richmond, VA 23240, telephone (804) 698-4111, email emdaub@deq.virginia.gov.

† **December 1, 2006 - 10 a.m.** -- Open Meeting
Department of Environmental Quality, Piedmont Regional Office, 4949-A Cox Road, Glen Allen, Virginia. ♿

A meeting of the advisory committee to be established to assist in the development of amendments to the water quality standards. The notice of intent appears in the Virginia Register of Regulations on September 18, 2006.

Contact: Eleanore M. Daub, State Water Control Board, P.O. Box 10009, Richmond, VA 23240, telephone (804) 698-4111, FAX (804) 698-4116, email emdaub@deq.virginia.gov.

BOARD FOR WATERWORKS AND WASTEWATER WORKS OPERATORS

† **September 28, 2006 - 9 a.m.** -- Open Meeting
Department of Professional and Occupational Regulation, 3600 West Broad Street, 4th Floor, Room 453, Richmond, Virginia. ♿

An informal fact-finding conference.

Contact: 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 ♿, email 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 email waterwasteoper@dpor.virginia.gov.

† **December 6, 2006 - 8:30 a.m.** -- Open Meeting
Department of Professional and Occupational Regulation,
3600 West Board Street, Richmond, Virginia. ☎

A meeting to conduct board business. The meeting is open to the public; however, a portion of the board's business may be discussed in closed session. Persons desiring to participate in the meeting and requiring special accommodations or interpretive services should contact the department at least 10 days prior to the meeting so that suitable arrangements can be made. The department fully complies with the Americans with Disabilities Act.

Contact: 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 ☎, email waterwasteoper@dpor.virginia.gov.

INDEPENDENT

STATE LOTTERY BOARD

† **October 18, 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, email fferguson@valottery.com.

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: § 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 email bhill@valottery.com.

VIRGINIA OFFICE FOR PROTECTION AND ADVOCACY

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 email 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 ☎, email 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. 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 email at lisa.shehi@vopa.virginia.gov no later than September 12, 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 ☎, email lisa.shehi@vopa.virginia.gov.

Calendar of Events

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, Richmond, VA 23230, telephone (804) 662-7213, FAX (804) 662-7431, toll-free (800) 552-3962, (804) 225-2042/TTY , email lisa.shehi@vopa.virginia.gov.

VIRGINIA RETIREMENT SYSTEM

October 11, 2006 - 1:30 p.m. -- Open Meeting
November 8, 2006 - 1:30 p.m. -- Open Meeting
† December 13, 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 , email lking@varetire.org.

October 12, 2006 - 1 p.m. -- Open Meeting
November 9, 2006 - 1 p.m. -- Open Meeting
† December 14, 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 , email lking@varetire.org.

November 8, 2006 - 3 p.m. -- Open Meeting
Virginia Retirement System, 1200 East Main Street, Richmond, Virginia.

A meeting of the Audit and Compliance Committee.

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 , email lking@varetire.org.

November 9, 2006 - 9 a.m. -- Open Meeting
† December 14, 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 , email lritchey@varetire.org.

† December 12, 2006 - Noon -- 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 , email psmith@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.

HOUSE APPROPRIATIONS COMMITTEE

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, email jchaffin@leg.state.va.us.

† **October 18, 2006 - 1 p.m.** -- Open Meeting
LexisNexis, 701 East Water Street, Charlottesville, Virginia.

The Commission will tour the LexisNexis facility in Charlottesville.

Contact: Jane Chaffin, Registrar of Regulations, Virginia Code Commission, General Assembly Bldg., 2nd Floor, 910 Capitol St., Richmond, VA 23219, telephone (804) 786-3591, FAX (804) 692-0625, email 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, email 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 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.

HOUSE FINANCE COMMITTEE

† **September 25, 2006 - 11 a.m.** -- Open Meeting
General Assembly Building, 9th and Broad Streets, House Room D, Richmond, Virginia. ♿

A regular meeting.

Contact: William L. Owen, House Committee Operations, 910 Capitol St., Richmond, VA 23219, telephone (804) 698-1540.

HOUSE HEALTH, WELFARE AND INSTITUTIONS COMMITTEE

† **September 19, 2006 - 2 p.m.** -- Open Meeting
† **October 25, 2006 - 2 p.m.** -- Open Meeting
General Assembly Building, 9th and Broad Streets, House Room C, Richmond, Virginia. ♿

A meeting of the COPN Task Force.

Contact: Lori L. Maynard, House Committee Operations, 910 Capitol St., Richmond, VA 23219, telephone (804) 698-1540.

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.

Calendar of Events

JOINT SUBCOMMITTEE STUDYING THE COMMONWEALTH'S PROGRAM FOR PRISONER REENTRY TO SOCIETY

† **October 26, 2006 - 10 a.m.** -- Open Meeting

† **November 14, 2006 - 2 p.m.** -- Open Meeting
General Assembly Building, 9th and Broad Streets, Senate
Room B, Richmond, Virginia. 

A regular meeting. For questions regarding the meeting agenda, please contact Ellen Weston, Division of Legislative Services at (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: Rich Fiorella, Senate Committee Operations, General Assembly Bldg., 910 Capitol St., Richmond, VA 23219, telephone (804) 698-7410.

SMALL BUSINESS COMMISSION

† **October 27, 2006 - 10 a.m.** -- Open Meeting
Roanoke Higher Education Center, Roanoke, Virginia. 

A regular meeting. 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 COMMISSION ON TECHNOLOGY AND SCIENCE

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.

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, email 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, email 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, email 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, email 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, email 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, email 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, email 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, email 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.

HOUSE TRANSPORTATION COMMITTEE

† **September 25, 2006 - 2 P.m.** -- Open Meeting
General Assembly Building, 9th and Broad Streets, House Room D, Richmond, Virginia. 

A regular meeting.

Contact: William L. Owen, House Committee Operations, 910 Capitol St., Richmond, VA 23219, telephone (804) 698-1540.

CHRONOLOGICAL LIST

OPEN MEETINGS

September 18

- Alcoholic Beverage Control Board
- Appropriations Committee, 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
- † Health, Welfare and Institutions Committee, House
- † Indians, Virginia Council on

- 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

- † Agriculture and Consumer Services, Department of
 - Virginia Egg Board
- † Conservation and Recreation, Department of
- 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
- National and Community Service, Virginia Commission for
- Nursing, Board of
- Outdoors Foundation, Virginia
- Rehabilitative Services, Department of
- Technology and Science, Joint Commission on
- † Transportation Board, Commonwealth

September 22

- Agriculture and Consumer Services, Department of
 - Virginia Horse Industry Board
- Dentistry, Board of
- † Education, 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
- † Finance, Committee on
- Protection and Advocacy, Virginia Office for
- † Transportation, Committee on

September 26

- Agriculture and Consumer Services, Department of
 - Virginia Marine Products Board
 - Virginia Wine Board
- † Air Pollution Control Board, State
- Arts, Virginia Commission for the

Calendar of Events

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

† Conservation and Recreation, Department of
Education, Board of
Health, Department of
Housing Development Authority, Virginia
Medicine, Board of
† Optometry, Board of
Pharmacy, Board of

September 28

† Architects, Professional Engineers, Land Surveyors,
Certified Interior Designers and Landscape Architects,
Board for
† Asbestos, Lead, and Home Inspectors, Virginia Board for
Conservation and Recreation, Department of
- Virginia Soil and Water Conservation Board
† Contractors, Board for
† Environmental Quality, Department of
Mines, Minerals and Energy, Department of
Public Guardian and Conservator Advisory Board, Virginia
† Real Estate Board
† Waterworks and Wastewater Works Operators, Board for

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
† Contractors, Board for
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
† Water Control Board, State

October 4

Administrative Rules, Joint Commission on
Education, Secretary of
† Health Professions, Department 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
† George Mason University
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
† Real Estate Board
Retirement System, Virginia
Soil Scientists and Wetland Professionals, Board for
Professional
† Technology and Science, Joint Commission on
Veterans Services, Department of

October 12

Conservation and Recreation, Department of
† Contractors, Board for
† Fire Services Board, Virginia
† Museum of Fine Arts, Virginia
Nursing, Board of
† Real Estate Board
Retirement System, Virginia
† Water Control Board, State

October 13

Dentistry, Board of
† Fire Services Board, Virginia
Social Work, Board of

October 16

Alcoholic Beverage Control Board
Appropriations Committee, House
† Conservation and Recreation, Department of
Nursing, Board of
Old Dominion University

October 17

Cemetery Board
Governor, Office of the

- Olmstead Community Integration Implementation Team

October 18

† Code Commission, Virginia
† Compensation Board
† Environmental Quality, Department of Geology, Board for
† Lottery Board, State
Medical Assistance Services, Department of Nursing, Board of
- Joint Boards of Nursing and Medicine
† Social Services, State Board of
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 Foundation
Medicine, Board of
Social Services, State 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
† Health, Welfare and Institutions Committee, House

October 26

† Conservation and Recreation, Department of Polygraph Examiners Advisory Board
† Prisoner Reentry to Society, Joint Subcommittee the Commonwealth's Program for

October 27

Dentistry, Board of
Rehabilitation Services, Department of
† Small Business Commission

October 31

Architects, Professional Engineers, Land Surveyors, Certified Interior Designers and Landscape Architects, Board for
Chesapeake Bay Local Assistance Board
Long-Term Care Administrators, Board for

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
Medical Assistance Services, Department of
Retirement System, Virginia

November 13

Appropriations Committee, House
Library Board
Nursing, Board of
Professional and Occupational Regulation, Board for

November 14

Appropriations Committee, House
Corrections, Board of
Nursing, Board of
† Prisoner Reentry to Society, Joint Subcommittee the Commonwealth's Program for
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
† Health, Department of
Nursing, Board of
Outdoors Foundation, Virginia
Protection and Advocacy, Virginia Office for
- PAIMI Advisory Council

Calendar of Events

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
† Water Control Board, State

December 4

Alcoholic Beverage Control Board
Branch Pilots, Board for
† Nursing, Board of
Real Estate Board

December 5

† Branch Pilots, Board for
† Charitable Gaming Board
† Museum of Fine Arts, Virginia
† Nursing, Board of
† Real Estate Board

December 6

† George Mason University
† Jamestown-Yorktown Foundation
† Mental Health, Mental Retardation and Substance Abuse
Services, Department of
† Nursing and Medicine, Joint Boards of
† Waterworks and Wastewater Works Operators, Board for

December 7

† Dentistry, Board of
† Nursing, Board of
† Polygraph Examiners Advisory Board
† Public Guardian and Conservator Advisory Board

December 8

† Dentistry, Board of
† Health, Department of
† Medicine, Board of
† Old Dominion University
† Opticians, Board for

December 11

† Branch Pilots, Board for
† Chesapeake Bay Local Assistance Board

December 12

† Medical Assistance Services, Board of
† Nursing, Board of
† Retirement System, Virginia

December 13

† Nursing, Board of
† Pharmacy, Board of
† Retirement System, Virginia

December 14

† Conservation and Recreation, Department of
† Human Resources, Virginia Council on
† Labor and Industry, Department of
- Virginia Apprenticeship Council
† Retirement System, Virginia

December 15

† Asbestos, Lead, and Home Inspectors, Virginia Board for
† Dentistry, Board of

December 18

† Alcoholic Beverage Control Board

December 19

Governor, Office of
- Olmstead Community Integration Implementation
Team

PUBLIC HEARINGS

September 18

† Education, Board of
Environmental Quality, Department of

September 19

† Education, Board of
† Environmental Quality, Department of
Mental Health, Mental Retardation and Substance Abuse
Services, State Board of
Motor Vehicles, Department of
Nursing, Board of

September 21

† Education, Board of
Motor Vehicles, Department of
Polygraph Examiners Advisory Board

September 25

† Education, Board of
† Transportation, Department of

September 27

† Education, Board of
Professional and Occupational Regulation, Department of

October 3

Mental Health, Mental Retardation and Substance Abuse
Services, State Board of
† Water Control Board, State

October 4

Health, Board of

October 5

Auctioneers Board

October 6

† Environmental Quality, Department of

October 11

Health, Board of
Mental Health, Mental Retardation and Substance Abuse
Services, State Board of

October 12

† Air Pollution Control Board, State

October 17

Cemetery Board
Mental Health, Mental Retardation and Substance Abuse
Services, State Board of

October 18

† Environmental Quality, Department of
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

Calendar of Events
