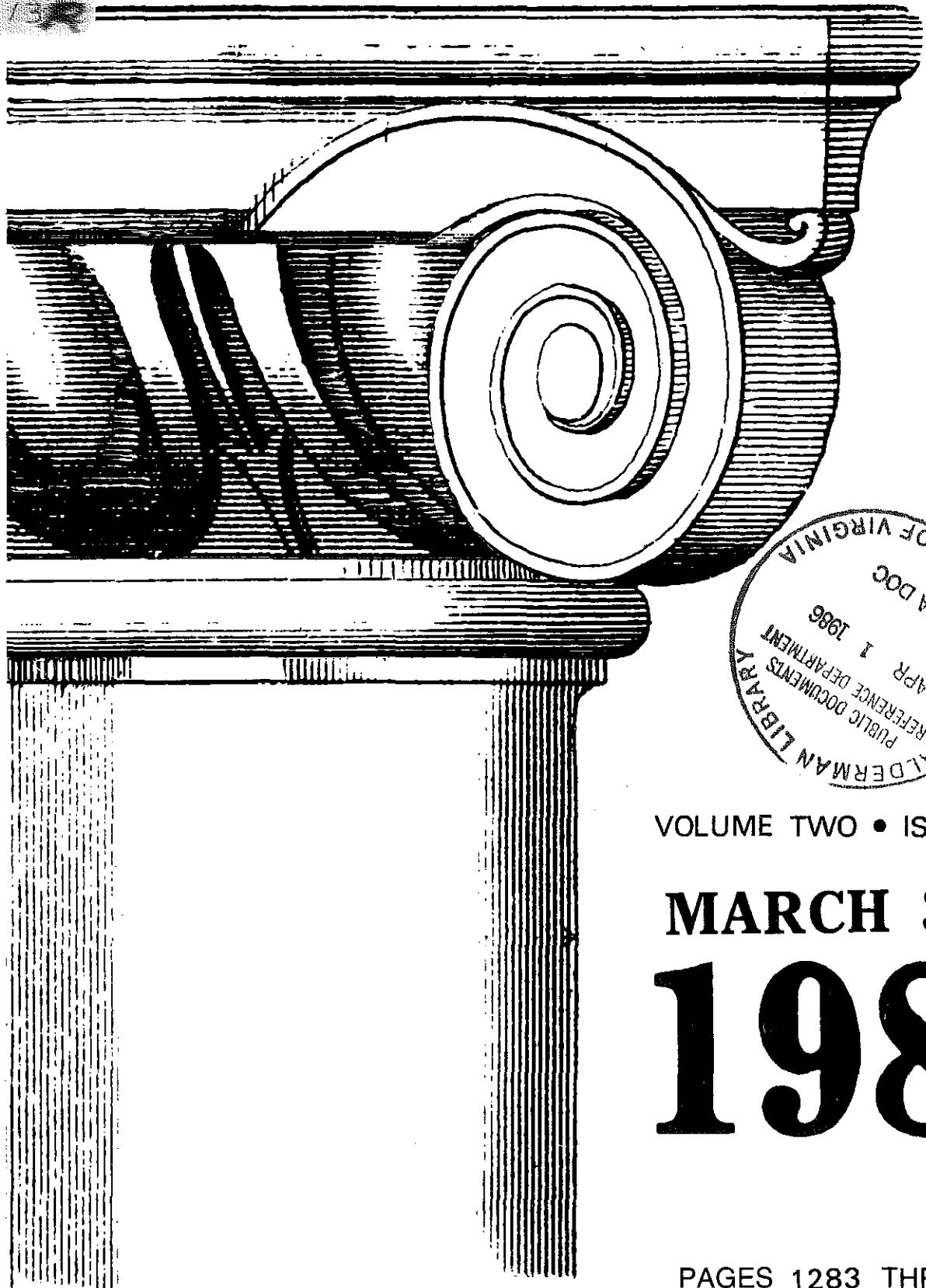


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# THE VIRGINIA REGISTER

OF REGULATIONS

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# 1986

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# INFORMATION ABOUT THE VIRGINIA REGISTER OF REGULATIONS

## VIRGINIA REGISTER

The *Virginia Register* 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 full text of all regulations, both as proposed and as finally adopted or changed by amendment are required by law to be published in the *Virginia Register of Regulations*.

In addition, the *Virginia Register* is a source of other information about state government, including all Emergency Regulations issued by the Governor, and Executive Orders, the Virginia Tax Bulletin issued monthly by the Department of Taxation, and notices of all 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 proposed action; a basis, purpose, impact and summary statement; a notice giving the public an opportunity to comment on the proposal, and the text of the proposed regulations.

Under the provisions of the Administrative Process Act, the Registrar has the right to publish a summary, rather than the full text, of a regulation which is considered to be too lengthy. In such case, the full text of the regulation will be available for public inspection at the office of the Registrar and at the office of the promulgating agency.

Following publication of the proposal in the *Virginia Register*, sixty days must elapse before the agency may take action on the proposal.

During this time, the Governor and the General Assembly will review the proposed regulations. The Governor will transmit his comments on the regulations to the Registrar and the agency and such comments will be published in the *Virginia Register*.

Upon receipt of the Governor's comment on a proposed regulation, the agency (i) may adopt the proposed regulation, if the Governor has no objection to the regulation; (ii) may modify and adopt the proposed regulation after considering and incorporating the Governor's suggestions, or (iii) may adopt the regulation without changes despite the Governor's recommendations for change.

The appropriate standing committee of each branch of the General Assembly may meet during the promulgation or final adoption process and file an objection with the *Virginia Registrar* and the promulgating agency. The objection will be published in the *Virginia Register*. Within twenty-one days after receipt by the agency of a legislative objection, the agency shall file a response with the Registrar, the objecting legislative Committee, and the Governor.

When final action is taken, the promulgating agency must again publish the text of the regulation, as adopted, highlighting and explaining any substantial changes in the final regulation. A thirty-day final adoption period will commence upon publication in the *Virginia Register*.

The Governor will review the final regulation during this time and if he objects, forward his objection to the Registrar and the agency. His objection will be published in the *Virginia Register*. If the Governor finds that changes made to the proposed regulation are substantial, he may suspend the regulatory process for thirty days and

require the agency to solicit additional public comment on the substantial changes.

A regulation becomes effective at the conclusion of this thirty-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 twenty-one day extension period; or (ii) the Governor exercises his authority to suspend the regulatory process for solicitation of additional public comment, in which event the regulation, unless withdrawn, becomes effective on the date specified which date shall be after the expiration of the period for which the Governor has suspended the regulatory process.

Proposed action on regulations may be withdrawn by the promulgating agency at any time before final action is taken.

## EMERGENCY REGULATIONS

If an agency determines that an emergency situation exists, it then requests the Governor to issue 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 in time and cannot exceed a twelve-months duration. The emergency regulations will be published as quickly as possible in the *Virginia Register*.

During the time the emergency status is in effect, the agency may proceed with the adoption of permanent regulations through the usual procedures (See "Adoption, Amendment, and Repeal of Regulations," above). If the agency does not choose 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 of Chapter 1.1:1 (§§ 9-6.14:6 through 9-6.14:9) 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. 1:3 VA.R. 75-77 November 12, 1984 refers to Volume 1, Issue 3, pages 75 through 77 of the Virginia Register issued on November 12, 1984.

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**Staff of the Virginia Register:** Joan W. Smith, Registrar of Regulations; Ann M. Brown, Assistant Registrar of Regulations.

VIRGINIA REGISTER OF REGULATIONS

PUBLICATION DEADLINES AND SCHEDULES

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Rules and Regulations for the Enforcement of the Virginia Commercial Feed Law (VR 115-04-06)

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Rules and Regulations for the Enforcement of the Virginia Agricultural Products Dealers Licensing and Bonding Law (VR 115-04-08)

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## Symbol Key

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

## STATE AIR POLLUTION CONTROL BOARD

### Title of Regulation: VR 120-01. Regulations for the Control and Abatement of Air Pollution. (REPRINT)

Statutory Authority: § 10-17.18(b) of the Code of Virginia

Public Hearing Date: May 5, 1986 - 10 a.m.  
(See Calendar of Events section for additional information)

NOTICE: Due to its length, the proposed Regulations for the Control and Abatement of Air Pollution (VR 120-01), filed by the State Air Pollution Control Board is not being published. However, in accordance with § 9-6.14:22 of the Code of Virginia, the summary is being published in lieu of full text. The full text of the regulation is available for public inspection at the office of the Registrar of Regulations and the State Air Pollution Control Board.

### Summary:

*The proposed amendments to the Regulations for the Control and Abatement of Air Pollution change the agency's regulations to provide the latest edition of referenced documents and provide a consolidated list of referenced documents to facilitate easy location.*

*The amendments consist of two elements. First, at each location where a document is mentioned, it has been undated as necessary for title and reference number. In cases where the edition is noted it has been deleted and replaced by a note to see Appendix M. Second, a new Appendix M has been established which lists all of the nonstatutory documents (those other than federal and state laws and regulations) and the primary federal regulations incorporated by reference. This consolidated list provides the name, reference number and edition for each document. The edition is the latest available. Also included for each document is the name and address of the organization from which it can be obtained.*

### Editor's Note on Incorporation by Reference

Pursuant to § 9-6.18 of the Code of Virginia, a copy of the documents incorporated by reference is available only at either the office of the Registrar of Regulations or at the State Air Pollution Control Board, Room 825, Ninth Street Office Building, Richmond, Virginia. There are no copies of the documents at the agency's regional offices. For this reason, these documents will not be printed in the Virginia Register of Regulations.

Code of Federal Regulations

U.S. Environmental Protection Agency Technical Manuals and Guideline Documents.

### U.S. Government

Standard Industrial Classification Manual, 1972, as amended by the 1977 Supplement (U.S. Government Printing Office stock numbers 4101-006 and 003-005-00176-1, respectively).

### American Society for Testing and Materials (ASTM)

D 323-82, Test Method for Vapor Pressure of Petroleum Products (Reid Method) from § 5, Volume 05.01 of the "1985 Annual Book of ASTM Standards".

D 97-66 (reapproved 1978), Test Method for Pour Point of Petroleum Oils from § 5, Volume 05.01 of the "1985 Annual Book of ASTM Standards."

### American Petroleum Institute (API)

API Publication 2517, Evaporation Loss from External Floating Roof Tanks, Second Edition, February 1980.

### American Conference of Governmental Industrial Hygienists (ACGIH)

ACGIH Handbook - Threshold Limit Values\* for Chemical Substances in the Work Environment Adopted by ACGIH for 1985-1986.

### National Fire Prevention Association (NFPA)

NFPA 385, Standard for Tank Vehicles for Flammable and Combustible Liquids, 1985 Edition.

NFPA 30, Flammable and Combustible Liquids Code, 1984 Edition.

NFPA 30A, Automotive and Marine Service Station Code, 1984 Edition.

Copies of these documents are available for inspection in the office of the Registrar of Regulations, Room 215, General Assembly Building, Capitol Square, Richmond, Virginia and in the following local offices of the State Air Pollution Control Board:

Southwestern Virginia Regional Office  
State Air Pollution Control Board  
121 Russell Road  
Abingdon, Virginia 24210  
Ph: (703) 628-7841

Valley of Virginia Regional Office  
State Air Pollution Control Board  
Executive Office Park - Suite A  
5338 Peters Creek Road  
Roanoke, Virginia 24019  
Ph: (703) 982-7328

Central Virginia Regional Office  
State Air Pollution Control Board  
7701-03 Timberlake Road  
Lynchburg, Virginia 24502  
Ph: (804) 528-6641

State Capital Regional Office  
State Air Pollution Control Board  
8205 Hermitage Road  
Richmond, Virginia 23228  
Ph: (804) 265-3067

Hampton Roads Regional Office  
State Air Pollution Control Board  
Pembroke Four - Suite 409  
Pembroke Office Park  
Virginia Beach, Virginia 23462  
Ph: (804) 499-6845

# Proposed Regulations

## STATEWIDE HEALTH COORDINATING COUNCIL

**Title of Regulation:** VR 360-01-02. Standards for Evaluating Certificate of Public Need Applications to Establish or Expand Computed Tomography or Magnetic Resonance Imaging Services.

**Statutory Authority:** § 32.1-120 of the Code of Virginia

**Public Hearing Date:** May 30, 1986 - 1 p.m.  
(See Calendar of Events section for additional information)

### Summary:

*These regulations will revise the existing Virginia State Health Plan with respect to computed tomography and magnetic resonance imaging services. They provide specific minimum standards for Certificate of Public Need approval, including current patient mix at the applicants' facilities, annual service volume at nearby facilities, proposed staffing and supervision, and physical plant characteristics.*

VR 360-01-02. Standards for Evaluating Certificate of Public Need Applications to Establish or Expand Computed Tomography or Magnetic Resonance Imaging Services.

### PART I. INTRODUCTION.

§ 1.1. General criteria for evaluating all Certificate of Public Need applications are set forth in § 32.1-102.3 of the Code of Virginia. Section 32.1-102.3 provides that "any decision to issue or approve the issuance of a certificate shall be consistent with the most recent applicable provisions of the State Health Plan and the State Medical Facilities Plan." However, to be valid under Virginia's Administrative Process Act, specific provisions within the State Health Plan or State Medical Facilities Plan, which are to be used by the State Health Commissioner in determining public need for a proposed project by a medical care facility, must be adopted as official regulations of state government, following procedures specified by the Administrative Process Act.

This regulation provides specific standards to be used by the State Health Commissioner to determine whether a public need exists for a proposed project to establish or expand computed tomography (CT) or magnetic resonance imaging (MRI) services. This regulation supersedes § 8.3.2 of the 1979 State Medical Facilities Plan, "CT Scanning Criteria," amended by the State Board of Health on July 28, 1980, with an effective date of September 15, 1980, and incorporated within the State Health Plan 1980-84 effective December 15, 1980. It also supersedes Part D, "Standards for the Issuance of Certificates of Public Need," of the State Health Plan component "Magnetic Resonance Imaging," which became effective November 15, 1984. Finally, it supersedes portions of Volume 1 of the Virginia State Health Plan 1980-84 dealing with CT services;

namely, parts of the text found on pages 539, 540, and 545-549.

### Analysis:

There are many variables affecting utilization of a CT unit including patient mix, head vs body scan, condition of patient and complexity of the case. All of these variables will be taken into consideration when reviewing each individual COPN application.

In addition to the criteria and standards presented in Appendix B as adopted by the Board of Health, the State Health Department also endorses the use of the following additional criteria:

1. The facility should currently have an active neurology and neurosurgery department.
2. The facility should have full time radiological staff coverage by a physician proficient in the interpretation of computed tomography. Fully trained technical staff should also be available.
3. Hospitals operating full service 24-hour/day emergency departments will be given priority consideration for acquiring CT scanners needed in a service area.
4. The facility must demonstrate an ability and willingness to make services available for emergency cases at any hour.
5. Hospitals providing or having access to an active radiotherapy program will be given priority consideration for acquiring CT scanners needed in a service area.

### Comparison to National Guidelines:

Of the 20 scanners in Virginia for which there is utilization data, only 3 were operating at the National Guideline standard of 2,500 procedures during the survey period of October 1, 1977, to September 30, 1978. This low level of utilization for existing machines must be taken into consideration when projecting future need for additional CT scanners.

### 3.2. Diagnostic Radiology Equipment: Computerized Axial Tomography Scanners:

Because plans adopted by HSAs are not inconsistent with the National Guidelines, it is appropriate that these standards for CT scanners be used in reviewing local projects. However, in light of the differences in head and body scans, and the special problems associated with the use of contrast media in such procedures, exceptions to the Federal Guidelines will be considered when it can be demonstrated that existing equipment is being fully utilized and that proposed equipment will be fully utilized within two years of its beginning operation. In addition to the

criteria and standards adopted by the State Board of Health on July 26, 1980, (see Appendix B) several additional criteria addressing staffing, availability, and therapeutic capability will also be considered by the State Health Department.

Consideration must also be given to the potential for the undesirable consequences that could result from too strict or too rigid guidelines. Possible negative effects include: (NHPC, 1979)

1. The suggestion that "throughput" rather than careful medical practice is desirable.
2. The potential motivation to increase the number of procedures beyond those medically necessary in order to meet a "standard".
3. The potential for higher per-patient cost.

It is therefore recommended that utilization of CT scanning equipment be monitored for appropriateness by the medical profession within each hospital and that consideration be given to the development of utilization guidelines. This is an area where input from PSRO's may have a substantial effect.

At present, there have been no surveys indicating the number of non-hospital based CT Scanners in Virginia. It is recommended that these additional scanners be identified and addressed in future State level plans.

It is further recommended that additional consideration and study be given to CT scanning equipment standards as cost-per-unit is decreasing and diagnostic potential increasing. The criteria and standards will have to be modified appropriately as these and other factors become more clearly established.

**RA 1.0** Radiologic and imaging services within the Commonwealth should be available and accessible consistent with optimal utilization of these services.

**RA 1.2** By 1984, Computerized Axial Tomography Scanners in Virginia should be consistent with the following guidelines:

- (1) a computer Tomographic Scanner (head and body) should operate at a minimum of 2,500 medically necessary patient procedures (HECTS) per year, for the second year of its operation and thereafter
- (2) there should be no additional scanners approved unless each existing scanner in health service area is performing at a rate greater than 2,500 medically necessary patient procedures per year
- (3) there should be no additional scanners approved unless the operators of the proposed equipment will set in place data collection and utilization review

systems.

**Recommended Actions (RA 1.1, RA 1.2, and RA 1.3)**

**A.** The SHCC should recommend approval of additional radiologic and imaging services only when need has been established and current and projected utilization of specific services can be demonstrated to be consistent with the guidelines incorporated in RA 1.1 and RA 1.2. Additional consideration should be given to the following factors:

### Computerized Axial Tomography

- (1) Criteria and Standards adopted by the Virginia State Board of Health (see Appendix B).
- (2) the facility should currently have an active neurology and neurosurgery department
- (3) the facility should have full-time radiological staff coverage by a physician proficient in the interpretation of computed tomography; fully trained technical staff should also be available
- (4) hospitals operating full service 24-hour/day emergency department will be given priority consideration for acquiring CT scanners needed in a service area
- (5) the facility must demonstrate an ability and willingness to make services available for emergency cases at any hour
- (6) hospitals providing or having access to an active radiotherapy program will be given priority consideration for acquiring CT scanners needed in a service area

CT scanning is a relatively new diagnostic technology. The efficacy of the CT scan for diagnosing certain brain and neurological disorders has been clearly demonstrated. Additionally, it is clear that CT scanning has considerable other efficacious applications throughout the body. Its importance in diagnosing and planning treatment of cancer patients is recognized and accepted. The Board of Health is cognizant of the high cost of CT scanning equipment and the high cost of operating such equipment. The Board believes CT scanning capabilities should be developed in a reasonable manner to insure needed access while minimizing unnecessary duplication and excessive costs.

Several principles shall apply in the decision making process relating to the approval of CT scanners:

1. CT scanner locations should be maximally accessible to the physicians whose patients need for the services is clearly demonstrated.
2. Reasonable levels of medically necessary utilization must be projected based upon historical utilization of other imaging procedures.



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3. Personnel trained in use and interpretation of CT scanning equipment and CT scans must be available to insure adequate and effective utilization of the equipment.

4. Assurances should be provided that CT scanning services will be available at any time for emergency cases.

5. Assurances should be provided that all patients referred for a CT scan will receive the service in a timely manner consistent with the patient's condition.

6. Full nuclear medicine and ultrasound facilities must be well established and effectively utilized at proposed CT scanner sites.

In developing the criteria which are specifically designed to provide reasonable access to CT scanning services for patients, the Board recognizes three (3) broad classifications for legitimate use of CT scanning: patient care, training, and research.

In recognition of the cost implications (both capital and operating) which attach to the widespread interest in acquiring CT scanning equipment the Board has adopted the following profile to identify and describe potential approvable CT scanner locations. By adoption of this profile of approvable sites the Board encourages and supports the concept that combinations of health service providers together can meet the profile requirement to be an approvable site.

### Profile for Obtaining CT Scanning Capability:

Hospitals, which alone or in combination with other health service providers offer:

24-hour ER services with physician on duty

Radiology Department which has at least three (3) full time radiologists and performs at least 30,000 examinations per year.

Criterion Number 1: Applicants for CT scanners must meet the requirements of the Profile.

Criterion Number 2: The use of all CT scanners must be directly supervised by radiologists with the necessary training in radiation protection to optimize radiation safety and the necessary training to provide consultation for the referring physician on the most appropriate imaging modality to answer the patients' clinical problems.

Criterion Number 3: A CT scanner shall be approved only if utilization can be projected (using the head equivalent computerized tomographic scan method HECTs\*) to be 2,500 HECTs per year following the second year of operation.

\*HECTs: A CT guideline which specifically

accommodates the major variables affecting capacity by explicitly correlating the time taken for each study type to that taken for an unenhanced head study. A HECT unit is defined as a single unenhanced CT head study. The average time equivalent of 1 HECT is 33 minutes.

### HECT TABLE

Contrast	Without	With	Without and With
Head Study	1.00	1.25	1.75
Body Study	1.50	1.75	2.75

Criterion Number 4: A CT scanner shall be approved only if the proposed owner provides written assurance that CT scanning services will be available for emergency cases at all times.

Criterion Number 5: A CT scanner shall be approved only if the proposed owner provides written assurance that no patient referred for an indicated study will be denied timely access to the service.

Criterion Number 6: A CT scanner shall be approved only in a facility or combination of facilities that have active nuclear medicine and ultrasound facilities which are effectively utilized.

Criterion Number 7: An additional scanner at any facility shall be approved only if it can be demonstrated that current utilization of existing scanners meets or exceeds 2,500 HECTs per year.

### D. Standards for the Issuance of Certificates of Public Need

When a medical device incorporates a new technology, there are strong arguments for an initially cautious, staged process of distribution. Among these is the high cost-per-unit of service during the early developmental stages, because of the manufacturer's relatively inefficient production methods; the user's relative inability to use the device and its technology efficiently and effectively; and rapid obsolescence of early generations of devices incorporating that technology. There is also the issue of the technology's safety, efficacy, efficiency, and relative value compared with other existing technology, valid information on which must be collected, synthesized, and disseminated in order to render sound decisions as to the technology's use and distribution.

These factors suggest that the proper initial locations for MRI devices are major metropolitan areas within major medical institutions that have an appropriate volume and mix of patients and medical care resources, and which will participate in the synthesis and dissemination of knowledge pertaining to this technology. Accordingly, the standards set forth below shall apply to MRI services; however, the SHCC shall initiate the public process for formal reconsideration of these standards no later than 90 days after the effective date of its official guidelines for

# Proposed Regulations

public participation in the development of regulations. It is the intent of the SHCC to offer, by January 1, 1986, any draft revisions of these standards for public review and comment.

1. A magnetic resonance imaging (MRI) device shall only be located in a hospital that:

- a. performs at least 4,000 CT HECTS<sup>a</sup> annually; and
- b. can demonstrate that during a recent one year period at least 1,600 of its inpatients, based upon principal diagnosis at discharge, would have qualified for MRI scans according to the following:

ICD 9 CM Code	% that Qualify	Category of Disease
140 330	55%	neoplasms
320 340	70%	central nervous system disorders
430 437	40%	cerebrovascular disease
585	40%	chronic renal failure
600 603	40%	diseases of the prostate
614	40%	inflammatory disease of the ovary; fallopian tube; pelvic cellular tissue; and peritoneum

2. The preceding requirements shall be modified as follows for an MRI device that is to be formally shared among several hospitals:

- a. the hospitals' combined number of CT HECTS<sup>a</sup> must be at least 4,000 annually;
- b. the hospitals' combined number of inpatients that would have qualified for MRI procedures, computed in accordance with 1-b., must be at least 2,000;
- c. the hospital at which the MRI device is to be located must be the source of at least 2,000 CT HECTS and at least 800 inpatients that would have qualified for MRI procedures;

<sup>a</sup> (as defined in the current State Medical Facilities Plan)

d. no party to a shared MRI service arrangement for which a COPN has been issued may seek its own MRI device, or be included in a different shared MRI service arrangement for purposes of seeking a COPN, until the other remaining parties to the original arrangement perform in aggregate at least 3,000 MRI procedures annually.

NOTE: Certain behavior among otherwise competing entities may be prohibited by the Sherman Act; therefore, parties contemplating action under this standard are urged to obtain legal counsel. Nothing in this standard is

intended to limit a physician's ability to refer patients to another MRI unit.

3. A hospital that maintains an AMA accredited residency training program in diagnostic radiology, proposes to perform at least one third of its MRI procedures within a formal investigational program, and that is not part of a formally shared MRI service arrangement as described above, may comply with item 1-b. by documenting 1,200 (rather than 1,600) patients that would have qualified for MRI procedures.

4. The following minimum staff shall be available to the hospital's MRI services:

- a. a board certified radiologist, employed full time at the hospital, with training and experience in the interpretation of ultrasonograms and computed tomography (CT) scans, and trained in MRI; interpretation prior to the initiation of that service;
- b. qualified engineering personnel, available to the institution during MRI service hours, with training and experience in the operation and maintenance of the MRI equipment;
- c. diagnostic radiologic technologists with expertise in computed tomography or other cross sectional imaging methods, at a staffing level consistent with the hospital's expected MRI service volume.

NOTE: These standards do not preclude the involvement of other additional staff judged qualified by the relevant governing entity.

## PART II. STANDARDS FOR EVALUATING CERTIFICATE OF PUBLIC NEED APPLICATIONS.

### Article I. Definitions.

#### § 2.1. Definitions.

Unless the context clearly indicates otherwise, the following definitions shall be used in carrying out these regulations.

"Board certified diagnostic radiologist" means a physician certified by the American Board of Medical Radiology, Inc. in diagnostic radiology or in diagnostic radiology with special competence in nuclear radiology.

"Body study" means a study of a part of the body other than the head.

"Computed tomography" means the construction of images through the detection and computer analysis of numerous X-ray beams directed through a part of the body (abbreviation: CT).

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**"Contrast"** ("contrast medium") means a substance that is strongly imaged and that, when ingested by or injected into a patient, increases the difference in image brightness between parts of the patient's body containing the substance and those where it is absent.

**"Current annual MRI relevant inpatients"** means the sum of 0.50 times the number of inpatients with a principal diagnosis involving neoplasms (ICD-9-CM codes 140-239), 0.46 times the number of inpatients with a principal diagnosis involving diseases of the central nervous system (ICD-9-CM codes 320-349), 0.52 times the number of inpatients with a principal diagnosis involving cerebrovascular disease (ICD-9-CM codes 430-438), 0.20 times the number of inpatients with a principal diagnosis involving diseases of the prostate (ICD-9-CM codes 600-602), 0.20 times the number of inpatients with a principal diagnosis involving inflammatory disease of the ovary, fallopian tube, pelvic cellular tissue, or peritoneum (ICD-9-CM code 614), and 0.19 times the number of patients with a principal diagnosis involving dorsopathies (ICD-9-CM codes 730-724), discharged by the applicant(s) during a single recent 12-month period.

**"Department"** means the Virginia Department of Health.

**"Driving time"** means the estimated automobile transit time between two locations, computed as follows. Step 1: identify the shortest public highway route between the two locations. Step 2: for those portions of the route for which estimated automobile transit times have been reported by the American Automobile Association, compute the sum of those transit times as most recently reported by the American Automobile Association. Step 3: for the remaining portions of the route, compute to the nearest mile the sum of their respective distances on interstate highways, federal highways outside independent cities, federal highways within independent cities, all other highways outside independent cities, and all other highways within independent cities, divided those distances by 50 miles per hour, 45 miles per hour, 35 miles per hour, 40 miles per hour, and 25 miles per hour respectively, convert any decimal fraction to its equivalent number of whole minutes, and compute the sum of the respective results. Step 4: add the results of Step 2 and Step 3.

**"Dual study"** means a study consisting of two parts: one with contrast, the other without.

**"Head equivalent computed tomogram"** means a relative workload value for CT studies where a head study without contrast equals 1.00, a head study with contrast equals 1.25, a dual head study equals 1.75, a body study without contrast equals 1.50, a body study with contrast equals 1.75, and a dual body study equals 2.75 (abbreviation: HECT).

**"Head study"** means a study of the head.

**"HECTs attributable to current patient mix"** means 1.45

times the following sum: 3.03 times the number of inpatients with a principal diagnosis involving neoplasms (ICD-9-CM codes 140-239), plus 3.00 times the number of inpatients with a principal diagnosis involving cerebrovascular disease (ICD-9-CM codes 430-438), plus 1.35 times the number of inpatients with a principal diagnosis involving other diseases of the digestive system (ICD-9-CM codes 570-579), plus 1.23 times the number of inpatients with a principal diagnosis involving dorsopathies (ICD-9-CM codes 720-724), discharged by the applicant(s) during a single recent 12-month period.

**"Hospital"** means an institution licensed by the department as a general hospital or special hospital, but does not include those which primarily provide facilities for the performance of surgical procedures on outpatients.

**"Hospital-based"** means operating at one or more sites within or physically connected to a hospital.

**"Magnetic resonance imaging"** means the construction of images through the detection and computer analysis of minute changes in magnetic properties of atomic particles, within a strong magnetic field, in response to the transmission of selected radiofrequency pulse sequences (abbreviation: MRI). Also referred to as nuclear magnetic resonance (NMR) imaging.

**"Mobile"** means periodically relocated among several sites of operation.

**"Network"** means a group of institutions sharing at least one key element of an operating system, such as a CT machine.

**"Physician"** means a person licensed by the Virginia State Board of Medicine to practice medicine or osteopathy.

**"Proton study"** means gathering data specific to protons (hydrogen nuclei) as opposed to other atomic particles that may be imaged.

**"Service"** means an institution's facilities, equipment, and staff associated with the provision of a single diagnostic, therapeutic, rehabilitative, preventive, or palliative procedure, or a series of such procedures, that may be separately identified for billing and accounting purposes.

**"Study"** means the gathering of data, during a single patient visit, from which one or more images may be constructed of a single anatomical region for the purpose of reaching a definitive clinical diagnosis.

**"Under development"** means currently authorized through the state's certificate of public need program of its equivalent or, if not under the purview of such a program, committed to be developed as evidence by a signed contract for the purchase or lease of the necessary fixed or major movable equipment.

## Article 2.

### Standards Pertaining to Both CT and MRI.

§ 2.2. An application to establish a new or expand an existing CT and/or MRI service or network may be approved only if it complies with each of the following:

1. The proposed CT and/or MRI service or network is to be under the direct, on-site supervision of one or more physicians with documented formal training in the production and interpretation of cross-sectional images of the types proposed to be offered by the service or network;

2. The proposed CT and/or MRI service or network is to be staffed by qualified radiologic technicians consistent with the types of services offered and the volume of services expected;

3. The application documents that an appropriate environment will be provided for the proposed CT and/or MRI service or network including necessary protection against radiant energy and other known hazards, and space for patient waiting, patient preparation, staff and patient bathrooms, staff activities, storage of records and supplies, and other space as appropriate and necessary with due consideration of the special needs of handicapped persons; and

4. The application demonstrates that the proposed CT and/or MRI service's or network's physical relationship to the applicant's other diagnostic imaging services is a logical and practical option with respect to patient transportation and staff activity patterns.

## Article 3.

### Additional Standards Pertaining to CT Only.

§ 2.3. An application to establish a new CT service may be approved only if, within a 30-minute driving time of the proposed site, there is neither (i) one or more sites of any COPN-approved hospital-based CT machine not yet in service, nor (ii) one or more sites of any hospital-based CT machine that is operational and performed less than 3,000 HECTs for the most recent 12-month period, prior to the beginning of the application's review cycle, for which acceptable data are available to the department. In addition, if the proposed new CT service is to be other than hospital-based, the application may be approved only if documentation acceptable to the department shows that the number of outpatient CT studies performed by others on the applicant's patients during a recent 12-month period results in at least 3,000 HECTs.

This standard shall not apply if the proposed new CT service is to be stationary and hospital-based, and diagnosis-specific hospital discharge abstract data acceptable to the department demonstrates that the applicant's HECTs attributable to current patient mix is at least 3,000.

§ 2.4. An application to increase the number of CT machines in an existing CT service or network may be approved only if that existing service or network performed an average of at least 5,000 HECTs per existing CT machine for the most recent 12-month period, prior to the beginning of the application's review cycle, for which acceptable data are available to the department.

§ 2.5. An application involving the addition of a stationary CT scanner to an existing CT service may be approved only if the facility at which the stationary CT scanner is to be located is neither the site of, nor part of a formal sharing arrangement for the use of, a COPN-approved or COPN-exempt MRI service or network that has been in operation for less than 12 months as of the beginning of the application's review cycle. This standard shall not apply if the applicant's existing service performed at least 7,600 HECTs per CT machine for the most recent 12-month period, prior to the beginning of the application's review cycle, for which acceptable data are available to the department.

## Article 4.

### Additional Standards Pertaining to MRI Only.

§ 2.6. An application shall not be approved for an MRI machine to be located at any site that is within a 90-minute driving time of:

1. The designated Virginia site of any COPN-approved or COPN-exempt MRI machine that is not yet operational;

2. The Virginia site of any operational MRI machine that has not performed at least 3,000 MRI proton studies, excluding such studies performed on behalf of the applicant(s), during the most recent 12-month period prior to the beginning of the application's review cycle for which acceptable data are available to the department;

3. The designated non-Virginia site of any MRI machine under development by or on behalf of one or more hospitals; or

4. The non-Virginia site of any hospital-controlled MRI machine already in operation but that has not performed at least 3,000 MRI proton studies, excluding such studies performed on behalf of the applicant(s), during the most recent 12-month period prior to the beginning of the application's review cycle for which acceptable data are available to the department.

An exception to this standard may be granted if, in the opinion of the State Health Commissioner, each operational MRI machine whose service volume would result in denial was, despite a usual operating schedule of at least 68 hours per week, unable to perform at least 3,000 proton studies during the specified 12-month period because of an extraordinary amount of down time or because of a significant

## Proposed Regulations

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commitment to research or physician education.

§ 2.7. An application to establish a new MRI service or network, not otherwise excluded by § 2.6, may be approved only if it complies with each of the following:

1. Diagnosis-specific hospital discharge abstract data acceptable to the department demonstrate that current annual MRI-relevant inpatients exceed 1,967 among all Virginia institutions committed to use the proposed service or network;

2. At least 4,000 HECTs were performed among all Virginia institutions committed to use the proposed service or network during the most recent 12-month period, prior to the beginning of the application's review cycle, for which acceptable data are available to the department;

3. The proposed service or network is to be under the operational control of at least one hospital whose current annual MRI-relevant inpatients exceeds 980 and at which at least 2,000 HECTs were performed during the most recent 12-month period, prior to the beginning of the application's review cycle, for which acceptable data are available to the department;

4. The application provides specific assurance, and a description of the proposed operating arrangements that shows, that the production and interpretation of all images made by the MRI machine will be under the immediate on-site control and supervision of one or more board certified diagnostic radiologists with training and experience in the interpretation of CT images and with at least 60 hours of documented instruction in magnetic resonance imaging physics, instrumentation and clinical applications prior to the initiation of the proposed service. This standard does not preclude the involvement of other additional staff judged qualified by the relevant governing entity; and

5. Qualified personnel, with training and experience in the operation and maintenance of the MRI equipment, will be available to the proposed service during its service hours.

§ 2.8. An application for an MRI machine to be operated at more than one site may be approved only if the applicant demonstrates that, compared with a single MRI site located at a hospital relatively central to the proposed service locations, and compared with a single freestanding MRI site located relatively central to the proposed service locations, the proposed mobile arrangement serves the target population most efficiently in view of at least the following factors:

1. Costs incurred by outpatients and inpatients for transportation to the MRI service,

2. Costs associated with extended lengths of stay for inpatients awaiting MRI services,

3. Costs of operating and maintaining the MRI system, and

4. Capital costs associated with the MRI service (acquisition, construction/renovation, interest, depreciation).

§ 2.9. An application to add an MRI machine to an existing MRI service or network may be approved only if the existing service or network is currently performing at least 3,000 MRI proton studies per year per MRI machine and the applicant's current annual MRI-relevant inpatients is at least 1,967 times the resulting number of MRI machines proposed for that service network.

§ 2.10. An MRI study specific to atomic particles other than protons, or for the purpose of spectroscopic analysis, may be counted as the equivalent of an MRI proton study for purposes of §§ 2.6 and 2.9; however, such studies so counted for a given institution shall not exceed 10% of that institution's count of actual MRI proton studies performed during the same time period.

# FINAL REGULATIONS

For information concerning Final Regulations, see information page.

## Symbol Key

Roman type indicates existing text of regulations. *Italic type* indicates new text. Language which has been stricken indicates text to be deleted. [Bracketed language] indicates a substantial change from the proposed text of the regulations.

## BOARD OF CORRECTIONS

**Title of Regulation:** VR 230-40-001. Core Standards for Interdepartmental Licensure and Certification of Residential Facilities for Children.

**Statutory Authority:** Chapters 11 and 14 of Title 16.1, Chapters 13 and 16 of Title 22.1, Chapters 8 and 10 of Title 37.1, Chapters 3 and 10 of Title 63.1, and Chapter 14 of Title 53.1 of the Code of Virginia.

**Effective Date:** June 1, 1986

### Summary:

*Under the current definitions and exceptions in the Code of Virginia, which have been in effect since July 1, 1981, the Departments of Corrections, Education, Mental Health and Mental Retardation, and Social Services are responsible for the licensure, certification and/or approval of public and private residential facilities for children. Such facilities are licensed, certified, or approved under the "Core Standards for Interdepartmental Licensure and Certification of Residential Facilities for Children" except (i) facilities which do not accept public funds, (ii) private psychiatric hospitals serving children, and (iii) some residential facilities serving children which successfully meet the requirements of nationally recognized standards setting agencies. The regulation addresses the following issues which have impact on residential facilities for children subject to licensure, certification and/or approval:*

*Organization and administration, personnel, residential environment, programs and services, disaster or emergency plans and licensure or certification procedures.*

*The purpose of the regulation is to establish the minimum requirements necessary to protect children in the care of residential facilities for children.*

NOTICE: Please refer to the Department of Social Services in the Final Regulations section of this issue of the Virginia Register of Regulations for the publication of "Core Standards for Interdepartmental Licensure and Certification of Residential Facilities for Children."

## BOARD OF EDUCATION

**Title of Regulation:** VR 270-01-003. Core Standards for

**Interdepartmental Licensure and Certification of Residential Facilities for Children.**

**Statutory Authority:** Chapters 11 and 14 of Title 16.1, Chapters 13 and 16 of Title 22.1, Chapters 8 and 10 of Title 37.1, Chapters 3 and 10 of Title 63.1, and Chapter 14 of Title 53.1 of the Code of Virginia.

**Effective Date:** June 1, 1986

### Summary:

*Under the current definitions and exceptions in the Code of Virginia, which have been in effect since July 1, 1981, the Departments of Corrections, Education, Mental Health and Mental Retardation, and Social Services are responsible for the licensure, certification and/or approval of public and private residential facilities for children. Such facilities are licensed, certified, or approved under the "Core Standards for Interdepartmental Licensure and Certification of Residential Facilities for Children" except (i) facilities which do not accept public funds, (ii) private psychiatric hospitals serving children, and (iii) some residential facilities serving children which successfully meet the requirements of nationally recognized standards setting agencies. The regulation addresses the following issues which have impact on residential facilities for children subject to licensure, certification and/or approval:*

*Organization and administration, personnel, residential environment, programs and services, disaster or emergency plans and licensure or certification procedures.*

*The purpose of the regulation is to establish the minimum requirements necessary to protect children in the care of residential facilities for children.*

NOTICE: Please refer to the Department of Social Services in the Final Regulations section of this issue of the Virginia Register of Regulations for the publication of "Core Standards for Interdepartmental Licensure and Certification of Residential Facilities for Children."

## HAZARDOUS WASTE FACILITY SITING COUNCIL

**Title of Regulation:** VR 352-01-2. Schedule of Fees for Hazardous Waste Facility Site Certification.

**Statutory Authority:** § 10-186.5 of the Code of Virginia.

# Final Regulations

**Effective Date:** April 30, 1986

## **Summary:**

The final regulation establishes fees and the procedures for fee assessment for applicants proposing to site hazardous waste facilities in the Commonwealth of Virginia. The regulation assesses applicants for two charges. Applicants are required to pay legal notices and copying charges for all reports, and charges for holding briefings, meetings and hearings. Second, fees are assessed for Class I facilities (storage) at \$10,000, or 1.0% of estimated construction costs, whichever is greater, but not to exceed \$20,000. Class II-V facilities (treatment, incineration, land disposal) have a fixed fee of \$20,000.

Provision is also made for a waiver of fees when the council, in its discretion, feels that the public interest is served.

The final regulation deletes the proposed requirement for a consultant fee.

VR 352-01-2. Schedule of Fees for Hazardous Waste Facility Site Certification.

## **PART I.**

### **Article I. Purpose and Authority.**

#### **§ 1.1. Authority for regulation.**

These regulations are issued under the authority of Title 10, [ Article Chapter ] 17.1, § 10-186.5 of the Code of Virginia. (the Virginia Hazardous Waste [ Facility Facilities ] Siting Act or the Act.)

#### **§ 1.2. Purpose of regulations.**

Section 10-186.5(11) of the Code of Virginia, authorizes the Hazardous Waste Facility Siting Council to "adopt a schedule of fees to charge applicants and to collect such fees for the cost of processing applications and site certifications." These regulations establish an application fee and guidelines for its collection.

#### **§ 1.3. Severability.**

If any clause, sentence, paragraph, subdivision, section or part of these regulations shall be adjudged by any court of competent jurisdiction to be invalid, the judgment shall not affect, impair, or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, subdivision, section or part thereof directly involved in the controversy in which the judgment shall have been rendered.

### **Article II. Definitions.**

§ 1.4. Section 10-186.3 of the Virginia Hazardous Waste [ Facility Facilities ] Siting Act defines several words and terms used in this regulation. Unless the context clearly indicates otherwise, those words and terms will have the same meaning when used in these regulations. In addition, the following words and terms shall have the following meanings, unless the context clearly indicates otherwise:

[ "Application fee" means the average estimated cost of processing an application for certification of site approval. Such costs include photocopying, mailing, print and broadcast media notices, travel expenses (transportation, meals, and lodging) for members of the council and additional personnel, production of transcripts, meeting room rental, compensation for members of the council and all other administrative costs associated with the processing of an application for site certification. Staff time is not included.

"Board" means the Hazardous Waste Facility Siting Council established pursuant to § 10-186.4, of the Code of Virginia.

"Category I facilities" means containerized or enclosed storage of hazardous waste.

"Category II facilities" means a closed treatment process with spill containment."

"Category III facilities" means an open treatment process with spill containment.

"Category IV facilities" means above-ground treatment process with no spill containment.

"Category V facilities" means disposal without complete treatment and all other treatment/disposal methods. ]

"Council" means the Hazardous Waste Facility Siting Council established pursuant to § 10-186.4 of the Code of Virginia.

[ "Processing fee" means the average estimated cost of handling an application for certification of site approval. Such costs include photocopying, mailing, print and broadcast media notices, travel expenses (transportation, meals, and lodging) for members of the council and additional personnel, production of transcripts, meeting room rental, compensation for members of the council, etc. Staff time is not included.

"Consultant fee" means the council may contract with technical consultants for assistance in evaluating an application for certification of site approval. Because the complexity of issues and problems associated with assessing an application increase with the nature of the proposed facility, the consultant fee may not be the same for all categories of facilities. The consultant fee is based on the cost for hiring consultants who are expert in various fields. Such cost includes compensation for the consultant's time, laboratory work, travel expenses

(transportation, meals, lodging), production of documents, etc. ]

## PART II. APPLICABILITY AND WAIVER.

### § 2.1. Applicability of fees.

Any person applying for a certification of site [ suitability approval ] is subject to the regulations regarding payment of fees.

### § 2.2. Waiver of fees.

A. The council may, in its discretion, waive all or part of the fees if it determines that the public interest is served thereby due to special circumstances.

B. In the event an applicant believes he should be entitled to a waiver of fees, the applicant should request the waiver in writing to the council. The request may be made anytime after the applicant submits the final impact analysis, but no later than the date the application for certification of site approval is due.

C. The request for waiver of fees shall be sent to the council by registered mail [ or by other means requiring a receipt of delivery ] and shall contain at a minimum the following information:

1. The name and address of the applicant;
2. The location of the facility and a brief description of its operation;
3. A brief description of the nature and extent of the construction to be done;
4. A discussion of the reasons a waiver of all or part of the fees [ is as ] appropriate, with particular focus on how the public interest will be served by a waiver; [ and ]
5. Any additional information or documentation the applicant believes will be helpful.

D. The council will consider the request for a waiver of fees at its next regularly scheduled meeting. The applicant requesting waiver may attend the meeting and make a presentation [ ; although no additional evidence may be offered. ]

E. Within 30 days of the meeting at which the request for waiver is considered, the council will determine whether it will waive the fee requirement, and will notify the applicant in writing of its decision.

## PART III. FEES.

### § 3.1. Application fee.

[ The fee required to accompany the application for certification of site approval shall consist of two parts: the processing fee and the consultant fee.

### § 3.2. Processing fee.

The processing fee shall accompany the application for certification for site approval. The amount of the processing fee shall be \$20,000 for Class II-V facilities.

Fees for Class I facilities will be \$10,000 or equal to 1% of the estimated construction cost, whichever is greater, but not to exceed \$20,000.

A. The application fee shall accompany the application for certification for site approval. The application fee for Category I facilities will be \$10,000 or equal to 1.0% of the estimated construction cost, whichever is greater, but not to exceed \$20,000.

B. The amount of the application fee shall be \$20,000 for Category II-V facilities.

### § 3.3. Consultant fee.

The consultant fee shall be determined by the council prior to and accompany the application for certification for site approval. The amount of the fee may vary with the nature of the proposed facility. ]

### [ § 3.4. §3.2. ] Review of costs.

The executive director will review annually the costs upon which the [ processing application ] fee [ and the consultant fee are is ] based. The executive director may recommend adjustment of the fees to the council to reflect the changes in costs.

## PART IV. PAYMENT OF FEES.

### § 4.1. Payment of fee.

The application fee is due when the applicant submits the application for certification of site approval. At the time the application fee is due, the applicant must have paid all expenses [ incurred in the publication and distribution of the applicant's notice of intent, draft impact analysis and notice thereof, and notice of the public hearing on draft certification of site approval for which he is responsible according to §§ 10-186.8 through 10-186.11 ].

### § 4.2. Acknowledgement of receipt of fee.

The executive director shall promptly acknowledge by certified mail [ , or by other means requiring a receipt of delivery, ] the receipt of [ a draft an application for ] certification of site approval with payment of application fee. Notice to the applicant of receipt of the fee payment should not be construed as any comment on the completeness of the application.



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## § 4.3. Manner of payment.

Fees shall be paid by cashier's check or certified check made payable to the Commonwealth of Virginia, Virginia Hazardous Waste Facility Siting Council.

## § 4.4. Effect of failure to pay fee.

No application will be deemed complete until proper payment is received by the council. [ Pursuant to § 10-186.12(C) of the Code of Virginia, within 15 days of receipt of an application for certification of site approval, the executive director shall notify an applicant whether an application is complete. ]

### PART V. REFUNDS.

## § 5.1. Refunds.

The council may refund all or part of the fee in the event of a termination of the application process prior to the council's final decision on certification of site approval if the council determines that, as a result of cause by federal or state government action, the applicant is unable to complete the site certification [ application process ] despite his good faith.

## § 5.2. Request for refund.

An applicant desiring such a refund must make the request in writing to the council within 30 days of the federal or state government action making the applicant unable to complete the site certification process. The request shall be sent by certified mail and shall, at a minimum, contain the following information:

1. Name and address of the applicant;
2. Location of the proposed facility and a brief description of its operation;
3. A copy of the document containing the federal or state government action making completion of the site certification process impossible or impracticable for the applicant despite the applicant's good faith, or if a copy of such document cannot be obtained, a complete description of the government action; and
4. A comprehensive discussion of the way in which the government's action has resulted in the applicant's good faith inability to complete the site certification process, with supporting documentation, if any.

## § 5.3. Decision on refund.

At its next regularly scheduled meeting, the council will consider the request for refund. The applicant may attend and make a presentation to the council as well as answer any questions members of the council may have. [ The applicant may not present any additional information to

the council unless such information was unavailable at the time the request for refund was made. ]

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Title of Regulation: VR 352-01-3. Technical Assistance Fund Administrative Procedures.

Statutory Authority: § 10-186.5 of the Code of Virginia.

Effective Date: April 30, 1986

### Summary:

The final regulation specifies procedures for application, disbursement and accounting for local technical assistance funds distributed by the siting council. The regulation makes available to local governments (host community) in which a facility is proposed a grant of up to \$50,000 per proposal based on a written request demonstrating need and purpose for funds.

Technical assistance funds may not be used for legal services or negotiators.

The final regulation deletes proposed financial matching requirements for the host community and raises the eligible amount from \$20,000 to \$50,000. The final regulation adds a requirement to the proposed regulation for the host community to demonstrate need for funding and show the proposed uses for the funds and removes local government eligibility for funding when the local government is the applicant.

VR 352-01-3. Technical Assistance Fund Administrative Procedures.

### PART I.

#### Article I. Purpose and Authority.

## § 1.1. Authority for regulation.

These regulations are issued under the authority of Title 10, [ Article Chapter ] 17.1, § 10-186.5 of the Code of Virginia. (the Virginia Hazardous Waste [ Facility Facilities ] Siting Act or the Act.)

## § 1.2. Purpose of regulation.

Section 10-186.9(C) of the Code of Virginia, makes available to the governing body of a host community a reasonable sum from the technical assistance fund. These regulations establish procedures for obtaining funds and guidelines for their use.

## § 1.3. Severability.

If any clause, sentence, paragraph, subdivision, section

or part of these regulations shall be adjudged by any court of competent jurisdiction to be invalid, the judgment shall not affect, impair, or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, subdivision, section or part thereof directly involved in the controversy in which the judgment shall have been rendered.

## Article II. Definitions.

§ 1.4. Section 10-186.3 of the Code of Virginia defines several words and terms which are used in this regulation. Unless the context clearly indicates otherwise, those words and terms will have the same meaning when used in these regulations. In addition, the following words and terms, when used in these regulations, shall have the following meanings, unless the context clearly indicates otherwise:

[ "Board" means the Hazardous Waste Facility Siting Council established pursuant to § 10-186.4, of the Code of Virginia. ]

"Council" means the Hazardous Waste Facility Siting Council established pursuant to § 10-186.4, of the Code of Virginia.

[ "In kind services" means those services provided by the host community which give technical assistance. ]

"Technical assistance" means aid which enables the governing body of the host community to better understand and assess the environmental, economic, and social impact of a hazardous waste facility at a particular site. [ The purpose of technical assistance is to help the governing body to evaluate properly and accurately an applicant's siting proposal, and to enable that body to negotiate a siting agreement competently. ] "Technical assistance" does not include legal services or services of a negotiator as such.

## PART II. AVAILABILITY.

### § 2.1. Technical assistance fund.

Money from the technical assistance fund, established by § 10-186.9(C) of the Code of Virginia, shall be available to each host community. This money may be used only to provide the governing body of the host community with technical assistance, as defined elsewhere in these regulations. [ Funds will not be made available when the local government is the applicant or when an applicant represents the host community. ]

### § 2.2. Amount of allocation.

The council shall make available to the host community up to [ \$20,000 \$50,000 ] per proposed facility.

[ § 2.3. Additional funds.

The council may award additional funds to a host community on a 50/50 matching basis, not to exceed \$10,000, in the event additional technical assistance is required. The host community may match all or part of the additional funds by in kind services. ]

## PART III. APPLICATION FOR FUNDS.

### § 3.1. Time frame.

At any time between receipt of the notice of intent and the due date of the report of the governing body on the siting agreement negotiations, the host community may request an allocation from the technical assistance fund.

### § 3.2. Form and manner of request for allocation.

The host community's request for an allocation from the technical assistance fund shall be adopted by the governing body. The request shall be sent to the council by registered mail [ or by other means requiring receipt for delivery. ]

[ § 3.3. Contract.

Upon receipt of the request, the executive director shall promptly send to the host community a contract based on the model provided in Appendix I for the distribution of funds to localities. The contract must be approved and executed by the governing body of the host community and returned to the board by registered mail.

### § 3.4. Allocation.

Within 30 days of receipt of the executed contract the council shall authorize the allocation of funds to the host community.

### § 3.5. Additional funding.

A. A host community may request, during the same time period designated for the requests for allocation in § 3.1 of these regulations, additional monies from the technical assistance fund. If awarded, these monies will be provided on a 50/50 matching basis, not to exceed \$10,000.

B. The request for additional funding must be adopted by the governing body and sent to the council by registered mail.

### § 3.3 Content of Request

A. The council shall evaluate the request for funding within 30 days of receipt of the request. The council shall notify the host community of the date, time, and location of the meeting to consider the request. A representative of the host community may make an oral presentation at the meeting. ]

[ B. ] The request must contain the following

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information:

1. A cover letter providing background information and a brief summary of the request;

2. A detailed breakdown of the manner in which the [ original allocation was or will be funds are to be ] spent;

3. A description of the [ additional ] technical assistance desired and the reasons it is necessary; [ , including complexity or uniqueness of local government needs with respect to the proposed facility and staff requirements; ]

4. A detailed breakdown of each aspect of the technical assistance desired and the cost for each aspect; [ and ]

[ 5. A description of the way in which the host community proposes to supply its 50% of the total cost. If the host community proposes to apply funds to match those provided by the council, the application should include a resolution by the governing body to that effect. If the host community match is to be made by in kind services, then the application should contain a thorough description of each service to be provided and an estimate of its value; and ]

[ 6. 5. ] Any other relevant information or supporting documents the host community wishes to include.

[ G. The council shall evaluate the request for additional funding within 30 days of receipt of the request. The council shall notify the host community of the date, time, and location of the meeting to consider the request. A representative of the host community may make an oral presentation to the meeting, but will not be permitted to present any additional evidence.

[ D. C. ] Within 30 days of the meeting described in § [ 3.5(C) 3.3(A) ], the council shall determine what [ additional ] funds, if any, shall be distributed to the host community for technical assistance.

[ § 3.4. Contract. ]

Upon approval of the request, the executive director shall promptly send to the host community a contract based on the model provided in Appendix I for the distribution of funds to localities. The contract must be approved and executed by the governing body of the host community and returned to the council. ]

## PART IV. ACCOUNTABILITY.

§ 4.1. Unused monies.

Any money awarded to a host community from the technical assistance fund [ and ] which is not spent shall

be returned to the council within 60 days of the [ host community's report on the siting agreement negotiations date of completed contract work ].

§ 4.2. Accounting of monies spent.

Within 60 days of the [ due ] date of the [ host community's report on the siting agreement negotiations completed contract work, ] the governing body of the host community shall provide the council with a certified accounting statement of all monies expended from the technical assistance fund. [ The statement shall also include appropriate information regarding the host community's expenses in the event that the host community received additional funding that it was obliged to match. ]

§ 4.3. Misused monies.

In the event the council learns that monies awarded to a host community from the technical assistance fund have not been spent on technical assistance, the council shall take any action it deems necessary to recover the misused monies.

## APPENDIX I.

### TECHNICAL ASSISTANCE FUND GRANT.

Pursuant to § 10-186.9(C) of the Code of Virginia, Title 10, [ Article Chapter ] 17.1 (the Virginia Hazardous Waste Facility Siting Act or the Act), the Virginia Hazardous Waste [ Facility Facilities ] Siting Council (the council) shall make available to the governing body of a host community a reasonable sum of money from the technical assistance fund. (The host community) is this day receiving the sum of ..... from the technical assistance fund.

The host community agrees to take the grant subject to all the requirements and restrictions imposed by the Act and by the regulations of the council regarding the technical assistance fund and to use the grant only to provide itself with technical assistance as defined in those regulations.

[ The host community further agrees that in expending the grant it will comply with the Virginia Public Procurement Act, Title 11, Chapter 7 of the Code of Virginia. In particular, the host community agrees that in the solicitation or award of contracts it shall not discriminate because of race, religion, color, sex, or national origin of the bidder or offeror, and that it will solicit contracts from businesses from a list made available by the Office of Minority Business Enterprise. ]

The host community agrees to return to the council any unused monies from the grant along with a certified accounting statement of all monies expended from the grant, within 60 days of the [ due ] date of the [ host community's report on the siting agreement negotiations

completed contract work. ] The host community acknowledges its liability for any monies from the grant which the council finds have not been spent on technical assistance.

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**Title of Regulation:** VR 352-01-4. Administrative Procedures for Hazardous Waste Facility Site Certification.

**Statutory Authority:** § 10-186.5 of the Code of Virginia.

**Effective Date:** April 30, 1986

**Summary:**

The final regulation establishes the council's administrative procedures for processing applications for site certification. The final regulation details submission requirements for the notice of intent, impact statements and application for site certification. Additional detail is given for the final decision-making process including the powers of the hearing officer and the rights of parties involved, and rules of evidence.

The final regulation deletes proposed Siting Act language printed in the text of the regulation and adds provisions for parties to be cross-examined in accordance with the requirements of the Administrative Process Act, Code of Virginia.

VR 352-01-4. Administrative Procedures for Hazardous Waste Facility Site Certification.

## PART I.

### Article I.

#### Purpose and Authority.

##### § 1.1. Authority for regulation.

These regulations are issued under the authority of Title 10, [ Article Chapter ] 17.1 (the Virginia Hazardous Waste [ Facility Facilities ] Siting Act or the Act), § 10-186.5 of the Code of Virginia

##### § 1.2. Purpose of regulations.

The Virginia Hazardous Waste Facilities Siting Act contains a detailed description of the process and procedures for a certification of site suitability. Because of the Act's specificity, these regulations are designed to amplify and supplement the statutes where appropriate. These regulations together with the [ statutes statute ] establish administrative procedures for the submission and evaluation of applications for certification of hazardous waste facility sites.

##### § 1.3. Severability.

If any clause, sentence, paragraph, subdivision, section or part of these regulations shall be adjudged by any court of competent jurisdiction to be invalid, the judgment shall not affect, impair, or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, subdivision, section or part thereof directly involved in the controversy in which the judgment shall have been rendered.

## Article II. Definitions.

§ 1.4. Section 10-186.3 of the Act defines several words and terms which are used in this regulation. Unless the context clearly indicates otherwise, those words and terms will have the same meaning when used in these regulations. In addition, the following words and terms, when used in these regulations, shall have the following meanings unless the context clearly indicates otherwise:

"Affected communities" means those counties, cities or towns contiguous to the host community which may be affected by the siting of a hazardous waste facility in the host community.

"Applicant" means the person applying for a certification of site suitability or submitting a notice of intent to apply therefor. The applicant must be the person who intends to own or operate the proposed facility.

"Application" means an application to the council for a certification of site suitability.

[ "Board" means the Hazardous Waste Facility Siting Council established pursuant to § 10-186.4 of the Code of Virginia. ]

"Certification of site suitability" or "certification" means the certification issued by the Hazardous Waste Facility Siting Council pursuant to [ this chapter Chapter 17.1 of Title 10 of the Code of Virginia ].

"Construct or construction" means [ that -

A. After July 1, 1984, no person shall construct or commence construction of a hazardous waste facility without first obtaining a certification of site approval by the board in the manner prescribed herein. For the purpose of this section, "construct" and "construction" shall mean ] (i) with respect to new facilities, the significant alteration of a site to install permanent equipment or structures or the installation of permanent equipment or structures; (ii) with respect to existing facilities, the alteration or expansion of existing structures or facilities to initially accommodate hazardous waste, any expansion of more than 50% of the area or capacity of an existing hazardous waste facility, or any change in design or process of a hazardous waste facility that will, in the opinion of the [ board council ], result in a substantially different type of facility. It does not include preliminary engineering or site surveys, environmental studies, site

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acquisition, acquisition of an option to purchase or activities normally incident thereto.

[ **B.** Upon receiving a written request from the owner or operator of the facility, the board may allow, without going through the procedures of this chapter, any changes in the facilities which are designed to:

1. Prevent a threat to human health or the environment because of an emergency situation;
2. Comply with federal or state laws and regulations promulgated after July 1, 1984; or
3. Demonstrably result in safer or environmentally more acceptable processes.

**C.** Any person who violates this section shall be compelled by injunction, in a proceeding instituted in the circuit court for a locality where the facility or proposed facility is to be located, to cease the violation.

**D.** Such an action may be instituted by the board or by the Attorney General, or by the political subdivision in which the violation occurs. In any such action, it shall not be necessary for the plaintiff to plead or prove irreparable harm or lack of an adequate remedy at law. No person shall be required to post any injunction bond or other security under this section.

**E.** No action may be brought under this section after a certification of site approval has been issued by the board, notwithstanding the pendency of any appeals or other challenges to the board's action.

**F.** In any action under this section, the court may award reasonable costs of litigation, including attorney and expert witness fees, to any party if the party substantially prevails on the merits of the case and if in the determination of the court the party against whom the costs are awarded has acted unreasonably. ]

"Council" means the Hazardous Waste Facility Siting Council established pursuant to § 10-186.4 of the Code of Virginia.

"Criteria" means the criteria adopted by the council, pursuant to § 10-186.7 of the Code of Virginia.

"Disposal" means the discharge, deposit, injection, dumping, spilling, leaking or placing of any solid waste or hazardous waste into or on any land or water so that such solid waste or hazardous waste or any constituent thereof may enter the environment or be emitted into the air or discharged into any waters, including groundwaters.

[ "Emergency situation" means where an imminent and substantial endangerment to human health or the environment is determined. ]

"Fund" means the technical assistance fund created

pursuant to § 10-186.21 of the Code of Virginia.

[ Hazardous waste" means a solid waste classified as a hazardous waste by regulations adopted pursuant to § 32.1-177 of the Code of Virginia. ]

"Hazardous waste facility" or "facility" means any facility, including land and structures, appurtenances, improvements and equipment for the treatment, storage or disposal of hazardous wastes, which accepts hazardous waste for storage, treatment or disposal. For the purposes of this chapter, it does not include: (i) facilities which are owned and operated by and exclusively for the on-site treatment, storage or disposal of wastes generated by the owner or operator; (ii) facilities for the treatment, storage or disposal of hazardous wastes used principally as fuels in an on-site production process; and (iii) facilities used exclusively for the pretreatment of wastes discharged directly to a publicly-owned sewage treatment works.

"Hazardous waste management facility permit" means the permit for a hazardous waste management facility issued by the State Health Commissioner of the U.S. Environmental Protection Agency.

"Host community" means any county, city or town within whose jurisdictional boundaries construction of a hazardous waste facility is proposed.

"On-site" means facilities that are located on the same or geographically contiguous property which may be divided by public or private right-of-way, and the entrance and exit between the contiguous properties are at a crossroads intersection so that the access is by crossing, as opposed to going along, the right-of-way. On-site also means noncontiguous properties owned by the same person but connected by a right-of-way which the owner controls and to which the public does not have access.

"Operating characteristics": These include, but are not limited to:

1. Brief description of the nature of the business of the facility, including an estimate of the size of the business (number of employees, etc.);
2. Specification of each hazardous waste involved in the operation of the facility and an estimate of the annual quantity of each;
3. Description of the physical facility (number and size of buildings, tanks and other structures);
4. General description of the process to be used in the treatment, storage, and/or disposal of each hazardous waste;
5. Description of the anticipated traffic to and from the facility (number, type, and capacity of those vehicles transporting hazardous waste as well as other types of vehicles);

6. Short and long term projections for the facility, including its projected life expectancy;

7. Any other relevant information which will assist the council and other persons to gain a clear understanding of the nature and operation of the facility.

"Operator" means a person who is responsible for the overall operation of a facility.

"Owner" means a person who owns a facility or a part of a facility.

"Person" means an individual, trust, firm, joint stock company, corporation, including a government corporation, partnership, association, state, municipality, commission, political subdivision of a state, interstate body or federal government agency.

" [ Preliminary ] Site plan" means a [ draft ] design of the proposed facility [ and site ] . The [ preliminary ] site plan [ need not be a completed engineering design, but it ] must accurately represent all structures of the proposed facility. If the site has existing structures, the [ preliminary ] site plan must designate these and specify the alterations to be made to each. [ The site plan shall also include a topographic map showing a distance of 1,000 feet around the facility at a scale of 2.5 centimeters (1 inch) equal to not more than 61.0 meters (200 feet). Contours shall be shown on the map. The contour interval shall be sufficient to clearly show the pattern of surface water flow in the vicinity of and from each operational unit of the facility, for example, contours with an interval of 1.5 meters (5 feet), if relief is greater than 6.1 meters (20 feet) or an interval of 0.6 meters (2 feet), if relief is less than 6.1 meters (20 feet). Owners and operators of facilities proposed in mountainous areas should use a larger contour interval to adequately show topographic profiles of facilities. The map shall clearly show the following:

1. Map scale and date;
2. 100 year floodplain area;
3. Surface waters including intermittent streams;
4. Surrounding land uses (residential, commercial, agricultural, recreational);
5. A wind rose (i.e., prevailing windspeed and direction);
6. Orientation of the map (north arrow);
7. Legal boundaries of the facility site;
8. Access control (fences and gates);
9. Injection and withdrawal wells, both on-site and

off-site;

10. Buildings; treatment, storage, or disposal operations; or other structures (recreation areas, runoff control systems, access and internal roads; storm, sanitary, and process sewerage systems; loading and unloading areas; fire control facilities, etc.);

11. Barriers for drainage or flood control;

12. Location of operational units within the facility site where hazardous waste is proposed to be treated, stored or disposed, including equipment cleanup areas;

13. Such additional information as the council deems necessary to carry out its duties as required by the Siting Act. ]

"Solid waste" means any garbage, refuse, sludge and other discarded material, including solid, liquid, semisolid or contained gaseous material resulting from industrial, commercial, mining and agricultural operations and from community activities but does not include (i) solid or dissolved material in domestic sewage; (ii) solid or dissolved material in irrigation return flows or in industrial discharges which are sources subject to a permit from the State Water Control Board, or (iii) source, special nuclear, or byproduct material as defined by the Federal Atomic Energy Act of 1954, as amended.

"Storage" means the containment or holding of hazardous ★ wastes pending treatment, recycling, reuse, recovery or disposal.

"Treatment" means any method, technique or process, including incineration or neutralization, designed to change the physical, chemical or biological character or composition of any hazardous waste so as to neutralize such waste or so as to render such waste less hazardous or nonhazardous, safer for transport, amenable to recovery, amenable to storage or reduced in volume. Such term includes any activity or processing designed to change the physical form or chemical composition of a hazardous waste so as to render it less hazardous or nonhazardous. [ (1985, e. 512.) ]

## PART II. INITIATION OF CERTIFICATION PROCESS.

§ 2.1. Requirement of certification and waiver [ § 10-186.6 of the Code of Virginia ].

[ Section 10-186.6 of the Act states that Certification of site approval required; "construction" defined; remedies. ]

A. After July 1, 1984, no person shall construct or commence construction of a hazardous waste facility without first obtaining a certification of site approval by the [ board council ] in the manner prescribed herein. [ For the purpose of this section, "construct" and "construction" shall mean (i) with respect to new facilities;

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the significant alteration of site to install permanent equipment or structures or the installation of permanent equipment or structures; (ii) with respect to existing facilities; the alteration or expansion of existing structures or facilities to initially accommodate hazardous waste; any expansion of more than 50% of the area or capacity of an existing hazardous waste facility; or any change in design or process of a hazardous waste facility that will, in the opinion of the board, result in a substantially different type of facility. It does not include preliminary engineering or site surveys; environmental studies; site acquisition; acquisition of an option to purchase or activities normally incident thereto.

An owner or operator of a facility may submit a notice of intent as prescribed in § 2.2 below or submit a request for a waiver from the procedures established in the Hazardous Waste Facilities Siting Act and these regulations. ]

B. Upon receiving a written request from the owner or operator of the facility; the board may allow, without going through the procedures of this chapter, any changes in the facilities which are designed to:

B. Upon receiving a written request from the owner or operator of a facility, the council may grant a waiver upon such conditions as it may determine, provided that the proposed changes to the facility are designed to: ]

1. Prevent a threat to human health or the environment because of an emergency situation; [ or ]
2. Comply with federal or state laws and regulations promulgated after July 1, 1984; or
3. Demonstrably result in safer or environmentally more acceptable processes.

[ C. Any person who violates this section shall be compelled by injunction, in a proceeding instituted in the circuit court for a locality where the facility or proposed facility is to be located, to cease the violation.

D. Such an action may be instituted by the board or by the Attorney General; or by the political subdivision in which the violation occurs. In any such action, it shall not be necessary for the plaintiff to plead or prove irreparable harm or lack of an adequate remedy at law. No person shall be required to post any injunction bond or other security under this section.

E. No action may be brought under this section after a certification of site approval has been issued by the board, notwithstanding the pendency of any appeals or other challenges to the board's action.

F. In any action under this section, the court may award reasonable costs of litigation, including attorney and expert witness fees; to any party if the party substantially prevails on the merits of the case and if in the

determination of the court the party against whom the costs are awarded has acted unreasonably. (1984, c. 513)

G. With respect to a new facility; the significant alteration of site to install permanent equipment or structures; or ]

[ I. C. ] [ With respect to existing facilities The waiver provisions of this regulation shall apply to existing facilities when construction is defined to be ]:

[ a. 1. ] The alteration or expansion of existing structures or facilities to initially accommodate hazardous waste; or

[ b. 2. ] Any expansion of more than 50% of the area or capacity of an existing hazardous waste facility; or

[ c. 3. ] Any change in the design or process of an hazardous waste facility that will result in a substantially different type of facility ] : If the change in the design or process would or will ] cause the facility to be reclassified as a higher numbered category [ ; or would necessitate application for a new or additional hazardous waste management permit; that change would result in a substantially different type of facility.

H. Does not include preliminary engineering or site surveys; environmental studies; site acquisition; acquisition of an option to purchase or activities normally incident thereto. ]

[ I. D. ] Emergency situation.

1. Scope of waiver: The owner or operator of a facility may be permitted to make changes which are designed to prevent a threat to human health or the environment because of an emergency situation.

2. Applying for waiver: The owner or operator of the facility may obtain verbal approval from the executive director effective for a period up to 30 days, unless revised by the council at its next regular meeting, and, in addition, must [ follow-up submit ] the request for waiver in writing to the executive director of the council. The request at a minimum must contain the following information:

- a. The name and address of the owner and/or operator of the facility;
- b. Location of the facility and a description of its operation;
- c. Description of the circumstances creating the emergency situation;
- d. Description of the resulting threat to human health and/or the environment; and

e. Description of the changes to be made in the facility.

[ f. Efforts to restore the facility to original conditions of certification after emergency conditions are abated. ]

3. The waiver: Upon receipt of the request, the executive director will grant or deny the request for waiver. In the event the executive director grants the request for waiver, such waiver is subject to the approval of the council at its next regularly scheduled meeting. If the executive director denies the request, the applicant may renew the request at the next regularly scheduled meeting of the council.

[ F. E. ] State or federal laws; more acceptable process.

1. Scope of waiver: The owner or operator of a facility may be permitted to make changes which are designed to comply with state or federal laws enacted or regulations promulgated after July 1, 1984, or changes which demonstrably result in safer or environmentally more acceptable processes.

2. Applying for waiver: The owner or operator of the facility must make the request in writing to the council. At a minimum the request must contain the following information:

a. Name and address of the owner and/or operator of the facility;

b. Location of the facility and a description of its operation; and

c. Either:

(1) A copy of the state or federal law or regulation necessitating the change, if applicable, and a description of the changes to be made in the facility to effect compliance with the law or regulation; or

(2) A description of the changes the owner or operator wishes to make and an analysis demonstrating the improved safety or environmental soundness resulting from the changes.

3. The waiver: At its next regularly scheduled meeting, the council will consider the request for waiver. The owner or operator or his representative should attend the meeting. At the meeting the council may:

a. Grant the request for waiver;

b. Deny the request for waiver;

c. Determine that additional information is needed from the owner or operator;

d. Decide that a public hearing is needed; or

e. Take any other action the council deems appropriate.

4. Should the council decide to hold a public hearing, it will also determine from among the following who will conduct the hearing: a member or members of the council, the executive director, and/or a hearing officer appointed from outside the council. The council will give notice of the hearing to the same parties and in the same manner as described in [ § 2-4 § 2.2C ] of these regulations, regarding distribution of the notice of intent. The owner or operator shall provide the council with a list of the names and addresses of all owners of property adjoining the facility. The notice of the hearing shall specify the date, time, and location of the hearing and include a copy of the request for waiver.

§ 2.2. Contents the notice of intent [ § 10-186.8 of the Code of Virginia ].

[ Section 10-186.8 of the Code of Virginia states Notice of intent to file application for certification of site approval. ]

A. After December 31, 1984, any person may submit to the [ board council ] a notice of intent to file an application for a certification of site approval. The notice shall [ be in such form as the board may prescribe by regulation. Knowingly falsifying information, or knowingly withholding any material information, shall void the notice and shall constitute a felony punishable by confinement in the penitentiary for one year or, in the discretion of the jury or the court trying the case without a jury, confinement in jail for not more than 12 months, a fine of not more than \$10,000, or both contain ].

[ 1. Name and address of the applicant;

2. A copy of the property deed, option, or other document giving right, title, or interest to the proposed site;

3. A description of the proposed facility including a description based on its operating characteristics;

4. A USGS map showing the location of the property at a scale of 1 inch = 2,000 feet;

5. Names and addresses of all owners of property adjacent to the proposed site; and

6. Any state agency filing a notice of intent shall include a statement explaining why the Commonwealth desires to build a hazardous waste facility and how the public interest will be served thereby. ]

[ Any state agency filing a notice of intent shall include as a part thereof a statement explaining why the Commonwealth desires to build a hazardous waste facility and how the public interest will be served thereby.



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**B.** Within 45 days of receipt of such a notice, the board shall determine whether it is complete. The board shall reject any incomplete notice, advising the applicant of the information required to complete it, and allow reasonable time to correct any deficiencies.

**C.** Upon receipt of the notice, the board, at the applicant's expense, shall:

1. Deliver or cause to be delivered a copy of the notice of intent together with a copy of this chapter to the governing body of each host community and to each person owning property immediately adjoining the site of the proposed facility; and

2. Have an informative description of the notice published in a newspaper of general circulation in each host community once each week for four successive weeks. The description shall include the name and address of the applicant, a description of the proposed facility and its location, the places and times where the notice of intent may be examined, the address and telephone number of the board or other state agency from which information may be obtained, and the date, time and location of the initial public briefing meeting on the notice."

**D.** Notice.

1. Name and address of the applicant;

2. A copy of the property deed, option, or other document giving right, title, or interest to the proposed site;

3. A description of the proposed facility including its operating characteristics;

4. A USGS map showing the location of the property at a scale of  $\frac{1}{2}$  inch = 2000 feet;

5. Names and addresses of all owners of property adjacent to the proposed site; and

6. Any state agency filing a notice of intent shall include a statement explaining why the Commonwealth desires to build a hazardous waste facility and how the public interest will be served thereby. ]

[ E. B. ] Determination of completion of notice of intent.

[ 1. ] The executive director will review the notice of intent and determine within 45 days of its receipt whether the notice of intent is complete. If the executive director determines that the notice of intent is incomplete, [ he the executive director ] shall so advise the applicant, specifying the information needed to complete the notice and designating a deadline for the correction of any deficiencies.

[ F. C. ] Distribution of notice of intent.

Upon the determination that a notice of intent is complete, the council, at the applicant's expense, shall promptly:

1. Deliver by certified, return receipt mail a copy of the notice of intent with a copy of the Act, a copy of these regulations, and notice of the date, time, location and purpose of the briefing meeting to:

a. The governing body of each host community;

b. The governing body of each affected community;

c. State legislators elected from the area(s) in which the host community and affected communities are located;

d. The regional planning district commission(s) of the host community and the affected communities; and

e. Each person owning property immediately adjoining the site of the proposed facility.

[ 2. Have an informative description of the notice published in a newspaper of general circulation in each host community once each week for four successive weeks. The description shall include the name and address of the applicant, a description of the proposed facility and its location, the places and times where the notice of intent may be examined, the address and telephone number of the council or other state agency from which information may be obtained, and the date, time and location of the initial public briefing meeting on the notice. ]

[ 2. 3. ] Copies of the notice of intent will be mailed to any person who has specifically requested such notice.

§ 2.3. Waiver of participation by host community [ § 10-186.9 of the Code of Virginia ].

[ Section 10-186.9 of the Code of Virginia states Powers of governing body of host community; technical assistance.

A. The governing body of a host community shall have the following powers:

1. To hire and pay consultants and other experts on behalf of the host community in matters pertaining to the siting of the facility;

2. To receive and disburse monies from the fund, and any other monies as may be available;

3. To enter into a contract, which may be assignable at the parties' option, binding upon the governing body of the host community and enforceable against it and future governing bodies of the host community in any court of competent jurisdiction, with an applicant by

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signing a siting agreement pursuant to § 10-186.13 of the Code of Virginia.

**B.** Notwithstanding the provisions of the Virginia Freedom of Information Act (§ 2-1-340 et seq. of the Code of Virginia), a governing body may:

1. Hold executive sessions to discuss strategy with respect to the negotiation of a siting agreement or to consider the terms, conditions and provisions of a siting agreement if the governing body in open meetings find that an open meeting will have a detrimental effect upon the negotiating position of the governing body and/or the establishment of the terms, conditions and provisions of the siting agreement. All negotiations with the applicant or his representatives may be conducted in a closed meeting or executive session.

2. May hold confidential, except as otherwise provided in § 10-186.12 A 3 of the Code of Virginia, any documents so long as disclosure of them would have a detrimental effect upon the negotiating position of a governing body or the establishment of the terms, conditions and provisions of the siting agreement.

**C.** The board shall make available to the governing body from the fund a reasonable sum of money to be determined by the board. This shall be used by the governing body to hire consultants to provide it with technical assistance and information necessary to aid the governing body in its review of the siting proposal, negotiations with the applicant and the development of a siting agreement.

Unused monies from the fund shall be returned to the board. The governing body shall provide the board with a certified accounting statement of any monies expended from the fund.

**D.** The governing body of the host community may appoint a local advisory committee to facilitate communication and the exchange of information between the local government, the community, the applicant and the siting board.

**E.** Notwithstanding the foregoing provisions of this chapter, the governing body of a host community may notify the board, within 45 days after receiving a notice of intent pursuant to § 10-186.8 C 1 of the Code of Virginia, that it has elected to waive further participation under the provisions of this chapter. After receiving notification from the host community, the board may issue certification of site approval without further participation by the host community. (1984, c. 513.) ]

[ 1. ] Section 10-186.9 E of the Act permits the governing body of the host community to waive further participation in the certification process. Should the governing body elect to waive participation it must notify the council in writing with a copy of its adopted resolution within 45

days of receiving the notice of intent. Although this waiver permits the council to issue a certification of site approval without further participation by the governing body of the host community, such waiver in no way restricts the rights of any other person or organization to participate in the certification process.

§ 2.4. Briefing meeting. § 10-186.10 of the Code of Virginia [ states Briefing meetings. ]

A. Not more than 75 nor less than 60 days after the delivery of the notice of intent to the host community, the [ board council ] shall conduct a briefing meeting in or in reasonable proximity to the host community. Notice of the date, time, place and purpose of the briefing session shall be prepared by the [ board council ] and shall accompany the notice of intent delivered pursuant to § 10-186.8 C 1 of the Code of Virginia, and be included in the notice published pursuant to § 10-186.8 C 2 of the Code of Virginia.

At least one representative of the applicant shall be present at the briefing meeting.

[ The board shall adopt procedures for the conduct of briefing meetings. ] The primary purpose of the briefing meeting will be to provide information on the proposed site and facility and to receive comments, suggestions and questions thereon [ from the public ].

[ B. The board may conduct additional briefing meetings at any time in or near a host community, provided that at least 15 days in advance of a meeting, notice of the date, time, place and purpose of the meeting is delivered in writing to the applicant, each member of the governing body, and to all owners of property adjoining the proposed site.

C. A stenographic or electronic record shall be made of all briefing meetings. The record shall be available for inspection during normal business hours. (1984, c. 513.) ]

[ D. B. ] The council shall select from among its membership a briefing officer who will be responsible for conducting the meeting as follows:

1. The briefing officer will call the meeting to order and explain the purpose of the briefing;
2. The applicant shall be allowed to give a presentation describing the proposal and to respond to questions;
3. Persons asking questions shall be requested to state their names, addresses, and interests in the project;
4. The briefing officer shall conduct the meeting in an orderly manner while ensuring that all interested parties present are as fully briefed as possible on the proposal;

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5. A stenographic or electronic record shall be made of all briefing meetings. A transcript of the meeting, together with copies of any documents submitted at the briefing, shall be made available for inspection at the office of the council [ and host community ] during normal working hours.

[ E. C. ] If the council conducts additional briefing meetings, notice of such meetings shall be provided as follows:

1. Notice of the date, time, place and purpose of the meeting is delivered in writing to the applicant, each member of the governing body of the host community, and to all owners of property adjoining the proposed site at least 15 days in advance of the meeting;

2. Such notice is publiced once each week for at least two successive weeks in a newspaper of general circulation in the host community;

3. Such notice is broadcast over one or more radio stations within the area to be affected by the subject of the notice;

4. Such notice is mailed to each person who has asked to receive notice; and

5. Such notice is disseminated by any additional means the [ board council ] deems appropriate.

§ 2.5. Impact analysis. § 10-186.11 of the Code of Virginia [ states Impact analysis: ]

[ A. The applicant shall submit a draft impact analysis for the proposed facility to the board within 90 days after the initial briefing meeting. At the applicant's expense, copies of the draft impact analysis shall be furnished as follows: five to the host community, and one to each person owning property adjoining the site of the proposed facility. At least one copy shall be made available for public inspection and copying at a convenient location in the host community during normal business hours.

A. the applicant shall submit a draft impact analysis in accordance with § 10-186.11 and, in addition, shall furnish a copy of the draft impact analysis to each person designated in that section.

B. The draft impact analysis shall include a detailed assessment of the project's suitability with respect to the criteria and other information as the board may require by regulation.

B. The draft impact analysis shall include:

1. A detailed assissment of the project's suitability with respect to the criteria.

2. A cover latter signed by the applicant;

3. An executive summary providing a brief description of the applicant's proposal, the impacts, and mitigating actions;

4. A site plan;

5. A full report addressing each of the following:

a. Effects on botanical resources;

b. Energy and water consumption;

c. Discharge of any substance, or of heat, in surface or ground waters;

d. A description of any necessary clearing, excavating, dredging, filling;

e. The types and amounts of wastes which will be accepted;

f. The process or processes to be employed including its basic characteristics and principal limitations;

g. Planned operational safeguards and monitoring of the facility following cessation of operations;

h. Emission of radiation;

i. Solid waste disposal;

6. An ownership report containing:

a. A legal description of the applicant, including identification of all principal participants;

b. A current audited financial statement or statements prepared by a certified public accountant including the accountant's opinions;

c. A description of all liability insurance the applicant has or plans to obtain for the proposed site and facility and a description of the financial and managerial arrangements for closure and post-closure care of the site;

d. A description of the applicant's experience in the field, including any other hazardous waste facilities operated or owned currently or in the past by the applicant and details of their compliance record; and

e. A description of how the applicant intends to finance the project.

7. An appendix providing any supporting documentation. ]

C. The [ board council ] at the applicant's expense, shall cause notice of the filing of the draft impact analysis to

be made in the manner provided in § 10-186.20 of the Code of Virginia, within 10 days of receipt. The notice shall include (i) a general description of the analysis, (ii) a list of recipients, (iii) a description of the places and times that the analysis will be available for inspection, (iv) a description of the [ board's council's ] procedures for receiving comments on the analysis, and (v) the addresses and telephone numbers for obtaining information from the [ board council ].

D. The [ board council ] shall allow 45 days after publication of notice for comment on the draft impact analysis. No sooner than 30 and no more than 40 days after publication of notice of the draft impact analysis, the [ board council ] shall conduct a public meeting on the draft impact analysis in or near the host community. The meeting shall be for the purpose of explaining, answering questions and receiving comments on the draft impact analysis. A representative of the governing body and a representative of the applicant shall be present at the meeting.

[ E. The council will receive comments on the draft impact analysis pursuant to the following procedures:

1. Comments on the draft analysis may be in writing and mailed to the council within 45 days of publication of the notice for comment;

2. Comments may be submitted in writing or by presentation before the council at the public meeting conducted pursuant to § 10-186.11(D) of the Act. The meeting will be conducted in the same manner as the briefing meeting in § 2.4B of these regulations. ]

[ E. F. ] Within 10 days after the close of the comment period, the [ board council ] shall forward to the applicant a copy of all comments received on the draft impact analysis, together with its own comments.

[ F. G. ] The applicant shall prepare and submit a final impact analysis to the [ board council ] after receiving the comments. The final impact analysis shall reflect the comments as they pertain to each of the items listed in subsection B of this section. A copy of the final impact analysis shall be provided by the applicant upon request to each of the persons who received the draft impact analysis. [ (1984, c. 513.) ]

[ G. The applicant shall submit a draft impact analysis in accordance with § 10-186.11 of the Act and, in addition, shall furnish a copy of the draft impact analysis to each person designated in that section and to each affected community.

H. The draft impact analysis shall include a detailed assessment of the project's suitability with respect to the criteria and the additional following requirements:

1. A cover letter signed by the applicant;

2. An executive summary providing a brief description of the applicant's proposal, the impacts, and mitigating actions;

3. A preliminary site plan;

4. A full report addressing each of the following:

a. Effects on botanical resources;

b. Energy and water consumption;

c. Discharge of any substance, or of heat, in surface or ground waters;

d. A description of any necessary clearing, excavating, dredging, filling;

e. The types and amounts of wastes which will be accepted;

f. The process or processes to be employed including its basic characteristics and principal limitations;

g. Planned operational safeguards and monitoring of the facility following cessation of operations;

h. Emission of radiation;

i. Solid waste disposal;

5. An ownership report containing:

a. A legal description of the applicant, including identification of all principal participants;

b. A current audited financial statement or statements prepared by a certified public accountant including the accountant's opinions;

c. A description of all liability insurance the applicant has, or plans to obtain for the proposed site and facility, and a description of the financial and managerial arrangements for closure and post-closure care of the site;

d. A description of the applicant's experience in the field, including any other hazardous waste facilities operated or owned currently or in the past by the applicant, and details of their compliance record; and

e. A description of how the applicant intends to finance the project.

6. An appendix providing any supporting documentation.

I. The council will receive comments on the draft impact analysis pursuant to the following procedures:

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1. Comments on the draft analysis may be in writing and mailed to the council within 45 days of publication of the notice for comment;

2. Comments may be submitted in writing or by presentation before the council at the public meeting conducted pursuant to § 10-186.11 D of the Act. The meeting will be conducted in the same manner as the briefing meeting in § 2.4D of these regulations. ]

[ J. H. ] Preparation and submission of the final impact analysis will be in accordance with § 10-186.11 F of the Act.

## PART III. APPLICATION FOR CERTIFICATION OF SITE APPROVAL.

§ 3.1. Application [ § 10-186.12 of the Code of Virginia ].

[ Section 10-186.12 of the Code of Virginia states, Application for certification of site approval. ]

A. At any time within six months after submission of the final impact analysis, the applicant may submit to the [ board council ] an application for certification of site approval. The application shall contain:

[ 1. A summary of the proposal including a general description of the facility and the nature of the business; ]

[ 2. Conceptual engineering designs for the proposed facility;

[ 3. A copy of the final impact analysis which evaluates the siting criteria; ]

[ 4. A detailed description of the facility's suitability to meet the criteria promulgated by the [ board council ], including any design and operation means that will be necessary or otherwise undertaken to meet the criteria;

[ 5. A siting agreement, if one has been executed pursuant to [ § 3.1F, H and § 3.2 of this regulation ] § 10-186.13 C of the Code of Virginia, or, if none has been executed, a statement to that effect.

[ B. The application shall be accompanied by whatever fee the board, by regulation, prescribes pursuant to subdivision H of § 10-186.5 of this Act.

B. Fees. The application shall be accompanied by the fee established by the Fee Schedule Regulation.

C. The board shall review the application for completeness and notify the applicant within 15 days of receipt that the application is incomplete or complete.

C. Form of the application.

1. The application should be contained in one or more three-ring loose-leaf binders preferably on 8 1/2 x 11 inch paper.

2. All maps required by this regulation shall be detachable, but may be fold outs.

3. The summary shall be capable of separate reproduction and distribution.

D. The executive director shall review the application for completeness and notify the applicant within 15 days of receipt that the application is incomplete or complete. ]

If the application is incomplete, the [ board executive director ] shall so advise the applicant and shall identify the information necessary to make the application complete. The [ board executive director ] shall take no further action until the application is complete.

If the application is complete, the [ board executive director ] shall so advise the applicant and shall direct the applicant to furnish copies of the application to the following: five to the host community, one to the State Health Commissioner, and one to each person owning property adjoining the proposed site. At least one copy of the application shall be made available by the applicant for inspection and copying at a convenient place in a host community during normal business hours.

[ D. E. ] The [ board council ] shall cause notice of the application to be made in the manner provided in § 10-186.20 of the Code of Virginia, and shall notify each governing body that upon publication of the notice the governing body must conclude all negotiations with the applicant within 30 days. The applicant and the governing body may, by agreement, extend the time for negotiation to a fixed date but shall forthwith notify the [ board council ] of this date. The [ board council ] may also extend the time to a fixed date for good cause shown.

[ E. F. ] At the end of the period specified in subsection [ D. E. ] of this section, a governing body shall submit to the [ board council ] and to the applicant a report containing:

1. A complete siting agreement, if any, or in case of failure to reach full agreement, a description of points of agreement and unresolved points; and

2. Any conditions or restrictions on the construction, operation or design of the facility that are required by local ordinance.

[ F. G ] If the report is not submitted within the time required, the [ board council ] may proceed as specified in § 10-186.14 A of this Act.

[ G. H. ] The applicant may submit comments on the report of the governing body at any time prior to the issuance of the draft certification of site approval. [ ~~1084~~

e. 513.) ]

[ H. Any application for certification of site approval submitted to the council shall contain:

1. A summary of the proposal including a general description of the facility and the nature of the business;
2. Conceptual engineering designs for the proposed facility and a final site plan;
3. A copy of the final impact analysis;
4. A siting agreement, if one has been executed pursuant to § 10-186.13 of the Act, or, if none has been executed, a statement to that effect;

I. Fees.

The application shall be accompanied by the fee established by the fee schedule regulation.

J. Form of the application.

1. The application should be contained in one or more three-ring loose leaf binders preferably on 8 1/2 x 11 inch paper.
2. All maps required by this regulation shall be detachable, but may be fold outs.
3. The summary shall be capable of separate reproduction and distribution.

K. The executive director shall review the application for completeness and notify the applicant within 15 days of receipt that the application is incomplete or complete. The applicant shall furnish copies of the completed application to the parties specified in § 10-186.12 G of the Code of Virginia, and in addition, one copy shall be furnished to each affected community. ]

§ 3.2. Negotiations; role of [ board council ]; good faith required [ § 10-186.13 of the Code of Virginia ].

[ Section 10-186.13 states, Negotiations; siting agreement. ]

A. The governing body or its designated representatives and the applicant, after submission of notice of intent to file an application for certification of site approval, may meet to discuss any matters pertaining to the site and the facility, including negotiations of a siting agreement. The time and place of any meeting shall be set by agreement, but at least a 48-hour notice shall be given to members of the governing body and the applicant.

[ B. The council shall assist in facilitating negotiations between the local governing body and the applicant to the extent of recommending a mediator or other conflict

resolution mechanism, but shall not become integrally involved in the siting agreement negotiations. ]

[ B. C. ] The siting agreement may include any terms and conditions, including mitigation of adverse impacts and financial compensation to the host community, concerning the facility. In the event that a provision of a siting agreement conflicts with state or federal law, the state or federal law shall prevail.

[ C. D. ] The siting agreement shall be executed by the signatures of (i) the chief executive officer of the host community, who has been so directed by a majority vote of the local governing body, and (ii) the applicant or authorized agent.

[ D. The board shall assist in facilitating negotiations between the local governing body and the applicant.

E. No injunction, stay, prohibition, mandamus or other order or writ shall lie against the conduct of negotiations or discussions concerning a siting agreement or against the agreement itself, except as they may be conducted in violation of the provisions of this chapter. (1984, c. 513)

F. The council shall assist in facilitating negotiations between the local governing body and the applicant to the extent of recommending a mediator or other conflict resolution mechanism, but shall not become integrally involved in the siting agreement negotiations.

E. Determination of agreement. ]

[ G. 1. ] If the report submitted by the governing body pursuant to § 10-186.12 E of the Code of Virginia indicates that no siting agreement has been reached and [ there is any indication contains a written allegation ] that the applicant has failed or refused to negotiate in good faith, the executive director shall issue notice to the applicant and host community of the council's intention to hold an informal conference pursuant to § 9-6.14:11 of the Virginia Administrative Process Act. The notice shall state the time, place and date of such conference. The purpose shall be to determine the sole issue of whether or not the applicant has failed or refused to negotiate in good faith with the governing body in developing a siting agreement.

[ H. 2. ] If the council finds that the governing body has shown by a preponderance of the evidence that the applicant has failed or refused to negotiate in good faith with the governing body for the purpose of attempting to develop a siting agreement, the council may deny the application for certification of site approval. Such a finding shall constitute final action by the council.

[ I. 3. ] If the council finds that the governing body has not shown by a preponderance of the evidence that the applicant has failed or refused to negotiate in

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good faith with the governing body for the purpose of attempting to develop a siting agreement, the council may issue the draft certification of site approval pursuant to § 10-186.14 of the Code of Virginia. Such finding shall not be considered final action by the council.

[ J. For purposes of this section, evidence of good faith may include, but is not limited to, a showing that the applicant has obtained agreements for such things as a site completion bond, safety assurances, additional monitoring or operation review privileges. ]

[ § 4.2: § 3.3. ] Draft certification of site approval [ § 10-186.14 of the Code of Virginia ].

[ Section 10-186.14 states, Draft certification of site approval. ]

A. Within 30 days after receipt of the governing body's report or as otherwise provided in § 10-186.12 G of this Act, the [ board council ] shall issue or deny a draft certification of site approval.

B. The [ board council ] may deny the application for certification of site approval if it finds that the applicant has failed or refused to negotiate in good faith with the governing body for the purpose of attempting to develop a siting agreement.

C. The draft certification of site approval shall specify the terms, conditions and requirements that the [ board council, on a case-by-case basis, ] deems necessary to protect health, safety, welfare, the environment and natural resources.

D. Copies of the draft certification of site approval, together with notice of the date, time and place of public hearing required under § 10-186.15 of the Code of Virginia, shall be delivered by the [ board council ] to the governing body of each host community, and to persons owning property adjoining the site for the proposed facility. At least one copy of the draft certification shall be available for inspection and copying at a convenient place in the host community during normal business hours. [ (1984, c. 513.) .d ]

[ E. The draft certification of site approval shall specify the terms, conditions and requirements that the council, on a case-by case basis, deems necessary to protect the health, safety, welfare, environment and natural resources.

F. Copies of the draft certification of site approval shall be delivered by the council to the governing body of the host community, to persons owning property adjoining the proposed facility site, and to the governing body of any affected communities. ]

§ 3.4. Public hearing on draft certification of site approval [ § 10-186.15 of the Code of Virginia ].

[ Section 10-186.15 states, Public hearing on draft certification of site approval.

A. The board shall conduct a public hearing on the draft certification not less than 15 nor more than 30 days after first publication of notice. The hearing shall be conducted in the host community.

B. Notice of the hearing shall be made at the applicant's expense and in the manner provided in § 10-186.20 of the Code of Virginia. It shall include:

1. A brief description of the terms and conditions of the draft certification;

2. Information describing the date, time, place and purpose of the hearing;

3. The name, address and telephone number of an official designated by the board from whom interested persons may obtain access to documents and information concerning the proposed facility and the draft application;

4. A brief description of the rules and procedures to be followed at the hearing and the time for receiving comments; and

5. The name, address and telephone number of an official designated by the board to receive written comments on the draft certification.

C. The board shall designate a person to act as hearing officer for the receipt of comments and testimony at the public hearing. The hearing officer shall conduct the hearing in an expeditious and orderly fashion, according to such rules and procedures as the board shall prescribe.

D. A transcript of the hearing shall be made and shall be incorporated into the hearing record.

E. Within 15 days after the close of the hearing, the hearing officer shall deliver a copy of the hearing record to each member of the board. The hearing officer may prepare a summary to accompany the record, and this summary shall become part of the record. (1984, c. 513.) ]

[ F. A. ] The council shall conduct a public hearing on the draft certification not less than 15 nor more than 30 days after the first publication of notice. The hearing shall be conducted in the host community.

[ G. B. ] Notice of the hearing shall be made at the applicant's expense and shall:

1. Provide for public participation by sending a copy of the notice by certified, return receipt mail to the following:

a. The governing body of the host community;

- b. The governing body of the affected communities;
- c. Legislators elected from the areas in which the host community is located and the affected communities are located;
- d. The regional planning district commissions of the host community and affected communities;
- e. Persons owning property adjoining the site of the proposed facility.

[ f. The applicant.

g. Any person who has been designated a party pursuant to § 3.4D.

~~2. In addition, a copy of the notice will be sent by mail to those parties on the board's information dissemination list and media list. ]~~

[ ~~3. 2. ] In addition to the requirements imposed by paragraph 1, in accordance with § 10-186.20 of the Act, [ the notice shall ] be disseminated:~~

- a. By publication once each week for two successive weeks in a newspaper of general circulation within the area to be affected by the subject of the notice;
- b. By broadcast over one or more radio stations within the area to be affected by the subject of the notice;
- c. By [ mailing mail ] to each person who has asked to receive notice;
- d. By such additional means as the council deems appropriate.

Every notice shall provide a description of the subject for which notice is made and shall include the name and telephone number of a person from whom additional information may be obtained.

[ ~~4. 3. ] Provide that the contents of such notice include:~~

- a. A brief description of the terms and conditions of the draft certification;
- b. Information describing the date, time, place and purpose of the hearing;
- c. The location where the draft certification may be reviewed;
- d. The name, address and telephone number of an official designated by the council to receive written comments of the draft certification;
- e. A brief description of the rules and procedures to

be followed at the hearing and the time for receiving comments;

f. Any such information as the council deems appropriate.

[ H. C. ] Designation and powers of hearing officer.

1. The public hearing held pursuant to these procedures will be conducted by a hearing officer designated by the council.

2. The hearing officer shall conduct the hearing in an orderly and expeditious manner, and shall hold all powers necessary to those ends, including, but not limited to, the power to do the following:

a. Prescribe the methods and procedures to be used in the development of evidentiary facts and the presentation of evidence by the parties, including the issuance of prehearing orders setting forth the issues for hearing and establishing deadlines for the filing of written testimony and exhibits;

b. Impose reasonable limitations on the time permitted for oral testimony;

c. Consolidate the presentation of factual data, arguments and proof to avoid repetitive presentation thereof;

d. Administer oaths and affirmations;

e. Receive probative evidence, rule upon offers of proof and, upon his own motion or the objection of any party, exclude irrelevant, immaterial, insubstantial or repetitive proofs, rebuttal or cross-examination;

f. Examine witnesses;

g. Hold prehearing conferences for the settlement [ determination ] , simplification or stipulation of issues and facts by consent;

h. Rule on procedural matters; and

i. Issue subpoenas and subpoenas duces tecum in accordance with § 9-6.14:13 of the Code of Virginia.

3. Rulings of the hearing officer on the admissibility of evidence or testimony, on the propriety or conduct of cross-examination, and on any and all procedural matters shall appear in the hearing record and shall control further proceedings in the hearing. Parties shall be presumed to have taken objection to any adverse ruling, and no objection shall be considered waived by further participation on the hearing.

[ I. D. ] Parties; rights of parties; petition to become a party.



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1. The following persons are entitled to become parties to the public hearing conducted pursuant to this section:

- a. The applicant;
- b. The host community, acting through its governing body;
- c. Any person owning land adjoining the site of the proposed facility.

2. In addition to the above named parties, any person whose significant interest will be adversely affected by the decision of the council may file a petition to become a party to the hearing. The following procedures apply to such petitions:

- a. The petition to become a party must be received by the council at least 10 days prior to the scheduled hearing date.
- b. The petition shall contain the following:

(1) The names and addresses of the petitioner, the petitioner's counsel (if any) and all persons for whom the petitioner is acting as a representative;

(2) A statement setting forth the interest of the petitioner in the matter;

(3) A statement by the petitioner that, should [ ~~his~~ his ] petition be granted, the petitioner [ ~~and all persons represented by the petitioner~~ ] will be available, without cost to any other party, to appear at the hearing;

(4) A statement by the petitioner explaining how [ ~~his~~ his ] interests would not be adequately represented by existing parties to the hearing.

c. The executive director shall acknowledge the receipt of all petitions to become a party.

d. The executive director shall consider all petitions filed in accordance herewith, and shall grant those petitions that both:

(1) Raise one or more genuine substantial issues in the petition which, if resolved adversely to the petitioner, would result in an injury to a significant interest of the petitioner; and

(2) Adequately describe how the petitioner's interest is not represented by an existing party to the hearing.

e. The executive director shall notify the petitioner, and all other parties, of his decision to grant or deny petition to become a party by mail at least five days prior to the scheduled hearing date. The

decision of the executive director in no way limits the rights of judicial review granted under § 10-186.18 of the Code of Virginia.

3. The rights of the parties to the hearing shall be limited to those enumerated in these regulations and the Act.

[ J. E. ] Evidence at the hearing.

1. Parties to the hearing may present direct and rebuttal evidence in written and oral form, as the hearing officer may direct. [ ~~Oral cross-examination will not be permitted, but any party may submit written questions to the hearing officer, who subject to his ruling as to their relevance and propriety, will propound them to the witness.~~ ]

2. The hearing officer shall admit all relevant, competent and material evidence offered by the parties but shall exclude evidence which he determines to be repetitive, irrelevant, immaterial or otherwise inadmissible.

3. Whenever any evidence or testimony is excluded by the hearing officer as inadmissible, so much of the excluded material as is in written form shall remain in the record as an offer of proof, and shall be marked "excluded" by the hearing officer. Where oral testimony is excluded, the party seeking to introduce it may make an offer of proof in the form of a brief descriptive statement for the record.

4. Any other interested person may be given an opportunity to testify during the hearing. The hearing officer shall allow such testimony to be heard as is not irrelevant, immaterial, insubstantial or repetitive. Any interested person who so testifies shall be sworn and subject to cross-examination as prescribed in this section.

[ K. F. ] Hearing record.

1. The hearing officer shall assemble a hearing record after the close of the hearing.

The hearing record shall consist of:

a. A transcript of the hearing, and any exhibits admitted in evidence;

b. A copy of the final impact statement;

c. A copy of the application for certification of site approval;

d. Reports of any consultants hired by the council that have been made available to the parties prior to the hearing;

e. A copy of the draft certification of site approval;

and

f. A summary of the record, if the hearing officer so desires.

2. Within 15 days after the close of the hearing, the hearing officer shall deliver a copy of the hearing record to each member of the council.

## PART IV.

§ 4.1. Final decision on certification of site approval [ § 10-186.16 of the Code of Virginia ].

[ Section 10-186.16 of the Code of Virginia states, Final decision on certification of site approval. ]

A. Within 45 days after the close of the public hearing, the [ board council ] shall meet within or in close proximity to the host community and shall vote to issue or deny the certification of site approval. The [ board council ] may include in the certification any terms and conditions which it deems necessary and appropriate to protect and prevent injury or adverse risk to health, safety, welfare, the environment and natural resources. At least seven days' notice of the date, time, place and purpose of the meeting shall be made in the manner provided in § 10-186.20 of the Code of Virginia. No testimony or evidence will be received at the meeting.

B. The [ board council ] shall grant the certification of site approval if it finds:

1. That the terms and conditions thereof will protect and prevent injury or unacceptable adverse risk to health, safety, welfare, the environment and natural resources;

2. That the facility will comply and be consistent with the criteria promulgated by the [ board council ]; and

3. That the applicant has made reasonable and appropriate efforts to reach a siting agreement with the host community including, though not limited to, efforts to mitigate or compensate the host community and its residents for adverse economic effects, if any, of the facility.

C. The [ board's council's ] decision to grant or deny certification [ shall will ] be based on the hearing record and shall be accompanied by the written findings of fact and conclusions upon which the decision was based. The [ board council ] shall provide the applicant and the governing body of the host community with copies of the decision, together with the findings and conclusions, by certified mail.

D. The grant or denial of certification [ shall constitute constitutes ] final action by the [ board council ]. [ (1984, c. 513.) ]

[ E. The final decision on certification of site approval shall be made by the council in accordance with § 10-186.16 of the Act. The council shall grant the certification of site approval if it finds:

1. That the terms and conditions of certification will protect human health and environment and prevent foreseeable injury so as to minimize any adverse risk to health, safety, welfare, the environment, and natural resources;

2. That the facility will comply and be consistent with the Hazardous Waste Facility Siting regulations;

3. That the applicant has made good faith efforts to reach a siting agreement with the host community, including, though not limited to, efforts to compensate the host community and its residents for any adverse economic effects caused by the facility site. ]

§ 4.2. Amendment of certification of site approval [ § 10-186.17 of the Code of Virginia ].

[ Section 10-186.17 of the Code of Virginia states, Effect of certification.

A. Grant of certification of site approval shall supersede any local ordinance or regulation that is inconsistent with the terms of the certification. Nothing in this chapter shall affect the authority of the host community to enforce its regulations and ordinances to the extent that they are not inconsistent with the terms and conditions of the certification of site approval. Grant of certification shall not preclude or excuse the applicant from the requirement to obtain approval or permits under other state and federal laws. The certification shall continue in effect until it is amended, revoked or suspended.

B. The certification may be amended for cause upon such procedures and regulations as shall be prescribed by the board.

C. The certification shall be terminated or suspended (i) at the request of the owner of the facility; (ii) upon a finding by the board that conditions of the certification have been violated in a manner that poses a substantial risk to health, safety or the environment; (iii) upon termination of the hazardous waste facility permit by the State Health Commissioner or EPA Administrator; or (iv) upon a finding by the board that the applicant has knowingly falsified or failed to provide material information required in the notice of intent and application.

D. The facility owner shall promptly notify the board of any changes in the ownership of the facility or of any significant changes in capacity or design of the facility.

E. Nothing in the certification shall preclude the right of any individual or constitute a defense to liability in any civil action involving private rights.

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**F.** The Commonwealth may not acquire any site for a facility by eminent domain prior to the time at which certification of site approval is obtained. However, any agency or representative of the Commonwealth may enter upon a proposed site pursuant to the provisions of § 25-222.1 of the Code of Virginia. (1984, c. 513.) ]

[ **G. A.** ] Certification may be amended at the request of any interested party as defined in § 3.4 [ (F) (D) ] of these regulations or upon the council's initiative, but only for the causes listed in this section. All requests shall be in writing and shall contain facts or reasons supporting the request. The council shall make its determination [ following a review of the cause based on appropriate information or testimony by the initiator and/or the applicant (current owner or operator) ] within 45 days of receiving notice. If, in the opinion of the council, the amendment is of major public interest, the council may schedule a public hearing according to the requirements outlined in § 3.4 of this regulation.

[ **H. B.** ] If the council decides the request is not justified, it shall send the requestor a brief response giving a reason for the decision.

[ **I. C.** ] The following are causes for amendment of certification of site approval:

1. There are material or substantial alterations or additions to the approved site which occurred after certification which justify the application of conditions that are different or absent in the existing certification.

2. The council has received information pertaining to circumstances or conditions existing at the time the certification of the site was approved that was not included in the administrative record and would have justified the application of different condition, if, in the judgment of the council, such modification is necessary to prevent significant adverse effects on public health or the environment.

[ **3.** The standards or regulations on which the certification was based have been changed by promulgation of amended standards or regulations or by judicial decision after the certification was approved. Certification may be amended for this cause only as follows:

**a.** For promulgation of amended standards or regulations, when:

(1) The certification condition requested to be modified was based on a promulgated Hazardous Waste Facility Siting regulation;

(2) The Commonwealth has revised, withdrawn, or modified that portion of the regulation on which the certification condition was based; or

(3) Amendment is requested within 90 days after notice of the action on which the request is based.

**b.** For judicial decision, a court of competent jurisdiction has remanded and stayed Commonwealth regulations, if the remand and stay concern that portion of the regulations on which the permit condition was based and a request is filed within 90 days of judicial remand.

3. The standards or regulations on which the certification was based have been changed by promulgation of amended standards or regulations or by judicial decision after the certification was approved, if, in the judgment of the council, such modification is necessary to prevent significant adverse effects on public health or the environment. Certification may be amended by reason of judicial decision only if a court of competent jurisdiction has remanded and stayed council regulations, and if the remand and stay concern that portion of the regulations on which the certification condition was based and a request is filed within 90 days of judicial remand. ]

[ **J. D.** ] Certification of site approval shall be terminated in accordance with § 10-186.17 (C) of the Act.

\* \* \* \* \*

**Title of Regulation:** VR 352-01-5. Hazardous Waste Facility Siting Criteria.

**Statutory Authority:** § 10-186.5 of the Code of Virginia.

**Effective Date:** April 30, 1986

**Summary:**

The final regulation establishes the criteria, both prohibitions and limitations, for assessing applications for site certification under the provisions of the Virginia Hazardous Waste Facilities Siting Act. The final regulation avoids, to the maximum extent feasible, any duplication with other existing state agency regulations.

The final regulation generally prohibits hazardous waste facilities from environmentally sensitive areas, consistent with existing regulatory controls, and place tighter restrictions on land disposal methods than on methods for storage or treatment.

The limitation criteria ensure that environmental factors are assessed: surface water, ground water, air quality, endangered species, land in public trust; that geologic factors are assessed: subsurface mining, slope, faults, karst topography (caves and sinkholes); and that social and economic factors are assessed: impact on local government, risk to population, transport accident risk, risk of fire and explosion.

The criteria are designed to facilitate the siting of hazardous waste facilities which is consistent with the environmental quality of the Commonwealth and provide for facilities for the storage, treatment and disposal of hazardous wastes which are essential to the economic growth and well-being of Virginia industries.

The final regulation provides greater definition and detail than the proposed regulation for limitations used to protect public and private surface and ground water supplies and seismic risk zones.

## VR 352-01-5. Hazardous Waste Facility Siting Criteria.

### PART I.

#### Article 1. Purpose and Authority.

##### § 1.1. Authority for regulation.

These regulations are issued under the Authority of the Code of Virginia, Title 10, [ Article Chapter ] 17.1 (the Virginia Hazardous Waste Facilities Siting Act or the Act).

##### § 1.2. Purpose of regulations.

These regulations establish the criteria which will be used by the Virginia Hazardous Waste Facility Siting Council to evaluate and approve or disapprove applications for hazardous waste facility site certification.

##### § 1.3. Severability.

If any clause, sentence, paragraph, subdivision, section or part of these regulations shall be adjudged by any court of competent jurisdiction to be invalid, the judgment shall not affect, impair, or invalidate the remainder thereof, but shall be continued in its operation to the clause, sentence, paragraph, subdivision, section or part thereof directly involved in the controversy in which the judgment shall have been rendered.

### ARTICLE II. DEFINITIONS.

#### Words and Terms.

§ 1.4. Section [ ~~10-186.2~~ 10-186.3 ] of the Act defines several words and terms also used in this regulation. Unless the context clearly indicates otherwise, these words and terms will have the same meaning when used in these regulations. In addition, the following words and terms, when used in this regulation shall have the following meaning, unless the context clearly indicates otherwise.

[ "Active fault" means a fault which has had displacement in Holocene time. ]

"Active portion" means that portion of a facility where treatment, storage or disposal operations are being

conducted. It includes the treated area of a land farm and the active face of a landfill, but does not include those portions of a facility which have been closed in accordance with all applicable closure requirements of the Virginia Department of Health.

[ "Anion exchange capacity (A.E.C.)" means the exchange capacity for negatively charged ions. (See Cation exchange capacity.) ]

"Anti-degradation [ policy goal ] for ground water" means if the concentration of any constituent in ground water is less than the limit set forth by ground water standards, the natural quality for the constituent shall be maintained; natural quality shall also be maintained for all constituents, including temperature, not set forth in ground water standards. If the concentration of any constituent in ground water exceeds the standards for that constituent, no addition of that constituent to the naturally occurring concentration shall be made. [ Variance to this policy will not be made unless it has been affirmatively demonstrated that a change is justifiable to provide necessary economic or social development; that the necessary degree of waste treatment cannot be economically or socially justified; and that the present and anticipated uses of such water will be preserved and protected. (State Water Control Board, Water Quality Standards, Publication Number RB-1-80, Revised Edition, April 1982). ]

"Applicant" means the person applying for certification of site suitability or submitting a notice of intent to apply therefor.

"Aquifer" means water-bearing geologic formation, group of formations, or part of a formation that is capable of yielding a significant amount of ground water to wells or springs. An aquifer is unconfined (water table) or confined (artesian) according to whether the upper surface of the water is at atmospheric pressure or at greater than atmospheric pressure.

"Attenuation" means any decrease in the maximum concentration or total quantity of a chemical or biological constituent during a fixed time or distance traveled.

[ "Board" means the Hazardous Waste Facility Siting Council established pursuant to § 10-186.4 of the Code of Virginia. ]

"Buffering capacity" means the capacity of a soil to take up contaminants through a variety of attenuation processes such as biological activity, dilution, volatilization, mechanical filtration, precipitation, buffering, neutralization and ion exchange. Some attenuation processes result in permanent removal and degradation of pollutants, which others act to store pollutants and thereby delay pollution problems but do not eliminate them.

"Cation exchange capacity (C.E.C.)" means the excess of counter ions in the zone adjacent to the charged surface or layer which can be exchanged for other cations. The

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C.E.C. of geological materials is normally expressed as the number of milliequivalents of cations that can be exchanged in a sample with a dry mass of 100g.

[ "Community water system" means a waterworks which serves at least 15 service connections used by year-round residents or regularly serves at least 25 year-round residents. ]

"Closure" means the act of securing a hazardous waste management facility pursuant to the requirements of Virginia Hazardous Waste Management Regulations promulgated by the Board of Health.

"Construction" means [ that after July 1, 1984, no person shall construct or commence construction of a hazardous waste facility without first obtaining a certification of site approval by the board in the manner prescribed herein. For the purpose of this section, "construct" and "construction" shall mean ] (i) with respect to new facilities, the significant alteration of a site to install permanent equipment or structures or the installation of permanent equipment and structures; (ii) with respect to existing facilities, the alteration or expansion of existing structures or facilities to initially accommodate hazardous waste, any expansion of more than 50% of the area or capacity of an existing hazardous waste facility, or any change in design or process of a hazardous waste facility that will, in the opinion of the [ board council ], result in a substantially different type of facility. It does not include preliminary engineering or site surveys, environmental studies, site acquisition, acquisition of an option to purchase or activities normally incident hereto.

[ A. Upon receiving a written request from the owner or operator of the facility, the board may allow, without going through the procedures of the chapter, any changes in the facilities which are designed to:

1. Prevent a threat to human health or the environment because of an emergency situation;
2. Comply with federal or state laws and regulations promulgated after July 1, 1984; or
3. Demonstrably result in safer or environmentally more acceptable processes.

B. Any person who violates this section shall be compelled by injunction, in a proceeding instituted in the circuit court for a locality where the facility or proposed facility is to be located, to cease the violation.

C. Such an action may be instituted by the board or by the Attorney General, or by the political subdivision in which the violation occurs. In any such action, it shall not be necessary for the plaintiff to plead or prove irreparable harm or lack of an adequate remedy at law. No person shall be required to post any injunction bond or other security under this section.

D. No action may be brought under this section after a certification of site approval has been issued by the board, notwithstanding the pendency of any appeals or other challenges to the board's action.

E. In any action under this section, the court may award reasonable costs of litigation, including attorney and expert witness fees, to any party if the party substantially prevails on the merits of the case and if in the determination of the court the party against whom the costs are awarded has acted unreasonably. ]

"Container" means any portable [ device enclosure ] in which a material is stored, transported, treated, disposed of, or otherwise handled.

"Council" means the Hazardous Waste Facility Siting Council established pursuant to Title 10, Chapter 17.1, of the Code of Virginia.

[ "Criterion" means a test, rule, measure or model by which judgment will be made. ]

"Dam-related flood hazard areas" means areas identified as being dam-related flood hazard areas which fall into one of two categories: areas of dynamic flooding below the dam, or the inundation zone, and areas of static flooding above the dam, or the flood pool. The inundation zone is the area that would be inundated [ in excess of storm water ] by the water released by the impoundment in the event of a dam [ breach flood ]. [ It is that area which would be inundated immediately downstream from the site of the impounding structure extending to that point on the stream where the calculated water surface profile resulting from the design flood, determined absent the impounding structure, converges with that calculated water surface profile which would result from failure of the impounding structure and impoundment at impounding capacity, with the time of such failure to be considered coincident with the time of occurrence of maximum inflow to the impoundment resulting from the design flood. ] The flood pool is defined as the land area above the dam which is prone to flooding during abnormally high runoff or precipitation.

"Disposal" means the discharge, deposit, injection, dumping, spilling, leaking, or placing of any solid waste or hazardous waste into or on any land or water so that such solid waste or hazardous waste or any constituent thereof may enter the environment or be emitted into the air or discharged into any waters, including ground waters.

"Disposal facility" means a facility or part of a facility at which hazardous waste is intentionally placed into or on any land or water, and at which the waste will remain after closure.

"Endangered or threatened species habitat" means areas known to be inhabited on a seasonal or permanent basis by or to be critical at any stage in the life cycle of any wildlife (fauna) or vegetation (flora) identified as

"endangered" or "threatened" species on official federal or state lists of endangered or threatened species, [ including the Endangered Species Act, 16 USC § 1531 et seq., the Virginia Endangered Species Act, § 29-230 et seq., and the Virginia Endangered Plant and Insect Species Act, § 3.1-1020 et seq. ] or under active consideration for state or federal listing. The definition also includes a sufficient buffer area to ensure continued survival of the species.

"Floodplain" means an area adjoining a river, stream or water course which has been or hereafter is likely to be covered by floodwaters.

Included in this category are coastal flood hazards which are defined as land areas adjacent to open coast, coastal sounds and their upstream estuaries which are prone to flooding from hurricanes and storm surges with an annual probability of one percent.

Also included in this definition are riverine flood hazard areas defined as the valley areas adjacent to any size waterway which can be covered by flood waters resulting from excessive rainfall or other factors. The riverine flood hazard areas also fall under the Federal Emergency Management Administration definition of a "Regulatory Floodway" under the National Flood Program. A regulatory floodway includes the channel of the river and the adjacent floodplain that must be reserved in order to discharge the base flood (the flood level anticipated in the 100-year flood plain). The regulatory floodway cannot cause a cumulative increase in the water surge elevation of the base flood of greater than one foot at any point.

"Ground water" means any water, except capillary moisture beneath the land surface in the zone of saturation or beneath the bed of any stream, lake, reservoir or other body of surface water within the boundaries of this state, whatever may be the subsurface geologic structure in which such water stands, flows, percolates or otherwise occurs.

"Ground water quality" means the [ natural ] quality of ground water as measured against drinking water criteria and standards established by the U. S. EPA and the State Department of Health and adopted by the Virginia State Water Control Board.

[ "Hazardous waste" means a solid waste classified as a hazardous waste by regulations adopted pursuant to § 32.1-177 of the Code of Virginia. ]

"Hazardous waste facility" means any facility, including land and structures, appurtenances, improvements and equipment for treatment, storage, or disposal of hazardous wastes, which accepts hazardous waste for storage, treatment or disposal. This definition does not include: (i) facilities which are owned and operated by and exclusively for the on-site treatment, storage or disposal of wastes generated by the owner or operator; (ii) facilities for the treatment, storage or disposal of hazardous wastes used principally as fuels in an on-site production process;

and (iii) facilities used exclusively for the pretreatment of wastes discharged directly to a publicly owned sewage treatment works and storage/treatment facilities.

"Hundred-year flood" means a flood of that level which on the average will have a 1% chance of being equaled or exceeded in any given year at designated locations.

"Hydraulic conductivity" means the rate of flow of water in gallons per day through a cross section of one square foot under a unit hydraulic gradient, at the prevailing temperature. (Permeability coefficient)

"Hydraulic gradient" means the change in hydraulic pressure per unit of distance in a given direction.

"Incinerator" means an enclosed device using controlled flame combustion, the primary purpose of which is to thermally break down hazardous waste.

[ "Injection well" means a well or bore hole into which fluids are injected into selected geologic horizons. (See also underground injection.) ]

"Inundation zone (below a dam)" means the area that would be inundated in the event of a dam failure.

"Karst topography" means a type of topography [ or surface covered by alluvial or colluvial sediments ] that may form over limestone, dolomite, or gypsum formations by dissolving or solution, and that is characterized by closed depressions or sinkholes, caves, and underground drainage.

"Land treatment facility" means a facility or part of a facility at which hazardous waste is applied onto or incorporated into the soil surface; such facilities are disposal facilities if the waste will remain after closure.

"Landfill" means a disposal facility or part of a facility where waste is placed in or on land and which is not a treatment facility, a surface impoundment or an injection well.

"Leachate" means a liquid, including any suspended components in the liquid, that has percolated through or drained from hazardous waste.

"Monitoring" means all procedures used to systematically inspect and collect data on operational parameters of the facility or on the the quality of the air, ground water, surface water or soils.

"Monitoring well" means a well used to obtain water samples for water quality analysis or to measure depth to ground water table.

[ "Noncommunity water system" means a waterworks that is not a community waterworks, but operates at least 60 days of the year and is for transient use such as restaurants, campgrounds, or rest areas. ]

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**"Pile"** means any noncontainerized accumulation of solid, nonflowing hazardous waste that is used for treatment or storage.

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

[ **"Private water system"** means all systems not defined under community/noncommunity water systems. ]

[ **"Principal drinking water source aquifer"** means an aquifer which serves as the sole or principal source of drinking water to a large population. ]

**"Proximity to [ a an active ] fault"** means located such that potential vibration of a known active fault as defined under "seismic risk zones" [ or "seismogenic volume" ] in this regulation may adversely affect the physical integrity of the facility, or such that ground and surface waters associated with such fault may be degraded.

[ **"Proximity to a principal drinking water source aquifer"** means a site which is located such that the geologic features or characteristics of the site will lead to degradation of the aquifer as a result of operations or in the event of an accident or spill

**"Proximity to a public drinking water surface supply"** means within one-half mile of either side of a stream or impoundment for a distance of five stream miles upstream including tributaries, and one-tenth of a mile downstream of any surface water intake for a public water supply.

**"Proximity to a community/noncommunity water system and supply of ground water"** means a site which is located such that the geologic features or characteristics of the site may lead to degradation of the aquifer as a result of operations or in the event of an accident or spill.

**"Proximity to a community/noncommunity water system and supply of surface water"** means within one-half a mile of either side of a stream or impoundment for a distance of five stream miles upstream including tributaries, and one-tenth of a mile downstream of any nontidal surface water intake for a public water supply. On tidal affected streams, the site shall be such greater distance than one-tenth of a mile downstream that the tidal action would not cause intake of waters that may be affected by runoff, etc., from the site location. More restrictive requirements of other state regulatory agencies shall apply.

**"Proximity to a private water system and supply of surface or ground water"** means a site which is located such that the geologic features or characteristics of the site may lead to degradation of the aquifer as a result of operations or in the event of an accident or spill.

**"Proximity to publicly designated areas"** means a site which is located such that the construction and operation of the proposed facility may impair the environmental and aesthetic qualities of the area. ]

**"Publicly designated areas"** means publicly owned lands designated as seashore areas, wilderness or scenic areas, scenic rivers, wildlife or bird sanctuaries, game lands, state parks and recreation areas and other natural areas. Also included are lands on or proposed for inclusion on the National Register of Historic Places [ , National Natural Landmarks, Virginia Landmarks Register ] and scenic easements held by the Virginia Outdoors Foundation. These lands must have been designated or be pursuant to an on going program as of the date of the notice of intent.

**"Recharge"** means natural or artificial replenishment or storage of nondegrading (quality) water in an aquifer.

**"Run-off"** means any rainwater, leachate, or other liquid that drains over land from any part of a facility.

**"Run-on"** means any rainwater, leachate, or other liquid that drains over land onto any part of a facility.

**"Saprolite"** means a soft, earthy, clay-rich, thoroughly decomposed rock formed in place by chemical weathering of igneous and metamorphic rocks.

**"Saturated zone (zone of saturation)"** means that part of the earth's crust in which all voids are filled with water under pressure greater than that of the atmosphere.

**"Scenic rivers"** means rivers designated by the Virginia General Assembly under the Scenic Rivers Act as worthy of preservation based on their unique environmental and aesthetic characteristics.

**"Seismic risk zones"** means an area where [ a an active ] fault which has had displacement in Holocene time is present or which has had historical earthquake activity in Modified Mercalli VII or Richter Scale 4, or greater.

[ **"Shellfish beds and natural trout waters"** means an area in close proximity to waters which support shellfish beds or a naturally occurring trout population.

**"Seismogenic volume"** means a seismic risk zone of upper crustal rocks where earthquakes are occurring now and/or in the historic past and that extends from the surface of the earth down to depths of 15-20 km. Such volumes are susceptible to strong seismic shaking (Modified Mercalli Intensity VII or Richter Magnitude 5 or greater) as well as faulting and movement of subsurface rock layers. ]

**"Site"** means the land or water area upon which a facility or activity is physically located or conducted including but not limited to adjacent land used for utility systems such as repair, storage, whipping or processing

areas, or other areas incident to the hazardous waste facility or activity.

"Siting Council" means the Hazardous Waste Facility Siting Council established pursuant to § 10-186.4 of the Code of Virginia.

"Soil pH" means the [ numerical expression to indicate acidity and alkalinity with neutrality represented by the value of 7; negative log of the hydrogen ion concentration, which commonly ranges from a high (acid) of 0 to a low (alkaline) of 14, neutral being. ]

"Soil/saprolite layer" means the unconsolidated materials derived primarily from the in-place weathering of underlying geologic deposits. Saprolite is specifically the unconsolidated weathering product of crystalline bedrock which retains relic bedrock structure. Thickness of the soil/saprolite layer is the depth from the surface to bedrock.

"State waters" means all water, on the surface and under the ground, wholly or partially within or bordering the state or within its jurisdiction. For the purpose of these regulations, adjacent wetlands are included in this definition.

"Static water level" means the level at which water stands in a well when no water is being taken from the aquifer either by pumping or by free flow.

"Storage" means the containment or holding of hazardous waste pending treatment, recycling, reuse, recovery or disposal.

"Storage facility" means any [ hazardous waste ] facility which stores hazardous waste [ ; except for generators who store their own waste on-site for short periods of time for subsequent transport off-site.

"Subsidence" means the lowering of the natural land surface in response to: earth movements; lowering of fluid pressure; removal of underlying supporting material by mining or solution of solids, either artificially or from material causes; compaction due to wetting (hydrocompaction) or from material causes; oxidation of organic matter in soils; or added load on the land surface. ]

"Subsurface mining areas" means areas where deep mining or removal by drilling of minerals or mineral fuels [ or pumping of ground water ] has resulted in a potential for land subsidence. [ Subsidence is the lowering of the natural land surface in response to: earth movements; lowering of fluid pressure; removal of underlying supporting materials by mining or solution of solids, either artificially or from material causes; compaction due to wetting (hydrocompaction); or from material causes; oxidation of organic matter in soils; or added load on the land surface. ]

"Surface impoundment" means a facility or part of a facility which is a natural topographic depression, man-made excavation, or diked area formed primarily of earthen materials (although it may be lined with man-made materials), which is designed to hold an accumulation of liquid wastes or wastes containing free liquids, and which is not an interjection well or a seepage facility.

"Thermal treatment" means treatment of hazardous waste in a device which uses elevated temperatures as the primary means to change the chemical, physical or biological character or composition of the hazardous waste.

"Transfer facility" means any transportation related to facility including loading docks, parking areas, storage areas and other similar areas where shipments of hazardous waste are held during the normal course of transportation.

"Treatment" means any method, technique, or process, including neutralization, designed to change chemical, physical or biological character or composition of any hazardous waste so as to neutralize such waste; [ so as to recover energy or material resources from such wastes; ] so as to render such waste nonhazardous or less hazardous, or safe for transport or disposal, amenable for recovery, amenable for storage or reduced in volume.

"Underground injection" means the subsurface emplacement of fluids through a bored, drilled, jetted, driven, or dug well, where the depth of the well is greater than the largest surface dimension. (See also injection well.)

[ "Underground seepage" means underground emplacement of fluids at atmospheric pressure through an uncased well, dug hole, or a disposal facility constructed in a dug hole or an earth material fill. ]

"Unsaturated zone (zone of aeration)" means the zone between the topographic surface and water table.

"Uppermost aquifer" means the [ aquifer geologic formation ] nearest the natural ground surface that is an aquifer, as well as lower aquifers that are hydraulically interconnected with this aquifer [ within the facility's property boundary ].

"Water table" means the upper surface of the zone of saturation in ground waters in which the hydrostatic pressure is equal to atmospheric pressure. (See uppermost aquifer.)

"Water well" means an excavation with associated casing, which is drilled, cored, bored, washed, driven, dug, jetted, or otherwise constructed when the intended use of such excavation is for the location, testing, acquisition, artificial recharge, or storage of ground water, the depth of which is greater than the diameter or width.



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[ "Waterworks" means a system that serves piped water for drinking or domestic use of (i) the public, (ii) at least 15 connections, or (iii) an average of 25 individuals for at least 60 days 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. ]

"Well" means [ for the purpose of these regulations ] any shaft or pit dug, drilled, jetted, driven, or bored into the earth, generally of a cylindrical form, and often cased with bricks or tubing to prevent the earth from caving in, whose depth is greater than the largest surface dimension.

"Well yield" means average water yield in gallons per minute obtained from wells trapping the uppermost aquifer below a specific site or site vicinity.

"Wetlands" means areas inundated by surface or ground water with a frequency sufficient to support, under normal circumstances, a prevalence of vegetated or aquatic life requiring saturated or seasonally saturated soil conditions for growth or reproduction.

## PART II. SITING CRITERIA.

### Article 1. Scope of Review.

§ 2.1. The council shall consider the degree of hazard involved in any proposed operation in making a siting decision.

### Article 2. Categories of Facilities.

§2.2. For the purposes of this document, hazardous waste [ management ] facilities are broken down into five basic categories: (I) containerized or enclosed storage [ ~~(a group of tanks)~~ ] ; (II) closed treatment process - with spill containment [ ~~(treatment in tanks)~~ ] ; (III) open treatment process - with spill containment [ ~~(incinerator)~~ ] ; (IV) any above ground treatment - no spill containment [ ~~(wastepiles and land treatment)~~ ] ; and (V) disposal without complete treatment and all other treatment/disposal methods [ ~~(land disposal)~~ ].

#### A. Category I - Containerized or enclosed storage.

##### 1. Description.

A facility which is designed to store waste in above ground tanks, or portable containers as defined in §§ 10.09 and 10.10 of the Virginia Hazardous Waste Management Regulations [ ~~(see Appendix E)~~, ] provided that the area where the waste is stored meets [ at least ] the "containment" requirements specified in § 10.09.06. In general, this section requires that the base under the storage area be free of cracks

or gaps and is sufficiently impervious to contain leaks, spills or accumulated precipitation. It also must have sufficient containment capability to hold 10% of the volume of the containers stored, or the whole volume of the largest container, whichever is greater, and must be able to contain any run-off which might be involved. [ Containment requirements will be considered on a case-by-case basis. ] Although § 10.09.06 in the Virginia regulations applies only to containers, for the purpose of siting criteria, a facility which uses tanks must also conform to these requirements in order to be classified in Category I.

Examples include [ but are not limited to ] such facilities as:

- a. A warehouse for storing 55 gallon drums.
- b. A tank to store materials for loading into an [ ~~incineration~~ ] ocean-going [ incineration ] vessel.
- c. A storage tank associated with a land based treatment facility.

##### 2. Consequences of loss of control.

Because of the fairly simple operations involved and the extensive spill containment requirements, the consequences of loss control, for the purposes of siting, would be:

-Fire and/or explosion.

#### B. Category II - Closed treatment process - with spill containment.

##### 1. Description.

A facility which is designed to treat hazardous waste by any method which did not involve venting, evaporating or exhausting potentially toxic concentrations of materials to the atmosphere, as measured at the active portion of the facility, under any normal or abnormal operating conditions. This could include chemical processes, such as acid neutralization, where the hazardous constituents in the waste are converted to nonhazardous materials or are precipitated out for disposal as a solid. It might also involve a process which separates the liquid portion of the waste from the solids, such as a centrifuging, mechanical or carbon filtration, settling or flotation, encapsulation, absorption, etc. If improper mixing or misoperation of the unit could cause a pressure build-up which could vent potentially toxic concentration of material to the atmosphere through a relief valve or similar device, this unit would not qualify as Category II. Systems which vent internally into a flash tank or similar device, however, would not necessitate a Category [ ~~II~~ III ] classification since in that situation they would not be venting into the atmosphere. Furthermore, in order to qualify for this

category, all processes must be in an area that meets the "containment" requirements specified for Category I such that a leak or rupture anywhere in the system would be contained for controlled disposition in accordance with all appropriate regulations.

[ An example is, but not limited to:

-Treatment in tanks. ]

## 2. Consequences of loss of control.

These types of facilities are similar to those in Category I with respect to the health or environmental impact of loss of control except that there are likely to be more operations involving handling, movement, mixing, pumping or otherwise processing the waste. This, combined with the probability that more complex systems, different kinds of equipment, piping and controls are involved in Category II, makes the probability of loss of control somewhat greater than in Category I. However, because of the extensive spill containment requirements necessary to be classified as Category II, the consequences of loss of control are minimized. For the purpose of siting they would be:

-Fire and/or explosion.

### C. Category III - Open treatment process - with spill containment.

#### 1. Description.

A facility which is designed to treat waste by heating or burning, distillation, or any other reaction of process which involves a need to vent or exhaust any material to the atmosphere under normal operating conditions and which could, with a reasonable degree of probability, if misoperated or through malfunction of any loss of control, discharge a potentially toxic concentration of material, as measured at the active portion of the facility.

Facilities which have the potential for discharging only steam, air, nitrogen, or other nontoxic materials could be classified as Category I or II, providing they meet all other requirements for those categories. Heated storage tanks or rail cars which use steam in an outer shell or coils, for example, could be classified as Category I, even if it was periodically necessary to vent steam to the atmosphere.

In order to qualify for Category III, all tanks, containers or ancillary storage devices associated with processes must be in an area which meets the "containment" requirements specified for Categories I and II above.

[ An example is, but not limited to:

-Incineration. ]

## 2. Consequences of loss of control.

The major difference between processes in this category and those in Category II is the possibility of (i) air quality degradation of sufficient magnitude to have the potential for causing health hazards or (ii) environmental problems outside the facility from uncontrolled process discharges. Because it is so unlikely that any such discharge could be concentrated enough or last long enough to cause significant surface or ground water degradation, this is not considered a consequence which would occur from loss of control. If, for some reason, there was a reasonable possibility that an airborne discharge from a facility could cause off-site surface or ground water degradation [ such that the degradation caused drinking water standards for the material discharged to be exceeded ], the facility would have to be classified in Category IV or V. [ For the purpose of determining water degradation, the term "off-site" shall assume that the water in question is at the active portion of the facility. ]

For the purposes of siting, the consequences of loss of control in Category III are:

[ a. ] Fire and/or explosion.

[ b. ] Air quality degradation from process exhaust or venting as a result of loss of control.

### D. Category IV - Above ground treatment - no spill containment.

#### 1. Description.

A facility which is designed to treat or store [ hazardous ] waste by any process or method which, with a reasonable degree of probability, through misoperation or any loss of control, could cause off-site surface or ground water degradation [ such that this degradation caused drinking water standards for the material discharged to be exceeded. For the purposes of determining water degradation, the term "off-site" shall be based on the assumption that the water in question is at the active portion of the facility ].

These facilities need not meet the "containment" requirements specified for facilities in the three categories above in order to be classified in this category.

"Above ground" in this category means that the hazardous waste is all contained at or above the level of the ground where it is located. This qualification is based on providing a reasonable opportunity to see or become aware of a leak without depending on ground water analysis. For example, this category could include a metal tank which rested directly on a cement pad (i.e., without support legs) even though

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part or all of the cement pad was actually below the ground, so long as the bottom of the tank was above ground level. If the bottom of the tank were below ground level resting directly on a man-made or earthen support such that the bottom of the tank could not be routinely inspected externally for leaks, the unit would [ not ] qualify for Category [ IV V ]. In this latter example, if the tank were in a pit but it was elevated from the base of the pit in such a manner as to allow routine inspection of the bottom to detect leaks it could be classified in Category IV. The use of underground piping [ by itself ] would not cause [ necessarily ] a facility to be classified in Category IV [ or V ].

[ An example is, but not limited to:

—Land treatment. ]

## 2. Consequences of loss of control.

In this category, there is no requirement for containment under treatment or storage units in the facility which might contain hazardous waste, and therefore, a spill or rupture could cause ground or surface water degradation. The restrictions included in this category would, however, minimize the possibility for leaks to go undetected for a significant length of time.

For the purpose of siting criteria, the consequences of loss of control are:

[ a. ] Fire and/or explosion.

[ b. ] Airborne contamination, in the case of facilities which have the potential as described under Category III above.

[ c. ] Ground or surface water contamination.

[ d. Soil contamination. ]

## E. Category V - Disposal without complete treatment and all other treatment/disposal methods.

### 1. Description.

This category includes any disposal of hazardous waste by placing it in a facility where it will receive no further treatment or any treatment or storage method which does not meet the intent of one of the four categories above.

Facilities in this category would include all land disposal methods which did not involve destroying the waste or otherwise eliminating its hazardous characteristics before disposal. [ For example, this would include such methods as landfilling, spray irrigation, and above-ground placement in earthen mounds or vaults. ]

This category would also include the use of such facilities as impoundments, lagoons, evaporating ponds, underground tanks, or other underground units as part of a treatment, storage or disposal process, providing that they are intended to contain hazardous waste. For this purpose, the term "underground" means that all or part of a unit is buried such that it cannot be routinely inspected for leaks or defects.

[ An example is, but not limited to:

—Land disposal. ]

## 2. Consequences of loss of control.

These facilities have the highest degree of risk or surface or ground water degradation because of the possibility for a leak to go undetected for a significant period of time. For disposal of units in this category there is also the added consideration of the risks associated with perpetual care of material which might be hazardous for many years. Facilities in this category could also be most prone to loss of control caused by floods.

For the purposes of siting criteria, the consequences of loss of control are:

[ a. ] Fire and/or explosion.

[ b. ] Airborne contamination from evaporation or from sources described in Category III above.

[ c. ] Ground or surface water contamination.

[ d. Soil contamination. ]

## F. General.

Most facilities include several types of operation. For the purposes of classifying a proposed facility, the operation within the facility which is characterized by the highest category number shall determine which category shall characterize the facility. For example, if a facility had an operation which included both drum storage of waste under conditions that would meet Category I requirements and subsequently had on-site waste incineration step, the facility would fall in Category III because incineration is in a higher category than container storage. Another example might be a waste treatment facility with a completely enclosed neutralization process in which sulfuric acid contaminated water was mixed with lime. In this process, venting is not a significant part of the process. The result would be gypsum and water, neither of which would necessarily be hazardous material. If this process were fed from enclosed storage tanks the facility would be classified in Category II, assuming it met all the other requirements, because the enclosed neutralization process is in a higher category than enclosed storage. This would be true even if the gypsum were dried and piled on the ground and the water, after

the acid was neutralized, was put in a pond prior to discharge into a river through a permitted waste water treatment facility, assuming that neither the gypsum nor the water would be classified as hazardous because of some other contaminant. If, however, in this latter example, the process generated a gas which needed to be vented to the atmosphere or which could be vented by a relief valve in an overpressure situation, the facility would have to be classified as Category III. Additionally, if the acid contaminated water was fed into this neutralization process from a pond (surface impoundment), the facility would be classified in Category V.

In making its determination of which category is appropriate for a proposed hazardous waste facility, the Siting Council shall consider the intent of each category as well as the specific descriptions above.

### Article 3. Prohibition on Siting.

§ 2.3. The goal of the council and these criteria is to protect the [ public ] health [ , quality of life ] and environment of the Commonwealth [ of in ] Virginia from the improper siting of hazardous waste treatment, storage or disposal facilities. In achieving this goal, the council has determined that hazardous waste treatment, storage and disposal facilities should not be placed in certain specific locations of the state because of the environmentally sensitive nature of such locations and increased risk to health and environment by the placement of a hazardous waste facility in such locations. [ The criteria listed below and others as required by the council must be evaluated in the applicant's impact analysis. ]

A. No hazardous waste facility shall be sited in [ tidal or freshwater ] wetlands [ ; except as provided at commercial port facilities as provided in § 2.4(5) ].

B. No hazardous waste facility shall be sited in a 100-year floodplain [ , or such larger area which the flood of record may have inundated, except as provided at commercial port facilities as provided in § 2.4 (A.6) ].

C. Underground injection of hazardous waste is not allowed [ in accordance with Virginia Hazardous Waste Management Regulations, Title 9, Chapter 1.1:1 of the Code of Virginia ].

D. No hazardous waste facility shall be sited in an area vulnerable to flooding resulting from dam failure. [ See definition of "Dam-related flood hazard areas." ]

E. No hazardous waste facility shall be sited over a sinkhole or [ less than ] 100 feet above a solution cavern [ beneath the facility ] associated with karst topography.

F. Facilities shall not be sited within areas designated by the National Park Service [ as National in the Registry of ] Natural Landmarks or sites listed on the National Register of Historic Places, [ and the Virginia Landmarks

Register, ] unless the statute under which the designation of listing has been made authorizes the operation of such facilities in such areas.

G. Facilities shall not be sited [ within lands ] in [ public trust including ] state, county and municipal parks, units of the National Park System, national recreation areas, state forests, the George Washington and Jefferson National Forests, state game lands, national wildlife refuges or national fish hatcheries unless the agency administering such lands has been given authority by statute or ordinance to allow the operation of such facilities on such lands.

### Article 4. Siting Limitations.

§ 2.4. The council, in making its determination to site a facility, conditionally or otherwise, or to deny an application to site a hazardous waste facility, will consider the criteria listed below in relation to the type of hazardous waste facility to be sited.

#### [ A. Limitations.

##### 1. Public surface water supply protection.

a. Public water supplies should be afforded the maximum protection reasonably possible. A major accident at a hazardous waste facility could lead to degradation of ground and surface water supplies in the vicinity of the facility. The contamination of a public water supply watershed could create a significant hazard to public health. A hazardous waste facility should not be sited such that a public water supply would be jeopardized by the construction and operation of the facility.

##### b. Category limits.

(1) A Category I, II, or III hazardous waste facility may be sited in proximity to a surface water supply if the construction, operation and close-out of the proposed facility do not pose an unacceptable risk to public water supply and the applicant demonstrates that the facility is designed and will be constructed, operated and maintained in a manner which will protect the public water supply from contamination by spills at the facility and demonstrates that spill containment at the facility is adequate to contain all spills.

(2) A Category IV or V facility shall not be sited in proximity to a public surface water supply. (See definition: "Proximity to a public surface water supply.")

##### 2. Ground water supply protection.

a. Public and private ground water should be afforded the maximum protection reasonably

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possible. A major accident at a hazardous waste facility could lead to contamination of ground water in the vicinity of the facility. The contamination of the ground water supply could create a significant hazard to public health.

b. Existing ground water quality should be protected from degradation. (See definition: "Anti-degradation policy for groundwater.") In considering protection of ground water quality, the council will evaluate the following characteristics and other factors determined appropriate for the type of facility:

- (1) Site geology/geohydrology;
- (2) Depth to aquifer(s);
- (3) Fractures and faults;
- (4) Thickness of soil/saprolite layer;
- (5) Well yields;
- (6) Hydraulic conductivity;

(Permeability) of soil saprolite and of aquifers (including flow directions and velocity.)

## 3. Principal drinking water source aquifer.

a. The contamination of principal drinking water source aquifers may create a significant hazard to public health. These aquifers should be protected from the threat of contamination from a hazardous waste facility.

### b. Category limits.

(1) Category I, II, and III facilities may be sited over a principal drinking water source aquifer if the construction, operation and close-out of the proposed facility do not pose an unacceptable risk to a public water supply and the applicant demonstrates that the facility is designed and will be constructed, operated and maintained in a manner which will protect the public water supply from contamination by spills at the facility and demonstrates that spill containment at the facility is adequate.

(2) Category IV and V hazardous waste facilities shall not be sited in proximity to a sole source or principal drinking water source aquifer.

## A. Limitations.

### 1. Water quality – surface and ground water.

a. The water resources of the state should be afforded the maximum protection reasonably possible. A major accident or leakage at a hazardous waste facility could lead to degradation of surface and ground water in the vicinity of the facility. The degradation of the surface and ground water could create a significant hazard to public health. Siting of a facility must take into account water quality problems which may result from the operation of the facility. The council will consider

the following water quality characteristics and other factors determined appropriate for the type of facility:

- (1) The proximity of the facility to surface and ground waters, including aquifer recharge areas.
- (2) The existing quality and current and future use of the surface and ground waters.
- (3) The risk to public health and the environment.

### b. Category limits.

(1) Surface waters of the state are protected from point source and nonpoint sources of contamination by existing federal and state laws as administered by the State Water Control Board, the Virginia Department of Health, and other agencies.

(2) Existing ground water quality is to be protected from degradation based on the council's Anti-Degradation Goal for Ground Water and the provisions set forth in this section.

The council may require information on the following ground water quality characteristics and other factors determined appropriate for Category I facilities. This information shall be provided for all other categories.

- (a) Site geology/geohydrology;
- (b) Depth to aquifer(s) and thickness of overburden;
- (c) Presence of fractures and faults, joints, solution cavities;
- (d) Thickness of soil/saprolite layer;
- (e) Present and potential aquifer use;
- (f) Aquifer recharge/productivity;
- (g) Proximity to sensitive receptors;
- (h) Aquifer(s) hydraulic characteristics;
  - (i) Hydraulic conductivity,
  - (ii) Transmissivity,
  - (iii) Storage coefficient,
  - (iv) Head distribution;
- (i) Cation/anion exchange capacity.

And all other site characteristics requested.

For all systems and supplies, more restrictive limitations of other state agencies shall apply.

## 2. Community/noncommunity water system and supply – surface water.

a. A hazardous waste facility should not be sited so that a community/noncommunity water system and supply of surface water would be jeopardized by the construction, operation, and close-out of the facility.

### b. Category limits.

(1) Category I, II, or III facilities may be sited in proximity to a community/noncommunity drinking water system and supply of surface water if the construction, operation, and close-out of the proposed facility do not pose an unreasonable risk to the community/noncommunity water system and supply of surface water and the applicant demonstrates that the facility is designed and will be constructed, operated, and closed-out in a manner which will protect the public water system and supply of surface water from contamination by spills at the facility and demonstrates that spill containment at the facility is adequate to contain all spills. (See definition of "Proximity to a community/noncommunity water system and supply of surface water.")

(2) A category IV or V facility shall not be sited in proximity to a community/noncommunity water system and supply of surface water.

## 3. Community/noncommunity water system and supply – ground water.

a. The degradation of a community/noncommunity water system and supply of ground water may create a significant hazard to public health. All community/noncommunity public water systems and supplies of ground water should be adequately protected from the threat of degradation from a hazardous waste facility.

### b. Category limits.

(1) Category I, II, and III facilities may be sited in proximity to a community/noncommunity water system and supply of ground water if the construction, operation, and close-out of the proposed facility do not pose an unreasonable risk to the community/noncommunity water system and supply of ground water and the applicant demonstrates that the facility is designed and will be constructed, operated, and closed-out in a manner which will protect the community/noncommunity water system and supply of ground water from degradation by spills at the facility and demonstrates that spill containment at the facility is adequate to contain all spills. (See definition of "Proximity to a community/noncommunity water system and supply of groundwater.")

(2) Category IV and V hazardous waste facilities shall not be sited in proximity to any community/noncommunity water system and supply of ground water.

## 4. Private water system and supply – surface and ground water.

a. A private water system and supply of surface and ground water should be protected from the threat of degradation from a hazardous waste facility.

### b. Category limits.

(1) Category I, II or III facilities may be sited in proximity to a private water system and supply of surface or ground water if the construction, operation, and close-out of the proposed facility do not pose an unreasonable risk to the private water system and supply of surface and ground water and the applicant demonstrates that the facility is designed, and will be constructed, operated, and closed-out in a manner which will protect the private water system and supply of surface and ground water from degradation by spills at the facility and demonstrates that spill containment at the facility is adequate to contain all spills.

(2) Category IV and V facilities may be sited in proximity to a private water system and supply of surface or ground water if the applicant demonstrates that a reasonable alternative drinking water supply to the existing drinking water supply is available and provides financial resources to develop the alternative supply should it become necessary due to degradation of the existing water supply resulting from a spill or leaks from the facility.

Water quality and geohydrologic studies as provided in § A.1 shall be conducted to reveal the potential for siting impacts and to indicate the level of risk associated with the proposed facility. ]

## [ 4.5. ] Air quality.

a. Siting of a facility must take into account air quality problems which may result from the operation of the facility or accidental fires and explosions which may occur. The council shall consider potential air quality problems which may occur as the result of historical or estimated meteorological conditions and to what extent such respective problems and conditions will affect neighboring communities. In considering air quality the council will consider the following characteristics and other factors determined appropriate for the type of facility:

(1) The characteristics (stability) of the atmosphere which affect the site;

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(2) The population, present and projected, in relation to the facility and prevailing wind;

(3) Characteristics of the wind.

b. Category I-V facilities may be sited if the construction and operation of the proposed facility do not pose an unacceptable health risk to public health and the applicant demonstrates that the facility is designed and will be constructed, operated and maintained in a manner which will protect the public health during normal operation or in the event of accidental releases.

## [ 6. 6. ] Commercial port facilities.

a. An accident at a hazardous waste storage facility at a commercial port facility could result in immediate contamination of surface water and create a significant risk to public health and safety. Additional consideration should be given to storage facilities for hazardous waste at commercial port facilities based on the special risks posed.

b. Category I facilities for the temporary storage of hazardous wastes destined for import, export or ocean incineration, which are sited at port facilities specifically designed for commercial shipping, may be allowed if those facilities are designed for the storage of hazardous wastes and have been designed and will be constructed to withstand the 100-year flood and the flood of record at the port facility.

## [ 6. 7. ] Endangered and threatened species habitat.

a. The council shall focus on adverse impacts of the facility on endangered and threatened species or critical habitat for wildlife generally and the extent to which mitigation measures can be effectively implemented.

b. A hazardous waste facility shall not be sited in locations where the siting, construction and operation of the proposed facility would occupy or threaten the known habitat or an endangered or threatened plant, insect, fish or wildlife species to the extent that the continued existence of the species is threatened.

## [ 7. 8. ] Proximity to publicly designated areas.

a. Areas which are designated by federal, state and local governments for their exceptional characteristics are of special importance. These areas should be protected from unwarranted intrusion by the siting of hazardous waste facilities which could destroy the character, [ or use and enjoyment, ] and thus the objective, or their designation. The following categories are listed for their natural, scenic, historic, cultural and aesthetic values:

(1) Historic, cultural and natural sites and landmarks;

(2) The corridors of outstanding resource waters (wild, scenic and recreational);

(3) Publicly owned forest areas;

(4) Dedicated or designated open space;

(5) Public recreational areas;

[ ~~(6)~~ Important farm lands as defined by the Virginia Department of Agriculture and Consumer Services; ]

[ ~~(7)~~ 6. ] The Appalachian Trail or other federal and state designated trails;

[ ~~(8)~~ 7. ] Wildlife refuges, fish hatcheries and game lands; and

[ ~~(9)~~ 8. ] Scenic views.

b. Potential impacts of the proposed facility on the natural, scenic, historic, cultural and aesthetic values of the environment will be evaluated. The applicant must demonstrate that the construction and operation of the proposed facility will not impair the environmental and aesthetic qualities of the area. Distance from the publicly designated area to the facility will be taken into consideration.

## [ 8. 9. ] Subsurface mining areas.

a. Areas where mineral resources of a solid, gaseous or liquid form have been removed by underground mining or drilling procedures or [ at the time of submission of the notice of intent ] are planned for removal are [ susceptible vulnerable ] to subsidence. Strong consideration should be given to the potential threat to the integrity of a proposed facility as a consequence of mining-related subsidence.

b. Category limits.

(1) Category I, II, and III facilities may be allowed in subsurface mining areas as defined in this regulation provided the applicant demonstrates that the facility is designed and will be constructed and operated such that the integrity of the facility will not be jeopardized by mine-related subsidence.

(2) Category IV and V facilities are not allowed in subsurface mining areas as defined in this regulation.

## [ 9. 10. ] Slope.

a. Consideration should be given to the effect of the slope of the proposed site and adjacent lands with

respect to waste management facilities including the speed at which uncontrolled releases may run off a site, site preparation techniques and costs, site design, operating procedures, site stability, potential for erosion, and visibility.

## b. Category limits.

(1) Category I, II and III facilities may be allowed on slopes in excess of 15% if the applicant demonstrates that the facility is designed and will be constructed and operated such that the integrity of the facility will not be jeopardized.

(2) Category IV and V facilities are prohibited on slopes 15% or greater.

[ ~~10~~. 11. Active ] faults and seismic risk zones [ /seismogenic volume ].

a. Major [ active ] fault zone [ and seismic risk zone/seismogenic volume ] features which are mapped by the U. S. Geological Survey, the Division of Mineral Resources, Commonwealth of Virginia, or other agency with the responsibility for such matters, or as discovered by site investigation [ by a professional geologist ], may pose a potential for (i) seismic-related accidents, and [ /or ] (ii) associated [ rapid ] degradation of ground and surface waters should a facility's containment measures be breached and leakage occur.

## b. Category limits.

(1) [ Since Virginia ranks relatively low in seismic activity, ] Category I, II, and III facilities may be sited in proximity to [ a an active ] fault [ or seismic risk zone/seismogenic volume ] if the construction and operation of the proposed facilities do not pose a risk to [ a water supply public health or the environment ] and the applicant demonstrates that the facility is designed and will be constructed, operated and maintained in a manner which will protect the [ water supply public health and the environment ] from contamination by spills at the facility and demonstrates that spill containment at the facility is adequate to contain all spills.

(2) No Category IV or V facility will be sited within [ ~~61~~ 305 ] meters ( [ ~~200~~ 1,000 ] feet) of [ a an active ] fault as mapped by the U. S. Geological Survey, the Division of Mineral Resources, Commonwealth of Virginia, or other agency with the responsibility for such matters or as discovered by site investigation [ by a professional geologist ]. No Category IV or V facility will be sited in proximity to [ a an active ] fault [ or seismic risk zone/seismogenic volume ] unless the applicant demonstrates that the facility is designed and will be constructed, operated and maintained in a manner which will protect the physical integrity of

the facility and protect the quality of ground and surface waters.

[ ~~11~~. 12. ] Risk of accident in transportation.

a. The council shall evaluate the risk associated with the transportation of hazardous waste to the proposed site. Accident risk is a function of the probability of an accident and the consequences of an accident, should one occur. The transport route(s) over which the wastes will be delivered to the site shall be considered by the council.

b. In considering risk of accident in transportation the council will assess:

(1) Mode of transport;

(2) Proposed highway/roadway system to be used;

(3) Accident rate of mode and route;

(4) Characteristics of structures within 0.5 mile of the route, i.e., schools, hospitals;

(5) Nature of transportation restrictions, i.e., traffic intersections, highway geometrics, traffic/railroad intersections, tunnels, bridges, toll booths, level of congestion;

(6) Schedule and frequency of deliveries [ , vehicle disposition plan in the event of facility shutdown ] ;

(7) Potential adverse environmental or health effects in the event of an accident;

(8) Characteristics of the residential and nonresidential population within 0.5 of a mile of the transport route; and

(9) Projected population and the rate of growth for areas within 0.5 of a mile of the transport routes during the 20-year period following initial site operation.

[ (10) Host and affected community emergency response capability along the route(s). ]

[ ~~12~~. 13. ] Proximity to major structures.

a. The linear distance from the site boundary to major structures must be considered (e.g., residence, airport, school, hospital, church, commercial centers, nursing home). Acceptable buffer zones separating residences and certain other types of sensitive populated structures from the types of operations conducted at hazardous waste sites are needed.

b. In reviewing the proposal, the council will assess:

(1) Proximity of airports, utilities and other major



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structures; and

(2) Characteristics of buffer zones.

[ ~~13~~ 14. ] Local government.

a. The site shall be considered for consistency with the local master land use plan or the pattern of already existing land uses or zoning ordinance of the host community where no comprehensive plan has been adopted. Consistency with local laws, ordinances, rules and regulations which have been adopted pursuant to a master land use plan will also be considered [ , including important farm land protection activities ].

Further, the short and long term financial effects of the addition of the proposed facility to the locality shall be considered. Both the increased tax revenues and the added burden of providing services to the facility are important factors.

b. The council will assess both short and long term (20 years) effects:

(1) Consistency of site with the master land use plan, compatibility with existing land uses;

(2) Consistency with local laws, ordinances, rules and regulations;

(3) Local tax revenue generated;

(4) Public services required;

(5) Impact on property values; and

(6) Economic development impacts.

[ ~~14~~ 15. ] Fire and explosions.

a. Due to the nature of the wastes, special consideration must be given by the council to the potential for fires and explosions at the site. Because of the inherent quality of the wastes, the chief focus shall be on proposed safety measures and emergency response techniques.

b. In assessing the risk of fire and explosion, the council will evaluate:

(1) Distances from site to residential, commercial and industrial buildings, public highways, railroads.

(2) Minimum distances established by the Virginia Department of Health.

(3) Level of service for fire, police protection and emergency medical services [ and the applicant's emergency implementation plan ].

(4) Proximity to fire department and fire fighting water supply.

(5) Measures to contain fire fighting water or other substance used in the event of accidents.

(6) Characteristics of the residential and nonresidential population within 0.5 of a mile of the site boundary.

(7) Projected population and the rate of growth for the area within 0.5 of a mile of the site boundary.

[ 16. Soil characteristics.

a. Consideration should be given to the characteristics of the soils which affect the suitability of the site for the development proposed.

b. In reviewing the proposal, the council will assess the proposal based on, but not limited to, the following soil characteristics:

(1) Bearing qualities,

(2) Stability,

(3) Drainage,

(4) Permeability. ]

[ ~~15~~ B. ] Other factors.

The council shall consider any other factor(s) identified during the course of the certification process which is (are) determined by the council to be relevant and impact the environment, quality of life, and public health, welfare or safety.

## PART III. REQUIRED FINDINGS.

§ 3.1. In addition to an applicant meeting the requirements of Part II of these criteria, the council shall, in writing, find that:

A. The terms and conditions of the application will protect and prevent injury or unacceptable adverse risk to health, safety, welfare, the environment and natural resources, and the reasons to support such finding;

B. The facility is consistent with its criteria;

C. The applicant has made reasonable and appropriate efforts to reach a siting agreement with the host community, including, though not limited to, efforts to mitigate or compensate the host community and its residents for adverse economic effects, if any, of the facility.

## PART IV.

## RELATED PERMITS AND REVIEWS.

§ 4.1. To avoid duplication to the maximum extent feasible with existing agencies and their areas of responsibility, related agency approvals are listed below as notification to the applicant that these permits and reviews may apply in accordance with the type of facility proposed.

### A. Permits.

#### 1. Hazardous waste facility management.

##### a. Regulatory agency:

Virginia Department of Health.

##### b. State permit required:

Facility management transportation.

##### c. Statutory authority:

(1) Chapter 6, Title 32.1 of the Code of Virginia.

(2) State Board of Health, in accordance with the provisions of Title 9, Chapter 1.1:1, of the Code of Virginia.

(3) "Hazardous Waste Management Regulations With Amendments."

##### d. Contact:

Division of Solid & Hazardous Waste Management  
Virginia State Department of Health  
101 N. Fourteenth Street  
Eleventh Floor  
James Monroe Building  
Richmond, VA 23219  
(804) 225-2667

#### 2. Air emissions.

##### a. Regulatory agency:

State Air Pollution Control Board.

##### b. State permit required:

Stationary sources  
Hazardous pollutants  
Open burning

##### c. Statutory authority, rules and regulations:

(1) Virginia Air Pollution Control Law (Chapter 1.2 of Title 10 of the Code of Virginia.)

(2) Federal Clean Air Act (42 USC et seq. 84 stat. 1676) and amendments.

(3) "Regulations for the Control and Abatement of Air Pollution".

##### d. Contact:

State Air Pollution Control Board  
801 Ninth Street Office Building  
Richmond, VA 23219  
(804) 786-4867

#### 3. Discharges into state waters.

##### a. Regulatory agency:

State Water Control Board.

##### b. State discharge permit required:

(1) National Pollutant Discharge Elimination System (NPDES).

(2) No discharge certificate.

##### c. Statutory authority, rules and regulations:

(1) Federal Water Pollution Control Act Amendments of 1972

(2) State Water Control Law, (§ 62.1-44.2 et seq. of the Code of Virginia.)

##### d. Contact:

Commonwealth of Virginia  
State Water Control Board  
2111 North Hamilton Street  
P. O. Box 11143  
Richmond, Virginia 23230  
(804) 257-0056

#### 4. Land disturbance.

##### a. Regulatory agency:

Virginia Soil and Water Conservation Commission and/or local government.

##### b. State requirement:

Erosion and sediment control plan.

##### c. Statutory authority, rules and regulations:

(1) Erosion and sediment control law (§§ 21-89.1 through 21-89.15, of the Code of Virginia.)

(2) Virginia Erosion and Sediment Control Handbook.

##### d. Contact:

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Virginia Soil and Water Commission  
830 East Main Street, Suite 800  
Richmond, Virginia 23219  
(804) 786-2064

## 5. Encroachment on wetlands - state.

### a. Regulatory agency:

Virginia Marine Resources Commission/local  
wetlands boards

### b. State permit required:

Use or development of any wetland within  
Tidewater Virginia

### c. Statutory authority, rules and regulations:

(1) Virginia Wetlands Act (§§ 62.1-13.1 through  
62.1-13.20, of the Code of Virginia.)

(2) Local wetland zoning ordinances.

### d. Contact:

Assistance Commissioner for Habitat Management  
P. O. Box 756  
Newport News, Virginia 23607  
(804) 247-2200

## 6. Encroachment on wetlands - federal.

### a. Regulatory agency:

U.S. Army Corps of Engineers

### b. Federal permit required:

Wetlands.

### c. Statutory authority, rules and regulations:

(1) Section 10, Rivers and Harbors Act of 1899.

(2) Section 404, Federal Water Pollution Control Act  
Amendments of 1972.

### d. Contact:

District Engineer  
U. S. Army Corps of Engineers  
Norfolk District  
803 Front Street  
Norfolk, Virginia 23510  
(804) 446-3601

## 7. Encroachment on subaqueous lands - state.

### a. Regulatory agency:

Virginia Marine Resources Commission.

### b. State permit required:

Subaqueous permit.

### c. Statutory authority, rules and regulations:

Section 62.1-3 of the Code of Virginia.

### d. Contact:

(1) Assistant Commissioner for Habitat Management  
P. O. Box 756  
Newport News, Virginia 23607  
(804) 247-2200

(2) State Water Control Board  
2111 North Hamilton Street  
P. O. Box 11143  
Richmond, Virginia 23230  
(804) 256-0056

## 8. Encroachment on subaqueous lands - federal.

### a. Regulatory agency:

U. S. Army Corps of Engineers.

### b. Federal permit required:

(1) Activities in the navigable waters of the United  
States.

(2) Degradation of the quality of water.

(3) Transportation and dumping of dredged material.

### c. Statutory authority, rules and regulations:

(1) Rivers and Harbors Act of 1894 (U.S.C.)

(2) Federal Water Pollution Control Act  
Amendments of 1972.

(3) Marine Protection Research and Sanctuary Act.

### d. Contact:

District Engineers  
U. S. Army Corps of Engineers  
Norfolk District  
803 Front Street  
Norfolk, Virginia 23510

## B. Reviews.

Applications for permits may result in a review and  
comment process by state agencies to include the Council  
on the Environment. Such reviews may include comments  
concerning historic landmarks, archaeological sites, caves,

best management practices, fisheries, and parks and recreation. Further information on review procedures can be obtained by contacting: Administrator, Council on the Environment, 903 Ninth Street Office Building, Richmond, Virginia, 23219 (804) 786-4500.

/s/ William A. Pruitt  
Commissioner

**VIRGINIA MARINE RESOURCES COMMISSION**

Effective July 1, 1984, the Marine Resources Commission was exempted from the Administrative Process Act for the purpose of promulgating regulations. However, they are required to publish the full text of final regulations.

Title of Regulation: VR 450-01-8601. Closed Public Oyster Season.

Statutory Authority: § 28.1-85 of the Code of Virginia.

Effective Date: April 1, 1986

**PREAMBLE**

The following order of the Marine Resources Commission closes all public oyster rocks, grounds, and shoals within certain designated areas of the Commonwealth in order to promote and protect the oyster fishery.

VR 450-01-8601. Closed Public Oyster Season.

**§ 1. Authority and effective date.**

A. This order is promulgated pursuant to the authority contained in § 28.1-65 of the Code of Virginia.

B. The effective date of this order is April 1, 1986.

**§ 2. Purpose.**

The purpose of this order is to close all public oyster grounds, rocks, and shoals in the "clean cull" areas of the Commonwealth and all public oyster grounds, rocks, and shoals on the Seaside of Eastern Shore to the taking of oysters in order to protect and promote the growth of the oysters.

**§ 3. Designated areas.**

The following areas in the Commonwealth, where public oyster rocks, grounds, and shoals are located are closed to the taking of oysters:

A. Seaside of Eastern Shore

B. All "clean cull" areas of the Commonwealth.

**§ 4. Expiration date.**

This order shall terminate on October 1, 1986.

**DEPARTMENT OF MENTAL HEALTH AND MENTAL RETARDATION**

Title of Regulation: VR 649-02-1. Core Standards for Interdepartmental Licensure and Certification of Residential Facilities for Children.

Statutory Authority: Chapters 11 and 14 of Title 16.1, Chapters 13 and 16 of Title 22.1, Chapters 8 and 10 of Title 37.1, Chapters 3 and 10 of Title 63.1, and Chapter 14 of Title 53.1 of the Code of Virginia.

Effective Date: June 1, 1986

Summary:

Under the current definitions and exceptions in the Code of Virginia, which have been in effect since July 1, 1981, the Departments of Corrections, Education, Mental Health and Mental Retardation, and Social Services are responsible for the licensure, certification and/or approval of public and private residential facilities for children. Such facilities are licensed, certified, or approved under the "Core Standards for Interdepartmental Licensure and Certification of Residential Facilities for Children" except (i) facilities which do not accept public funds, (ii) private psychiatric hospitals serving children, and (iii) some residential facilities serving children which successfully meet the requirements of nationally recognized standards setting agencies. The regulation addresses the following issues which have impact on residential facilities for children subject to licensure, certification and/or approval:

Organization and administration, personnel, residential environment, programs and services, disaster or emergency plans and licensure or certification procedures.

The purpose of the regulation is to establish the minimum requirements necessary to protect children in the care of residential facilities for children.

NOTICE: Please refer to the Department of Social Services in the Final Regulations section of this issue of the Virginia Register of Regulations for the publication of "Core Standards for Interdepartmental Licensure and Certification of Residential Facilities for Children."

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Title of Regulation: VR 470-02-07. Rules and Regulations for the Licensure of Correctional Psychiatric Facilities.

Statutory Authority: §§ 37.1-179.1 and 37.1-84.1 of the Code

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of Virginia.

**Effective Date:** April 30, 1986

**Summary:**

The Department of Corrections has in its custody prisoners who would be in need of psychiatric hospitalization if they were not incarcerated. The Department of Corrections has sought and received funding to expand inpatient mental health services. In order to legally treat prisoners admitted for inpatient mental health services provided by the Department of Corrections, the facility must be licensed by the Department of Mental Health and Mental Retardation in accordance with §§ 37.1-179.1 and 37.1-84.1 of the Code of Virginia.

There are no existing regulations for correctional psychiatric facilities. Federal court rulings have stated that prisoners are eligible for mental health services. It is impractical to treat prisoners in state hospitals because of space, manpower and security constraints. Therefore it is necessary to establish and expand psychiatric services in correctional facilities. Because state law requires that psychiatric facilities be licensed, the Rules and Regulations for the Licensure of Correctional Psychiatric Facilities have been proposed.

These rules and regulations establish minimum requirements for clients rights, organization and management, treatment programs and services, staffing patterns and practices, health and safety procedures and record-keeping in the correctional psychiatric facilities. The proposed rules and regulations have been developed by using regulations governing private psychiatric hospitals and rewriting the private psychiatric hospital regulations to be more conducive to implementation in a correctional psychiatric facility.

Each correctional facility establishing a psychiatric facility will submit an application for licensure to the Department of Mental Health and Mental Retardation, Licensing Office. The information in the application will provide preliminary data to determine compliance with the proposed regulations. Following the review and approval of the application, staff from the licensing office will conduct an on-site inspection to determine compliance with the proposed rules and regulations. Those facilities found to be in compliance will be issued a license by the Commissioner of Mental Health and Mental Retardation. Those facilities not in compliance with these regulations must submit corrective action plans and substantially comply with the proposed rules and regulations before a license is issued.

The rules and regulations will affect seven correctional units in which psychiatric facilities are planned to be established. The total number of beds

involved is approximately 414.

VR 470-02-07. Rules and Regulations for the Licensure of Correctional Psychiatric Facilities.

## PART I. INTRODUCTION.

§ 1.1. These [ proposed ] Rules and Regulations for the Licensure of Correctional Psychiatric Facilities are designed to establish minimum requirements for treatment programs for the mentally ill inmate in correctional facilities in the Commonwealth of Virginia. The rules and regulations delineate the minimum requirements for program design, treatment supervision, admission requirements, staffing, services and the physical facility to ensure the health, safety and welfare of program participants.

The Rules and Regulations for the Licensure of Correctional Psychiatric Facilities shall apply to all correctional facilities that propose to establish treatment programs for the mentally ill inmates.

### Article 1. Definitions.

§ 1.2. The following words and terms, when used in these regulations, shall have the following meanings, unless the context clearly indicates otherwise:

"Board" means the State Mental Health and Mental Retardation Board.

"Commissioner" means the Commissioner of Mental Health and Mental Retardation.

"Department" means the Department of Mental Health and Mental Retardation.

"Director" means the chief executive officer of a correctional psychiatric facility.

"Facility" means the psychiatric unit of a correctional institution under the management and control of the Department of Corrections, devoted to the care and treatment of the mentally ill.

"Mentally ill" means any person afflicted with mental disease to such an extent that for his own welfare or the welfare of others he requires care and treatment.

"Patient or inmate" means a person [ voluntarily or involuntarily admitted to a facility transferred to a correctional psychiatric facility].

### Article 2. Legal Base.

§ 1.3. The statutory authority for the Rules and Regulations for the Licensure of Correctional Psychiatric

Facilities is §§ 37.1-84.1 and 37.1-179.1 of the Code of Virginia.

## PART II. LICENSING PROCEDURES.

### Article 1. Facilities Requiring Licensing.

§ 2.1. A separate license shall be required of facilities maintained on separate premises even though they are operated under the same management. A separate license is not required for separate buildings on the same grounds. In the event alterations or additions increase the bed capacity of the facility, a new or amended license shall be obtained before beginning operation of the additional facilities.

### Article 2. Application for License or License Renewal.

§ 2.2. Request for an application shall be made in writing to the Department of Mental Health and Mental Retardation.

§ 2.3. Application for a license or license renewal to establish or maintain a facility shall be made in writing and submitted to the department on the application form secured from the department.

§ 2.4. There shall be written verification of compliance with all applicable local and state zoning requirements, occupancy requirements, building code requirements, health, safety, sanitation and fire safety requirements prior to the issuance of a license.

A. Ongoing compliance with these requirements shall be a condition of license renewal.

§ 2.5. Every facility shall be designated by a permanent and distinctive name and address which shall appear on the application and license or license renewal and which shall not be changed without first securing approval of the commissioner.

A. Post office boxes shall not be acceptable as the address.

§ 2.6. A license may expire no later than two years from the date of issuance. Application for license renewal shall be submitted to the department at least 60 days prior to the expiration date of the license.

### Article 3. Rated Capacity.

§ 2.7. Each license issued by the commissioner shall specify the maximum allowable number of beds. The number of beds allowed shall be determined by the department and shall so appear on the license issued by the commissioner. If the facility conducts daytime

programs the license shall state the maximum number of persons in daytime programs, if applicable.

A. No facility shall maintain a bed capacity more than the number for which it is licensed or have more persons in daytime programs than the number for which it is licensed except in emergency when temporary permission may be granted by the commissioner.

B. At no time shall patients be housed or served in areas which have not been approved by the department and which have not been given prior approval by the state or local fire marshal when required.

C. Request for rated client capacity changes shall be made in writing to the commissioner and shall not be granted without written approval of the commissioner.

### Article 4. Posting of License.

§ 2.8. The license issued by the commissioner shall be available for inspection upon request by any interested person.

### Article 5. Change of Name or Location.

§ 2.9. The facility shall notify the department immediately in writing of any proposed change in name or location of the facility.

A. A new application shall be submitted prior to a change of location or name.

B. A license shall not be transferable from one facility to another or from one location to another.

### Article 6. Inspection and Reports.

§ 2.10. Each applicant or licensee agrees as a condition of the application or license, to permit properly designated representatives of the department to enter upon and inspect any and all premises for which a license has either been applied or issued, to verify information contained in the application, or to assure compliance with all laws, rules and applicable regulations, during all hours of operation of the facility and at any other reasonable hour.

A. Following any site visit or inspection the licensee shall be notified in writing of any violation or noncompliance.

1. The licensee shall, in the prescribed time-frame, present to the commissioner for approval, a written corrective plan of action to be taken to resolve noncompliance or violation issues, complete with the time needed to assure compliance.

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§ 2.11. Each licensee shall file reasonable written reports and provide other information at such times as the commissioner from time to time may require.

## Article 7. Provisional License.

[ ~~§ 2.12.~~ A provisional license, not to exceed 180 days, may be issued by the commissioner to those applicants who have been found not to be in full compliance with these regulations, but who have initiated the necessary corrective actions to satisfy such requirements.

A. Such license shall not be renewable. ]

[ ~~§ 2.12.~~ § 2.12. ] The commissioner may issue a provisional license to a facility or institution which has been previously fully licensed when such facility or institution is temporarily unable to comply with all the necessary regulations.

A. Such license may be issued for period not to exceed 90 days and shall not be renewable.

## Article 8. [ Denial Refusal ] , Revocation or Suspension.

[ ~~§ 2.14.~~ § 2.13. ] The commissioner may [ ~~deny refuse~~ ], revoke or suspend a license if, in the opinion of the commissioner, the applicant or licensee has violated applicable sections of the Code of Virginia, or:

1. Has engaged in conduct or practices which are determined to be detrimental to the welfare or safety of any patient in such facility.
2. Has not presented a program of diagnosis, care, training or treatment.
3. Has significantly deviated from the program for which a license was issued, without obtaining prior written approval from the commissioner.
4. Has presented a pattern of noncompliance or violations to these regulations regardless of satisfactory corrective plans of action.

[ ~~§ 2.16.~~ § 2.14. ] Notices and reasons for denial, suspension or revocation of a license shall be given by the commissioner to an applicant or licensee in writing by certified mail.

## Article 9. Notification of Closure.

[ ~~§ 2.16.~~ § 2.15. ] A licensee shall notify the department of impending closure of the licensed facility at least 30 days prior to such closure.

A. The licensee shall be responsible for removal and placement of patients engaged in care, training, treatment,

or rehabilitation programs and for the preservation of all records. Upon closure, the license shall be immediately returned to the department.

## Article 10. Return of License.

[ ~~§ 2.17.~~ § 2.16. ] The facility shall return the license issued by the commissioner within five days by certified mail to the department on:

1. Receipt of renewal license.
2. Receipt of the written notice of revocation.
3. Written notice to the department of change of location, name or ownership.
4. Receipt of written notice of approval from the department for change in rated client capacity.
5. Voluntary closure.
6. Receipt of written notice of approval from the department for change of facility classification.

## PART III. CLIENT RIGHTS.

### Article 1. Code Compliance.

§ 3.1. [ Each facility or program operated, funded or licensed by the Department of Mental Health and Mental Retardation shall guarantee client rights as outlined in § 37.1-84.1 of the Code of Virginia and the applicable regulations promulgated on the rights of clients unless the agency or institution is exempt from these regulations. Correctional facilities are exempt from regulations promulgated under § 37.1-84.1 of the Code of Virginia ].

### Article 2. Compliance with the Civil Rights Act.

§ 3.2. All facilities subject to these regulations shall comply with Title VI and Title VII of the 1964 Civil Rights Act, unless the agency or institution demonstrates that such rights must be limited for security reasons.

### Article 3. Rights of the Handicapped.

§ 3.3. Where applicable, all facilities shall comply with public laws and all applicable Virginia statutes regarding rights of access by the physically handicapped to physical facilities, employment and services.

### Article 4. Refusal of Medication by Patients.

§ 3.4. [ Voluntary patients may not be given medication

over their objections Prior to issuance of a license, the facility shall submit a plan for approval by the commissioner, to provide for the treatment or medication of patients or inmates for their mental illness over their objection. Such a plan shall ensure that the due process rights of a patient or inmate to object to treatment or medication for a mental illness are adequately protected ]

[ A. Upon refusal by a voluntary patient to accept their prescribed medication, the following procedure shall be followed:

1. The attending physician shall determine the patient's reasons for refusing the medication.

2. The patient shall be advised of the reasonably anticipated medical consequences of not taking the prescribed medication, if any.

3. The physician shall review with the patient all available alternative treatment modalities and medications, seeking to employ a viable treatment alternative which is acceptable to the patient.

4. If no viable alternative is available or all alternatives are refused by the patient, the physician may seek the discharge of the patient unless the patient's mental condition necessitates involuntary hospitalization and treatment because:

a. The patient would be dangerous to others if discharged.

b. The patient would be dangerous to themselves if discharged.

c. The patient would be substantially unable to care for themselves upon discharge and there is no less restrictive alternative placement outside the hospital available and appropriate to the patient's condition.

B. If involuntary hospitalization is required, a petition shall be filed.

1. The physician shall then comply with the procedures for involuntary patients below, prior to involuntary medication, unless emergency treatment is necessitated.

§ 3.5. Involuntary patients may receive medication over their objections.

§ 3.6. Upon a patient's objections to prescribed medication, the attending physician shall comply with the following procedures:

1. The physician shall determine the reasons for the patient's refusal of prescribed medication.

2. The physician shall advise the patient of the reasonable anticipated medical consequences of not

taking the proposed medication.

3. The physician shall review with the patient all available alternative treatment modalities and medications, seeking to find a viable treatment alternative acceptable to the patient.

4. If no viable alternative is available or if the patient refuses the alternative treatment, the attending physician shall have the director appoint a physician who is not actively involved with the patient's treatment to personally examine the patient and review the suggested treatment and alternatives.

5. When the review confirms the need for the medication prescribed by the attending physician or when the reviewing physician and the attending physician are in agreement as to the medication indicated, medication may be approved by the director over the objection.

6. If medication is administered to unconsenting, involuntary patient pursuant to procedures set out in this article and the patient continues to object to such medication, the patient may request a review before the Institutional Review Committee.

a. Thereafter, the procedures as set forth in the "Rules and Regulations to Assure the Rights of Patients and Residents of Hospitals and Other Facilities Operated by the Department of Mental Health and Mental Retardation" shall be followed.

b. The patient is not prohibited from use of the procedures in this article at any time in the process established by this article.

§ 3.7. These procedures govern medication for the treatment of the patient's mental illness only.

A. Treatment of physical injuries or diseases requires only the consent of an adult, competent patient or the committee, or the guardian of an incompetent or legally incapacitated adult except in cases of medical emergencies where no consent is required if the patient's life is in danger.

§ 3.8. These procedures apply only to involuntary patients who are dangerous to others, dangerous to themselves or substantially unable to care for themselves.

A. If an involuntary patient no longer meets these criteria, the physician may seek the discharge of the patient and may not involuntarily medicate such a patient.

§ 3.9. Where a patient has been accepting medication without objections and then objects to continued medication, then medication may be continued while the procedures in § 3.6 are being followed if discontinuance of the medication poses a threat to the health and safety of the patient or the safety of others.



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§ 2.10. Medication which is still considered experimental in nature may not be administered pursuant to this article.

§ 2.11. For the purpose of this article, legally incompetent or incapacitated adults shall be treated as if they were under no legal infirmities except that their consent to treatment shall also be consented to by their committees or guardians.

A. If a committee or guardian refuses to allow treatment, the assistant attorney general for the department shall be contacted for further advice.

§ 2.12. Nothing in this article shall be construed to prevent emergency mental health treatment required for the preservation of the patient's health.

A. When the emergency subsides, the physician shall comply with this article.

§ 2.13. A progress note detailing the procedures of this article shall be prepared by the attending physician and cosigned by the reviewing physician and approved by the director prior to involuntary treatment.

A. If this procedure concludes because the patient withdraws his objections or accepts alternative treatment, the progress note is to be signed by the patient to show his consent to treatment as outlined therein and by the attending physician.

B. Once a patient objects to medication and this procedure is implemented, the final result, whether it is involuntary medication or subsequent consent by the patient, will remain in effect for 45 days.

C. Any subsequent refusal of medication within the 45-day period shall not require further compliance with this article unless the medication has been changed.

D. An increase or decrease in the dosage shall not constitute a change in medication for the purposes of this article.

## Article 5.

### Composition of Institutional Review Committees.

§ 2.14. Each committee shall have at least five members, appointed by the head of the institution, with varying backgrounds to provide complete and adequate review of patient refusal of treatment or medication.

A. The committee shall be sufficiently qualified through the maturity, experience and diversity of its members to ensure respect for its advice and counsel for safeguarding the rights and welfare of patients.

B. In addition to possessing the professional competence necessary to review specific activities, the committee shall be able to ascertain the acceptability of applications and proposals in terms of regulations, applicable law and

standards of professional conduct and practice.

C. No more than two members of the committee may be affiliated with the institution.

D. No member of the committee shall participate in the review of any patient refusal in which the member is involved in the treatment of the patient.

1. The committee has the responsibility for determining whether a member has a conflicting interest.

2. The committee's size shall be increased in the case of conflicting interests resulting in a decrease of the committee below five persons.

§ 2.15. A committee may, in its discretion, invite individuals with competence in special areas to assist in the review of complex issues which require expertise beyond or in addition to that available on the committee.

A. These individuals may not vote with the committee.

§ 2.16. A quorum of the committee shall be a majority of the members.

§ 2.17. The committee and the institution shall establish procedures and rules of operation necessary to fulfill the requirements of these regulations. ]

## PART IV.

### PHYSICAL FACILITY AND SAFETY.

#### Article 1.

##### Compliance with Building Regulations.

§ 4.1. The facilities for correctional psychiatric facilities shall be in conformance with Uniform Statewide Building Code of 1973, as amended, where applicable.

#### Article 2.

##### Safety and Sanitation.

§ 4.2. The psychiatric facility shall be equipped, operated and maintained so as to sustain its safe and sanitary characteristics and to minimize all health hazards in the facility for the protection of patients, employees and visitors.

#### Article 3.

##### Service Departments.

§ 4.3. Housekeeping, laundry, maintenance and other service functions shall be effectively organized, directed and staffed by qualified personnel.

#### Article 4.

##### Infection Control.

§ 4.4. Responsibility for the control of infection within the

facility and for the evaluation of the infection potential of the related environment, shall be vested in the medical staff or a multi-disciplinary committee of the medical staff.

## Article 5. Disaster Plan.

§ 4.5. The facility shall have written plans for the proper and timely care of casualties arising from external or internal disasters, and civil disorders and shall periodically rehearse these plans.

## PART V. HEALTH AND SAFETY REGULATIONS.

### Article 1. Compliance with Local and State Regulations.

§ 5.1. Compliance with all applicable local and state health, safety, sanitation, building and zoning codes shall be certified in the application submitted to the department when the application so requires.

### Article 2. Building Structure and Inspection Requirements.

§ 5.2. A suitable structure is essential to the safe and efficient operation of a psychiatric facility. Care should be exercised in selecting a structure including such considerations as follows:

1. The adequacy of space for program, administrative, medical, educational or other activities.
2. Suitability of electrical, plumbing, heating, and hot water accommodations; in consideration of the number of patients and the intended provision of washing, cooking, laundering and sanitary equipment.
3. Cleanliness and suitability of facilities for food preparation and storage.
4. The extent of renovations which may be necessary to provide adequate facilities to meet state and local laws, ordinances and regulations.

### Article 3. New Construction.

§ 5.3. When new construction or additions to existing facilities are considered, preliminary plans and outlined specifications shall be submitted to the department for review and approval.

A. All construction of new buildings and additions, alterations or repairs to existing buildings for occupancies as psychiatric facilities shall conform to the Uniform Statewide Building Code, state and local fire safety, zoning and building ordinances.

B. In case of conflict, codes with the highest standards shall apply.

C. Evidence of conforming to local zoning ordinances shall be presented to the department.

D. All codes applicable to the project shall be noted on the preliminary and working drawings.

### Article 4. Alterations.

§ 5.4. When alterations are considered which do not affect the structural integrity of the existing building, but which do change the functional operation or affect fire safety by change or relocation of corridors or exits or add beds to the facility, plans and specifications shall be submitted to the department for review and approval prior to beginning construction.

A. Plans shall be drawn to scale and shall indicate location of all walls, partitions, windows, doors, closets, corridors, fire doors, exits, stairs, fire escapes, baths, kitchens, etc.

B. Plans shall be dimensioned in feet and inches, showing size of rooms, room number, halls, corridors, stairs, closets, etc.

### Article 5. Minor Remodeling.

§ 5.5. Minor remodeling changes which do not affect the structural integrity of the building, which do not change the functional operation, which do not affect the fire safety, and which do not add beds or facilities in excess of those for which the facility is licensed, need not be submitted to the department for approval, but shall meet applicable standards for new construction.

### Article 6. Conversion of Existing Structure to a Facility.

§ 5.6. Conversion of an existing structure to a facility shall be considered as a new construction. No existing building shall be converted to a psychiatric facility unless it complies with all requirements for new institutional buildings. Life safety during construction or alterations or conversions shall be maintained. Additions shall conform to new construction regulations. It is recommended that an inspection be made by the department before any definite action is taken toward converting an existing structure to a facility. These inspections shall be made before physical conversion is begun.

### Article 7. Fire Procedures, Protection Measures and Storage of Flammables.

§ 5.7. In addition to compliance with state or local fire ordinances, the facility shall meet the following as a

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minimum:

1. A written fire procedure shall be established indicating the facility's fire detection system, fire alarm procedures, responsibilities of staff and evacuation routes.

a. The fire procedures shall, furthermore, be implemented through the conduct of fire drills, at least one each three months.

b. A written record of all fire drills shall be maintained for inspection.

2. The facility shall, in addition to the establishment of a written fire procedure, maintain operable fire extinguishers, on each floor, post evacuation route signs or lights, fire escapes and other such detection, evacuation and fire fighting equipment as required under local or state law.

3. Paints, varnishes, lacquers, thinners, cleaning fluids, and other flammable materials and liquids shall be stored outside of the building, or within closed metal cabinets or other fire resistant facilities. The storage of combustible materials shall not be permitted within heated rooms or within 20 feet of any heater or open flame.

## Article 8.

### Space, Facilities, and Accommodations.

§ 5.8. The applicant shall provide space for administrative activities, including provisions for the storage and safeguarding of personnel, administrative and client records and materials.

A. Facilities providing for physical examinations or other medical or surgical procedures shall designate a specific area for this purpose, and shall follow accepted standard medical procedure.

B. Bath and toilet facilities shall be kept clean, ventilated and in operating condition [ : Toilet and bath facilities and ] shall be available in the following minimum ratios or in accordance with state law whichever is more stringent:

1. Toilets: one for each [ ~~eight~~ 12 ] persons
2. Wash Basins: one for each 12 persons
3. Bath Facilities: one for each [ ~~eight~~ 12 ] persons

## Article 9.

### Kitchen Facilities and Dining Area.

§ 5.9. Cooking, or preparation of hot meals, shall be restricted to kitchen areas, which shall be adequately cleaned and maintained in a sanitary condition.

A. Precautions shall be taken to assure safe operating conditions of all kitchen equipment. Installation of exhaust ducts, exhaust fans, electrical, gas or other accommodations or equipment shall be in accordance with local or state laws.

B. Dining areas shall be adequately furnished and maintained separate from kitchen facilities.

C. Preparation of snack foods in patient care areas may be authorized upon application when conducted under safe and sanitary conditions.

## Article 10.

### Communal Facilities.

§ 5.10. All space provided for recreation, visiting, educational, and group therapeutic or other activities, shall be well lighted and ventilated, and suitable for intended usage.

A. All facilities used for vocational, educational, or other training or therapeutic purposes, shall meet the requirements of the appropriate state or local regulating agency when applicable.

## Article 11.

### Sleeping Accommodations.

§ 5.11. Facilities shall provide adequate and clean sleeping accommodations.

A. Facilities shall provide adequate storage and protection for personal belongings and clothing.

B. Facilities shall assure that consideration of usable bed space include provisions for adequate and safe passage between beds, and appropriate ventilation.

C. Each [ ~~resident~~ patient ] shall have a separate bed.

D. There shall be a minimum 80 square feet of floor space per bed in a multi-bedroom with a minimum of three feet between beds.

E. A sufficient supply of clean bed linens, pillows, blankets, washcloths, and towels shall be provided for each patient. The use of common washcloths, towels and other toilet articles is prohibited.

F. A record of valuables and money deposited at the facility for patient use shall be maintained.

[ G. Cubicle curtains, or some other means of providing visual privacy for personal care of any patient shall be available in multi-patient rooms when indicated. ]

## Article 12.

### Laundry Facilities.

§ 5.12. Facilities shall make provisions for the laundering

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and regular maintenance of residents' clothing.

A. Any facility which installs laundering, dry cleaning, or clothes drying equipment, shall assure appropriate inspection and compliance with local ordinances or state law. These services shall be provided in a separate room and adequate provision shall be made for the storage of soiled clothing and linen. Appropriate measures shall be taken to ensure proper ventilation and protection against misuse.

## Article 13. Grounds.

§ 5.13. Yard space or grounds surrounding the property shall be maintained free of debris and other hazards.

## Article 14. Stairways, Halls and Exits.

§ 5.14. Stairways, hallways, handrails, and exits shall be kept free and clear of obstructions at all times. A fire escape, when required, shall be constructed and maintained in conformity with local and state fire standards.

## Article 15. Other Facilities.

§ 5.15. The applicant or licensee shall keep the department informed of the utilization of all space at the facility.

## Article 16. General Housekeeping and Sanitation.

§ 5.16. Provision shall be made to guard against infestation by insects and vermin including periodic inspection and extermination.

§ 5.17. The facility shall provide for trash and garbage disposal, including provisions for storage in enclosed containers until removal.

## Article 17. Health Supervision.

§ 5.18. Facilities shall place responsibility for the provision of health services with the medical staff or under the supervision of a licensed physician who may be directly employed or serving on a contractual basis. In addition to the establishment and supervision of the facilities' medical policies, the medical staff or the physician shall:

1. Institute procedures for the control and treatment of communicable diseases.
2. Encourage personal hygiene.
3. Assure maintenance of personal health records, and inventories of all medical equipment, supplies,

medicines, and medical paraphernalia.

4. Abide by all state and federal laws and regulations pertaining to the storage, maintenance, or inventories of drugs or drug related paraphernalia.

5. Provide for the control, supervision and distribution of prescription medication.

## PART VI. ORGANIZATION AND MANAGEMENT.

### Article 1. Governing Body.

§ 6.1. There shall be an effective, organized governing body or other legal authority responsible for the management, control, and operation of the facility. The governing body may be a governmental unit, board of directors or a board of trustees.

### Article 2. Governing Body By-Laws.

§ 6.2. The governing body shall adopt and maintain written by-laws in accordance with legal requirements, identifying the purposes of the facility and the means of fulfilling them. A copy of the by-laws and rules and regulations including amendments or revisions [ ~~thereto~~ ] shall be made available to the department on request. [ ~~They~~ The by-laws ] shall include, but not be limited to the following:

1. Definition of powers and duties of the governing body officers, its committees and the executive officer of the facility.
2. Qualifications for membership, type of membership, method of selecting members, officers, and chairmen of committees, and terms of appointment, or election.
3. Method for periodic selection of new members.
4. Provision for indoctrination, orientation, and continuing education of governing body members.
5. Definition of the authority and responsibility delegated to the executive officer of the facility and the medical staff.
6. Provision for periodic review of the by-laws.
7. Provision for review periodically of each department of the facility, to evaluate its efficiency in providing quality services.

### Article 3. Disclosure.

§ 6.3. There shall be full disclosure of facility ownership and control.

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## Article 4.

### Appointment of Chief Administrative Officer.

§ 6.4. The governing body shall appoint a chief administrative officer whose qualifications, authority and duties shall be defined in writing, and adopted by the governing body.

## Article 5.

### Clinical Director.

§ 6.5. The clinical director, if such a position exists within the facility, should be certified by the American Board of Psychiatry and Neurology, or be board eligible.

## Article 6.

### Staffing.

§ 6.6. The governing body shall provide professional staff with the number of qualified professional, technical, and supporting personnel and consultants required to carry out an intensive and comprehensive treatment program.

## Article 7.

### Governing Body and Ethics of Medical Profession.

§ 6.7. The governing body shall require that the medical staff establish medical by-laws and controls that are designed to ensure the achievement and maintenance of high standards of professional ethical practice, and that each member observe all ethical principles of his profession.

## Article 8.

### Evaluation of Professional Competence.

§ 6.8. The governing body shall delegate to the medical staff the authority to evaluate the professional competence of all members and applicants for staff privileges; however, the governing body shall render final decision relating thereto.

## Article 9.

### Governing Body to Approve Medical Staff By-Laws, Rules and Regulations.

§ 6.9. The medical staff by-laws shall be subject to governing body approval, which shall not be unreasonably withheld. These shall include an effective formal means for the medical staff to participate in the development of policy relative to both facility management and patient care.

## Article 10.

### Governing Body Committees.

§ 6.10. The governing body shall develop committees necessary to fulfill its responsibilities and to assess the results of its programs.

A. Committees should include but not be limited to

executive committee, planning committee, or joint conference committee with the medical staff.

## Article 11.

### Governing Body Responsibilities Through Its Executive Officer.

§ 6.11. Through its executive officer, the governing body shall:

1. Provide for the control and use of the physical and financial resources of the facility.

2. Provide appropriate physical resources required to meet the needs of the patients, and participate in planning to meet the health needs of the community.

3. Provide written personnel policies and practices that adequately support sound patient care.

4. Provide a written plan of organization of the facility which includes all departments functioning in the facility, and which indicates all categories of personnel employed in the facility and the lines of communication. The organizational plan shall be periodically reviewed and revised as needed, showing dates of reviews and revisions.

5. Require that the sections of the organizational plan and job descriptions pertaining to each department of the facility be placed in the supervisor's office of the department to which it relates and job descriptions be furnished to all employees.

6. Require that the organizational plan be the product of the combined efforts of the professional and technical department heads of the facility, subject to governing board approval.

7. Provide a master manual of administrative policies and procedures for each department of the facility. The manual of policies and procedures shall be periodically reviewed and revised as needed, showing dates of reviews and revisions.

8. Require that the sections of the manual of policies and procedures pertinent to each department of the facility shall be placed in the supervisor's office of the department to which it relates, and be available to all personnel in that department upon request.

9. Require that the policies and procedures manual be the product of the combined efforts of the professional and technical department heads of the facility, subject to governing board approval.

10. Provide a written plan for continuing programs of in-service education and training for the development and maintenance of a high standard of performance of nonprofessional duties to implement and carry out programs of care developed by the professional staff.

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## PART VII. PSYCHIATRIC FACILITY-GENERAL.

### Article 1. Primary Functions.

§ 7.1. The primary functions of the facility shall be to diagnose and treat persons with psychiatric disorders, to restore them to optimal level of functioning and return them [ to the community to aftercare services at an appropriate correctional facility, or to such services in the community if the patient is being released from confinement ] . The psychiatric facility may include programs to:

1. Provide general psychiatric inpatient, outpatient, partial hospitalization, emergency services for psychiatric emergencies and medical management for detoxification of alcoholics and drug addicted persons, and consultation and education programs, with utilization of community facilities and organizations contributing to the care and treatment of the mentally ill or prevention of such disorder.
2. Provide specialized services in the care and treatment of mentally ill individuals including, but not limited to:
  - a. Adult mentally ill.
  - b. Alcohol and drug abuse treatment.
  - c. Chronically mentally ill.
  - d. Geriatric mentally ill.
  - e. Rehabilitation services.
3. Provide public education in the prevention of mental illness.
4. Provide data and facilities and programs for self evaluation, research, and development in the care, treatment, and prevention of mental illnesses.

### Article 2. Compliance with Applicable Standards.

§ 7.2. The psychiatric facility shall comply with the standards set forth in these regulations which are included in the type and scope of service defined in facility programs for which application is made to the Department of Mental Health and Mental Retardation for license.

### Article 3. Availability of Services.

§ 7.3. The psychiatric facility shall make its services available as needed by the mentally ill within the correctional population.

## PART VIII. PSYCHIATRIC FACILITY SERVICES.

### Article 1. Essential Elements of Care.

§ 8.1. All psychiatric facilities shall establish the following services or affiliate with a licensed facility providing such services:

1. Emergency services to include but not limited to the medical management of detoxification and 24-hour services needed for the psychiatric emergency.
2. Acute psychiatric inpatient services.

§ 8.2. All psychiatric facilities may establish the following or affiliate with a licensed facility providing such services:

1. Outpatient services.
2. Partial hospitalization.
3. Consultation and education toward utilizing domiciliary facilities, nursing homes, and service through a licensed community mental health program, where they are available.

### Article 2. Adult Mentally Ill.

§ 8.3. The facility program for the care and treatment of adult mentally ill, shall be under the direct supervision of an experienced physician licensed by the Virginia State Board of Medicine.

[ § 8.4. Adult mentally ill patients admitted involuntarily shall be provided the full range of psychiatric services the same as voluntary admissions, with special services focused toward acceptance of care and treatment needed. ]

### Article 3. Chronically Mentally Ill.

[ § 8.5. § 8.4. ] The facility program for the chronically mentally ill, when provided, shall be under the direct supervision of a licensed physician.

A. The chronically mentally ill patient shall be provided the full range of psychiatric services the same as other patients admitted to the facility.

B. The chronically mentally ill patient care program shall be organized to ensure flexibility in care as indicated by needs of each patient with special focus at time of periodic review on evaluation of treatment.

C. The chronically mentally ill patient shall receive all disciplines of care and treatment indicated by the order reflected in the individual patient care plan which shall be

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reviewed and revised the same as other patients.

## Article 4. Geriatric Mentally Ill.

[ § 8-6. § 8.5. ] The geriatric mentally ill patient program when provided, shall be under the direct supervision of a licensed physician.

[ § 8-7. § 8.6. ] The geriatric mentally ill patients shall be provided the full range of services the same as other patients admitted to the facility.

## PART IX. REHABILITATION SERVICE (When Provided).

### Article 1. Rehabilitation Plan.

§ 9.1. There shall be a written organization plan which identifies the rehabilitation service and its place in the overall organizational plan; defines the responsibility, authority and relationship of all positions within the service and which is periodically reviewed and revised.

A. The rehabilitation service should be under the direction of a licensed physician who is an active member of the medical staff and who, on basis of training and experience, is competent in rehabilitation medicine; or a medical staff committee composed of physicians knowledgeable in the needs of the patient population and the ability of the psychiatric facility to meet these needs.

B. All rehabilitation services shall be provided by or under the supervision of licensed or registered personnel in accordance with state laws and regulations.

C. The staffing requirements of a rehabilitation service will depend upon the scope and volume of services offered and utilized. An adequate staffing pattern should provide professional, supportive and clerical personnel in numbers sufficient to achieve the goals and objectives of the facility rehabilitation program.

D. The staff of the rehabilitation service should include the services of a qualified rehabilitation counselor whose involvement with patients begins at the time the patient is admitted to the facility.

### Article 2. Scope of Service.

§ 9.2. The rehabilitation service in the psychiatric facility may provide, but not to be limited to, the following services:

1. Physical therapy.
2. Occupational therapy.
3. Speech and hearing.

4. Testing, fitting or training in the use of prosthetic and orthopedic devices.

5. Prevocational conditioning.

6. Recreational therapy.

7. Vocational training (in combination with other rehabilitation services).

8. Personal and work adjustment services.

9. Extended employment for the severely handicapped who cannot be readily absorbed in the competitive labor markets.

10. Dental services.

11. Rehabilitation counseling.

### Article 3. Policies and Procedures.

§ 9.3. The rehabilitation services policies and procedures shall be in writing, and shall include but not be limited to:

1. Scope of service.
2. Responsibility for patient transportation to and from service.
3. Method by which the medical and treatment orders and information shall be transferred to and from the service.
4. Responsibilities for recording all treatments in the patient's medical record.

### Article 4. Starting Service.

§ 9.4. The rehabilitation process provided by the service should start with the patient's admission to the facility.

### Article 5. Records.

§ 9.5. A record of all therapy shall be written in the patient's medical record, dated and signed.

### Article 6. Evaluation.

§ 9.6. All patients receiving rehabilitation services shall receive comprehensive evaluation by the total treatment team (the physician, psychologist, nurse, social worker, rehabilitation counselor, and representatives of other therapeutic disciplines needed by the patient) at frequent intervals and revisions made in the plan of treatment as the patient's need for care changes.

## Article 7. Orders for Treatment.

§ 9.7. All treatments shall be provided only on the order of a physician and recorded in the patient's medical record.

## Article 8. Transfer of Records.

§ 9.8. Patients requiring rehabilitation service and who are transferred from other facilities shall be accompanied by their medical record showing level of rehabilitation accomplished before admission to the psychiatric facility rehabilitation service.

## Article 9. Space.

§ 9.9. There shall be adequate space and equipment for the reception, examination and rehabilitative treatment of patients, for the related clerical work and for conference or teaching sessions.

## Article 10. Equipment.

§ 9.10. The equipment shall be adequate and of a type, quality and quantity to provide safe and effective patient care and kept in good repair.

## Article 11. Equipment Service.

§ 9.11. All equipment shall be calibrated according to manufacturer's directions and should be periodically serviced as part of a preventive maintenance program.

## PART X. PERSONNEL PRACTICES.

### Article 1. Staff Development and Personnel Policies.

§ 10.1. All staff positions shall be identified as to title, function, authority and responsibility, minimal educational or experience requirements. Such identification shall be in writing, and made available to the staff person employed within the position.

A. All full and part-time staff shall be apprised of all policies, standards, and procedures, which relate to the care of patients or carrying out of activities related to licensure.

B. Each employee of the facility and volunteer, whether full or part-time, shall be required to have, within 30 days of employment, a physical examination and a T.B. test. At least a yearly physical checkup of each employee shall be obtained thereafter to ensure that he offers no health

hazard to patients or other personnel. A tuberculin skin test may be substituted for the chest X-ray. Any person who shows evidence of serious communicable disease shall be excluded from work or reassigned and not permitted to resume his regular duties until such time as a licensed physician states that he offers no hazard to the patients or personnel.

C. The facility shall be encouraged to provide structured in-service training programs on a regularly scheduled basis. A record of all such training sessions shall be kept, including notation of date held, topic presented or discussed, number and position of persons in attendance, and the position or credentials of the persons conducting the session.

## PART XI. PROFESSIONAL STAFF.

### Article 1. Professional Staff Organized.

§ 11.1. The professional staff shall be organized to accomplish its required functions.

A. It shall provide written procedures for the election or appointment of its officers, executive committee, department heads and service chiefs.

### Article 2. Professional Staff By-Laws, Rules, and Regulations.

§ 11.2. The professional staff shall develop and adopt, subject to the approval of the governing body, written by-laws to establish a framework for governance and a means of accountability to the governing body.

### Article 3. Committees of Professional Staff.

§ 11.3. The professional staff shall participate in the maintenance of high professional standards, by representation on committees concerned with patient care whether the patient care functions are activated by organization of the following separate committees:

1. Executive.
2. Credentials.
3. Medical records.
4. Asperis.
5. Utilization review.
6. A committee of the whole.
  - a. There shall be written documentation of these activities.



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§ 11.4. There shall be written procedures of formal and official means of liaison among the professional staff, the governing body, and the executive officer to provide a channel for medico-administrative advice through a joint conference committee which should meet at least two times annually.

## Article 4. Clinical Director.

§ 11.5. In facilities where the chief administrative officer, or executive officer, is not a psychiatrist, there may be a clinical director certified by the American Board of Psychiatry and Neurology, or board eligible.

## Article 5. Neurology.

§ 11.6. If a qualified neurologist is not on the staff of the facility, arrangements shall be made for scheduled services, as needed.

## PART XII. ADMISSIONS TO PSYCHIATRIC FACILITY.

### Article 1. Admission Policies and Procedures.

§ 12.1. Each psychiatric facility shall establish, in writing, its admission policies and procedures, the range of diagnostic and treatment services it offers, and the manner in which these are routinely accomplished, including but not limited to the following:

1. A basic definition of services offered setting forth the areas of competence.
2. A statement of the range of diagnostic and evaluation procedures the facility is prepared to render and the range of treatment services offered within the facility, or by an affiliate, specifying each affiliate and its services.
3. Procedures for referring patients to another resource for care as an alternate to admission, or as a supplemental treatment during patient's stay in the facility.
4. Procedures for emergency admissions.
5. Procedures for emergency referral.
6. Statement of conditions under which the facility will accept referrals from other sources.

### Article 2. Compliance with State Statutes.

§ 12.2. Written provision shall be made for conformance with the current laws of Virginia for admission of patients to a psychiatric facility and provision for a change of

admission policies as existing state statutes are amended.

### Article 3. Patients Admitted Only on Physician's Order.

§ 12.3. All patients [ shall be admitted to the facility by a member of the medical staff, and shall be required to have an admitting diagnosis to justify facility admission during the initial diagnostic process classified to the facility shall be screened by a physician during initial diagnostic phase, and admitted to a treatment program when it is found that they have a diagnoses that justifies retention ].

## PART XIII. DIAGNOSIS AND TREATMENT.

### Article 1. Admitting Diagnosis.

§ 13.1. Admitting [ psychiatric and ] physical [ evaluations examinations ] , [ including a neurological examination; when indicated; should shall ] be completed and recorded within 24 hours of admission.

[ A. Psychiatric and other professional evaluations, including neurological evaluations when indicated, shall be completed and recorded within the first 10 days subsequent to a patient's admission. ]

### Article 2. Social and Psychological Evaluations.

§ 13.2. Social and psychological evaluations, when indicated, shall be conducted under the supervision of a licensed [ or license eligible ] social worker [ or and ] a licensed [ or license eligible ] psychologist, and should be completed as soon as possible after patient's admission.

### Article 3. Provisional Diagnosis.

§ 13.3. A provisional diagnosis shall be made and reviewed at least every two months [ and during the first year and every three months subsequently ] . Additional informative observations as to patient's condition shall be recorded in patient's medical record.

### Article 4. Final Diagnosis.

§ 13.4. The final diagnosis shall be set forth clearly in the medical record which shall be completed upon discharge.

### Article 5. Nomenclature.

§ 13.5. All diagnosis shall be rendered in standard nomenclature as provided in the American Psychiatric Association's latest edition of the Diagnostic and Statistical Manual of Mental Disorders.

**Article 6.**  
**Coordination, Communication, and Collaboration of Treatment Planning Efforts.**

§ 13.6. There shall be, in writing, a workable method to provide appropriate coordination, communication, and collaboration among all staff members contributing to the evaluation, treatment planning and treatment efforts, as needed by the patient including, though not limited to: individual, family, and group therapy, play therapy, behavior modifications, indicated somatic therapies such as chemotherapy and appropriate occupational and recreational therapies.

**Article 7.**  
**Nonpsychiatric Illnesses.**

§ 13.7. Prompt diagnosis and effective treatment of medical and surgical contingencies which may occur may be needed by patients hospitalized for mental disorders; therefore, shall be the same range of services available for treatment of a nonpsychiatric illness and maintenance of their general welfare as would be available to them in an accredited general hospital whether they are available within the psychiatric facility or by contractual arrangement in a nearby general, special, state or community hospital.

**Article 8.**  
**Oxygen Therapy.**

§ 13.8. Oxygen therapy when needed, shall be ordered by a physician, in writing, dated, and signed in the medical record, showing specific dosages of medication or mixtures of gasses, and given by a licensed therapist or a registered nurse certified by the medical staff as to adequate training to administer oxygen therapy.

**Article 9.**  
**Special Medical and Para-Medical Services.**

§ 13.9. When neurological examinations are provided in the psychiatric facility, technicians, diagnostic tools and equipment must be available to provide an accredited neurological service. In the absence of this service, there shall be written arrangements with [ a ] hospital neurology department or consultant neurologist to carry out these tests when they are indicated.

§ 13.10. Provision shall be made for the rendering of dental services by a qualified dentist when required.

**Article 10.**  
**Determining Need for Somatic Treatment.**

§ 13.11. Drug therapy, electro-convulsive therapy and other somatic treatment modalities shall be given only upon the specific order of a physician.

A. Standard routines shall be established, in writing, and followed for preparation of patient for such somatic

treatments, and the immediate post-treatment recovery phase.

B. Routines for these treatments shall be reviewed periodically to ensure they are current and in keeping with generally accepted standards of practice.

C. Adverse reactions, sensitivities to specific drugs and other pertinent information shall be recorded in the patient's medical record immediately.

**Article 11.**  
**Psychiatric Plan of Treatment.**

§ 13.12. There shall be a psychiatric plan of treatment in writing for each patient based on an evaluation of his condition, his treatment or his potential for rehabilitation, and the resources of the facility to meet these needs. The treatment plan shall include, but not be limited to, the following:

1. A statement of the nature of the problem and the needs of the patient.
2. A statement of the rationale and the plan of treatment, and management, including goals.
3. A description of the staff's involvement with the patient in order to attain the treatment goals.
4. Specification of the use of specific modalities, psychotherapy, drug therapy, and other measures to be incorporated into the total plan.
5. Projections of anticipated aftercare to ensure continuity of care the patient will need.
6. Frequent reviews and revision of the psychiatric plan of treatment as the patient's needs for care change.

**Article 12.**  
**Research.**

§ 13.13. When research or study is carried out in a facility such research shall conform to requirements of Chapter 13, Title 37.1 of the Code of Virginia and applicable rules and regulations.

**Article 13.**  
**Special Care Rooms.**

§ 13.14. There may be special care or isolation rooms available where a disturbed or ill patient can be housed.

A. Any incident resulting in serious injury or death shall be investigated by the director of the facility, appropriately reported to the local authorities and reported to the department. A written report of [ the each ] incident shall be made and kept [ on in a separate ] file at the facility and made available to the commissioner or

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his authorized representative upon request.

## PART XIV. EMERGENCY SERVICES.

### Article 1.

#### Type and Scope of Services Defined.

§ 14.1. The type and scope of the emergency service of the psychiatric facility shall be clearly defined, in writing.

### Article 2.

#### Emergency Service Policies.

§ 14.2. There shall be written policies specifying the extent of treatment to be carried out in the emergency service. Such policies shall be approved by the medical staff and reviewed periodically, and revised as necessary, showing dates of reviews and revisions.

### Article 3.

#### Emergency Service Procedures.

§ 14.3. There [ ~~should~~ shall ] be written procedures including, but not limited to the following:

1. Specification of staff coverage, and consultants on call.
2. Instructions relative to identification of patient's personal physician and the transmission of relevant reports.
3. Plans for communication with the nearest poison control center, and with police and local emergency authorities relative to accident victims and to individuals in other reporting situations such as being victims of suspected criminal acts.
4. Procedures for prompt treatment of various types of emergencies: suicidal, anxious persons showing panic, confusion or bizarre behavior; intoxicated persons as the result of alcohol or drugs; the aggressively mentally ill individuals, etc.

### Article 4.

#### Emergency Service Medical Records.

§ 14.4. A medical record shall be kept on every individual receiving emergency service and shall become a permanent record of the psychiatric facility. The record shall include, but not be limited to, the following:

1. Identification data including the patient's legal status.
2. The time of arrival, and the time of discharge.
3. By what means patient was transported to the emergency service.

4. Pertinent history including emergency care given prior to the arrival of the patient at the psychiatric facility emergency service.

5. A description of significant clinical data.

6. The treatment given in the emergency service.

7. The condition of the individual on transfer to inpatient service, or discharge.

8. The final disposition of patients discharged, including written instructions given to the patient, his family or others.

9. The records must contain the signature of the professional staff member rendering the care, and responsible for its clinical accuracy.

### Article 5.

#### Emergency Service Record Filing.

§ 14.5. The patient's emergency service record shall be incorporated in his medical records, if he has one; made a part of his inpatient medical record if he is admitted to the facility; and upon discharge, the record shall be retained with the facility medical records.

### Article 6.

#### Instructions To Patient Upon Discharge.

§ 14.6. Instructions given to patients upon discharge from the emergency service shall be given in writing, dated, and signed. A copy of such instructions shall be made a part of the patient's medical record.

### Article 7.

#### Emergency Service Record Review.

§ 14.7. A selection of emergency medical records shall be made for periodical review by the appropriate medical staff record review committee.

## PART XV. NURSING SERVICE.

### Article 1.

#### Director of Nursing Service.

§ 15.1. The director of nursing service in a psychiatric facility shall be a registered nurse currently licensed to practice professional nursing by the Commonwealth of Virginia, with adequate experience and demonstrated ability to assume the responsibilities of directing the nursing service in the management of mentally ill patients. Based on credentials of education, experience and demonstrated ability, the director of nursing service should be qualified in the fields of psychiatric nursing and administration, and have the ability to organize, coordinate, and evaluate the work of the service. The director should be responsible to the facility's

administration for clinical nursing services, for developing and implementing policies and procedures of the service within the facility.

## Article 2. Registered Nurse's Responsibilities.

§ 15.2. There shall be a sufficient number of licensed registered nurses on duty at all times to plan, assign, supervise, and evaluate nursing care, as well as to assure that patients receive the nursing care that requires the judgement and specialized skills of a registered nurse.

A. The registered nurse shall be responsible for determining nursing care needs, the professional skill and judgement required, and the assignment and supervision of nursing tasks that can be safely performed by other nursing personnel.

B. In all instances, a registered nurse should plan, supervise, and evaluate the nursing care of each patient.

C. Registered nurses shall be currently licensed in the Commonwealth of Virginia with experience demonstrating ability to assume the responsibilities of the nurse member of the professional nursing staff of the facility.

## Article 3. Licensed Practical Nurses.

§ 15.3. Licensed practical nurses, psychiatric aides, and other ancillary nursing personnel shall be qualified by education, training, experience and demonstrated abilities to give such nursing care.

A. Their performance shall be supervised by a registered nurse.

## Article 4. Organization Plan of Nursing Service.

§ 15.4. The nursing service shall have a current written plan of organization that delineates its functional structure and mechanisms for cooperative planning and decision making which is an integral part of the overall organizational plan of the facility. The plan shall include;

1. The staffing plan for nursing personnel throughout the facility and individual staffing patterns for each treatment unit which reflect consideration of the nursing goals, standards of psychiatric nursing practice, and of characteristics of the patient assignment.

2. Functions for which nursing service is responsible, and positions required to carry out such functions.

3. The functions, responsibilities, and desired qualifications of each classification of personnel which should, in turn, be reflected in job descriptions for each position classification.

4. The lines of communication within nursing service.

5. The relationships of nursing staff in the participation and evaluation of the total therapeutic plan for patient care.

6. The coordination of nursing service activities with those of other services of the facility.

## Article 5. Nursing Service Committees.

§ 15.5. The organizational plan for nursing service shall provide for committees to facilitate the establishment and attainment of goals and objectives of nursing services; and for nursing service representation in any planning, decision making, and formulation of policies that affect the operation of the nursing service, the nursing care of patients, or patient environment.

## Article 6. Policies and Procedures of Nursing Service.

§ 15.6. A written manual of nursing care and administrative policies and procedures shall be developed to provide the nursing staff with acceptable methods of meeting its responsibilities and achieving projected goals, including, but not limited to, the following:

1. Noting physician's orders.
2. Management of agitated and disturbed patients.
3. Assigning nursing care of patients.
4. Medication administration including reporting of medication errors.
5. Records maintenance by nursing personnel.
6. Infection control, including policies and procedures for sending specimens, or cultures, to a laboratory.
7. Patient safety, including provisions for ingress and egress to special care rooms at all times.

## Article 7. Availability of Nursing Policies and Procedures Manual.

§ 15.7. The nursing care manual shall be available to the nursing staff in every nursing care unit and service area, and other departments of the facility.

## Article 8. Periodic Review of Manual.

§ 15.8. The nursing care manual shall be reviewed periodically and revised as necessary in cooperation with representatives of the medical staff and other professional disciplines in the care of psychiatric patients.

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## Article 9.

### Continuing Program of Nursing Education.

§ 15.9. There shall be a written program for continuing staff education and training, including orientation and in-service education.

A. These programs should contribute toward staff development and the preparation of staff members for greater responsibility in psychiatric nursing.

B. Educational resources from both inside and outside the facility should be utilized.

## Article 10.

### Orientation for Nursing Service Personnel.

§ 15.10. Orientation programs for new nursing personnel shall be planned in advance, including a written outline designed to ensure a thorough orientation for each new nursing service employee.

A. Orientation programs shall include an adequate training program for aides who have no previous training which provides classroom and clinical experience, including a method of evaluating the participants, the program, and the program's effect on patients.

## Article 11.

### In-Service Education.

§ 15.11. In-service education programs should be provided for the improvement of nursing care and service through increased proficiency and to keep the nursing staff up-to-date on new and expanding psychiatric nursing care programs, and on new techniques, equipment, facilities, and concepts of treatment and care.

## Article 12.

### Nursing Service Library.

§ 15.12. Professional books and current periodicals should be made available to nursing personnel, and appropriate reference material should be supplied for each nursing unit.

## Article 13.

### Nursing Care Plan.

§ 15.13. There shall be a written nursing care plan as part of the medical record for each patient which is coordinated and integrated with the psychiatric plan of treatment and other multi-disciplines of therapy the patient is receiving.

A. The nursing care plan should include, but not be limited to:

1. Nursing care needed, how best accomplished, what methods and approaches believed to be most successful, and modifications necessary to ensure best

results.

2. Medication, treatment.

3. Long term goals - including discharge plans.

4. Short term objectives.

§ 15.14. The nursing care plan should give evidence that planning has been done to make sure the patient receives appropriate nursing, and also serve as an effective method of communicating pertinent information to all nursing personnel concerned with the patient.

## Article 14.

### Initiating Nursing Care Plan.

§ 15.15. The nursing care plan shall be initiated upon the admission of the patient to the facility and shall be a part of the psychiatric treatment program.

## Article 15.

### Availability of Nursing Care Plan.

§ 15.16. The nursing care plan shall be available to all nursing personnel and should be reviewed and revised as necessary.

## Article 16.

### Nursing Care Records.

§ 15.17. Nursing care records and reports shall be maintained which reflect the patient's progress, and show that the nursing care, as planned, is being carried out.

## PART XVI.

### SOCIAL WORK SERVICE.

## Article 1.

### Type and Scope of Social Work Service Defined.

§ 16.1. The type and scope of the psychiatric social work service provided shall be defined in writing, where indicated. The service shall be available to patients in order to fulfill all assigned responsibilities related to the specific needs of the patient and his family.

## Article 2.

### Social Work Service Supervision.

§ 16.2. The social work service shall be supervised by an individual who has been licensed by the Commonwealth of Virginia as a licensed [ or licensed eligible ] social worker.

## Article 3.

### Responsibilities of Psychiatric Social Work Service.

§ 16.3. In an organized psychiatric social work service within a psychiatric facility, the responsibilities of the service shall include:

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1. The securing of information and gaining understanding of the psychodynamic implications of patient's development and current life situation.

2. Participation with other mental health professionals in assessing the factors that affect the social functioning of the patient and his family.

3. Helping plan appropriate action to assist the family and to help the patient make the best adjustment of which he is capable.

4. Adapting the methods of social case-work, group work, and community organization to the specific psychiatric setting to help implement treatment plans.

5. Working with other agencies to facilitate the movement of patients in and out of the psychiatric facility from preadmission to after-care.

6. Work directly with the patient, his family, and [ the coordinate a referral plan for ] community [ in or corrections ] after-care rehabilitation programs and in planning interagency relationships.

#### Article 4.

##### Psychiatric Social Work Service Records.

§ 16.4. Record entries of psychiatric social work service personnel shall include, when indicated:

1. Psycho-social and developmental study information for appropriate patients.

2. Social work therapy and rehabilitation of patients.

3. Home environmental investigations for attending physicians.

4. Cooperative activities with community agencies.

5. Social service summaries.

6. Follow-up reports of discharged patients confirming disposition, when obtained.

#### Article 5.

##### Provision for Social Work Service.

§ 16.5. If the facility does not maintain a social work service, provision of the service shall be secured by:

1. A social worker employed on a full-time or part-time basis.

2. Consultant services. However, arrangements for such services shall be defined in a written agreement that outlined the role and responsibility of both the psychiatric facility and the social work agency.

### PART XVII.

### PSYCHOLOGICAL SERVICES.

#### Article 1.

##### Type and Scope of Psychological Service Defined.

§ 17.1. The type and scope of the psychological service shall be defined in writing. Services may include, but not be limited to:

1. Direct service to patients.

2. Assistance in diagnosis and personality assessment development as a result of psychological testing.

3. Teaching of clinical psychology research methods and the theory and data pertaining to learning and perception.

4. Research on personality and psychopathology.

5. Assessment of treatment results.

#### Article 2.

##### Psychological Service Supervision.

§ 17.2. The psychological service shall be supervised by an individual who is licensed [ by the Virginia State Board of Psychology as a psychologist, (clinical or counseling), or ] by the Virginia State Board of Medicine as a clinical psychologist [ , or an individual who is eligible for such licensure ].

#### Article 3.

##### Psychological Service Staffing.

§ 17.3. The psychological service staff, including staff psychologists, consultants, technicians, and supporting personnel, shall be adequate in number and by qualification to plan and carry out assigned responsibilities needed by the type and scope of the facility program.

#### Article 4.

##### Provision for Psychological Service.

§ 17.4. If the facility does not maintain a psychological service, provision shall be made for the service, as needed.

### PART XVIII. RELIGIOUS SERVICES.

#### Article 1.

##### Chaplain.

§ 18.1. Psychiatric facility chaplains, whether full-time or part-time, should be fully ordained clergy with approved college and seminary training, and pastoral experience, as well as ecclesiastical endorsement of their denomination. The psychiatric facility chaplain should have specialized training and experience in psychiatric hospital ministry, preferably clinical experience under guidance.

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## Article 2. Meeting Religious Needs of Patients.

§ 18.2. The religious needs of patients should be met through opportunities for attendance at services of worship, observance of sacramental occasions, observance of holy days and days of obligation, individual pastoral contacts between patients and the clergy, and whatever other means may be available to those patients who so desire to participate.

## PART XIX. LABORATORY SERVICE.

### Article 1. Laboratory Service to be Provided.

§ 19.1. There shall be a clinical laboratory available to the psychiatric facility.

### Article 2. Provision for Laboratory Service.

§ 19.2. If the laboratory service is not available within the psychiatric facility there shall be a written plan for the provision of such services, as needed.

## PART XX. RADIOLOGY SERVICES.

### Article 1. Provision for X-Ray Services.

§ 20.1. There shall be an X-ray department or a written plan reflecting a contractual agreement with a facility to provide radiological services, as needed.

### Article 2. Accredited X-Ray Service.

§ 20.2. The X-ray service, whether maintained within the psychiatric facility or obtained by outside arrangement shall be provided by a service that meets the requirements of the Virginia Department of Health for X-ray service.

## PART XXI. PHARMACY SERVICE.

### Article 1. Scope of Pharmacy Service Defined.

§ 21.1. The scope of the pharmaceutical service shall be defined, in writing, consistent with the medication needs of the patients, and shall include a program for the control and accountability of drug products throughout the facility.

### Article 2. Supervision of Pharmacy.

§ 21.2. The pharmaceutical service shall be directed by a

professionally licensed pharmacist and shall be staffed by a sufficient number of competent personnel in keeping with the size and scope of services of the psychiatric facility.

### Article 3. Policies and Procedures of Pharmacy Service.

§ 21.3. Written policies and procedures that govern the safe storage, control and administration of drugs shall be developed by the pharmacist in cooperation with the medical staff, and with representatives of other disciplines, as necessary.

### Article 4. Medication Errors.

§ 21.4. Medication errors and drug reactions shall be reported immediately to the physician responsible for the patient. An entry of the medication given and the drug reaction shall be properly recorded in the patient's medical record.

### Article 5. Drug Formulary Recommended.

§ 21.5. The facility staff, with the advice and counsel of the pharmacist, shall establish a formulary of drugs to be used in the facility. However, the existence of the formulary shall not preclude the use of drugs not included in the formulary.

### Article 6. Compliance with State Laws and Regulations.

§ 21.6. Psychiatric facilities operating a pharmacy or maintaining a drug storage and administration service, shall meet all the requirements set forth in the Drug Control Act and applicable regulations of the Virginia State Board of Pharmacy.

### Article 7. Adequate Facilities and Equipment.

§ 21.7. There shall be equipment and supplies provided for the professional and administrative functions of the pharmaceutical service as required to ensure patient safety through the proper storage and dispensing of drugs.

### Article 8. Administrative Check.

§ 21.8. A periodic spot check shall be made by the executive officer, or his designee, of the accuracy of established controls in the handlings of narcotics and controlled substances.

### Article 9. Control of Illegal Drugs.

§ 21.9. The facility shall provide for the control and

appropriate disposal of controlled dangerous substances (CDS) in accordance with state and federal laws, and alcoholic beverages entering the facility through illicit means.

## Article 10. Emergency Drugs and Supplies.

§ 21.10. Emergency drugs, crash carts, equipment and supplies shall be assembled and available for immediate use, reviewed periodically to ensure they are current and in keeping with general accepted standards of practice.

## PART XXII. MEDICAL RECORDS.

### Article 1. Written Policies and Procedures.

§ 22.1. There shall be written policies and procedures which provide that a medical record be maintained for every patient admitted to treatment or emergency service.

§ 22.2. Medical records shall contain sufficient information to identify clearly the patient, including the patient's legal status.

§ 22.3. The medical complaint of a patient shall be included in the medical record.

§ 22.4. The patient's medical record shall show a provisional, or admitting, diagnosis at the time of admission and include the diagnosis of intercurrent diseases as well as the psychiatric diagnosis.

§ 22.5. The history, physical examination, and psychiatric evaluation shall provide sufficient detail to enable another physician to assume the care of the patient, a consultant to give a satisfactory opinion after his examination, and for the physician who made the entries to determine, at any future date, what the condition of the patient was and what procedures were performed.

§ 22.6. The psychiatric evaluation, including medical history, shall contain a record of the mental status of the patient, time of onset of illness, the circumstances leading to admission, attitudes, behavior, estimate of intellectual functioning, memory functioning, orientation and an inventory of the patient's assets in descriptive, not interpretative fashion.

§ 22.7. The social service records, including reports of interviews with patients, family members and others providing assessment of home plans and family attitudes, and community resource contacts, as well as a social history, shall be included in the patient's medical record.

§ 22.8. Specific interagency mental health services available in patient's home community should be recorded in patient's medical record, as appropriate.

§ 22.9. The medical record shall include reports of consultation, psychological evaluations, neurological examination, reports of electro-encephalograms, clinical laboratory and X-ray test, dental records, and reports of special studies made.

§ 22.10. The psychiatric plan of treatment shall be recorded, based on an inventory of the patient's strengths as well as his disabilities, and should include a substantiated diagnosis in the terminology of the American Psychiatric Association's Diagnostic and Statistical Manual of Mental Disorder, III, short-term and long-range goals, and the specific treatment modalities utilized as well as the responsibilities of each member of the treatment team in such a manner that it provides adequate justification and documentation for the diagnosis and for the treatment and rehabilitation activities carried out.

§ 22.11. The treatment received by the patient shall be documented in such a manner and with such frequency as to assure that all active therapeutic efforts such as individual and group therapy, drug therapy, milieu therapy, occupational therapy, recreational therapy, industrial or work therapy, nursing care and other therapeutic interventions are included, as given.

§ 22.12. Progress notes shall be recorded by the physician, psychologist, nurse, social worker and, when appropriate, others significantly involved in active treatment. The frequency should be dependent upon the condition of the patient, but shall be recorded [ at least three times ] daily during the initial or acute treatment phase, and at least [ once daily weekly ] thereafter, and [ should shall ] contain recommendations for revisions in the treatment plan as well as precise assessment of the patient's progress in accordance with the original, or revised, treatment plan.

§ 22.13. The discharge summary shall include a recapitulation of the patient's hospitalization and recommendations from appropriate services concerning follow-up, or aftercare, as well as a brief summary of the patient's condition on discharge.

§ 22.14. Certification that the physicians' orders have been carried out shall be shown by signature, or initials, of the registered nurse responsible.

§ 22.15. Final diagnosis shall be definitive and based upon the terms specified in the American Psychiatric Association Diagnostic and Statistical Manual of Mental Disorders, III.

§ 22.16. Autopsy findings, if provided when an autopsy is performed, shall include a complete protocol of findings.

§ 22.17. All entries in the medical record shall be signed and dated. Physical examination, psychiatric evaluations, resumes, diagnostic formulations, or opinions requiring medical judgement shall be signed by the physician responsible.



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§ 22.18. Telephone orders shall be countersigned within 24 hours by the responsible physician or a physician designated by him.

§ 22.19. Medical records of patients seen on an out-patient basis and in the emergency department shall be made.

§ 22.20. Medical record departments should maintain statistical data relating to patient's care to ensure a prompt interchange of such data as patients transfer from hospital to aftercare agencies, maintaining confidentiality as to patient information.

§ 22.21. Certain portions of the medical record of the psychiatric patient are so confidential that extraordinary means shall be taken to preserve privacy. In such cases, these portions may be stored separately. For review purposes by the medical record committee of the medical staff, the complete record shall be available.

## Article 2. Retention of Records.

§ 22.22. All records of discharged patients shall be completed promptly and filed and retained for a minimum of three years from date of discharge or longer, as other statutes require. Such records may be micro-filmed.

A. Each facility shall have policies approved by the governing body, providing for the retention and safekeeping of patient's records for the required period of time and in the event that the facility discontinues operation.

B. If the patient is transferred to another facility a copy of the patient's record or an abstract thereof shall accompany the patient.

C. All information contained in the records shall be treated as confidential and shall be disclosed only to authorized persons [ and in accordance with § 37-1-84.1 of the Code of Virginia ].

D. If the facility does not have a full or part-time medical records librarian, an employee of the facility shall be assigned the responsibility for assuring that records are maintained, completed and preserved.

## Article 3. Access to Records.

§ 22.23. All facility personnel, patient and other records shall be made available to the commissioner or his representative when investigating complaints made against the facility, staff, other patients or treatment procedures. Confidential information contained in such records shall be held confidential by the commissioner or his representative.

## PART XXIII. DIETARY DEPARTMENT (FOOD SERVICE).

## Article 1. Compliance with Health Regulations.

§ 23.1. The food service shall be in full compliance with the Virginia State Department of Health regulations for food service establishments.

§ 23.2. The dietary department shall be directed by a full-time person who is knowledgeable in administrative and organizational aspects of dietary management and food service administration.

§ 23.3. At least one therapeutic dietician who has met the qualifications of the American Dietetic Association shall serve the facility on a full-time or part-time basis. A part-time dietician shall maintain a written record of services rendered on each visit to the hospital.

§ 23.4. The director of the dietary department shall be currently informed as to the state and federal regulations pertinent to the operation and management of a dietary department of a hospital and current standards of the American Psychiatric Association and the Joint Commission on Accreditation of Hospitals.

§ 23.5. Long and short-term goals of the department shall be established, in writing, with measurements established for review of degree of accomplishment.

§ 23.6. There shall be a written plan or organization of the dietary department indicating routes of intra-departmental communication.

§ 23.7. The organizational plan and job descriptions shall be available to all personnel in the department.

§ 23.8. The organizational plan shall be reviewed periodically to reflect current needs.

A. Job description changes shall be developed to meet goals of the dietary department.

§ 23.9. There shall be written policies and procedures for the dietary department to guide all dietetic personnel in the performance of their duties.

A. The policies and procedures shall be developed with the cooperation of personnel from appropriate departments or services, including, when appropriate, representatives from the medical staff.

B. There shall be periodic review and revision of policies and procedures.

C. Written policies shall include provision for physicians' dietetic orders to be recorded in patients' charts by a physician before a diet is served to any patient, and the method for communication of orders from the physician to the dietary department, and from the dietary department to the physician when requested by the physician, or when significant to the patient's welfare, shall be clearly

delineated.

§ 23.10. All dietary needs of patients shall be met by an acceptable method of preparation of tasty food, adequate in nutritious and caloric content and attractively served.

§ 23.11. Quality food supplies shall be maintained at all times.

§ 23.12. Menus shall be planned and written at least one week in advance. A copy of the current week's menu shall be maintained in the kitchen. If meals vary from the planned menu, the change shall be noted on the written menu. A copy of the menu, as served, shall be kept on file for a period of at least 30 days.

§ 23.13. Food shall be served in a relaxed atmosphere, at hours which are realistic to the welfare of patients.

§ 23.14. Food acceptance studies to determine the kinds and quantities of food eaten or not eaten shall be conducted regularly.

§ 23.15. Milk and cream shall be pasteurized, and shall be served from containers approved by the Department of Health.

A. All milk and cream products used for patients and employed personnel shall be made from pasteurized milk.

§ 23.16. Ice which comes in contact with food or drink shall be made delivered, stored, handled and dispensed in a sanitary manner and kept free from contamination.

§ 23.17. The dietary department shall be appropriately located and the floor plan of the department and type, size, and placement of equipment shall permit efficient food preparation and distribution, effective sanitation, and safety.

§ 23.18. Well maintained equipment shall be kept in sanitary condition at all times.

§ 23.19. Refrigerators shall be equipped with thermometers and high temperature alarms installed on walk in refrigerators.

§ 23.20. Working surfaces shall be cleaned and sanitized after each use.

§ 23.21. An educational program shall be provided for all dietician employees which should include at least the following:

1. Orientation to the facility.
2. Kitchen sanitation.
3. Food inspection.
4. Food handling techniques.

## 5. Proper cleaning of foods.

§ 23.22. A dietary reference library including an up-to-date diet manual approved by the dietetic service shall be conveniently located and used.

§ 23.23. Disposable dinnerware or tableware shall be used on an emergency basis only, unless it is of a type approved for use by the State Department of Health. Picnic accessories may be used on outings, picnics and trips provided such accessories are not hazardous.

## PART XXIV. VARIANCES.

### Article 1. Allowable Variance.

§ 24.1. When, in the opinion of the commissioner, the enforcement of one of more of the foregoing regulations creates an undue hardship, the commissioner shall have the authority to waive, either temporarily or permanently, the enforcement of one or more of the foregoing regulations, provided patient care is not adversely affected, and compliance shall be determined with a view towards reasonable conduct under the circumstances.

### Article 2. Severability.

§ 24.2. If any clause, sentence, paragraph, subdivision, section or part of these regulations shall be adjudged by any court of competent jurisdiction to be invalid, the judgment shall not affect, impair, or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, subdivision, section or part thereof directly involved in the controversy in which judgement shall have been rendered.

## DEPARTMENT OF SOCIAL SERVICES

**Title of Regulation:** VR 615-01-12. Persons and Income Required to be Considered when Evaluating Eligibility for Assistance in the Aid to Dependent Children (ADC) Program.

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

**Effective Date:** July 1, 1986

### Summary:

Section 63.1-25 of the Code of Virginia, authorizes the State Board of Social Services to promulgate rules and regulations necessary for operation of public assistance programs in Virginia.

Pursuant to Title 45 of the Code of Federal Regulations (CFR), § 206.10(a)(1)(vii), requires the

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parents and siblings living in the home of a dependent child for whom assistance is requested, and their income, to be considered when determining eligibility for the assistance unit and the amount of the assistance payment. Further, as set forth at § 233.20(a)(3) (xviii) of Title 45, when evaluating eligibility for any child whose parent has not attained the age of 19, the income of the parent(s) living in the home of such minor parent will be considered available to the assistance unit.

As the proposed regulation is being adopted in response to a federal regulatory mandate, the Department of Social Services, at the direction of the State Board of Social Services, is requesting exclusion from the requirements of Article 2 of the Administrative Process Act.

VR 615-01-12. Persons and Income Required to be Considered when Evaluating Eligibility for Assistance in the Aid to Dependent Children (ADC) Program.

## PART I. GENERAL.

### § 1.1. Definitions.

The following words and terms, when used in these guidelines, shall have the following meaning, unless the context clearly indicates otherwise:

"Appropriate disregards" means (i) the first \$75 of monthly gross income for each employed parent; (ii) an allowance at 100% of the state's standard of need for the parent(s) and all dependents for whom the parent is responsible and whose needs are not included in the assistance unit; (iii) the actual amount of support paid to persons not living in the home who are, or could be, claimed as tax dependents; and (iv) the actual amount of support or alimony paid to persons not living in the home who are not claimed on the individual's federal income tax return.

"Assistance unit" means all parents and siblings, both natural and adoptive, of the child for whom assistance is requested.

"Minor" means any child who has not attained the age of 19.

"Otherwise eligible" means that the individual is not precluded from eligibility by some provision of Part IV-A of the Social Security Act and with respect to children, means they meet the requirements of § 406(a)(1) and (2) of that Act.

## PART II. FORMING THE ASSISTANCE UNIT.


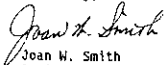
§ 2.1. The assistance unit will be comprised of the parent(s) and those children for whom assistance is

requested who are living in the same home unless otherwise indicated. A parent may exclude from the assistance unit any child at any time regardless of the reason, except upon receipt of a lump sum. If a child is excluded, none of his income or resources will be considered available to the remaining members of the assistance unit. In order for the family to be eligible for Aid to Dependent Children (ADC), an application with respect to a dependent child must also include, if living in the same household and otherwise eligible for assistance:

1. Any natural or adoptive parent; and
2. Any blood related or adopted brother or sister.

## PART III. COUNTING THE INCOME OF PARENTS OF MINOR PARENTS.

§ 3.1. The parent of an eligible child who is a minor (under 18 and not emancipated by marriage) and living in the home of his parent(s) is considered supported by his parent(s). His needs will not be included in the Aid to Dependent Children (ADC) assistance unit unless he requests assistance for himself and it is established that his parent(s) have income insufficient to meet his needs. In the case of a dependent child whose parent has not attained the age of 19, the Virginia Department of Social Services shall count as income to the assistance unit the income, after appropriate disregards, of such minor's own parent(s) living in the same household as the minor and dependent child.

 <b>COMMONWEALTH of VIRGINIA</b> VIRGINIA CODE COMMISSION General Assembly Building POST OFFICE BOX 240 RICHMOND, VIRGINIA 23288 (804) 756-2581
March 10, 1986
William L. Lukhard, Commissioner Department of Social Services 8007 Discovery Drive Richmond, Virginia 23288
Re: Persons and Income Required to be Considered When Evaluating Eligibility for Assistance in the Aid to Dependent Children (ADC) Program Strategy
Dear Mr. Lukhard:
This will acknowledge receipt of the amendments to the above regulation from the Department of Social Services.
As required by § 9-6.14:4.1 C.4.(c) of the Code of Virginia, I have determined that these regulations are exempt from the operation of Article 2 of the Administrative Process Act since they do not differ materially from those required by federal law.
Sincerely,  Joan W. Smith Registrar of Regulations
JWS:s11

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**Title of Regulation:** VR 615-29-02. Core Standards for Interdepartmental Licensure and Certification of Residential Facilities for Children.

**Statutory Authority:** §§ 16.1-286, 53.1-237 through 53.1-239, 16.1-310 through 16.1-314, 53.1-249, 22.1-319 through 22.1-335, 22.1-218, 37.1-179 through 37.1-189, 37.1-199, 63.1-195 through 63.1-219, and 63.1-56.1 of the Code of Virginia.

**Effective Date:** June 1, 1986

**Summary:**

Code of Virginia:  
Chapters 11 and 14 of Title 16.1  
Chapters 13 and 16 of Title 22.1  
Chapters 8 and 10 of Title 37.1  
Chapters 3 and 10 of Title 63.1  
Chapter 14 of Title 53.1

*Under the current definitions and exceptions in the Code of Virginia, which have been in effect since July 1, 1981, the Departments of Corrections, Education, Mental Health and Mental Retardation, and Social Services are responsible for the licensure, certification and/or approval of public and private residential facilities for children. Such facilities are licensed, certified, or approved under the "Core Standards for Interdepartmental Licensure and Certification of Residential Facilities for Children" except (i) facilities which do not accept public funds, (ii) private psychiatric hospitals serving children, and (iii) some residential facilities serving children which successfully meet the requirements of nationally recognized standards-setting agencies. The regulation addresses the following issues which have impact on residential facilities for children subject to licensure, certification and/or approval:*

*Organization and administration, personnel, residential environment, programs and services, disaster or emergency plans and licensure or certification procedures.*

*The purpose of the regulation is to establish the minimum requirements necessary to protect children in the care of residential facilities for children.*

VR 615-29-02. Core Standards for Interdepartmental Licensure and Certification of Residential Facilities for Children.

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### PART I. INTRODUCTION.

#### Article 1. Definitions.

§ 1.1. The following words and terms, when used in these regulations, shall have the following meaning, unless the context clearly indicates otherwise:

"Allegation" means an accusation that a facility is operating without a license and/or receiving public funds for services it is not certified to provide.

"Applicant" means the person, corporation, partnership, association or public agency which has applied for a license/certificate.

"Approval" means the process of recognizing that a public facility or an out-of-state facility has complied with standards for licensure or certification (In this document the words "license" or "licensure" will include approval of public and out-of-state facilities except when describing enforcement and other negative sanctions which are

described separately for these facilities).

**"Behavior management"** means planned and systematic use of various techniques selected according to group and individual differences of the children and designed to teach awareness of situationally appropriate behavior, to strengthen desirable behavior, and to reduce or to eliminate undesirable behavior. (The term is consistently generic, not confined to those technicalities which derive specifically from behavior therapy, operant conditioning, etc.)

**"Case record"** or **"Record"** means written information assembled in one folder or binder relating to one individual. This information includes social and medical data, agreements, notations of ongoing information, service plan with periodic revisions, aftercare plans and discharge summary, and any other data related to the resident.

**"Certificate to operate"** means documentation of licensure or permission granted by the Department of Education to operate a school for the handicapped that is conveyed on a single license/certificate.

**"Certification"** means the process of recognizing that a facility has complied with those standards required for it to receive funding from one of the four departments for the provision of residential program services to children (Under the Code of Virginia, the Board of Corrections is given authority to "approve" certain public and private facilities for the placement of juveniles. Similarly, school boards are authorized to pay, under certain conditions, for special education and related services in nonsectarian private residential schools for the handicapped that are "approved" by the Board of Education. Therefore, in this context the word "approval" is synonymous with the word "certification" and will be termed certification for purposes of this process).

**"Child"** means any person legally defined as a child under state law.

**"Child placing agency"** means any person licensed to place children in foster homes or adoptive homes or a local board of public welfare or social services authorized to place children in foster homes or adoptive homes.

**"Child with special needs"** means a child in need of particular services because he is mentally retarded, developmentally disabled, mentally ill, emotionally disturbed, a substance abuser, in need of special educational services for the handicapped, or requires security services.

**"Complaint"** means an accusation against a licensed/certified facility regarding an alleged violation of standards or law.

**"Confinement procedure"** means a disciplinary technique designed to reduce or eliminate inappropriate behavior by temporarily removing a child from contact with people or

other reinforcing stimuli through confining the child alone to his bedroom or other normally furnished room. The room in which the child is confined shall not be locked nor the door secured in any manner that will prohibit the child from opening it. See also the definitions of "Timeout Procedure," "Seclusion," "Behavior Management," "Discipline" and other standards related to Behavior Management.

**"Coordinator"** means the person designated by the Coordinating Committee to provide coordination and monitoring of the interdepartmental licensure/ certification process.

**"Core standards"** means those standards for residential care which are common to all four departments and which shall be met by all subject residential facilities for children in order to qualify for licensure, certification or approval.

**"Corporal punishment"** means any type of physical punishment inflicted in any manner upon the body.

[ **"Day off"** means a period of not less than 32 consecutive hours during which a staff person has no responsibility to perform duties related to the facility. Each successive day off immediately following the first shall consist of not less than 24 additional consecutive hours.

**"Department of Corrections standards for youth facilities"** means those additional standards which must be met in order for a facility to receive funding from the Department of Corrections for the provision of residential treatment services as a juvenile detention facility, a facility providing youth institutional services, a community group home or other residential facility serving children in the custody or subject to the jurisdiction of a juvenile court or of the Department of Corrections except that Core Standards will be the Department of Corrections Standards for Youth Facilities for residential facilities receiving public funds pursuant to §§ 16.1-286 or 53.1-239 of the Code of Virginia for the provision of residential care to children in the custody of or subject to the jurisdiction of a juvenile court or of the Department of Corrections. ]

**"Discipline"** means systematic teaching and training that is designed to correct, mold, or perfect behavior according to a rule or system of rules governing conduct. The object of discipline is to encourage self-direction and self-control through teaching the child to accept information, beliefs and attitudes which underlie the required conduct or behavior. The methods of discipline include, besides such instruction, positive reinforcement for desirable behavior, as well as reasonable and age-appropriate consequences for undesirable behavior, provided that these consequences are applied in a consistent and fair manner that gives the child an opportunity to explain his view of the misbehavior and to learn from the experience. (See also, "Behavior Management" and "Punishment.")

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**"Education standards"** means those additional standards which shall be met in order for a facility to (i) receive a certificate to operate an educational program that constitutes a private school for the handicapped; or (ii) be approved to receive public funding for the provision of special education and related services to eligible children.

**"Group home"** means a community-based, home-like single dwelling, or its acceptable equivalent, other than the private home of the operator, that is an integral part of the neighborhood and serves up to 12 children.

**"Group residence"** means a community-based, home-like single dwelling, or its acceptable equivalent, other than the private home of the operator, that is an integral part of the neighborhood and serves from 13 to 24 children.

**"Human research"** means any medical or psychological investigation designed to develop or contribute to general knowledge and which utilizes human subjects who may be exposed to the possibility of physical or psychological injury as a consequence of participation as subjects, and which departs from the application of those established and accepted methods appropriate to meet the subjects' needs but does not include:

1. The conduct of biological studies exclusively utilizing tissue or fluids after their removal or withdrawal from human subject in the course of standard medical practice;
2. Epidemiological investigations; or
3. Medical treatment of an experimental nature intended to save or prolong the life of the subject in danger of death, to prevent the subject from becoming disfigured or physically or mentally incapacitated.

**"Individualized service plan"** means a written plan of action developed, and modified at intervals, to meet the needs of each child. It specifies short and long-term goals, the methods and time frames for reaching the goals and the individuals responsible for carrying out the plan.

[ **"Juvenile offender treatment standards"** means those additional standards which must be met in order for a facility to receive funding from the Department of Corrections for the provision of residential treatment services as a juvenile detention facility, a facility providing youth institutional services, a community group home or other residential facility serving children in the custody or subject to the jurisdiction of a juvenile court or of the Department of Corrections, except that Core Standards will be the Juvenile Offender Treatment Standards for residential facilities receiving public funds pursuant to § 16.1-286 or § 53.1-230 of the Code of Virginia for the provision of residential care to children in the custody of or subject to the jurisdiction of a juvenile court or of the Department of Corrections. ]

**"Licensee"** means the person, corporation, partnership,

association or public agency to whom a license is issued and who is legally responsible for compliance with the standards and statutory requirements relating to the facility.

**"Licensing/certification authority"** means the department and/or state board that is responsible under the Code of Virginia for the licensure, certification, or approval of a particular residential facility for children.

**"Licensure"** means the process of granting legal permission to operate a residential facility for children and to deliver program services. (Under the Code of Virginia, no person shall open, operate or conduct a residential school for the handicapped without a "certificate to operate" such school issued by the Board of Education. The issuance of such a "certificate to operate" grants legal permission to operate a school for the handicapped. Therefore, in this context, the term "certificate to operate" is synonymous with the word "licensure" and will be termed licensure for purposes of this process.)

**"Living unit"** means the space in which a particular group of children in care of a residential facility reside. Such space contains sleeping areas, bath and toilet facilities, and a living room or its equivalent for use by the children who reside in the unit. Depending upon its design, a building may contain only one living unit or several separate living units.

**"Mechanical restraints"** means the application of machinery or tools as a means of physically restraining or controlling a resident's behavior, [ e.g., such as ] handcuffs, straitjackets, shackles [ ; etc but not including bed straps, bed rails, slings and other devices employed to support and/or protect physically incapacitated children ].

**"Mental disabilities certification standards"** means those standards in addition to Core Standards which shall be met in order for a facility to receive funding from the Department of Mental Health and Mental Retardation for the provision of residential treatment services to mentally ill, emotionally disturbed, mentally retarded, developmentally disabled and/or substance abusing children.

**"Mental disabilities licensure standards"** means, for those facilities that do not receive funding from the Department of Mental Health and Mental Retardation, those standards in addition to Core Standards which must be met in order for a facility to be licensed to provide care or treatment to mentally ill, emotionally disturbed, mentally retarded, developmentally disabled and/or substance abusing children.

**"On duty"** means that period of time during which a staff person is responsible for the supervision of one or more children.

**"Parent"** means a parent, guardian, or an individual

acting as a parent in the absence of a parental guardian. The parent means either parent unless the facility has been provided with evidence that there is a legally binding instrument or a state law or court order governing such matters as divorce, separation, or custody, which provides to the contrary. The term "parent" may include the natural mother or father, the adoptive mother or father, or the legally appointed guardian or committee who has custody of the child. The term "parent" also includes a surrogate parent appointed pursuant to provisions set forth in § II.D. of the Department of Education's "Regulations Governing Special Education Programs for Handicapped Children and Youth in Virginia". A child 18 years or older may assert any rights under these regulations in his own name.

"Physical [ force restraint ] " means any act by the facility or staff which exercises the use of [ bodily contact, physical ] confrontation and/or force with residents as a method or technique of managing [ harmful ] resident behavior.

"Placement" means an activity by any person which provides assistance to a parent or guardian in locating and effecting the movement of a child to a foster home, adoptive home or to a residential facility for children.

"Premises" means the tract(s) of land on which any part of a residential facility for children is located and any buildings on such tract(s) of land.

"Professional child and family service worker" means an individual providing social services to a child residing in a residential facility and his family. Such services are defined in Part V, Article 16.

"Program" means a combination of procedures and/or activities carried out in order to meet a specific goal or objective.

"Public funding" means funds paid by, on behalf of, or with the financial participation of the State Departments of Corrections, Education, Mental Health and Mental Retardation, and/or Social Services.

"Punishment" means retributive, retaliatory and sometimes harsh or abusive reactions to children's misbehavior. Punishment is defined as a reaction that primarily relieves adult frustration without being rationally designed to teach or to correct children's behavior.

"Resident" means a person admitted to a residential facility for children for supervision, care, training or treatment on a 24-hour basis. For the purpose of these standards, the words, "resident," "child," "client" and "youth" are used interchangeably.

"Residential facility for children" means a publicly or privately owned facility, other than a private family home, where 24-hour care is provided to children separated from their parents; that is subject to licensure, certification or

approval pursuant to the provisions of the Code of Virginia cited in the Legal Base; and includes, but is not limited to, group homes, group residences, secure custody facilities, self-contained residential facilities, temporary care facilities and respite care facilities, except:

1. Facilities which do not accept public funds and are required to be licensed as specified in §§ 63.1-195 through 63.1-219 of the Code of Virginia may be licensed under "Child Caring Institution Standards";

2. Private psychiatric hospitals serving children will be licensed by the Department of Mental Health and Mental Retardation under its "Rules and Regulations for the Licensure of Private Psychiatric Hospitals"; and

3. Residential facilities serving children which successfully meet the requirements of nationally recognized standards setting agencies whose standards and approval process are determined by the Coordinating Committee to be substantially equivalent to Core Standard and the Interdepartmental process shall be considered as having met the requirements of the Interdepartmental Licensing/Certification process.

"Respite care facility" means a facility that is specifically approved to provide short term, periodic residential care to children accepted into its program in order to give the parents/guardians temporary relief from responsibility for their direct care.

"Responsible adult" means an adult, who may or may not be a staff member, who has been delegated authority to make decisions and to take actions necessary to assume responsibility for the safety and well-being of children assigned to his care. The term implies that the facility has reasonable grounds to believe that the responsible adult has sufficient knowledge, judgement and maturity commensurate to the demands of the situation for which he is assuming authority and responsibility.

"Right" is something to which one has a natural, legal or moral claim.

"Sanitize" means to wash or rinse with water containing a laundry bleach with an active ingredient of 5.25% sodium hypochlorite. The amount of bleach used may be in accordance with manufacturer's recommendation on the package.

"Seclusion" means placing a child in a room with the door secured in any manner that will prohibit the child from opening it.

"Secure custody facility" means a facility designed to provide, in addition to the appropriate treatment and/or service programs, secure environmental restrictions for children who must be detained and controlled on a 24-hour basis.



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"Self-contained residential facility" means a residential setting for 13 or more children in which program activities are systematically planned and implemented as an integral part of the facility's staff functions (e.g. services are self-contained rather than provided primarily through community resources). The type of program may vary in intensity according to the needs of the residents. Such settings include nonmedical as well as state-operated hospital based care.

"Severe weather" means extreme environment or climate conditions which pose a threat to the health, safety or welfare of residents.

"Shall" means an obligation to act is imposed.

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

"Single license/certificate" means a document which grants approval to operate a residential facility for children and which indicates the status of the facility with respect to compliance with applicable certification standards.

"Standard" means a statement which describes in measurable terms a required minimum performance level.

"Substantial compliance" means a demonstration by a facility of full compliance with sufficient applicable standards to clearly demonstrate that its program and physical plant can provide reasonably safe and adequate care, while approved plans of action to correct findings of noncompliance are being implemented.

"Team" means one or more representatives of the licensing certification authority(ies) designated to visit a residential facility for children to review its compliance with applicable standards.

"Temporary care facility" means a facility specifically approved to provide a range of services, as needed, on an individual basis for a period not to exceed 60 days [ except that this term does not include secure detention facilities ].

"Timeout procedure" means a systematic behavior management technique designed to reduce or eliminate inappropriate behavior by temporarily removing a child from contact with people or other reinforcing stimuli through confining the child alone to a special timeout room that is unfurnished or sparsely furnished and, which contains few reinforcing environmental stimuli. The timeout room shall not be locked nor the door secured in any manner that will prohibit the child from opening it. (See the definitions of "Confinement Procedure," "Seclusion," "Behavior Management," and "Discipline.")

"Treatment" means any action which helps a person in the reduction of disability or discomfort, the amelioration of symptoms, undesirable conditions or changes in specific physical, mental [ , behavioral ] or social functioning.

"Visually impaired child" means one whose vision, after best correction, limits his ability to profit from a normal or unmodified educational or daily living setting.

"Wilderness camp" means a facility which provides a primitive camping program with a nonpunitive environment and an experience curriculum for children nine years of age and older who cannot presently function in home, school and community. In lieu of or in addition to dormitories, cabins or barracks for housing children, primitive campsites are used to integrate learning and therapy with real living needs and problems from which the child can develop a sense of social responsibility and self worth.

## Article 2. Legal Base.

§ 1.2. The Code of Virginia is the basis for the requirement that private residential facilities for children be licensed, certified and approved. It also authorizes the several Departments to operate or reimburse certain public facilities. In addition, P. L. 94-63 and Title XX of the Social Security Act require the establishment of quality assurance systems.

§ 1.3. The State Board of Corrections and/or the Department of Corrections are (is) responsible for approval of facilities used for the placement of court-referred juveniles, as specified by § 16.1-286 and §§ 53.1-237 and 53.1-239 of the Code of Virginia, for promulgating a statewide plan for detention and other care facilities and for prescribing standards for such facilities pursuant to §§ 16.1-310 through 16.1-314 of the Code of Virginia; and for establishing and maintaining a system of community group homes or other residential care facilities pursuant to § 53.1-249 of the Code of Virginia.

§ 1.4. The State Board of Education is responsible for issuing certificates to operate (licenses) for residential schools for the handicapped in the Commonwealth of Virginia, as specified in Chapter 16 of of Title 22.1 (§§ 22.1-319 through 22.1-335) of the Code of Virginia. It is further responsible for the general supervision of the public school system for all school age residents of Virginia (for handicapped children, ages 2-21) and for approval of private nonsectarian education programs for the handicapped, as specified by § 22.1-218 of the Code of Virginia.

§ 1.5. The Department of Mental Health and Mental Retardation is responsible for licensure of facilities or institutions for the mentally ill, mentally retarded, and substance abusers within the Commonwealth of Virginia, as specified in Chapter 8 of Title 37.1 (§§ 37.1-179 through 37.1-189) of the Code of Virginia. It is also responsible for the certification of group homes as specified in § 37.1-199 of the Code of Virginia.

[ § 1.6. ] The Department of Social Services is responsible for licensure of certain child welfare agencies and

facilities in Virginia, as specified in Chapter 10 of Title 63.1 (§§ 63.1-195 through 63.1-219) of the Code of Virginia. It is also responsible for the certification of local welfare/social services department "agency operated" group homes, as specified in § 63.1-56.1 of the Code of Virginia.

### Article 3. Interdepartmental Agreement.

[ § ~~1.6~~ § 1.7. ] An "Agreement for Interdepartmental Licensure and Certification of Children's Residential Facilities" was approved by the Director of the Department of Corrections, the Commissioners of the Department of Mental Health and Mental Retardation and the Department of Social Services and the Superintendent of Public Instruction and was initially signed on January 8-9, 1979. The agreement was updated effective September 30, 1984.

This agreement commits the above departments to apply the same standards to both public and private facilities and provides a framework for:

1. The joint development and application of licensure and certification standards;
2. A single coordinated licensure, certification and approval process that includes:
  - a. A single application for appropriate licensure, certification and/or approval;
  - b. A system for review of compliance with applicable standards;
  - c. A single license/certificate issued under the authority of the appropriate department(s) or board(s); and
  - d. Clear lines of responsibility for the enforcement of standards.
3. An Office of the Coordinator to provide central coordination and monitoring of the administration of the interdepartmental licensure/ certification program.

### Article 4. General Licensing/Certification Requirements.

[ § ~~1.7~~ § 1.8. ] All residential facilities for children must demonstrate an acceptable level of compliance with Core Standards and other applicable licensure requirements (e.g. Mental Disabilities Licensure Standards) and shall submit a plan of corrective action acceptable to the licensing authority for remedying within a specified time any noncompliance in order to be licensed to operate or [ be ] certified to receive children in Virginia. Facilities also shall demonstrate an acceptable level of compliance with other applicable standards, such as Education Standards, Mental Disabilities Certification Standards and [ Juvenile

Offender Treatment Standards Department of Corrections Standards for Youth Facilities ] , and submit a plan of corrective action acceptable to the certification authority for remedying within a specified time any noncompliance in order to be certified or approved.

[ § ~~1.8~~ § 1.9. ] Investigations of applications for licensure/certification will be carried out by representatives of the licensure/certification authority with each representative participating in the evaluation of compliance with applicable standards. The decision to license or certify will be based primarily on the findings and recommendations of these representatives of the licensing/certification authority.

[ § ~~1.9~~ § 1.10. ] Corporations sponsoring residential facilities for children shall maintain their corporate status in accordance with Virginia law. Corporations not organized and empowered solely to operate residential facilities for children shall provide for such operations in their charters.

### Article 5. The License/Certificate.

[ § ~~1.10~~ § 1.11. ] The interdepartmental program will utilize a single licensure/certification process encompassing Core Standards and certification standards. A single document will be issued to each qualified facility which will, under appropriate statutory authority(ies), grant permission to operate a residential facility for children or certify approval for the placement of children using public funds and which will indicate the status of each facility with respect to compliance with applicable certification standards.

[ § ~~1.11~~ § 1.12. ] The terms of any license/certificate issued shall include: (i) the operating name of the facility; (ii) the name of the individual, partnership, association or corporation or public agency to whom the license/certificate is issued; (iii) the physical location of the facility; (iv) the nature of the population; (v) the maximum number of persons to be accepted for care; (vi) the effective dates of the license; and (vii) other specifications prescribed within the context of the standards.

[ § ~~1.12~~ § 1.13. ] The license/certificate is not transferable and automatically expires when there is a change of ownership, sponsorship, or location, or when there is a substantial change in services or clientele which would alter the evaluation findings and terms under which the facility was licensed/certified.

[ § ~~1.13~~ § 1.14. ] Separate licenses/certificates are required for facilities maintained on separate pieces of property which do not have a common boundary, even though these may be operated under the same management and may share services and/or facilities.

[ § ~~1.14~~ § 1.15. ] The current license/certificate shall be

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posted at all times in a place conspicuous to the public.

## Article 6. Types of Licenses/Certificates.

[ § 1-15. § 1.16. ] An annual license/certificate may be issued to a residential facility for children [ that is subject to the licensure authority of the Departments of Education, Mental Health and Mental Retardation, or Social Services ] when its activities, services and requirements substantially meet the minimum standards and requirements set forth in Core Standards, applicable certification standards and any additional requirements that may be specified in relevant statutes. An annual license/certificate is effective for 12 consecutive months, unless it is revoked or surrendered sooner.

[ § 1-16. § 1.17. ] A provisional license/certificate may be issued whenever an applicant is temporarily unable to comply with all of the requirements set forth in Core Standards or applicable certification standards and under the condition that the requirements will be met within a specified period of time. A facility with provisional licensure/certification is required to demonstrate that it is progressing toward compliance. A provisional license/certificate shall not be issued where the noncompliance poses an immediate and direct danger to the health and safety of the residents.

A. For those facilities for which the Department of Mental Health and Mental Retardation is the licensing authority as specified in Chapter 8 of Title 37.1 of the Code of Virginia, at the discretion of the licensing authority a provisional license may be issued to operate a new facility in order to permit the applicant to demonstrate compliance with all requirements. Such a provisional license may be renewed, but such provisional licensure and any renewals thereof shall not exceed a period of six successive months. A provisional license also may be issued to a facility which has previously been fully licensed when such facility is temporarily unable to comply with all licensing standards. However, pursuant to § 37.1-183.2 of the Code of Virginia, such a provisional license may be issued for any period not to exceed 90 days and shall not be renewed.

B. For those facilities for which the Department of Social Services is the licensing authority as specified in Chapter 10 of Title 63.1 of the Code of Virginia, a provisional license may be issued following the expiration of an annual license. Such provisional licensure and any renewals thereof shall not exceed a period of six successive months. At the discretion of the licensing authority, a conditional license may be issued to operate a new facility in order to permit the applicant to demonstrate compliance with all requirements.

Such a conditional license may be renewed, but such conditional licensure and any renewals thereof shall not exceed a period of six successive months.

[ § 1-17. § 1.18. ] An extended license/certificate may be issued following the expiration of an annual or an extended license/certificate provided the applicant qualifies for an annual license/certificate and, additionally, it is determined by the licensing/certification authority that (i) the facility has a satisfactory compliance history; and (ii) the facility has had no significant changes in its program, population, sponsorship, staffing and management, or financial status during the term of the previous annual or extended license. In determining whether a facility has a satisfactory compliance history, the licensing/certification authority shall consider the facility's maintenance of compliance as evidenced by licensing complaints; monitoring visits by staff of the licensing authority; reports of health, fire and building officials; and other sources of information reflecting on the facility's continued compliance with applicable standards. An extended license is effective for a specified period not to exceed 24 consecutive months, unless it is revoked or surrendered sooner.

[ § 1-18. § 1.19. ] A residential facility for children [ that is not subject to the licensure authority of the Departments of Education, Mental Health and Mental Retardation, and Social Services operating under certification by the Department of Corrections ] may be issued a certificate indicating the status of the facility with respect to compliance with applicable certification standards. Such a certificate is effective for a specified period not to exceed 24 consecutive months, unless it is revoked or surrendered sooner.

[ § 1-19. § 1.20. ] The term of any certification(s) issued on an annual, provisional or extended license/certificate shall be coincident with the effective dates of the license.

[ § 1-20. § 1.21. ] There shall be no fee to the licensee for licensure, certification or approval.

## Article 7. Preapplication Consultation Services.

[ § 1-21. § 1.22. ] Upon receipt of an inquiry or a referral, preapplication consultation services will be made available by the Office of the Coordinator and the participating departments.

[ § 1-22. § 1.23. ] Preapplication consultation may be designed to accomplish the following purposes:

1. To explain standards and statutes;
2. To help the potential applicant explore the operational demands of a licensed/certified/approved residential facility for children;
3. To provide assistance in locating sources of information and technical assistance;
4. To refer the potential applicant to appropriate agencies; such as, the Department of Health, the State

Fire Marshal, local fire department, and local building officials; and

5. To comment, upon request, on plans for proposed construction or on existing property in terms of suitability for the purposes proposed. Such comments shall be limited to advice on basic space considerations.

## Article 8.

### The Initial Application.

[ ~~§ 1.22.~~ § 1.24. ] The application for a license to operate a residential facility for children shall be available from the Office of the Coordinator and the participating departments.

[ ~~§ 1.24.~~ § 1.25. ] All application forms and related information requests shall be designed to assure compliance with the provision of standards and relevant statutes.

[ ~~§ 1.25.~~ § 1.26. ] Completed applications along with other information required for licensure, certification or approval shall be submitted at least 60 days in advance of the planned opening date. Receipt shall be acknowledged.

## Article 9.

### The Investigation.

[ ~~§ 1.26.~~ § 1.27. ] Following receipt and evaluation of each completed application, a team will be organized made up of representatives from the departments which will be participating in the review of that particular facility.

[ ~~§ 1.27.~~ § 1.28. ] The team will arrange and conduct an on-site inspection of the proposed facility; a thorough review of the proposed services; and investigate the character, reputation, status, and responsibility of the applicant.

## Article 10.

### Allowable Variance.

[ ~~§ 1.28.~~ § 1.29. ] The licensing/certification authority has the sole authority to waive a standard either temporarily or permanently when in its opinion:

1. Enforcement will create an undue hardship;
2. The standard is not specifically required by statute or by the regulations of another government agency; and
3. Resident care would not be adversely affected.

[ ~~§ 1.29.~~ § 1.30. ] Any request for an allowable variance shall be submitted in writing [ to the licensing/certification authority ].

[ ~~§ 1.30.~~ § 1.31. ] The denial of a request for a variance is

appealable through the normal appeals process when it leads to the denial or revocation of licensure/certification.

## Article 11.

### Decision Regarding Licensure/Certification.

[ ~~§ 1.31.~~ § 1.32. ] Within 60 days of receipt of a properly completed application, the investigation will be completed and the applicant will be notified in writing of the decision regarding licensure/certification.

## Article 12.

### Issuance of a License, Certificate or Approval.

[ ~~§ 1.32.~~ § 1.33. ] Private facilities.

If licensure/certification (either annual, provisional or extended) is granted, the facility will be issued a license/certificate with an accompanying letter citing any areas of noncompliance with standards. This letter will also include any specifications of the license and may contain recommendations.

[ ~~§ 1.33.~~ § 1.34. ] Public and out-of-state facilities.

If approval is granted, the facility will be issued a certificate of approval indicating that it has met standards required for it to operate and receive public funds.

## Article 13.

### Intent to Deny a License, Certificate or Approval.

[ ~~§ 1.34.~~ § 1.35. ] If denial of a license, certificate or approval is recommended, the facility will be notified in writing of the deficiencies and the proposed action.

[ ~~§ 1.35.~~ § 1.36. ] Private facilities.

The notification of intent to deny a license or certificate will be a letter signed by the licensing/certification authority(ies) and sent by certified mail to the facility. This notice will include:

1. A statement of the intent of the licensing/certification authorities to deny;
2. A list of noncompliances and circumstances leading to the denial; and
3. Notice of the facility's rights to a hearing.

[ ~~§ 1.36.~~ § 1.37. ] Locally-operated facilities.

The notification of intent to deny a license or certificate will be a letter signed by the licensing/certification authority(ies) sent by certified mail to the facility and to the appropriate local governing body or official responsible therefore, stating the reasons for the action, as well as the applicable state board or departmental sanctions or actions to which they are liable.

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[ ~~§ 1-37.~~ § 1.38. ] State-operated public facilities.

The notification of intent to deny an approval will be a letter signed by the licensing/certification authority(ies) sent by certified mail to the facility, to the appropriate department head, and to the Secretary stating the reasons for the action and advising appropriate sanctions or actions.

[ ~~§ 1-38.~~ § 1.39. ] Out-of-state facilities.

The notification of denial of approval will be a letter signed by the licensing/certification authority(ies) sent by certified mail to the facility and to each of the four departments stating the reasons for the action. Any department having children placed in such a facility shall be responsible for immediate removal of the children when indicated.

[ ~~§ 1-39.~~ § 1.40. ] The hearing.

An interdepartmental hearing will be arranged when necessary. Hearings will be conducted in accordance with the requirements of the Administrative Process Act, § 9-6.14:1 et seq., of the Code of Virginia. Each licensing/certification authority will be provided with the report of the hearing on which to base the licensing authority's final decision. The Office of the Coordinator will be notified of the licensing authority's decision within 30 days after the report of the hearing is submitted. When more than one licensing/certification authority is involved, they will coordinate the final decision.

[ ~~§ 1-40.~~ § 1.41. ] Final decision.

A letter will be sent by registered mail notifying the facility of the final decision of the licensing/certification authorities. This letter will be drafted for the signatures of those departmental authorities who are delegated responsibility for such actions by statute. In case of denial, the facility shall cease operation or change its program so that it no longer requires licensure/certification. This shall be done within 30 days.

## Article 14. Renewal of License/Certificate.

[ ~~§ 1-41.~~ § 1.42. ] Approximately 90 days prior to the expiration of a license/certificate, the licensee will receive notice of expiration and an application for renewal of the license/certificate. The materials to be submitted will be indicated on the application.

In order to renew a license/certificate, the licensee shall complete the renewal application and return it and any required attachments. The licensee should submit this material within 30 days after receipt in order to allow at least 60 days to process the application prior to expiration of the license.

[ ~~§ 1-42.~~ § 1.43. ] The process for review of the facility

and issuance or denial of the license/certificate will be the same as for an initial application (See Part I, Articles 8, 9, 12, 13).

## Article 15. Early Compliance.

[ ~~§ 1-43.~~ § 1.44. ] A provisional [ or conditional ] license/certificate may be replaced with an annual license/certificate when all of the following conditions exist:

1. The facility [ corrects the deficiencies related to complies with all ] standards as listed on the face of the provisional [ or conditional ] license/certificate well in advance of its expiration date and [ no additional areas of noncompliance exist the facility is in substantial compliance with all other standards ];
2. Compliance has been verified by an on-site observation by a representative(s) of the licensing/certification authority or by written evidence provided by the licensee; and
3. All other terms of the license/certificate remain the same.

[ ~~§ 1-44.~~ § 1.45. ] A request to replace a provisional license/certificate and to issue an annual license/certificate shall be made in writing by the licensee.

[ ~~§ 1-45.~~ § 1.46. ] If the request is approved, the effective date of the new annual license/certificate will be the same as the beginning date of the provisional license/certificate.

## Article 16. Situations Requiring a New Application.

[ ~~§ 1-46.~~ § 1.47. ] A new application shall be filed in the following circumstances:

1. Change of ownership and/or sponsorship;
2. Change of location; and/or
3. Substantial change in services provided and/or target population.

## Article 17. Modification of License/Certificate.

[ ~~§ 1-47.~~ § 1.48. ] The conditions of a license/certificate may be modified during the term of the license with respect to the number of children, the age range or other conditions which do not constitute substantial changes in the services or target population.

The licensee shall submit a written report of any contemplated changes in operation which would affect

either the terms of the license/certificate or the continuing eligibility for a license/certificate.

A determination will be made as to whether changes may be approved and the license/certificate modified accordingly or whether an application for a new license/certificate must be filed. The licensee will be notified in writing within 30 days as to whether the modification is approved or a new license is required.

## Article 18. Visitation of Facilities.

[ ~~§ 1-48.~~ § 1.49. ] Representatives of the departments shall make announced and unannounced visits during the effective dates of the license/certificate. The purpose of these visits is to monitor compliance with applicable standards.

## Article 19. Investigation of Complaints and Allegations.

[ ~~§ 1-48.~~ § 1.50. ] The four departments are responsible for complete and prompt investigation of all complaints and allegations, and for notification of the appropriate persons or agencies when removal of children may be necessary. Suspected criminal violations shall be reported to the appropriate law-enforcement authority.

## Article 20. Revocation of License/Certificate.

[ ~~§ 1-50.~~ § 1.51. ] Grounds for revocation.

The license, certificate or approval may be revoked when the licensee:

1. Violates any provision of the applicable licensing laws or any applicable standards made pursuant to such laws;
2. Permits, aids or abets the commission of any illegal act in such facility;
3. Engages in conduct or practices which are in violation of statutes related to abuse or neglect of children; or
4. Deviates significantly from the program or services for which a license was issued without obtaining prior written approval from the licensing/certification authority and/or fails to correct such deviations within the time specified.

[ ~~§ 1-51.~~ § 1.52. ] Notification of intent to revoke.

If revocation of a license, certificate or approval is recommended, the facility will be notified in writing of the deficiencies and the proposed action.

[ ~~§ 1-52.~~ § 1.53. ] Private facilities.

The notification of intent to revoke a license or certificate will be a letter signed by the licensing/certification authority(ies) sent by certified mail to the facility. This notice will include:

1. A statement of the intent of the licensing/certification authorities to revoke;
2. A list of noncompliances and circumstances leading to the revocation; and
3. Notice of the facility's rights to a hearing.

[ ~~§ 1-53.~~ § 1.54. ] Locally-operated facilities.

The notification of intent to revoke a license or certificate will be a letter signed by the licensing/certification authority(ies) sent by certified mail to the facility and to the appropriate local governing body or official responsible therefore stating the reasons for the action as well as the applicable state board or departmental sanctions or actions to which they are liable.

[ ~~§ 1-54.~~ § 1.55. ] State-operated public facilities.

The notification of intent to revoke an approval will be a letter signed by the licensing/certification authority(ies) sent by certified mail to the facility, to the appropriate department head, and to the appropriate Secretary in the Governor's Cabinet, stating the reasons for the action and advising appropriate sanctions or actions.

[ ~~§ 1-55.~~ § 1.56. ] Out-of-state facilities.

The notification of revocation of approval will be a letter signed by the licensing/certification authority(ies) sent by certified mail to the facility, and to each of the four departments stating the reasons for the action. Any department having children placed in such a facility shall be responsible for immediate removal of the children when indicated.

[ ~~§ 1-56.~~ § 1.57. ] The hearing.

An interdepartmental hearing will be arranged, when necessary. Hearings will be conducted in accordance with the requirements of the Administrative Process Act, §9-6.14:1 et seq. of the Code of Virginia. Each licensing/certification authority will be provided with the report of the hearing on which to base the licensing authority's final decision. The Office of the Coordinator will be notified of the licensing authority's decision within 30 days after the report of the hearing is submitted. When more than one licensing/certification authority is involved, they will coordinate the final decision.

[ ~~§ 1-57.~~ § 1.58. ] Final decision.

A letter will be sent by registered mail notifying the facility of the final decision of the licensing/certification authorities. This letter will be drafted for the signatures of

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those departmental authorities who are delegated responsibility for such actions by statute. In case of revocation, the facility shall cease operation or change its program so that it no longer requires licensure/certification. This shall be done within 30 days.

[ ~~§ 1.58.~~ § 1.59. ] Suppression of unlicensed operations.

The suppression of illegal operations or activities involves action against a person or group operating without a license/certificate or operating after a license/certificate has expired or has been denied or revoked. All allegations of illegal operations shall be investigated promptly. After consultation with counsel, action may be initiated by the licensing/certification authority against illegally operating facilities by means of civil action, by injunction or by criminal action.

[ ~~§ 1.59.~~ § 1.60. ] Appeals.

A. Following receipt of the final order transmitting the decision of the licensing/certification authority(ies) after an administrative hearing, the applicant/licensee has the right to appeal pursuant to the applicable sections of the Administrative Process Act, §9-6.14:1 et seq. of the Code of Virginia.

B. Continued operation of a facility during the appeal process shall conform to applicable sections of the Code of Virginia.

## PART II. ORGANIZATION AND ADMINISTRATION.

### Article 1. Governing Body.

§ 2.1. The residential facility for children shall clearly identify the corporation, association, partnership, individual, or public agency that is the licensee.

§ 2.2. The licensee shall clearly identify any governing board, body, entity or person to whom it delegates the legal responsibilities and duties of the licensee.

### Article 2. Responsibilities of the Licensee.

§ 2.3. The licensee shall appoint a qualified chief administrative officer to whom it delegates in writing the authority and responsibility for the administrative direction of the facility.

§ 2.4. The licensee shall develop and implement written policies governing the licensee's relationship to the chief administrative officer that shall include, but shall not be limited to:

1. Annual evaluation of the performance of the chief administrative officer; and

2. Provision for the chief administrative officer to meet with the governing body or with the immediate supervisor to periodically review the services being provided, the personnel needs and fiscal management of the facility.

§ 2.5. The licensee shall develop a written statement of the philosophy and the objectives of the facility including a description of the population to be served and the program to be offered.

§ 2.6. The licensee shall review, at least annually, the program of the facility in light of the population served and the objectives of the facility.

§ 2.7. The licensee shall review, develop and implement programs and administrative changes in accord with the defined purpose of the facility.

### Article 3. Fiscal Accountability.

§ 2.8. The facility shall have a documented plan of financing which gives evidence that there are sufficient funds to operate.

§ 2.9. [ ~~The A new~~ ] facility shall [ with the initial application ] document funds or a line of credit sufficient to cover at least 90 days of operating expenses [ unless the facility is operated by a state or local government agency, board or commission ].

[ ~~§ 2.10.~~ A new facility operated by a corporation, unincorporated organization or association, an individual or a partnership shall submit with the initial application evidence of financial responsibility. This shall include:

1. A working budget showing projected revenue and expenses for the first year of operation; and
2. A balance sheet showing assets and liabilities. ]

[ ~~§ 2.10.~~ § 2.11. ] Facilities having an approved rate established in accordance with the Interdepartmental Rate Setting Process shall submit evidence of financial responsibility. This shall include:

1. A copy of the facility's most recently completed financial audit;
2. A report on any changes in income, expenses, assets, and liabilities that significantly change the fiscal condition of the facility as reflected in the financial audit submitted or a statement that no such changes have occurred; and
3. A working budget showing projected revenue and expenses for the coming year.

[ ~~§ 2.11.~~ § 2.12. ] Facilities operated by state or local government agencies, boards and commissions that do not

have an approved rate established in accordance with the Interdepartmental Rate Setting Process shall submit evidence of financial responsibility. This shall include [ :

1. ] a working budget showing [ projected appropriated ] revenue and [ projected ] expenses for the coming year [ ; and

2. Documentation that the funding source(s) have appropriated funds as indicated under income in the budget submitted ] .

[ § 2.12. § 2.13. ] Facilities operated by corporations, unincorporated organizations or associations, individuals or partnerships that do not have a rate set in accordance with the Interdepartmental Rate Setting Process shall submit evidence of financial responsibility. This shall include:

1. An operating statement showing revenue and expenses for the past operating year;
2. A working budget showing projected revenue and expenses for the coming year;
3. A balance sheet showing assets and liabilities; and
4. A written assurance from the licensee that the documentation provided for in 1, 2, and 3 above presents a complete and accurate financial report reflecting the current fiscal condition of the facility.

[ § 2.13. § 2.14. ] The facility shall provide additional evidence of financial responsibility as the licensing authority, at its discretion, may require.

#### Article 4. Internal Operating Procedures.

[ § 2.14. § 2.15. ] There shall be evidence of a system of financial record keeping that is consistent with generally accepted accounting principles unless the facility is a state or local program operating as required by the State Auditor of Public Accounts.

[ § 2.15. § 2.16. ] There shall be a written policy, consistent with generally accepted accounting principles, for collection and disbursement of funds unless the facility is a state or local program operating as required by the State Auditor of Public Accounts.

[ § 2.16. § 2.17. ] There shall be a system of financial record keeping that shows a separation of the facility's accounts from all other records.

#### Article 5. Insurance.

[ § 2.17. § 2.18. ] A facility shall maintain liability insurance covering the premises and the facility's operations.

[ § 2.18. § 2.19. ] There shall be liability insurance on vehicles operated by the facility.

#### Article 6. Bonding.

[ § 2.19. § 2.20. ] Those members of the governing body and staff who have been authorized responsibility for handling the funds of the facility shall be bonded.

#### Article 7. Fund-Raising.

[ § 2.20. § 2.21. ] The facility shall not use children in its fund-raising activities without written permission of parent, guardian or agency holding custody.

#### Article 8. Relationship to Licensing Authority.

[ § 2.21. § 2.22. ] The facility shall submit or make available to the licensing authority such reports and information as the licensing authority may require to establish compliance with these standards and the appropriate statutes.

[ § 2.22. § 2.23. ] The governing body or its official representative shall notify the licensing authority(ies) within five working days of:

1. Any change in administrative structure or newly hired chief administrative officer; and
2. Any pending changes in the program.

[ § 2.23. § 2.24. ] In the event of a disaster, fire, emergency or any other condition at the facility that may jeopardize the health, safety and well-being of the children in care, the facility shall:

1. Take appropriate action to protect the health, safety and well-being of the children in care;
2. Take appropriate actions to remedy such conditions as soon as possible, including reporting to and cooperating with local health, fire, police or other appropriate officials; and
3. Notify the licensing authority(ies) of the conditions at the facility and the status of the children in care as soon as possible.

#### Article 9. Participation of Children in Research.

[ § 2.24. § 2.25. ] The facility shall establish and implement written policies and procedures regarding the participation of children as subjects in research that are consistent with Chapter 13, of Title 37.1, of the Code of Virginia, unless the facility has established and implemented a written policy explicitly prohibiting the



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participation of children as subjects of human research as defined by the above statute.

## [ Article 10. Children's Records. ]

[ ~~§ 2.25.~~ § 2.26. ] A separate case record on each child shall be maintained and shall include all correspondence relating to the care of that child.

[ ~~§ 2.26.~~ § 2.27. ] Each case record shall be kept up to date and in a uniform manner.

[ ~~§ 2.27.~~ § 2.28. ] Case records shall be maintained in such manner as to be accessible to staff for use in working with the child.

## Article 11. Confidentiality of Children's Records.

[ ~~§ 2.28.~~ § 2.29. ] The facility shall make information available only to those legally authorized to have access to that information under federal and state laws.

[ ~~§ 2.30.~~ § 2.30. ] There shall be written policy and procedures to protect the confidentiality of records which govern acquiring information, access, duplication, and dissemination of any portion of the records. The policy shall specify what information is available to the youth.

## Article 12. Storage of Confidential Records.

[ ~~§ 2.30.~~ § 2.31. ] Records shall be kept in areas which are accessible only to authorized staff.

[ ~~§ 2.31.~~ § 2.32. ] Records shall be stored in a metal file cabinet or other metal compartment.

[ ~~§ 2.32.~~ § 2.33. ] When not in use, records shall be kept in a locked compartment or in a locked room.

## Article 13. Disposition of Children's Records.

[ ~~§ 2.33.~~ § 2.34. ] Children's records shall be kept in their entirety for a minimum of three years after the date of the discharge unless otherwise specified by state or federal requirements.

[ ~~§ 2.34.~~ § 2.35. ] Permanent information shall be kept on each child even after the disposition of the child's record unless otherwise specified by state or federal requirements. Such information shall include:

1. Child's name;
2. Date and place of child's birth;
3. Dates of admission and discharge;

4. Names and addresses of parents and siblings; and

5. Name and address of legal guardian.

[ ~~§ 2.35.~~ § 2.36. ] Each facility shall have a written policy to provide for the disposition of records in the event the facility ceases operation.

## Article 14. Residential Facilities for Children Serving Persons Over the Age of 17 Years.

[ ~~§ 2.36.~~ § 2.37. ] Residential facilities for children subject to Interdepartmental licensure/certification which are also approved to maintain in care persons over 17 years of age, shall comply with the requirements of Core Standards for the care of all residents, regardless of age, except that residential programs serving persons over 17 years of age, shall be exempt from this requirement when it is determined by the licensing/certification authority(ies) that the housing, staff and programming for such persons is maintained separately from the housing, staff and programming for the children in care.

## PART III. PERSONNEL.

### Article 1. Health Information.

§ 3.1. Health information required by these standards shall be maintained for the chief administrative officer, for all staff members who come in contact with children or handle food, and for any individual who resides in a building occupied by children including any such persons who are neither staff members nor children in care of the facility.

### Article 2. Initial Tuberculosis Examination and Report.

§ 3.2. Within 30 days of employment or contact with children each individual shall obtain an evaluation indicating the absence of tuberculosis in a communicable form [ except that an evaluation shall not be required for an individual who (i) has separated from employment with a facility licensed/certified by the Commonwealth of Virginia, (ii) has a break in service of six months or less, and (iii) submits the original statement of tuberculosis screening ].

§ 3.3. Each individual shall submit a statement that he is free of tuberculosis in a communicable form including the type(s) of test(s) used and the test result(s).

§ 3.4. The statement shall be signed by licensed physician the physician's designee, or an official of a local health department.

§ 3.5. The statement shall be filed in the individual's record.

## Article 3. Subsequent Evaluations for Tuberculosis.

[ § 3.6. An individual who had a significant (positive) reaction to a tuberculin skin test and whose physician certifies the absence of communicable tuberculosis must obtain chest x-rays on an annual basis for the following two years.

A. The individual shall submit statements documenting the chest x-rays and certifying freedom from tuberculosis in a communicable form.

B. The statements shall be signed by licensed physician, the physician's designee, or an official of a local health department.

C. The statements shall be filed in the staff member's record.

D. Screening beyond two years is not required unless there is known contact with a case of tuberculosis or development of chronic respiratory symptoms.

§ 3.7. Additional screening is not required for an individual who had a nonsignificant (negative) reaction to an initial tuberculin skin test. ]

[ § 3.8. § 3.6. ] Any individual who comes in contact with a known case of tuberculosis or who develops chronic respiratory symptoms [ of four weeks duration or longer ] shall, within 30 days of exposure/development, receive an evaluation in accord with Part III, Article 2.

## Article 4. Physical or Mental Health of Personnel.

[ § 3.9. § 3.7. ] At the request of the licensee/administrator of the facility or the licensing authority a report of examination by a licensed physician shall be obtained when there are indications that the care of children may be jeopardized by the physical, mental, or emotional health of a specific individual.

[ § 3.10. § 3.8. ] Any individual who, upon examination by a licensed physician or as result of tests, shows indication of a physical or mental condition which may jeopardize the safety of children in care or which would prevent the performance of duties:

1. Shall immediately be removed from contact with children and food served to children; and
2. Shall not be allowed contact with children or food served to children until the condition is cleared to the satisfaction of the examining physician as evidenced by a signed statement from the physician.

## Article 5. Qualifications.

[ § 3.11. § 3.9. ] Standards [ in Part III, Articles 12-14 ] establishing [ the ] minimum [ position ] qualifications [ for the positions of Program Director, Child and Family Service Worker, Child Care Supervisor, and Child Care Worker ] shall be applicable to all facilities [ except . In lieu of these minimum position qualifications, ] (i) facilities subject to the rules and regulations of the Virginia Department of Personnel and Training, or (ii) [ facilities subject to ] the rules and regulations of a local government personnel office [ shall may ] develop written minimum entry level qualifications in accord with the rules and regulations of the supervising personnel authority.

[ § 3.12. § 3.10. ] Any person who assumes or is designated to assume the responsibilities of a staff position or any combination of staff positions described in these standards shall meet the qualifications of that position(s) and shall fully comply with all applicable standards for each function.

[ § 3.13. § 3.11. ] When services or consultations are obtained on a contract basis they shall be provided by professionally qualified personnel.

## Article 6. Job Descriptions.

[ § 3.14. § 3.12. ] For each staff position there shall be a written job description which, at a minimum, shall include:

1. The job title;
2. The duties and responsibilities of the incumbent;
3. The job title of the immediate supervisor; and
4. The minimum knowledge, skills and abilities required for entry level performance of the job.

[ § 3.15. § 3.13. ] A copy of the job description shall be given to each person assigned to that position at the time of employment or assignment.

## Article 7. Written Personnel Policies and Procedures.

[ § 3.16. § 3.14. ] The licensee shall approve written personnel policies.

[ § 3.17. § 3.15. ] The licensee shall make its written personnel policies readily accessible to each staff member.

[ § 3.18. § 3.16. ] The facility shall develop and implement written policies and procedures to assure that persons employed in or designated to assume the responsibilities of each staff position possess the knowledge, skills and abilities specified in the job description for that staff position.

[ § 3.19. § 3.17. ] Written [ policies and ] procedures

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related to child abuse and neglect shall be distributed to all staff members. These shall include:

1. Acceptable methods for discipline and behavior management of children;
2. Procedures for handling accusations against staff; and
3. Procedures for promptly referring suspected cases of child abuse and neglect to the local protective service unit and for cooperating with the unit during any investigation. (See [ ~~§5.147~~ § 5.143 ])

[ ~~§ 3.20~~ § 3.18. ] Each staff member shall demonstrate a working knowledge of those policies and procedures that are applicable to his specific staff position.

## Article 8. Personnel Records.

[ ~~§ 3.21~~ § 3.19. ] A separate up-to-date personnel record shall be maintained for each staff member. The record shall include:

1. A completed employment application form or other written material providing:
  - a. Identifying information (name, address, phone number, social security number, and any names previously utilized);
  - b. Educational history; and
  - c. Employment history.
2. Written references or notations of oral references;
3. Reports of required health examinations;
4. Annual performance evaluations; and
5. Documentation of staff development activities.

[ ~~§ 3.22~~ § 3.20. ] Each personnel record shall be retained in its entirety for two years after employment ceases.

[ ~~§ 3.23~~ § 3.21. ] Information sufficient to respond to reference requests on separated employees shall be permanently maintained. Information shall minimally include name, social security number, dates of employment, and position(s) held.

## Article 9. Staff Development.

[ ~~§ 3.24~~ § 3.22. ] New employees, relief staff, volunteers and students, within one calendar month of employment, shall be given orientation and training regarding the objectives and philosophy of the facility, practices of confidentiality, other policies and procedures that are

applicable to their specific positions, and their specific duties and responsibilities.

[ ~~§ 3.25~~ § 3.23. ] Provision shall be made for staff development activities, designed to update staff on items in [ ~~§ 3.24~~ § 3.22 ] and to enable them to perform their job responsibilities adequately. Such staff development activities include, but shall not necessarily be limited to, supervision and formal training.

[ ~~§ 3.26~~ § 3.24. ] Regular supervision of staff shall be provided.

[ ~~§ 3.27~~ § 3.25. ] Regular supervision of staff shall not be the only method of staff development.

[ ~~§ 3.28~~ § 3.26. ] Participation of staff, volunteers and students in orientation, training and staff development activities shall be documented.

## Article 10. Staff Supervision of Children.

[ ~~§ 3.29~~ § 3.27. ] No person shall [ be scheduled to ] work more than six consecutive days between rest days.

[ ~~§ 3.30~~ § 3.28. ] Child care staff who have at least one 24- [ consecutive- ] hour period [ of direct supervisory contact with children on duty ] during a week shall have an average of not less than two days off per week in any four-week period. This shall be in addition to vacation time and holidays.

[ ~~§ 3.31~~ § 3.29. ] Child care staff who [ work in shifts do not have at least one 24-consecutive-hour period on duty during a week ] shall have an average of not less than two days off per week in any four-week period. This shall be in addition to vacation time and holidays.

[ ~~§ 3.32~~ § 3.30. ] Child care staff who [ work in shifts do not have at least one 24-consecutive-hour period on duty during a week ] shall not be on duty more than 16 consecutive hours except in emergencies when relief staff [ cannot be used are not available ].

[ ~~§ 3.33~~ § 3.31. ] There shall be at least one responsible adult on the premises and on duty at all times that one or more children are present.

[ ~~§ 3.34~~ § 3.32. ] There shall be at least one child care staff member on duty in each living unit when one or more children are present.

[ ~~§ 3.35~~ § 3.33. ] During the hours that children normally are awake there shall be no less than one child care staff awake, on duty and responsible for supervision of every 10 children present who are two years of age or older.

[ ~~§ 3.36~~ § 3.34. ] During the hours that children normally are awake there shall be no less than one child care staff member awake, on duty, and responsible for supervision of

every three children present under two years of age.

[ ~~§ 3-27~~ § 3.35. ] In buildings where 30 or more children are sleeping there shall be no less than one child care staff member awake and on duty during night hours.

[ ~~§ 3-28~~ § 3.36. ] There shall be at least one child care staff member awake on each floor and on each major wing of each floor where 30 or more children are sleeping.

[ ~~§ 3-29~~ § 3.37. ] When children are away from the facility they and the adults responsible for their care during that absence shall be furnished with telephone number where a responsible facility staff member or other responsible adult may be reached at all times [ except that this requirement shall not apply to secure detention facilities ].

## Article 11. The Chief Administrative Officer.

[ ~~§ 3-40~~ § 3.38. ] The chief administrative officer shall be responsible to the governing body for:

1. The overall administration of the program;
2. Implementation of all policies;
3. Maintenance of the physical plant; and
4. Fiscal management of the residential facility for children.

[ ~~§ 3-41~~ § 3.39. ] Duties of the chief administrative officer may be delegated to qualified subordinate staff.

[ ~~§ 3-42~~ § 3.40. ] Duties delegated by the chief administrative officer shall be reflected in the job description of the position assigned each delegated function.

[ ~~§ 3-43~~ § 3.41. ] A qualified staff member shall be designated to assume responsibility for the operation of the facility in the absence of the chief administrative officer.

## Article 12. The Program Director.

[ ~~§ 3-44~~ § 3.42. ] The program director shall be responsible for the development and implementation of the programs and services (See Part V) offered by the residential facility for children.

[ ~~§ 3-45~~ § 3.43. ] A program director appointed after July 1, 1981, shall have:

1. A baccalaureate degree from an accredited college or university with two years of successful work experience with children in the field of institutional management, social work, education or other allied

profession; or

2. A graduate degree from an accredited college or university in a profession related to child care and development; or

3. A license or certification in the Commonwealth of Virginia as a drug or alcoholism counselor/worker if the facility's purpose is to treat drug abuse or alcoholism [ ; or

4. Any combination of training and experience equivalent to a graduate degree. ]

[ ~~§ 3-46~~ § 3.44. ] Any qualified staff member, including the chief administrative officer, may serve as the program director.

[ ~~§ 3-47~~ § 3.45. ] [ A When a facility is licensed/certified to care for 13 or more children, a full-time, ] qualified staff member shall [ be appointed to ] fulfill the duties of [ the ] program director.

## Article 13. Child and Family Service Worker(s).

[ ~~§ 3-48~~ § 3.46. ] If not provided by external resources in accord with [ ~~§ 5-47~~ § 5.45 ], counseling and social services (see [ ~~§ 5-45~~ § 5.43 ], shall be provided by a staff member(s) qualified to provide such services.

[ ~~§ 3-49~~ § 3.47. ] If employment begins after July 1, 1981, the Child and Family Service Worker shall have:

1. A graduate degree in social work, psychology, counseling or a field related to family services or child care and development; or

2. A baccalaureate degree and two years of successful experience in social work, psychology, counseling or a field related to family services or child care and development (In lieu of two years of experience, the person may work under the direct supervision of a qualified supervisor for a period of two years); or

3. A license or certificate in the Commonwealth of Virginia to render services as a drug abuse or alcoholism counselor/worker only in facilities which are certified to provide drug abuse or alcoholism counseling; or

[ 4. Any combination of training and experience equivalent to a graduate degree; or ]

[ 5. 4. ] A license or certificate when required by law issued in the Commonwealth of Virginia to render services in the field of:

- a. Social Work, or
- b. Psychology, or

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## c. Counseling (individual, group or family).

### Article 14. Child Care Staff.

[ ~~§ 3.50.~~ § 3.48. ] In each child care unit a designated staff member shall have responsibility for the development of the daily living program within the child care unit.

[ ~~§ 3.51.~~ § 3.49. ] A designated staff member shall be responsible for the coordination of all services offered to each child.

[ ~~§ 3.52.~~ § 3.50. ] A designated staff member(s) shall have responsibility for the orientation, training and supervision of child care workers.

[ ~~§ 3.53.~~ § 3.51. ] An individual employed after July 1, 1981 to supervise child care staff shall have:

1. A baccalaureate degree from an accredited college or university and two years experience in the human services field, at least one of which shall have been in a residential facility for children; or
2. A high school diploma or a General Education Development Certificate (G.E.D.) and a minimum of five years experience in the human service field with at least two years in a residential facility for children.

[ ~~§ 3.54.~~ § 3.52. ] The child care worker shall have direct responsibility for guidance and supervision of the children to whom he is assigned. This shall include:

1. Overseeing physical care;
2. Development of acceptable habits and attitudes;
3. Discipline; and
4. Helping to meet the goals and objectives of [ ~~the child's~~ any required ] service plan.

[ ~~§ 3.55.~~ § 3.53. ] A child care worker shall be no less than 18 years of age.

[ ~~§ 3.56.~~ § 3.54. ] A child care worker shall:

1. Be a high school graduate or have a General Education Development Certificate (G.E.D.) except that individuals employed prior to the effective date of these standards shall meet this requirement by July 1, 1986; and
2. Have demonstrated, through previous life and work experiences, an ability to maintain a stable environment and to provide guidance to children in the age range for which the child care worker will be responsible.

### Article 15.

### Relief Staff.

[ ~~§ 3.57.~~ § 3.55. ] Sufficient [ qualified ] relief staff shall be employed to maintain required staff/child ratios during:

1. Regularly scheduled time off of permanent staff, and
2. Unscheduled absences of permanent staff.

[ ~~§ 3.58.~~ Relief staff shall meet the minimum qualifications and the personal health requirements for the position which they are temporarily occupying. ]

### Article 16. Medical Staff.

[ ~~§ 3.59.~~ § 3.56. ] Services of a licensed physician shall be available for treatment of children as needed.

[ ~~§ 3.60.~~ § 3.57. ] Any nurse employed shall hold a current nursing license issued by the Commonwealth of Virginia.

[ ~~§ 3.61.~~ § 3.58. ] At all times that youth are present there shall be at least one responsible adult on the premises who has received within the past three years a basic certificate in standard first-aid (Multi-Media, Personal Safety, or Standard First Aid Modular) issued by the American Red Cross or other recognized authority except that this requirement does not apply during those hours when a licensed nurse is present at the facility.

[ ~~§ 3.59.~~ At all times that youth are present there shall be at least one responsible adult on the premises who has received a certificate in cardiopulmonary resuscitation issued by the American Red Cross or other recognized authority. ]

### Article 17. Recreation Staff.

[ ~~§ 3.62.~~ § 3.60. ] There shall be designated staff responsible for organized recreation who shall have:

1. Experience in working with and providing supervision to groups of children with varied recreational needs and interests;
2. A variety of skills in group activities;
3. A knowledge of community recreational facilities; and
4. An ability to motivate children to participate in constructive activities.

### Article 18. Volunteers and Students Receiving Professional Training.

[ ~~§ 3.63.~~ § 3.61. ] If a facility uses volunteers or students

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receiving professional training it shall develop written policies and procedures governing their selection and use. A facility that does not use volunteers shall have a written policy stating that volunteers will not be utilized.

[ ~~§ 3.64.~~ § 3.62. ] The facility shall not be dependent upon the use of volunteers/students to ensure provision of basic services.

[ ~~§ 3.65.~~ § 3.63. ] The selection of volunteers/students and their orientation, training, scheduling, supervision and evaluation shall be the responsibility of designated staff members.

[ ~~§ 3.66.~~ § 3.64. ] Responsibilities of volunteers/students shall be clearly defined.

[ ~~§ 3.67.~~ § 3.65. ] All volunteers/students shall have qualifications appropriate to the services they render based on experience and/or orientation.

[ ~~§ 3.68.~~ § 3.66. ] Volunteers/students shall be subject to all regulations governing confidential treatment of personal information.

## [ Article 18. Support Functions. ]

[ ~~§ 3.69.~~ § 3.67. ] Volunteers/students shall be informed regarding liability and protection.

## [ Article 19. Support Functions. ]

[ ~~§ 3.70.~~ § 3.68. ] Facilities shall provide for support functions including, but not limited to, food service, maintenance of buildings and grounds, and housekeeping.

[ ~~§ 3.71.~~ § 3.69. ] All food handlers shall comply with applicable State Health Department regulations and with any locally adopted health ordinances.

[ ~~§ 3.72.~~ § 3.70. ] Child care workers and other staff may assume the duties of service personnel only when these duties do not interfere with their responsibilities for child care.

[ ~~§ 3.73.~~ § 3.71. ] Children shall not be solely responsible for support functions.

## PART IV. RESIDENTIAL ENVIRONMENT.

### Article 1. Location.

§ 4.1. A residential facility for children shall be located so that it is reasonably accessible to schools, transportation, medical and psychiatric resources, churches, and recreational and cultural facilities [ in order that residents may participate in community life ].

## Article 2.

### Buildings, Inspections and Building Plans.

§ 4.2. All buildings and installed equipment shall be inspected and approved by the local building official when required. This approval shall be documented by a Certificate of Use and Occupancy indicating that the building is classified for its proposed licensed/certified purposes.

§ 4.3. At the time of the original application and at least annually thereafter the buildings shall be inspected and approved by:

1. Local fire authorities with respect to fire safety and fire hazards, except in state operated facilities;
2. State fire officials, where applicable; and
3. State or local health authorities, whose inspection and approval shall include:
  - a. General sanitation;
  - b. The sewage disposal system;
  - c. The water supply;
  - d. Food service operations; and
  - e. Swimming pools.

§ 4.4. The buildings shall be suitable to house the programs and services provided.

## Article 3.

### Plans and Specifications for New Buildings and Additions, Conversions, and Structural Modifications to Existing Buildings.

§ 4.5. Building plans and specifications for new construction, conversion of existing buildings, and any structural modifications or additions to existing licensed buildings shall be submitted to and approved by the licensing/certification authority and the following authorities, where applicable, before construction begins:

1. Local building officials;
2. Local fire departments;
3. Local or state health departments; and
4. Office of the State Fire Marshal.

§ 4.6. Documentation of the approvals required by § 4.5 shall be submitted to the licensing authority(ies).

## Article 4.

### Heating Systems, Ventilation and Cooling Systems.

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§ 4.7. Heat shall be evenly distributed in all rooms occupied by the children such that a temperature no less than 65°F is maintained, unless otherwise mandated by state or federal authorities.

§ 4.8. Natural or mechanical ventilation to the outside shall be provided in all rooms used by children.

§ 4.9. All doors and windows capable of being used for ventilation shall be fully screened unless screening particular doors and windows is explicitly prohibited in writing by state or local fire authorities and those doors and windows are not used for ventilation.

§ 4.10. [ Mechanical ventilating systems or ] Air conditioning [ or mechanical ventilating systems, such as electric fans, ] shall be provided in all rooms occupied by children when the temperature in those rooms exceeds 85°F.

## Article 5. Lighting.

§ 4.11. Artificial lighting shall be by electricity.

§ 4.12. All areas within buildings shall be lighted for safety.

§ 4.13. Night lights shall be provided in halls and bathrooms.

§ 4.14. Lighting shall be sufficient for the activities being performed in a specific area.

§ 4.15. Operable flashlights or battery lanterns shall be available for each staff member on the premises between dusk and dawn for use in emergencies.

§ 4.16. Outside entrances and parking areas shall be lighted for protection against injuries and intruders.

## [ Article 6. Plumbing and Toilet Facilities. ]

§ 4.17. All plumbing shall be maintained in good operational condition.

§ 4.18. There shall be an adequate supply of hot and cold running water available at all times.

§ 4.19. Precautions shall be taken to prevent scalding from running water. In all newly constructed or renovated facilities mixing faucets shall be installed.

§ 4.20. There shall be at least one toilet, one hand basin and one shower or bathtub in each living unit, and there shall be at least one bathroom equipped with a bathtub in each facility.

§ 4.21. There shall be at least one toilet, one hand basin and one shower or tub for every eight children in care.

§ 4.22. In any facility constructed or reconstructed after July 1, 1981, except secure detention facilities there shall be one toilet, one hand basin and one shower or tub for every four children in care.

§ 4.23. When a separate bathroom is not provided for staff on duty less than 24-hours, the maximum number of staff members on duty in the living unit at any one time shall be counted in the determination of the number of toilets and hand basins.

§ 4.24. There shall be at least one mirror securely fastened to the wall at a height appropriate for use in each room where hand basins are located except in security rooms in hospitals, secure detention facilities and learning centers.

§ 4.25. At all times an adequate supply of personal necessities shall be available to the children for purposes of personal hygiene and grooming; such as, but not limited to, soap, toilet tissue, toothpaste, individual tooth brushes, individual combs and shaving equipment.

§ 4.26. Clean, individual washclothes and towels shall be available [ twice once ] each week or more often if needed.

## Article 7. Facilities and Equipment for Residents with Special Toileting Needs.

§ 4.27. When residents are in care who are not toilet trained:

1. Provision shall be made for sponging, diapering and other similar care on a nonabsorbent changing surface which shall be cleaned with warm soapy water after each use.

2. A covered diaper pail, or its equivalent, with leakproof disposable liners shall be available. If both cloth and disposable diapers are used there shall be a diaper pail for each.

3. Adapter seats and toilet chairs shall be cleaned with warm soapy water immediately after each use.

4. Staff shall thoroughly wash their hands with warm soapy water immediately after assisting an individual resident or themselves with toileting.

## Article 8. Sleeping Areas.

§ 4.28. When children are four years of age or older, boys shall have separate sleeping areas from girls.

§ 4.29. No more than four children may share a bedroom or sleeping area.

§ 4.30. When a facility is not subject to the Virginia Public

**Building Safety Regulations or the Uniform Statewide Building Code, children who are dependent upon wheelchairs, crutches, canes or other mechanical devices for assistance in walking shall be assigned sleeping quarters on ground level and provided with a planned means of effective egress for use in emergencies.**

§ 4.31. There shall be sufficient space for beds to be at least three feet apart at the head, foot and sides and five feet apart at the head, foot and sides for double-decker beds.

§ 4.32. In facilities previously licensed by the Department of Social Services and in facilities established, constructed or reconstructed after July 1, 1981, sleeping quarters shall meet the following space requirements:

1. There shall be not less than 450 cubic feet of air space per person;
2. There shall be not less than 80 square feet of floor area in a bedroom accommodating only one person;
3. There shall be not less than 60 square feet of floor area per person in rooms accommodating two or more persons; and
4. All ceilings shall be at least 7-1/2 feet in height.

§ 4.33. Each child shall have a separate, clean, comfortable bed equipped with mattress, pillow, blanket(s), bed linens, and, if needed, a waterproof mattress cover.

§ 4.34. Bed linens shall be changed at least every seven days or more often, if needed.

§ 4.35. Mattresses and pillows shall be clean and those placed in service after July 1, 1981, shall also be fire retardant as evidenced by documentation from the manufacturer.

§ 4.36. Cribs shall be provided for children under two years of age.

§ 4.37. Each child shall be assigned drawer space and closet space, or their equivalent, accessible to the sleeping area for storage of clothing and personal belongings.

§ 4.38. The sleeping area environment shall be conducive to sleep and rest.

§ 4.39. Smoking by any person shall be prohibited in sleeping areas.

#### Article 9. Privacy for Children.

§ 4.40. Where bathrooms are not designated for individual use, each toilet shall be enclosed for privacy except in secure detention facilities.

§ 4.41. Where bathrooms are not designated for individual use, bathtubs and showers, except in secure detention facilities, shall provide visual privacy for bathing by use of enclosures, curtains or other appropriate means.

§ 4.42. Windows in bathrooms shall [ ~~have translucent material or window coverings provide~~ ] for privacy.

§ 4.43. Every sleeping area shall have a door that may be closed for privacy or quiet and this door shall [ be ] readily [ ~~open~~ openable ] in case of fire or other emergency.

§ 4.44. Windows in sleeping and dressing areas shall [ ~~have translucent material or window coverings provide~~ ] for privacy.

#### Article 10. Living Rooms/Indoor Recreation Space.

§ 4.45. Each living unit shall contain a living room or an area for informal use for relaxation and entertainment. The furnishings shall provide a comfortable, home-like environment that is age appropriate.

§ 4.46. In facilities licensed to care for more than 12 children there shall be indoor recreational space [ ~~distinct from other living areas~~ ] that contains recreational equipment appropriate to the ages and interests of the children in residence. Such [ indoor recreational space shall be distinct from the living room in each living unit required by § 4.45, but such ] space shall not be required in every living unit.

#### Article 11. Study Space.

§ 4.47. Study space shall be provided in facilities serving a school age population and may be assigned in areas used interchangeably for other purposes.

§ 4.48. Study space shall be well lighted, quiet, and equipped with at least tables or desks and chairs.

#### Article 12. Kitchen and Dining Areas.

§ 4.49. Meals shall be served in areas equipped with sturdy tables and benches or chairs of a size appropriate for the sizes and ages of the residents.

§ 4.50. Adequate kitchen facilities and equipment shall be provided for preparation and serving of meals.

§ 4.51. Walk-in refrigerators, freezers, and other enclosures shall be equipped to permit emergency exits.

#### [ Article 13. Laundry Areas. ]

§ 4.52. If laundry is done at the facility, appropriate space



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and equipment in good repair shall be provided.

## Article 14. Storage.

§ 4.53. Space shall be provided for safe storage of items such as first-aid equipment, household supplies, recreational equipment, luggage, out-of-season clothing, and other materials.

## Article 15. Staff Quarters.

§ 4.54. A separate (private) bathroom and bedroom shall be provided for staff and their families when staff are required to be in the living unit for 24-hours or more except, that when there are no more than four persons, including staff and family of staff, residing in and/or on duty in the living unit, a private bathroom is not required for staff.

§ 4.55. Off duty staff and members of their families shall not share bedrooms with children in care.

§ 4.56. When 13 or more children reside in one living unit a separate (private) living room shall be provided for child care staff who are required to be in the living unit for 24-hours or more.

§ 4.57. When child care staff are on duty for less than 24 hours, a bed shall be provided for use of each staff member on duty during night hours unless such staff member is required to remain awake.

## [ Article 16. Office Space. ]

§ 4.58. Space shall be provided for administrative activities including provision for storage of records and materials (See Part II, Article 12).

## Article 17. Buildings and Grounds.

§ 4.59. Buildings and grounds, including roads, pavements, parking lots, stairways, railings and other potentially hazardous areas, shall be safe, properly maintained and free of clutter and rubbish.

§ 4.60. There shall be outdoor recreational space appropriately equipped for the children to be served.

## Article 18. Equipment and Furnishings.

§ 4.61. All furnishings and equipment shall be safe, easy to clean, and suitable to the ages and number of residents.

§ 4.62. There shall be at least one continuously operable, nonpay telephone accessible to staff in each building in which children sleep or participate in programs.

§ 4.63. The facility shall have a written policy governing the possession and use of firearms, pellet guns, air rifles and other weapons on the premises of the facility that shall provide that no firearms, pellet guns, air rifles, or other weapons, shall be permitted on the premises of the facility unless they are:

1. In the possession of licensed security personnel; or
2. Kept under lock and key; or
3. Used under the supervision of a responsible adult in accord with policies and procedures developed by the facility for their lawful and safe use.

## Article 19. Housekeeping and Maintenance.

§ 4.64. The interior and exterior of all buildings, including required locks and mechanical devices, shall be maintained in good repair.

§ 4.65. The interior and exterior of all buildings shall be kept clean and free of rubbish.

§ 4.66. All buildings shall be well-ventilated and free of stale, musty or foul odors.

§ 4.67. Adequate provisions shall be made for the collection and legal disposal of garbage and waste materials.

§ 4.68. Buildings shall be kept free of flies, roaches, rats and other vermin.

§ 4.69. All furnishings, linens, and indoor and outdoor equipment shall be kept clean and in good repair.

§ 4.70. A sanitizing agent shall be used in the laundering of bed, bath, table and kitchen linens.

§ 4.71. Lead based paint shall not be used on any surfaces and items with which children and staff come in contact.

## Article 20. Farm and Domestic Animals.

§ 4.72. Horses and other animals maintained on the premises shall be quartered at a reasonable distance from sleeping, living, eating, and food preparation areas.

§ 4.73. Stables and corrals shall be located so as to prevent contamination of any water supply.

§ 4.74. Manure shall be removed from stalls and corrals as often as necessary to prevent a fly problem.

§ 4.75. All animals maintained on the premises shall be tested, inoculated and licensed as required by law.

§ 4.76. The premises shall be kept free of stray domestic

animals.

§ 4.77. Dogs and other small animal pets and their quarters shall be kept clean.

## Article 21. Primitive Campsites.

§ 4.78. The standards in Article 21 through Article 28 are applicable exclusively to the residential environment and equipment at primitive campsites. Permanent buildings and other aspects of the residential environment at a wilderness camp shall comply with the remaining standards in Part IV.

§ 4.79. All campsites shall be well drained and free from depressions in which water may stand.

§ 4.80. Natural sink-holes and other surface collectors of water shall be either drained or filled to prevent the breeding of mosquitoes.

§ 4.81. Campsites shall not be in proximity to conditions that create or are likely to create offensive odors, flies, noise, traffic, or other hazards.

§ 4.82. The campsite shall be free from debris, noxious plants, and uncontrolled weeds or brush.

## Article 22. Water in Primitive Campsites.

§ 4.83. Drinking water used at primitive campsites and on hikes away from permanent campsites shall be from a source known to be safe (free of coliform organisms) or shall be rendered safe before use in a manner approved by the Virginia Department of Health.

§ 4.84. An adequate supply of water, under pressure where possible, shall be provided at the cooking area for handwashing, dishwashing, food preparation and drinking.

## Article 23. Food Service Sanitation in Primitive Campsites.

§ 4.85. Food shall be obtained from approved sources and shall be properly identified.

§ 4.86. Milk products shall be pasteurized.

§ 4.87. Food and drink shall be maintained and stored so as to prevent contamination and spoilage.

§ 4.88. The handling of food shall be minimized through the use of utensils.

§ 4.89. Fruits and vegetables shall be properly washed prior to use.

§ 4.90. Food and food containers shall be covered and stored off the ground and on clean surfaces. Refrigerated

food shall also be covered.

§ 4.91. Sugar and other condiments shall be packaged or served in closed dispensers.

§ 4.92. Poisonous and toxic materials shall be properly used, properly identified and stored separately from food.

§ 4.93. Persons with wounds or communicable diseases shall be prohibited from handling food.

§ 4.94. Persons who handle food and eating utensils for the group shall maintain personal cleanliness, shall keep hands clean at all times, and shall thoroughly wash their hands with soap and water after each visit to the toilet.

§ 4.95. Food contact surfaces shall be kept clean.

§ 4.96. All eating utensils and cookware shall be properly stored.

§ 4.97. Disposable or single use dishes, receptacles and utensils shall be properly stored, handled and used only once.

§ 4.98. Eating utensils shall not be stored with food or other materials and substances.

§ 4.99. The use of a common drinking cup shall not be permitted.

§ 4.100. Only food which can be maintained in a wholesome condition with the equipment available shall be used at primitive camps.

§ 4.101. Ice which comes in contact with food or drink shall be obtained from an approved source and shall be made, delivered, stored, handled, and dispensed in a sanitary manner and be free from contamination.

§ 4.102. When ice and ice chests are used, meats and other perishable foods shall not be stored for more than 24-hours.

§ 4.103. Eating utensils and cookware shall be washed and sanitized after each use.

§ 4.104. No dish, receptacle or utensil used in handling food for human consumption shall be used or kept for use if chipped, cracked, broken, damaged or constructed in such a manner as to prevent proper cleaning and sanitizing.

§ 4.105. Solid wastes which are generated in primitive camps shall be disposed of at an approved sanitary landfill or similar disposal facility. Where such facilities are not available, solid wastes shall be disposed of daily by burial under at least two feet of compacted earth cover in a location which is not subject to inundation by flooding.

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## *Toilet Facilities in Primitive Campsites.*

§ 4.106. Where a water supply is not available sanitary type privies or portable toilets shall be provided. All such facilities shall be constructed as required by the Virginia Department of Health.

§ 4.107. All facilities provided for excreta and liquid waste disposal shall be maintained and operated in a sanitary manner to eliminate possible health or pollution hazards, to prevent access of flies and animals to their contents, and to prevent flybreeding.

§ 4.108. Privies shall be located at least 150 feet from a stream, lake or well and at least 75 feet from a sleeping or housing facility.

§ 4.109. Primitive campsites which are not provided with approved permanent toilet facilities shall have a minimum ratio of one toilet seat for every 15 persons.

§ 4.110. If chemical control is used to supplement good sanitation practices, proper pesticides and other chemicals shall be used safely and in strict accordance with label instructions.

## *Article 25. Heating in Primitive Campsites.*

§ 4.111. All living quarters and service structures at primitive campsites shall be provided with properly installed, operable, heating equipment.

§ 4.112. No portable heaters other than those operated by electricity shall be used.

§ 4.113. Any stoves or other sources of heat utilizing combustible fuel shall be installed and vented in such a manner as to prevent fire hazards and a dangerous concentration of gases.

§ 4.114. If a solid or liquid fuel stove is used in a room with wooden or other combustible flooring, there shall be a concrete slab, installed metal sheet, or other fireproof materials on the floor under each stove and extending at least 18 inches beyond the perimeter of the base of the stove.

§ 4.115. Any wall or ceiling within 18 inches of a solid or liquid fuel stove or a stove-pipe shall be of fireproof material.

§ 4.116. A vented metal collar or other insulating device shall be installed around a stove pipe or vent passing through a wall, ceiling, floor or roof to prevent melting or combustion.

§ 4.117. A vented collar, insulating device, or chimney shall extend above the peak of the roof or otherwise be constructed in a manner which allows full draft of smoke.

§ 4.118. When a heating system has automatic controls the controls shall be of the type which will cut off the fuel supply upon the failure or interruption of the flame or ignition, or whenever a predetermined safe temperature or pressure is exceeded.

§ 4.119. All heating equipment shall be maintained and operated in a safe manner to prevent the possibility of fire.

## *Article 26. Sleeping Areas and Equipment in Primitive Campsites.*

§ 4.120. Bedding shall be clean, dry, and sanitary.

§ 4.121. Bedding shall be adequate to ensure protection and comfort in cold weather.

§ 4.122. If used, sleeping bags shall be fiberfill and rated for 0°F.

§ 4.123. Linens shall be changed as often as required for cleanliness and sanitation but not less frequently than once a week.

§ 4.124. Bedwetters shall have their bedding changed or dried as often as it is wet.

§ 4.125. If mattresses are used they shall be clean.

§ 4.126. Mattresses placed in service after July 1, 1981, shall be fire retardant as evidenced by documentation from the manufacturer.

§ 4.127. A mattress cover shall be provided for each mattress.

§ 4.128. Sleeping areas shall be protected by screening or other means to prevent admittance of flies and mosquitos.

§ 4.129. A separate bed, bunk, or cot shall be made available for each person.

## *Article 27. Clothing in Primitive Campsites.*

§ 4.130. Each child shall be provided with an adequate supply of clean clothing suitable for outdoor living appropriate to the geographic location and season.

§ 4.131. Sturdy, water-resistant, outdoor shoes or boots shall be provided for each child.

§ 4.132. An adequate personal storage area shall be available for each resident.

## *Article 28. Fire Prevention in Primitive Campsites.*

§ 4.133. With the consultation and approval of the local fire authority a written fire plan shall be established

indicating the campsite's fire detection system, fire alarm and evacuation procedures.

§ 4.134. The fire plan shall be implemented through the conduct of fire drills at the campsite at least once each month.

§ 4.135. A record of all fire drills shall be maintained.

§ 4.136. The record for each fire drill shall be retained two years subsequent to the drill.

§ 4.137. An approved 2A 10BC fire extinguisher in operable condition shall be maintained immediately adjacent to the kitchen or food preparation area.

§ 4.138. Fire extinguishers of a 2A 10BC rating shall be maintained so that it is never necessary to travel more than 75 feet to a fire extinguisher from combustion-type heating devices, campfires, or other combustion at the primitive campsite.

## PART V. PROGRAMS AND SERVICES.

### Article I. Criteria for Admission.

§ 5.1. [ ~~The Each~~ ] residential facility for children [ ~~except secure detention facilities~~ ] shall have written criteria for admission that shall be made available to all parties when placement for a child is being considered. Such criteria shall include:

1. A description of the population to be served;
2. A description of the types of services offered; and
3. Intake and admission procedures including necessary referral documentation.

§ 5.2. No child with special needs shall be accepted for placement by a facility unless that facility has a program appropriate to meet those needs or arrangements are made for meeting those needs through community resources [ unless the child's admission is required by court order ].

§ 5.3. The facility shall accept and maintain only those children whose needs are compatible with those services provided through the facility [ unless a child's admission is required by court order ].

§ 5.4. A facility shall not knowingly accept into care a child whose health or behavior shall present a clear and present danger to the child or others residing in the facility unless the facility is licensed or certified to provide such care [ or a child's admission is required by court order ]. (See requirements for certification or special licensure.)

### Article 2.

#### Admission of Blind or Visually Impaired Children.

§ 5.5. When a blind or visually impaired child is admitted to a residential facility for children, the facility shall obtain the services of the staff of the Virginia Department for the Visually Handicapped as consultants for assessment, program planning and prescribed teaching (if not previously obtained).

§ 5.6. Provision of the services of the Department for the Visually Handicapped shall be documented in the child's record.

§ 5.7. If the services of the Department for the Visually Handicapped are not obtained the child's placement shall be considered inappropriate.

### Article 3.

#### Interstate Compact on the Placement of Children.

§ 5.8. No child shall be accepted for placement from outside of the Commonwealth of Virginia without the prior approval of the administrator of the Interstate Compact on the Placement of Children, Virginia Department of Social Services, except that this section shall not apply when the Interstate Compact Relating to Juveniles applies.

§ 5.9. Documentation of approval of the [ ~~contract compact~~ ] administrator shall be retained in the child's record.

### Article 4.

#### Documented Study of the Child.

§ 5.10. Acceptance for care, other than emergency or diagnostic care, shall be based on an evaluation of a documented study of the child except that [ ~~this requirement~~ the requirements of this article ] shall not apply (i) to temporary care facilities, or (ii) to secure detention facilities.

§ 5.11. If a facility is specifically approved to provide residential respite care, the acceptance by the facility of a child as eligible for respite care is considered admission to the facility. Each individual period of respite care is not considered a separate admission.

§ 5.12. In facilities required to base their acceptance for care on a documented study of the child, at the time of a routine admission or 30 days after an emergency admission each child's record shall contain all of the elements of the documented study.

§ 5.13. The documented study of the child shall include all of the following elements (When information on the child is not available, the reason shall be documented in the child's record):

1. A formal request or written application for admission;

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2. Identifying information documented on a face sheet (see § 5.14);

3. Physical examination as specified in [ ~~§ 5.61~~ § 5.59 ];

4. Medical history (see § 5.15);

5. A statement, such as a report card, concerning the child's recent scholastic performance, including a current Individual Education Plan (IEP), if applicable;

6. Results of any psychiatric or psychological evaluations of the child, if applicable;

7. Social and developmental summary (see § 5.16);

8. Reason for referral; and

9. Rationale for acceptance.

§ 5.14. Identifying information on a face sheet shall include:

1. Full name of resident;

2. Last known residence;

3. Birthdate;

4. Birthplace;

5. Sex of child;

6. Racial and national background;

7. Child's Social Security number;

8. Religious preference of child and/or parents;

9. Custody status indicating name and address of legal guardian, if any;

10. Names, addresses and telephone numbers for emergency contacts, parents, guardians or representative of the child-placing agency, as applicable; and

11. Date of admission.

§ 5.15. A medical history shall include:

1. Serious illnesses and chronic conditions of the child's parents and siblings, if known;

2. Past serious illnesses, infectious diseases, serious injuries, and hospitalizations of the child;

3. Psychological, psychiatric and neurological examinations, if applicable;

4. Name, address and telephone number of child's former physician(s), when information is available; and

5. Name, address and telephone number of child's former dentist(s), when information is available.

§ 5.16. A social and developmental summary shall include:

1. Description of family structure and relationships;

2. Previous placement history;

3. Current behavioral functioning including strengths, talents, and problems;

4. Documentation of need for care apart from the family setting;

5. Names, address(es), Social Security numbers, and marital status of parents; and

6. Names, ages, and sex of siblings.

## Article 5.

### Preplacement Activities Documentation.

§ 5.17. At the time of the admission, except emergency admissions, involuntary admissions to security settings or admissions by court order the facility shall provide evidence of its cooperation with the placing agency in preparing the child and the family for the child's admission by documenting the following:

1. A preplacement visit by the child accompanied by a family member, an agency representative or other responsible adult;

2. Preparation through sharing information with the child, the family and the placing agency about the facility, the staff, the children and activities; and

3. Written confirmation of the admission decision to the family or legal guardian and to the placing agency.

## Article 6.

### Authority to Accept Children.

§ 5.18. Children shall be accepted only by court order or by written placement agreement with parents, legal guardians or other individuals or agencies having legal authority to make such an agreement except that this requirement shall not apply to temporary care facilities when a voluntary admission is made according to Virginia law. (See Part V, Article 9)

## Article 7.

### Written Placement Agreement.

§ 5.19. At the time of admission the child's record shall

contain the written placement agreement from the individual or agency having custody and/or a copy of the court order authorizing the child's placement.

§ 5.20. The written placement agreement shall:

1. Give consent for the child's placement in the facility designating the name and physical location of the facility and the name of the child;
2. Recognize the rights of each of the parties involved in the placement clearly defining areas of joint responsibility in order to support positive placement goals;
3. Include financial responsibility, where applicable;
4. Specify the arrangements and procedures for obtaining consent for necessary medical, dental and surgical treatment or hospitalization;
5. Address the matter of all absences from the facility and shall specify the requirements for notifying and/or obtaining approval of the party having legal responsibility for the child. If there are to be regular and routine overnight visits away from the facility without staff supervision the agreement must state that advance approval of the individual(s) or agency legally responsible for the child is required.

## Article 8. Emergency Admissions.

§ 5.21. Facilities other than temporary care facilities or secure detention facilities receiving children under emergency circumstances shall meet the following requirements:

1. Have written policies and procedures governing such admissions; and
2. Place in each child's record a written request for care or documentation of an oral request for care.

## Article 9. Temporary Care Facility.

§ 5.22. At the time of admission to a temporary care facility [ ~~except a secure detention facility~~ ] the following shall be documented in the child's record:

1. A written request for admission or documentation of an oral request for care;
2. A court order or a written placement agreement (see § 5.18), if the facility is licensed pursuant to Chapter 10 of Title 63.1 of the Code of Virginia as a Child Caring Institution;
3. Identifying information documented on a face sheet which shall include:

- a. Full name of child,
  - b. Birthdate,
  - c. Sex of child,
  - d. Racial/ethnic background,
  - e. Last known address,
  - f. Names and addresses of persons or agencies to contact in case of emergency,
  - g. Date of admission, and
  - h. Child's social security number;
4. The child's health status including:
- a. A statement of known and/or obvious illnesses and handicapping conditions;
  - b. A statement of medications currently being taken;
  - c. A statement of the child's general health status; and
  - d. Name, address and telephone number of the child's physician, if known; and
5. A statement describing the child's need for immediate temporary care.

§ 5.23. When identifying information is not available the reason shall be documented on the face sheet.

[ § 5.24. The temporary care facility shall implement written policies and procedures for the prompt provision of:

1. Medical and dental services for any health problems identified at admission;
2. Routine on-going and follow-up medical and dental services after admission; and
3. Emergency medical or dental services. ]

## Article 10. Discharge.

[ § 5.25, § 5.24. ] If a facility is specifically approved to provide residential respite care a child will be discharged when the child and his parents/guardians no longer intend to use the facility's services.

[ § 5.26, § 5.25. ] All facilities, except for secure detention facilities, shall have written criteria for termination of care that shall include:

1. Criteria for a child's completion of the program as

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described for compliance with § 2.5; and

2. Conditions under which a child may be discharged before completing the program.

[ ~~§ 5.27.~~ § 5.26. ] Except [ ~~in a secure detention facility, when discharge is ordered by a court of competent jurisdiction~~ ] prior to the planned discharge date each child's record shall contain the following:

1. Documentation that the termination of care has been planned with the parent/guardian/child-placing agency and with the child [ ~~or upon order of a court of competent jurisdiction~~ ] ; and

2. A written discharge plan and documentation that it was prepared and discussed with the child, when appropriate, prior to the child's discharge. The plan shall contain at least:

a. An assessment of the child's continuing needs; and

b. A recommended plan for services in the youth's new environment.

[ ~~§ 5.28.~~ § 5.27. ] No later than 10 days after any discharge, except those from secure detention, the child's record shall contain the following information:

1. Date of discharge;

2. Reason for discharge;

3. Documentation that the reason for discharge was discussed with the parent/guardian/child-placing agency and, when appropriate, with the child [ , except that this requirement does not apply to court ordered discharges ] ;

4. Forwarding address of the child, if known;

5. [ ~~When the child is under age 18,~~ ] Name and address of legally responsible party to whom discharge was made; and

6. In cases of interstate placement documentation that the Administrator of the Interstate Compact on the Placement of Children was notified of the discharge.

[ ~~§ 5.29.~~ § 5.28. ] A comprehensive discharge summary shall be placed in the child's record no later than 30 days after discharge except in a secure detention facility.

[ ~~§ 5.30.~~ § 5.29. ] A comprehensive discharge summary shall include:

1. Length of a child's residence at the time of discharge;

2. The name of the child's designated case

coordinator, if assigned;

3. Information concerning new or currently prescribed medication including when and why it was prescribed, the dosage, and whether it is to be continued;

4. Summary of the child's overall progress during placement;

5. Summary of family contracts during placement, if any; and

6. Reasons for discharge.

[ ~~§ 5.31.~~ § 5.30. ] Except in secure detention, children [ ~~under 18 years of age~~ ] shall be discharged only to the legally responsible party from whom they were accepted except (i) in cases where legal responsibility has been transferred to another person or agency during the period of the child's stay in the facility or (ii) in cases where a child committed pursuant to a court order is given a direct discharge by the agents of the appropriate State Board in accordance with law and policy.

## Article 11.

### Placement of Children Outside the Facility.

[ ~~§ 5.32.~~ § 5.31. ] Except in a secure detention facility the facility shall not place a child away from the facility, including in staff residences regardless of location, without first having obtained a Child Placing Agency license from the Department of Social Services. Temporary absences for the purposes of medical care, attendance at day school, or vacations shall not be deemed to be placements.

## Article 12.

### Service Plan.

[ ~~§ 5.33.~~ § 5.32. ] A written individualized service plan, based on information derived from the documented study of the child and other assessments made by the facility, shall be developed for each child, within 30 days of admission and placed in the child's master file except that [ ~~this section does the requirements of this article do~~ ] not apply (i) to secure detention facilities or (ii) to temporary care facilities.

[ ~~§ 5.34.~~ § 5.33. ] The following parties shall participate, unless clearly inappropriate, in developing the initial individualized service plan [ ~~except that this section does not apply to secure detention facilities;~~ ]

1. The child;

2. The child's family or legally authorized representative;

3. The placing agency; and

4. Facility staff.

[ ~~§ 5.35.~~ § 5.34. ] The degree of participation, or lack thereof, of each of the parties listed in [ ~~§ 5.34~~ § 5.33 ] in developing the service plan shall be documented in the child's record.

[ ~~§ 5.36.~~ § 5.35. ] [ For all facilities except secure detention facilities; ] The individualized service plan shall include, but not necessarily be limited to, the following:

1. A statement of the resident's current level of functioning including strengths and weaknesses, and corresponding educational, residential and treatment/training needs;
2. A statement of goals and objectives meeting the above identified needs;
3. A statement of services to be rendered and frequency of services to accomplish the above goals and objectives;
4. A statement identifying the individual(s) or organization(s) that will provide the services specified in the statement of services;
5. A statement identifying the individual(s) delegated the responsibility for the overall coordination and integration of the services specified in the plan;
6. A statement of the timetable for the accomplishment of the resident's goals and objectives; and
7. The estimated length of the resident's stay.

[ ~~§ 5.37.~~ For all facilities except secure detention facilities there shall be evidence of a structured program of care designed to meet the objectives of the child's service plan. ]

#### Article 13. Quarterly Progress Reports.

[ ~~§ 5.38.~~ § 5.36. ] For all facilities except secure detention facilities written progress summary reports completed at least every 90 days shall be included in each child's record and shall include:

1. Reports of significant incidents, both positive and negative;
2. Reports of visits with the family;
3. Changes in the child's family situation;
4. Progress made toward the goals and objectives described in the Service Plan required by [ ~~§ 5.33~~ § 5.32 ];
5. School reports;

6. Discipline problems in the facility and the community;

7. Summary of the child's social, emotional, and physical development during the previous three months including a listing of any specialized services and on-going medications prescribed;

8. Reevaluation of the placement including tentative discharge plans.

#### Article 14. Annual Service Plan Review.

[ ~~§ 5.39.~~ § 5.37. ] For all facilities except secure detention facilities at least annually the following parties shall participate, unless clearly inappropriate, in formally reviewing and rewriting the service plan based on the child's current level of functioning and needs:

1. The resident;
2. The resident's family or legally authorized representative;
3. The placing agency; and
4. Facility staff.

[ ~~§ 5.40.~~ § 5.38. ] The degree of participation, or lack thereof, of each of the parties listed in [ ~~§ 5.39~~ § 5.37 ] in reviewing and rewriting the service plan shall be documented in the child's record [ except that this section does not apply to secure detention facilities ].

[ ~~§ 5.41.~~ § 5.39. ] Staff responsible for the daily implementation of the child's individual service plan shall be represented on the staff team that evaluates adjustment and progress and makes plans for individual children except that this section does not apply to secure detention facilities.

[ ~~§ 5.42.~~ § 5.40. ] Staff responsible for daily implementation of the child's individualized service plan shall be able to describe resident behavior in terms of the objectives in the service plan except that this section does not apply to secure detention facilities.

#### Article 15. Service Plan for Temporary Care Facilities.

[ ~~§ 5.43.~~ § 5.41. ] [ In any facility where a child is admitted for temporary care not to exceed 60 days ] An individualized service plan [ including the elements required by § 5.42 ] shall be developed for each child [ admitted to a temporary care facility ] and placed in the child's master file within 72 hours of admission.

[ ~~§ 5.44.~~ § 5.42. ] The individualized service plan shall include:



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1. The child's description of his situation/problem;
2. Documentation of contact with the child's parent or guardian to obtain his description of the child's situation/problem;
3. The facility staff's assessment of the child's situation/problem;
4. A plan of action including:
  - a. Services to be provided,
  - b. Activities to be provided,
  - c. Who is to provide services and activities, and
  - d. When services and activities are to be provided;
5. The anticipated date of discharge, and
6. An assessment of the child's continuing need for services.

## Article 16. Counseling and Social Services.

[ ~~§ 5-46.~~ § 5.43. ] For all facilities except secure detention facilities the program of the facility shall be designed to provide counseling and social services which address needs in the following areas:

1. Helping the child and the parents or guardian to understand the effects on the child of separation from the family and the effect of group living;
2. Assisting the child and the family in maintaining their relationships and planning for the future care of the child;
3. Utilizing appropriate community resources in providing services and maintaining contacts with such resources;
4. Helping the child with problems affecting the ability to have satisfying personal relationships and use of the capacity for growth;
5. Conferring with the child care staff to help them understand the child's needs in order to promote adjustment to group living; and
6. Working with the child and with the family or any placing agency that may be involved in planning for the child's future and in preparing the child for return home, for independent living, or for other residential care.

[ ~~§ 5-46.~~ § 5.44. ] The provision of counseling and social services shall be documented in each child's record except that this section does not apply to secure detention

facilities.

[ ~~§ 5-47.~~ § 5.45. ] For all facilities, except secure detention facilities, counseling and/or other social services consistent with the goals of the Service Plan shall be provided to meet the specific needs of each child in one of the following ways:

1. By a qualified staff member;
2. By service staff of the agency that placed the child provided such staff is available on an as needed basis rather than on a limited basis (e.g. quarterly or semi-annually);
3. On a contract basis by a professional child and family service worker licensed to practice in the Commonwealth of Virginia, other state(s) or the District of Columbia; or
4. On a contract basis by a professional child and family service worker who is working under the auspices of a public or private, nonprofit agency sponsored by a community based group.

## Article 17. Residential Services.

[ ~~§ 5-48.~~ § 5.46. ] There shall be evidence of a structured program of care that is designed to:

1. Meet the child's physical needs;
2. Provide protection, guidance and supervision;
3. Promote a sense of security and self-worth; and
4. Meet the objectives of [ ~~the child's~~ any required ] service plan.

[ ~~§ 5-49.~~ § 5.47. ] There shall be evidence of a structured daily routine that is designed to assure the delivery of program services.

[ ~~§ 5-50.~~ § 5.48. ] A daily activity log shall be maintained as a means of informing staff of significant happenings or problems experienced by children including health and dental complaints or injuries.

[ ~~§ 5-51.~~ § 5.49. ] Entries in the daily activity log shall be signed or initialed by the person making the entry.

[ ~~§ 5-52.~~ § 5.50. ] Routines shall be planned to assure that each child shall have the amount of sleep and rest appropriate for his age and physical condition.

[ ~~§ 5-53.~~ § 5.51. ] Staff shall provide daily monitoring and supervision, and instruction, as needed, to promote the personal hygiene of the children.

## Article 18.

## Health Care Procedures.

[ ~~§ 5.54.~~ § 5.52. ] [ ~~For all facilities except temporary care facilities the facility~~ Facilities ] shall have written procedures for the prompt provision of:

1. [ ~~Routine ongoing medical and dental services; and Medical and dental services for health problems identified at admission;~~

2. Routine ongoing and follow-up medical and dental services after admission; and ]

[ ~~2.~~ 3. ] Emergency services for each child as provided by statute or by agreement with the child's parent(s) and/or legal guardian.

[ ~~§ 5.55.~~ § 5.53. ] For all facilities except temporary care facilities written information concerning each child shall be readily accessible to staff who may have to respond to a medical or dental emergency:

1. Name, address, and telephone number of the physician and/or dentist to be notified;

2. Name, address, and telephone number of relative or other person to be notified;

3. Medical insurance company name and policy number or Medicaid number except that this requirement does not apply to secure detention facilities;

4. Information concerning:

a. Use of medication,

b. Medication allergies,

c. Any history of substance abuse except that this requirement does not apply to secure detention, and

d. significant medical problems; and

5. Written permission for emergency medical or dental care or a procedure and contacts for obtaining consent for emergency medical or dental care except that this section does not apply to secure detention facilities.

[ ~~§ 5.56.~~ § 5.54. ] Facilities specifically approved to provide respite care shall update the information required by [ ~~§ 5.55.~~ § 5.53 ] at the time of each individual stay at the facility.

## Article 19. Physical Examinations.

[ ~~§ 5.57.~~ § 5.55. ] Each child accepted for care shall have a physical examination by or under the direction of a licensed physician no earlier than 90 days prior to

admission to the facility, except that (i) the report of an examination within the preceding 12 months shall be acceptable if a child transfers from one residential facility licensed or certified by a state agency to another, (ii) a physical examination shall be conducted within 30 days after admission if a child is admitted on an emergency basis and a report of physical examination is not available, and (iii) this section does not apply if a child is admitted to a secure detention facility or to a temporary care facility.

[ ~~§ 5.58.~~ § 5.56. ] Following the initial examination, each child shall have a physical examination annually except that this section does not apply to (i) security detention facilities, or (ii) temporary care facilities.

[ ~~§ 5.59.~~ § 5.57. ] In all facilities except (i) secure detention facilities, and (ii) temporary care facilities additional or follow-up examination and treatment shall be required when:

1. Prescribed by the examining physician; or

2. Symptoms indicate the need for an examination or treatment by a physician.

[ ~~§ 5.60.~~ § 5.58. ] [ ~~For all facilities, except (i) secure detention facilities, and (ii) temporary care facilities, ] Each physical examination report shall be included in the child's record.~~

[ ~~§ 5.61.~~ § 5.59. ] For all facilities except (i) secure detention facilities and (ii) temporary care facilities each physical examination report shall include:

1. Immunizations administered;

2. Visual acuity;

3. Auditory acuity;

4. General physical condition, including documentation of apparent freedom from communicable disease including tuberculosis;

5. Allergies, chronic conditions, and handicaps, if any;

6. Nutritional requirements, including special diets, if any;

7. Restriction of physical activities, if any;

8. Recommendations for further treatment, immunizations, and other examinations indicated;

9. The date of the physical examination; and

10. The signature of a licensed physician, the physician's designee, or an official of a local health department.

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[ ~~§5-62.~~ § 5.60. ] In all facilities except (i) secure detention facilities and (ii) temporary care facilities a child with a communicable disease, whose best interests would not be served by prohibiting admission, may be admitted only after a licensed physician certifies that:

1. The facility is capable of providing care to the child without jeopardizing other children in care and staff; and

2. The facility is aware of the required treatment for the child and procedures to protect other children in care and staff.

[ ~~§5-62.~~ § 5.61. ] Recommendations for follow-up medical observation and treatment shall be carried out at the recommended intervals except that this section does not apply to (i) secure detention facilities or (ii) temporary care facilities.

[ ~~§5-64.~~ § 5.62. ] Except for (i) secure detention facilities, (ii) temporary care facilities, and (iii) respite care facilities, each facility shall provide written evidence of:

1. Annual examinations by a licensed dentist; and

2. Follow-up dental care as recommended by the dentist or as indicated by the needs of each child.

[ ~~§5-65.~~ § 5.63. ] Each child's record shall include notations of health and dental complaints and injuries showing symptoms and treatment given.

[ ~~§5-66.~~ § 5.64. ] Each child's record shall include a current record of ongoing psychiatric or other mental health treatment and reports, if applicable.

[ ~~§5-67.~~ § 5.65. ] Provision shall be made for suitable isolation of any child suspected of having a communicable disease.

[ ~~§5-68.~~ § 5.66. ] A well stocked first-aid kit shall be maintained and readily accessible for minor injuries and medical emergencies.

## Article 20. Medication.

[ ~~§5-69.~~ § 5.67. ] All medication shall be securely locked and properly labeled.

[ ~~§5-70.~~ § 5.68. ] Medication shall be delivered only by staff authorized by the director to do so.

[ ~~§5-71.~~ § 5.69. ] Staff authorized to deliver medication shall be informed of any known side effects of the medication and the symptoms of the effect.

[ ~~§5-72.~~ § 5.70. ] A program of medication shall be instituted for a specific child only when prescribed in writing by a licensed physician.

[ ~~§5-73.~~ § 5.71. ] Medications that are classified as "controlled substances" as defined in § 54-524.2 of the Code of Virginia shall only be obtained from a licensed physician or from a licensed pharmacist upon individual prescription of a licensed physician.

[ ~~§5-74.~~ § 5.72. ] A daily log shall be maintained of all medicines received by the individual child.

[ ~~§5-75.~~ § 5.73. ] The attending physician shall be notified immediately of drug reactions or medication errors.

[ ~~§ 5-76.~~ § 5.74. ] The telephone number of a Regional Poison Control Center shall be posted on or next to at least one nonpay telephone in each building in which children sleep or participate in programs.

[ ~~§5-77.~~ § 5.75. ] At least one 30cc bottle of syrup of Ipecac shall be available on the premises of the facility for use at the direction of the Poison Control Center or physician.

## Article 21. Nutrition.

[ ~~§5-78.~~ § 5.76. ] Provisions shall be made for each child to have three nutritionally balanced meals daily.

[ ~~§5-79.~~ § 5.77. ] Menus shall be planned at least one week in advance.

[ ~~§5-80.~~ § 5.78. ] Any deviation(s) from the menu shall be noted.

[ ~~§5-81.~~ § 5.79. ] The menus including any deviations shall be kept on file for at least six months.

[ ~~§5-82.~~ § 5.80. ] The daily diet for children shall be based on the generally accepted "Four Food Groups" system of nutrition planning. (The Virginia Polytechnic Institute and State University Extension Service is available for consultation.)

[ ~~§5-83.~~ § 5.81. ] The quantity of food served shall be adequate for the ages of the children in care.

[ ~~§5-84.~~ § 5.82. ] Special diets shall be provided when prescribed by a physician.

[ ~~§5-85.~~ § 5.83. ] The established religious dietary practices of the child shall be observed.

[ ~~§5-86.~~ § 5.84. ] Staff who eat in the presence of the children shall be served the same meals.

[ ~~§5-87.~~ § 5.85. ] There shall be no more than 15 hours between the evening meal and breakfast the following day.

[ ~~§5-88.~~ There shall be at least one nutritious snack provided between the evening meal and breakfast the following day. ]

## Article 22.

### Discipline and Management of Resident Behavior.

[ ~~§5.80.~~ § 5.86. ] The facility shall have written disciplinary and behavior management policies, including written rules of conduct, appropriate to the age and developmental level of the children in care.

[ ~~§5.90.~~ § 5.87. ] Disciplinary and behavior management policies and rules of conduct shall be provided to children, families and referral agencies prior to admission [ except that for court ordered or emergency admissions this information shall be provided within 72 hours after admission ].

[ ~~§5.91.~~ § 5.88. ] There shall be written procedures for documenting and monitoring use of the disciplinary and behavior management policies.

[ ~~§5.92.~~ § 5.89. ] Control, discipline and behavior management shall be the responsibility of the staff.

## Article 23.

### Confinement Procedures.

[ ~~§5.93.~~ § 5.90. ] When a child is confined to his own room as a means of discipline, the room shall not be locked nor the door secured in any manner that will prohibit the child from opening it, except that this section does not apply to [ secure custody facilities such as learning centers and ] secure detention facilities.

[ ~~§5.94.~~ § 5.91. ] Any child confined to his own room shall be able to communicate with staff.

[ ~~§5.95.~~ § 5.92. ] There shall be a staff check on the room at least every 30 minutes.

[ ~~§5.96.~~ § 5.93. ] The use of confinement procedures shall be documented.

## Article 24.

### Prohibited Means of [ Discipline and Behavior Management Punishment ].

[ ~~§5.97.~~ § 5.94. ] The following methods of [ discipline and behavior management punishment ] shall be prohibited:

1. Deprivation of nutritionally balanced meals, snacks, and drinking water;
2. Prohibition of contacts and visits with family, legal guardian, attorney, probation officer, or placing agency representative;
3. Limitation of receipt of mail;
4. Humiliating or degrading practices including ridicule or verbal abuse;
5. Corporal punishment, including any type of physical

punishment inflicted upon the body;

6. Subjection to unclean and unsanitary living conditions;

7. Deprivation of opportunities for bathing and access to toilet facilities; and

8. Deprivation of health care including counseling.

## Article 25.

### Chemical or Mechanical Restraints.

[ ~~§5.98.~~ § 5.95. ] The use of mechanical and/or chemical restraints is prohibited unless use is specifically permitted by a special license or certification module.

## Article 26.

### Physical [ Force Restraint ].

[ ~~§5.99.~~ § 5.96. ] [ The use on any child of physical force that restricts the physical movements of the child is prohibited except in extreme emergency situations in which it is likely that the child could harm himself or others and in which less restrictive interventions have failed. A child may be physically restrained only when the child's uncontrolled behavior would result in harm to the child or others and when less restrictive interventions have failed. ]

[ ~~§5.100.~~ § 5.97. ] The use of physical [ force restraint ] shall be only that which is minimally necessary to protect the child or others.

[ ~~§5.101.~~ § 5.98. ] If the use of physical [ force restraint ] or the use of other measures permitted by a certification module is unsuccessful in calming and moderating the child's behavior the child's physician, the rescue squad, the police or other emergency resource shall be contacted for assistance.

[ ~~§5.102.~~ § 5.99. ] Any application of physical [ force restraint ] shall be fully documented in the child's record as to date, time, staff involved, circumstances, reasons for use of physical [ force restraint ], and extent of physical [ force restraint ] used.

## Article 27.

### Seclusion.

[ ~~§5.103.~~ § 5.100. ] Secluding a child in a room with the door secured in any manner that will prohibit the child from opening it shall be prohibited unless it is specifically permitted by a special license or certification module.

## Article 28.

### Timeout Procedures.

[ ~~§5.104.~~ § 5.101. ] Timeout procedures may only be used at times and under conditions specified in the facility's disciplinary or behavior management policies [ except that

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~~this section does not apply to secure detention facilities ]~~.

[ ~~§5-105. § 5.102.~~ ] When a child is placed in a timeout room, the room shall not be locked nor the door secured in any manner that will prohibit the child from opening it [ ; ~~except that this section does not apply to secure detention facilities ]~~.

[ ~~§5-106. § 5.103.~~ ] Any child in a timeout room shall be able to communicate with staff [ ~~except that this section does not apply to secure detention facilities ]~~.

[ ~~§5-107. § 5.104.~~ ] The use of timeout procedures shall not be used for periods longer than 30 consecutive minutes [ ~~except that this section does not apply to secure detention facilities ]~~.

[ ~~§5-108. § 5.105.~~ ] Written documentation shall be maintained verifying that each child placed in a timeout room has been checked by staff at least every 15 minutes [ ; ~~except that this section does not apply to secure detention facilities ]~~.

[ ~~§5-109. § 5.106.~~ ] A child placed in a timeout room shall have bathroom privileges according to need [ ; ~~except that this section does not apply to secure detention facilities ]~~.

[ ~~§5-110. § 5.107.~~ ] If a meal is scheduled while a child is in timeout, the meal shall be provided to the child at the end of the timeout procedure [ ~~except that this requirement does not apply to secure detention facilities ]~~.

## Article 29. Education.

[ ~~§5-111. § 5.108.~~ ] Each child of compulsory school attendance age shall be enrolled in an appropriate educational program as provided in the Code of Virginia.

[ ~~§5-112. § 5.109.~~ ] The facility shall provide educational guidance and counseling for each child in selection of courses and shall ensure that education is an integral part of the child's total program.

[ ~~§5-113. § 5.110.~~ ] Facilities operating educational programs for handicapped children shall operate those programs in compliance with applicable state and federal regulations.

[ ~~§5-114. § 5.111.~~ ] When a handicapped child has been placed in a residential facility without the knowledge of school division personnel in the child's home locality, the facility shall contact the superintendent of public schools in that locality in order to effect compliance with applicable state and federal requirements relative to the education of handicapped children.

[ ~~§5-115. § 5.112.~~ ] When a facility has an academic or vocational program that is not certified or approved by the Department of Education, teachers in the program shall provide evidence that they meet the qualifications

that are required in order to teach those specific subjects in the public schools.

## Article 30. Religion.

[ ~~§5-116. § 5.113.~~ ] The facility shall have [ ~~clearly defined~~ ] written policies [ ~~that ensure~~ regarding the ] opportunities for the children to participate in religious activities.

[ ~~§5-117. § 5.114.~~ ] The facility's policies on religious participation shall be available to the child and any individual or agency considering the placement of a child in the facility.

[ ~~§5-118. § 5.115.~~ ] Children shall not be coerced to participate in religious activities.

[ ~~§5-119. Each child shall be permitted to observe his established religious practices.~~ ]

## Article 31. Recreation.

[ ~~§5-120. § 5.116.~~ ] There shall be a written description of the recreation program for the facility showing activities which are consistent with the facility's total program and with the ages, developmental levels, interests, and needs of the children and which includes:

1. Opportunities for individual and group activities;
2. Free time for children to pursue personal interests which shall be in addition to a formal recreation program;
3. [ ~~Except in secure detention facilities,~~ ] use of available community recreational resources and facilities;
4. Scheduling of activities so that they do not conflict with meals, religious services, educational programs or other regular events; and
5. Regularly scheduled indoor and outdoor recreational activities that are specifically structured to develop skills and attitudes (e.g., cooperation, acceptance of losing, etc.).

[ ~~§5-121. § 5.117.~~ ] The recreational program provided indoors, outdoors (both on and off the premises), and on field trips shall be directed and supervised by adults who are knowledgeable in the safeguards required for the specific activities.

[ ~~§5-122. § 5.118.~~ ] Opportunities shall be provided for coeducational activities appropriate to the ages and developmental levels of the children.

## Article 32. Community Relationships.

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[ ~~§5-122~~ § 5.119. ] Opportunities shall be provided for the children in a group living situation to participate in activities and to utilize resources in the community except that this section does not apply to secure detention facilities.

[ ~~§5-124~~ § 5.120. ] Community interest in children and efforts on their behalf (public parties, entertainment, invitations to visit families) shall be carefully evaluated to ascertain that these are in the best interest of the children.

## Article 33. Clothing.

[ ~~§5-125~~ § 5.121. ] Provisions shall be made for each child to have his own adequate supply of clean, comfortable, well-fitting clothes and shoes for indoor and outdoor wear.

[ ~~§5-126~~ § 5.122. ] Clothes and shoes shall be similar in style to those generally worn by children of the same age in the community who are engaged in similar activities.

[ ~~§5-127~~ § 5.123. ] Children shall have the opportunity to participate in the selection of their clothing except that this section does not apply to secure detention facilities.

[ ~~§5-128~~ § 5.124. ] Each child's clothing shall be inventoried and reviewed at regular intervals to assure repair or replacement as needed.

[ ~~§5-129~~ § 5.125. ] The child shall be allowed to take personal clothing when the child leaves the facility.

## Article 34. Allowances and Spending Money.

[ ~~§5-130~~ § 5.126. ] The facility shall provide opportunities appropriate to the ages and developmental levels of the children for learning the value and use of money through earning, budgeting, spending, giving and saving except that this section does not apply to secure detention facilities.

[ ~~§5-131~~ § 5.127. ] There shall be a written policy regarding allowances except that this section does not apply to secure detention facilities.

[ ~~§5-132~~ § 5.128. ] The written policy regarding allowances shall be made available to parents and/or guardians at the time of admission except that this section does not apply to secure detention facilities.

[ ~~§5-133~~ § 5.129. ] The facility shall provide for safekeeping and for record keeping of any money that belongs to children.

## Article 35. Work and Employment.

[ ~~§5-134~~ § 5.130. ] Any assignment of chores, which are paid or unpaid work assignments, shall be in accordance

with the age, health, ability, and service plan of the child.

[ ~~§5-135~~ § 5.131. ] Chores shall not interfere with regular school programs, study periods, meals or sleep.

[ ~~§5-136~~ § 5.132. ] Work assignments or employment outside the facility including reasonable rates of payment shall be approved by the program director with the knowledge and consent of the parent, guardian or placing agency except that this section does not apply to secure detention facilities.

[ ~~§5-137~~ § 5.133. ] The facility shall ensure that any child employed inside or outside the facility is paid at least at the minimum wage required by the applicable law concerning wages and hours and that such employment complies with all applicable laws governing labor and employment except that this section does not apply to secure detention facilities.

[ ~~§5-138~~ § 5.134. ] Any money earned through employment of a child shall accrue to the sole benefit of that child.

## Article 36. Visitation at the Facility and to the Child's Home.

[ ~~§5-139~~ § 5.135. ] The facility shall provide written visitation policies and procedures permitting reasonable visiting privileges and flexible visiting hours.

[ ~~§5-140~~ § 5.136. ] Copies of the written visitation policies and procedures shall be made available to the parents, [ guardians, ] the child [ ; the staff ] and other interested persons important to the child no later than the time of admission [ except that when parents or guardians do not participate in the admission process, visitation policies and procedures shall be mailed to them within 12 hours after admission ].

## Article 37. Use of Vehicles and Power Equipment.

[ ~~§5-141~~ § 5.137. ] Any transportation provided for and/or used by children shall be in compliance with state, federal and/or international laws relating to:

1. Vehicle safety and maintenance;
2. Licensure of vehicles; and
3. Licensure of drivers.

[ ~~§5-142~~ § 5.138. ] There shall be written safety rules for transportation of children, including handicapped children, appropriate to the population served.

[ ~~§5-143~~ § 5.139. ] There shall be written safety rules for the use and maintenance of vehicles and power equipment.

## Article 38.

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## Reports to Court.

[ ~~§5.144.~~ § 5.140. ] When the facility has received legal custody of a child pursuant to §§ 16.1-279A or 16.1-279B of the Code of Virginia copies of any foster care plans (required by §§ 16.1-281 and 16.1-282 of the Code of Virginia) submitted to the court shall be filed in the child's record except that this section does not apply to secure detention facilities.

## Article 39. Emergency Reports.

[ ~~§5.145.~~ § 5.141. ] Any serious incident, accident or injury to the child; any overnight absence from the facility without permission; any runaway; and/or any other unexplained absence shall be reported to the parent/guardian/placing agency within 24-hours.

[ ~~§5.146.~~ § 5.142. ] The child's record shall contain:

1. The date and time the incident occurred;
2. A brief description of the incident;
3. The action taken as a result of the incident;
4. The name of the person who completed the report;
5. The name of the person who made the report to the parent/guardian or placing agency; and
6. The name of the person to whom the report was made.

## Article 40. Suspected Child Abuse or Neglect.

[ ~~§5.147.~~ § 5.143. ] Any case of suspected child abuse or neglect shall be reported immediately to the local department of public welfare/social services as required by §63.1-248.3 of the Code of Virginia.

[ ~~§5.148.~~ § 5.144. ] The child's record shall include:

1. Date and time the suspected abuse or neglect occurred;
2. Description of the incident;
3. Action taken as a result of the incident; and
4. Name of the person to whom the report was made at the local department.

## PART VI. DISASTER OR EMERGENCY PLANS.

### Article 1. Procedures for Meeting Emergencies.

§6.1. Established written procedures shall be made known to all staff and residents, as appropriate for health and safety, for use in meeting specific emergencies including:

1. Severe weather;
2. Loss of utilities;
3. Missing persons;
4. Severe injury; and
5. Emergency evacuation including alternate housing.

### Article 2. Written Fire Plan.

§6.2. Each facility with the consultation and approval of the appropriate local fire authority shall develop a written plan to be implemented in case of a fire at the facility.

§6.3. Each fire plan shall address the responsibilities of staff and residents with respect to:

1. Sounding of fire alarms;
2. Evacuation procedures including assembly points, head counts, primary and secondary means of egress, evacuation of residents with special needs, and checking to ensure complete evacuation of the building(s);
3. A system for alerting fire fighting authorities;
4. Use, maintenance and operation of fire fighting and fire warning equipment;
5. Fire containment procedures including closing of fire doors, fire windows or other fire barriers;
6. Posting of floor plans showing primary and secondary means of egress; and
7. Other special procedures developed with the local fire authority.

§6.4. Floor plans showing primary and secondary means of egress shall be posted on each floor in locations determined by the appropriate local fire authority.

§6.5. The written fire plan shall be reviewed with the local fire authority at least annually and updated, if necessary.

§6.6. The procedures and responsibilities reflected in the written fire plan shall be made known to all staff and residents.

### Article 3. Posting of Fire Emergency Phone Number.

§6.7. The telephone number of the fire department to be called in case of fire shall be prominently posted on or next to each telephone in each building in which children sleep or participate in programs.

#### Article 4. Portable Fire Extinguishers.

§6.8. [ There shall be at least one approved 2A 10BC fire extinguisher on each floor and in, or immediately adjacent to, the kitchen, incinerator, and each combustion-type heating device. Additional fire extinguishers shall be provided so that it is never necessary to travel more than 75 feet to an extinguisher. Portable fire extinguishers shall be installed and maintained in the facility in accordance with state and local fire/building code requirements. In those buildings where no such code requirements apply, on each floor there shall be installed and maintained at least one approved type ABC portable fire extinguisher having at least a 2A rating ].

§6.9. Fire extinguishers shall be mounted on a wall or a post where they are clearly visible and so that the top is not more than five feet from the floor [ except that if a fire extinguisher weighs more than 140 lbs., it shall be installed so that the top is not more than 2-1/2 feet from the floor ]. They shall be easy to reach and remove and they shall not be tied down, locked in a cabinet, or placed in a closet or on the floor, except that where extinguishers are subject to malicious use, locked cabinets may be used provided they include a means of emergency access.

§6.10. All required fire extinguishers shall be maintained in operable condition at all times.

§6.11. Each fire extinguisher shall be checked by properly oriented facility staff at least once each month to ensure that the extinguisher is available and appears to be in operable condition. A record of these checks shall be maintained for at least [ one year two years ] and shall include the date and initials of the person making the inspection.

§6.12. Each fire extinguisher shall be professionally maintained at least once each year. Each fire extinguisher shall have a tag or label securely attached which indicates the month and year the maintenance check was last performed and which identifies the company performing the service.

#### Article 5. Smoke Alarms.

§6.13. [ Smoke detectors or smoke detection systems shall be installed and maintained in the facility in accordance with state and local fire/building code requirements. In those buildings where no such code requirements apply, ] the facility shall provide at least one approved and properly installed [ battery-operated ] smoke detector:

1. In each bedroom hallway;

2. At the top of each interior stairway;
3. In each area designated for smoking;
4. In or immediately adjacent to each room with a furnace or other heat source; and
5. In each [ additional ] location directed by the local building official, the local fire authority, and/or the state fire authority.

[ §6.14. Battery-operated smoke detectors shall signal when the battery is exhausted or missing. ]

[ §6.15. § 6.14. ] Each smoke detector shall be maintained in operable condition at all times.

[ §6.16. § 6.15. ] [ If the facility is provided with single station smoke detectors ] each smoke detector shall be tested by properly oriented facility staff at least once each month and [ if it is not functioning, it shall be ] restored immediately to proper working order [ when the battery is exhausted or missing ]. A record of these tests shall be maintained for at least [ one year two years ] and shall include the date and initials of the person making the test.

[ § 6.16. If the facility is provided with an automatic fire alarm system, the system shall be inspected by a qualified professional firm at least annually. A record of these inspections shall be maintained for at least two years and shall include the date and the name of the firm making the inspection. ]

#### Article 6. Fire Drills.

§6.17. [ Fire drills At least one fire drill ] (the simulation of fire safety procedures included in the written fire plan) shall be conducted [ each month ] in each building at the facility [ at least once each month occupied by children ].

§6.18. Fire drills shall include, as a minimum:

1. Sounding of fire alarms;
2. Practice in building evacuation procedures;
3. Practice in alerting fire fighting authorities;
4. Simulated use of fire fighting equipment;
5. Practice in fire containment procedures; and
6. Practice of other simulated fire safety procedures as may be required by the facility's written fire plan.

§6.19. [ Fire drills shall be conducted at a variety of times during the day to ensure that all staff and children have an opportunity to experience fire drills under various conditions. During any three consecutive calendar months, at least one fire drill shall be conducted during each shift



# Final Regulations

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[ ~~§6.20.~~ In buildings used by children for sleeping during each quarter or three month period at least one fire drill shall be conducted during the hours that children are normally asleep. ]

[ ~~§6.21.~~ § 6.20. ] False alarms shall not be counted as fire drills.

[ ~~§6.22.~~ § 6.21. ] The facility shall designate [ a at least one ] staff member [ for each building ] to be responsible for conducting and documenting fire drills.

[ ~~§6.23.~~ § 6.22. ] A record shall be maintained on each fire drill conducted and shall include the following information:

1. Building in which the drill was conducted;
2. Date of drill;
3. Time of drill;
4. Amount of time to evacuate building;
5. Specific problems encountered;
6. Staff tasks completed:
  - a. Doors and windows closed,
  - b. Head count,
  - c. Practice in notifying fire authority, and
  - d. Other;
7. Summary; and
8. Signature of staff member responsible for conducting and documenting the drill.

[ ~~§6.24.~~ § 6.23. ] The record for each fire drill shall be retained for two years subsequent to the drill.

[ ~~§6.25.~~ § 6.24. ] The facility shall designate a staff member to be responsible for the fire drill program at the facility who shall:

1. Ensure that fire drills are conducted at the times and intervals required by these standards and the facility's written fire plan;
2. Review fire drill reports to identify problems in the conduct of fire drills and in the implementation of the requirements of the written fire plan;
3. Consult with the local fire authority, as needed, and plan, implement and document training or other actions taken to remedy any problems found in the implementation of the procedures required by the

written fire plan; and

4. Consult and cooperate with the local fire authority to plan and implement an educational program for facility staff and residents on topics in fire prevention and fire safety.

## Article 7.

### Staff Training in Fire Procedures.

[ ~~§6.26.~~ § 6.25. ] Each new staff member shall be trained in fire procedures and fire drill procedures within seven days after employment.

[ ~~§6.27.~~ § 6.26. ] Each new staff member shall be trained in fire procedures and fire drill procedures prior to assuming sole responsibility for the supervision of one or more children.

## Article 8.

### "Sighted Guide" Training for Emergency Use.

[ ~~§6.28.~~ § 6.27. ] When a blind or visually impaired child is admitted the facility shall obtain the services of an orientation and mobility specialist from the Department of Visually Handicapped to provide "sighted guide" training for use in emergencies except that this requirement shall not apply to secure detention facilities.

[ ~~§6.29.~~ § 6.28. ] "Sighted guide" training for use in emergencies shall be required of all personnel having responsibility for supervision of a blind or visually handicapped child [ except that this requirement shall not apply to secure detention facilities ].

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# GOVERNOR

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## GOVERNOR'S COMMENTS ON PROPOSED REGULATIONS

(Required by § 9-6.14:9.1 of the Code of Virginia)

### BOARD OF AGRICULTURE AND CONSUMER SERVICES

#### Title of Regulations:

- VR 115-04-02. Rules and Regulations for Enforcement of the Virginia Pest Law - Gypsy Moth Quarantine;
- VR 115-04-03. Rules and Regulations for the Enforcement of the Virginia Pesticide Law;
- VR 115-04-04. Rules and Regulations for the Enforcement of the Virginia Weights and Measures Law;
- VR 115-04-05. Rules and Regulations for the Enforcement of the Virginia Commission Merchant Law;
- VR 115-04-06. Rules and Regulations for the Enforcement of the Virginia Commercial Feed Law;
- VR 115-04-07. Rules and Regulations Governing the Virginia Animal Remedies Law;
- VR 115-04-08. Rules and Regulations for the Enforcement of the Virginia Agricultural Products Dealers Licensing and Bonding Law;
- VR 115-04-09. Rules and Regulations for Enforcement of the Virginia Seed Law;
- VR 115-04-10. Rules and Regulations for the Enforcement of the Virginia Fertilizer Law;
- VR 115-04-11. Rules and Regulations for the Enforcement of the Virginia Agricultural Liming Materials Law;
- VR 115-04-12. Rules and Regulations for the Enforcement of the Virginia Gasoline and Motor Fuels Law;
- VR 115-04-13. Rules and Regulations for the Enforcement of the Virginia Industrial Ethanol Act;
- VR 115-04-15. Rules and Regulations Relating to the Virginia Plants and Plant Products Inspection Law;
- VR 115-04-16. Rules and Regulations for the Enforcement of the Virginia Petroleum Products Franchise Act;
- Rules and Regulations for Enforcement of the Barberry and Black Stem Rust Quarantine (Repeal);
- Rules and Regulations for Enforcement of the Noxious Weed Law (Repeal);
- Rules and Regulations for Enforcement of the Tomato Plant Disease Quarantine (Repeal);
- Rules and Regulations Providing for the White Pine Blister Rust Quarantine (Repeal).

The actions proposed in relation to the above regulations result from the review of the Department's existing regulations which was conducted in 1984 at the direction of Governor Robb under Executive Order No. 52 (84). The proposed changes to these regulations were previously reviewed by Governor Robb's office, the Governor's Regulatory Reform Advisory Board, prior to their publication in the Virginia Register on May 27, 1985. The

public hearing held on these regulations by the Governor's Regulatory Reform Advisory Board yielded no opposition to the proposals, and as such, I have no objections to the proposed regulations as presented. I encourage the Department to carefully consider any additional comments submitted by the public at the hearings required under the Administrative Process Act.

/s/ Gerald L. Baliles  
March 3, 1986

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# GENERAL NOTICES/ERRATA

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<b>Symbol Key †</b>
† Indicates entries since last publication of the Virginia Register

## NOTICES OF INTENDED REGULATORY ACTION

Floor, Richmond, Va., telephone (804) 225-3140

### DEPARTMENT FOR THE AGING

### STATE AIR POLLUTION CONTROL BOARD

#### † Notice of Intended Regulatory Action

#### Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Department for the Aging intends to consider the promulgation of regulations entitled: **Regulations Implementing Title V of the Older Americans Act and Section 124 of the Job Training Partnership Act**. The purpose of the proposed regulations is to determine resource allocations to Virginia's 25 Area Agencies on Aging under Title V of the Older Americans Act (as amended) and Section 124 of the Job Training Partnership Act.

Notice is hereby given in accordance with this agency's public participation guidelines that the State Air Pollution Control Board intends to consider amending regulations entitled: **Regulations for the Control and Abatement of Air Pollution (VR 120-01)**. The purpose of the intended amendments is to change the agency's regulations concerning open burning to address the following problems: (i) the inclusion of all of Roanoke County as an urban area results in unnecessarily restrictive requirements in some parts of the county which are rural in nature, (ii) the lack of specific conditions for use of special incineration devices causes confusion and inconsistency in the application of the regulations, (iii) failure to include the burning of strings and plastic by tomato growers as an agricultural practice is unduly restrictive and places undue economic burden upon the growers; (iv) the inclusion of the requirement that no burning be conducted near a building unless the occupants give their permission is unenforceable; and (v) the inclusion of the requirement that any burning conducted by residents be no closer than 300 feet from any occupied building is unenforceable.

Public hearings will be held. Copies of the proposed regulations to be considered are available after April 14, 1986.

Statutory Authority: § 2.1-373 of the Code of Virginia.

Statutory Authority: § 10-17.18 (b) of the Code of Virginia.

Written comments may be submitted until June 27, 1986.

Written comments may be submitted until April 9, 1986.

**Contact:** William Peterson, Human Resources Developer, Virginia Department for the Aging, 101 N. 14th St., 18th Floor, Richmond, Va. 23219-2797, telephone (804) 225-3140

**Contact:** M. E. Lester, Division of Program Development, State Air Pollution Control Board, P.O. Box 10089, Richmond, Virginia 23240, telephone (804) 786-7564

#### † Notice of Intended Regulatory Action

### STATE BOARD FOR CONTRACTORS

Notice is hereby given in accordance with this agency's public participation guidelines that the Department for the Aging intends to consider amending regulations entitled: **State Plan for Aging Services funded under Title III of the Older Americans Act, as amended - October 1, 1985, through September 30, 1987**. The purpose of the proposed regulations is to revise the intrastate formula for allocation of Title III Older Americans Act funds to the 25 Area Agencies on Aging throughout Virginia. Public hearings will be held.

#### Notice of Intended Regulatory Action

Statutory Authority: § 2.1-373 of the Code of Virginia.

Notice is hereby given in accordance with this agency's public participation guidelines that the State Board for Contractors intends to consider amending regulations entitled: **Regulations of the State Board for Contractors**. The purpose of the proposed action is to solicit public comment on all existing regulations as to effectiveness, efficiency, necessity, clarity and cost of compliance in

Written comments may be submitted until June 27, 1986.

**Contact:** Williams Peterson, Human Resources Developer, Virginia Department for the Aging, 101 N. 14th St., 18th

accordance with the board's Public Participation Guidelines' requirement for annual review of regulations.

Statutory Authority: § 54-119 of the Code of Virginia. Written comments may be submitted until April 22, 1986.

Contact: E. G. Andres, Assistant Director, Department of Commerce, 3600 W. Broad St., Richmond, Va. 23230, telephone (804) 257-8511 (toll-free number 1-800-552-3016, Virginia only)

## STATE BOARD OF EDUCATION

### Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the State Board of Education intends to consider amending regulations entitled: **Standards for Accrediting Schools in Virginia**. The purpose of the proposed amendments to the Standards for Accrediting Schools in Virginia is to provide a foundation for quality education and to provide guidance and direction to assist schools in their continuing efforts to offer educational programs to meet the needs, interests, and aspiration of all students.

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

Written comments may be submitted until March 31, 1986, to Dr. Robert B. Jewell, Acting Associate Director, Accreditation and Evaluation, Department of Education, P.O. Box 6-Q, Richmond, Virginia 23216

Contact: Dr. M. Kenneth Magill, Administrative Director, Department of Education, P.O. Box 6-Q, Richmond, Va. 23216, telephone (804) 225-2029

## VIRGINIA BOARD OF GEOLOGY

### † Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Virginia Board of Geology intends to consider amending regulations entitled: **Virginia Board of Geology**. The purpose of this action is to review current regulations and provide new regulations consistent with § 54-1.7 of the Code of Virginia and this agency's public participation guidelines. The amendments may address but will not be limited to the use of a seal and replacement of a wall certificate and any necessary language changes in the regulations.

An information proceeding in accordance with the public participation guidelines will be held on May 7, 1986, Room 395, Travelers Building, 3600 West Broad Street, Richmond,

Virginia at 9 a.m.

Statutory Authority: § 54-1.28 and Chapter 30; §§ 9-6.14:7; 9-6.14:7.1; 9-6.14:25 of the Code of Virginia.

Written comments may be submitted until May 2, 1986.

Contact: Johnsie Williams, Assistant Director, 3600 W. Broad St., Richmond, Va. 23230, telephone (804) 257-8555 (toll-free number 1-800-552-3016)

## BOARD OF MEDICAL ASSISTANCE SERVICES

### † Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Board of Medical Assistance Services intends to consider promulgating regulations entitled: **Rehabilitative Services**. The purpose of the proposed regulations is to define covered services, service limitation, provider requirements, and provider reimbursement concerned with Rehabilitative Services.

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

Written comments may be submitted until April 14, 1986.

Contact: Martha Pulley, Health Programs Consultant, Department of Medical Assistance Services, 109 Governor St., Richmond, Va. 23219, telephone (804) 786-5438

## DEPARTMENT OF MINES, MINERALS AND ENERGY

### Division of Mined Land Reclamation

### † Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Department of Mines, Minerals and Energy, Division of Mined Land Reclamation intends to consider amending regulations entitled: **Virginia Minerals Other Than Coal Surface Mining Reclamation Regulations**. The purpose of the proposed regulations is to establish general and specific rules for surface mining permits, bonds, operations, and reclamation procedures, roads, revegetation, drainage, and other matters related to minerals other than coal mining.

Statutory Authority: Chapter 16, § 45.1-180.3, Title 45.1 of the Code of Virginia.

Written comments may be submitted until April 29, 1986.

Contact: William O. Roller, Compliance Manager, Division

## General Notices/Errata

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of Mined Land Reclamation, P.O. Box 4499, Lynchburg, Va. 24502, telephone (804) 239-0602

### DEPARTMENT OF SOCIAL SERVICES

#### Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Department of Social Services intends to consider amending regulations entitled: **Entitlement Date in the General Relief Program**. The purpose of the amendments is to ensure that a general relief recipient who moves from one locality to another will not have his assistance interrupted when reasons beyond his control delay the finding of eligibility in the new locality.

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

Written comments may be submitted until April 1, 1986 to I. Guy Lusk, Director, Division of Benefit Programs, State Department of Social Services, 8007 Discovery Drive, Richmond, Va. 23229-8699

**Contact:** Carolyn Ellis, Financial Services Supervisor, Division of Benefit Programs, Department of Social Services, 8007 Discovery Dr., Richmond, Va. 23229-8699, telephone (804) 281-9046

#### Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Department of Social Services intends to consider promulgating regulations entitled: **Minimum Standards for Local Agency Operated Child Care Programs**. These regulations will be developed to provide standards and approval requirements for nonresidential child care programs operated by local departments of social services.

Statutory Authority: §§ 63.1-25 and 63.1-55 of the Code of Virginia.

Written comments may be submitted until April 2, 1986.

**Contact:** Vernon Simmons, State Welfare Supervisor B, Virginia Department of Social Services, 8007 Discovery Dr., Richmond, Va. 23229-8699, telephone (804) 281-9294 (toll-free number 1-800-552-7091)

#### Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Department of Social Services intends to consider amending regulations entitled: **Policy Regarding Purchased Services; Standards**

**and Regulations for Agency Approved Providers**. The purpose of the proposed amendments is to allow more flexibility to a local social service/welfare agency in purchasing services for clients; to add Homemaker as an agency approved provider.

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

Written comments may be submitted until April 16, 1986.

**Contact:** Linda N. Booth, Administrative Planning Supervisor, Department of Social Services, 8007 Discovery Dr., Richmond, Va. 23229-8699, telephone (804) 281-9638 (toll-free number 1-800-542-5164)

### DEPARTMENT OF TAXATION

#### Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Department of Taxation intends to consider promulgating regulations entitled: **Virginia Retail Sales and Use Tax Regulation VR 630-10-49.2: Innovative High Technology Industries and Research**. The purpose of the proposed regulation is to formally adopt under the Administrative Process Act an emergency regulation adopted on January 16, 1986, and published in the February 17, 1986, issue of the Virginia Register of Regulations. The regulation will set forth the application of the sales and use tax to high technology businesses, including the broad industrial manufacturing and research and development exemptions generally available to such businesses.

Statutory Authority: § 58.1-203 of the Code of Virginia.

Written comments may be submitted until April 16, 1986.

**Contact:** Danny M. Payne, Director, Tax Policy Division, Department of Taxation, P.O. Box 6-L, Richmond, Va. 23282, telephone (804) 257-8010

## GENERAL NOTICES

### NOTICE TO STATE AGENCIES

RE: Forms for filing material on dates for publication in The Virginia Register of Regulations.

All agencies are required to use the appropriate forms when furnishing material and dates for publication in The Virginia Register of Regulations. The forms are supplied by the office of the Registrar of Regulations. If you do not

have any forms or you need additional forms, please contact: Ann M. Brown, Assistant Registrar of Regulations, Virginia Code Commission, P. O. Box 3-AG, Richmond, Va. 23208, telephone (804) 786-3591.

### FORMS:

PROPOSED (Transmittal Sheet) - RR01  
FINAL (Transmittal Sheet) - RR02  
NOTICE OF MEETING - RR03  
NOTICE OF INTENDED REGULATORY ACTION -  
RR04  
NOTICE OF COMMENT PERIOD - RR05  
AGENCY RESPONSE TO LEGISLATIVE  
OR GUBERNATORIAL OBJECTIONS - RR06

## ERRATA

### DEPARTMENT OF TAXATION

Title of Regulation: VR 630-2-311.1. Individual Income  
Tax: Net Operating Losses.

Issue: 2:3, 355-360, November 11, 1985

Correction to the final regulation is as follows:

Page 355, "Effective Date".

Change January 1, 1986, to read:  
Retroactive to January 1, 1985

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# CALENDAR OF EVENTS

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<b>Symbol Key †</b>
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† Indicates entries since last publication of the Virginia Register

**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.

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) 786-6530.

## THE VIRGINIA CODE COMMISSION

### EXECUTIVE

#### STATE BOARD OF ACCOUNTANCY

- † April 21, 1986 - 10 a.m. - Open Meeting
- † April 22, 1986 - 10 a.m. - Open Meeting

Department of Commerce, Travelers Building, 3600 West Broad Street, Richmond, Virginia. (Location accessible to handicapped.)

The board will meet to review applications for certification, review of disciplinary cases, take care of correspondence items, and review public comments regarding regulatory action.

**Contact:** Roberta L. Banning, Department of Commerce, 3600 W. Broad St., 5th Floor, Richmond, Va. 23220, telephone (804) 257-8505

#### BOARD OF AGRICULTURE AND CONSUMER SERVICES

May 22, 1986 - 10 a.m. - Public Hearing  
Washington Building, 1100 Bank Street, 2nd Floor, Board Room, Richmond, Virginia. (Location accessible to handicapped.)

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Board of Agriculture and Consumer Services intends to amend regulations entitled: **Rules and Regulations Governing the Production, Handling, and Processing of Milk for**

**Manufacturing Purposes and Establishing Minimum Standards for Certain Dairy Products to be Used for Human Food.** These regulations govern the production, processing, and transportation of raw milk, the labeling of commercial bulk shipping containers for dairy products and the labeling of consumer packaged products.

#### STATEMENT

**Basis:** The Somatic Cell Count Standard for individual herd raw milk has been a recognized measure of quality in the "manufacturing" milk industry and a part of Virginia regulations at a level recognized as being current and in conformance with U.S. Regulations and Recommended Standards is essential so as not to jeopardize the marketability of Virginia produced "manufacturing" raw milk in interstate and intrastate commerce.

**Purpose:** The proposed amendments will lower the maximum acceptable somatic cell count from 1,500,000 cells to 1,000,000 cells per milliliter in individual milk. This will bring Virginia's regulations into conformance with current regulations and recommendations of the United States Department of Agriculture. Also, it will ensure the marketability of a higher quality Virginia produced "manufacturing" milk in interstate commerce and within the Commonwealth of Virginia.

**Impact:** There are 160 "manufacturing" milk producers and four "manufacturing" milk plants in Virginia. The proposed amendments will enhance their ability to retain or expand their markets involved in interstate commerce. The Department of Agriculture and Consumer Services should not experience any additional cost in the implementation and enforcement of the proposed amendments if adopted by the board.

Statutory Authority: § 3.1-530.1 of the Code of Virginia.

Written comments may be submitted until May 16, 1986, to Raymond D. Vaughan, Secretary, Board of Agriculture and Consumer Services, P.O. Box 1163, Richmond, Virginia 23209

**Contact:** William R. Crump, Jr., Chief, Bureau of Dairy Services, Virginia Department of Agriculture and Consumer Services, Division of Dairy and Foods, P.O. Box 1163, Richmond, Va. 23209, telephone (804) 786-1452

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# Calendar of Events

**May 22, 1986 - 10 a.m. - Public Hearing**  
Washington Building, 1100 Bank Street, 2nd Floor, Board Room, Richmond, Virginia. (Location accessible to handicapped.)

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Board of Agriculture and Consumer Services intends to amend the regulations entitled: **Rules and Regulations Governing the Production, Processing and Sale of Grade "A" Pasteurized Market Milk and Grade "A" Pasteurized Market Milk Products and Certain Milk Products.** These regulations govern the production, processing, labeling and distribution of Grade "A" Market Milk, Grade "A" Market Milk Products and certain milk products within the Commonwealth of Virginia.

## STATEMENT

**Basis:** The Somatic Cell Count Standard for individual producer Grade "A" raw milk for pasteurization has been a recognized measure of quality in Grade A milk industry and a part of Virginia's regulations for a number of years. Its continuance in Virginia regulations at a level recognized as being current and in conformance with U.S. recommended standards is essential so as not to jeopardize the marketability of Virginia produced Grade "A" raw milk for pasteurization in interstate and intrastate commerce.

**Purpose:** The proposed amendment will lower the maximum allowable somatic cell count from 1,500,000 cells to 1,000,000 cells per milliliter on individual producer Grade "A" raw milk for pasteurization. This will bring Virginia regulations into conformance with current recommendations of the United States Public Health Service and the Food and Drug Administration. Also, it will ensure the marketability of a higher quality Virginia produced Grade "A" raw milk for pasteurization in interstate commerce and within the Commonwealth of Virginia.

**Impact:** There 1554 Grade "A" producers and 3 milk marketing cooperatives operating in Virginia. This amendment will enhance their ability to retain or expand their markets involved in interstate commerce. The Department of Agriculture and Consumer Services should not experience any significant additional cost in the implementation and enforcement of the proposed amendment if adopted by the board.

**Statutory Authority:** § 3.1-530.1 of the Code of Virginia.

Written comments may be submitted until May 16, 1986, to Raymond D. Vaughan, Secretary, Board of Agriculture and Consumer Services, P.O. Box 1163, Richmond, Virginia 23209

**Contact:** William R. Crump, Jr., Chief, Bureau of Dairy Services, Virginia Department of Agriculture and Consumer Services, Division of Dairy and Foods, P.O. Box 1163,

Richmond, Va. 23209, telephone (804) 786-1452

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**May 22, 1986 - 1 p.m. - Public Hearing**  
Washington Building, 1100 Bank Street, Board Room 204, Richmond, Virginia. (Location accessible to handicapped.)

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Board of Agriculture and Consumer Services intends to amend regulations entitled: **Health Requirements Governing the Admission of Livestock, Poultry, Companion Animals, and Other Animals or Birds Into Virginia.** The proposed amendments would require that certain female calves entering Virginia for feeding or breeding purposes be vaccinated for brucellosis, an infectious and contagious disease of cattle and other species, including man.

## STATEMENT

**Statement of Purpose:** The proposed regulations would require that certain female calves entering Virginia for feeding or breeding purposes be vaccinated for brucellosis. Brucellosis, an infectious and contagious disease of cattle and man, poses a serious health threat to man and a devastating threat to herds that become affected. There are 39,000 cattle herds within the Commonwealth. The immunization of female cattle, while calves, enhances their value; requiring such immunization before a cow enters the state reduces the risk to all Virginia cattle of contracting brucellosis.

### Estimated Impact:

a) Number and types of regulated entities or persons affected—While it would be virtually impossible to enumerate the livestock markets, registered cattle associations, cattle dealers, and livestock sales managers in other states affected (and the impact of the proposed regulations would be on entities outside Virginia), the impact should be minimal, since already 24 states require such vaccination for cattle entering their borders. An estimated 12,000 cattle pass through Virginia each year that would be subject to this proposed regulations, but already approximately 75% have been vaccinated for brucellosis in a manner consistent with the proposed regulation. This regulation would deal with the remaining 25%.

b) Projected cost to regulated entities (and to the public, is applicable for implementation and compliance—see Item "a", above.

c) Projected cost to agency for implementation and enforcement—None.

d) Source of funds - Since there are no known costs to the agency, there is no need for additional funds for the implementation of these proposed regulations.



# Calendar of Events

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Statutory Authority: §§ 3.1-724 and 3.1-726 of the Code of Virginia.

Written comments may be submitted until May 21, 1986, to Raymond D. Vaughan, Secretary, Board of Agriculture and Consumer Services, P.O. Box 1163, Richmond, Virginia 23209

Contact: Dr. A. J. Roth, Chief, Bureau of Veterinary Services, Washington Bldg., 1100 Bank Street, Suite 600, Richmond, Va. 23209, telephone (804) 786-2483

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May 22, 1986 - 2 p.m. - Public Hearing  
Washington Building, 1100 Bank Street, 2nd Floor, Board Room, Richmond, Virginia. (Location accessible to handicapped.)

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Board of Agriculture and Consumer Services intends to adopt the regulations entitled: **Rules and Regulations Governing the Transportation of Companion Animals and Horses**. These regulations establish standards for transportation of impounded companion animals, companion animals moving in commerce, and loads of horses being transported to a commercial slaughter facility.

## STATEMENT

### Substance:

Part I - Transportation of companion animals.

Transportation of companion animals regulates transportation of impounded companion animals and those companion animals moved in commerce. Standards are set forth for primary enclosures, primary conveyances, terminal facilities, food and water requirements, care in transit and handling.

Part II - Transportation of horses.

Transportation of horses regulates transportation of loads of more than six horses being transported to a commercial slaughter facility. Standards are set forth for vehicles, loading and unloading, cleaning and disinfection, protection during transport, food, water and exercise, grouping of horse, and handling of injured or physically disabled horses.

Issues: Issues to be considered include: 1. The need for such regulations. 2. What standards are necessary to accomplish the purpose of these regulations. 3. The economic impact of these regulations on regulated entities and the public.

Basis: Numerous instances of inhumane treatment of animals during transport and the inability to deal with

these using existing enforcement measures requires the promulgation of these regulations.

Purpose: The purpose of these regulations is to specify those requirements to be met when transporting live companion animals and horses that will preclude the inhumane treatment of these animals and foster handling and care practices that will enhance their well-being during periods of transit within the state.

Statutory Authority: § 29-213.37 of the Code of Virginia.

Written comments may be submitted until May 22, 1986 to Raymond D. Vaughan, Secretary, Board of Agriculture and Consumer Services, P.O. Box 1163, Richmond, Virginia

Contact: Dr. Tonya K. Higgins, Animal Welfare Veterinarian, Virginia Department of Agriculture and Consumer Services, Division of Animal Health, Washington Building, Suite 600, 1100 Bank Street, Richmond, Va. 23219, telephone (804) 786-2483

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May 22, 1986 - 11 a.m. - Public Hearing  
Washington Building, 1100 Bank Street, 2nd Floor, Board Room, Richmond, Virginia. (Location accessible to handicapped.)

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Virginia Department of Agriculture and Consumer Services intends to amend regulations entitled: **Rules and Regulations for the Enforcement of the Virginia Seed Law**. The purpose of the amendments is to establish a specific noxious weed seed list for lawn and turf seed and distinguish it from noxious weed seed in agricultural seed.

## STATEMENT

Statement of Purpose and Impact: This regulation is to ensure that all lawn and turf seeds are truthfully labeled within testing tolerance of the labeler's guarantee for the presence of noxious weed seeds. It will establish a fair and equitable marketing system whereby both the labeler and consumer can identify quality seed from the information that appears on the label. To ensure the smallest amount of disruption in the same marketing area, the regulation conforms in every respect to those adopted in Pennsylvania and proposed for adoption in Maryland, Delaware and New Jersey.

Impact: This regulation affects all persons who market lawn and turf seed in Virginia to include approximately 120 seed producers, processors or labelers, and 32 registrants of lawn and turf products. Purchasers of lawn and turf seed affected include a major portion of the 1.1 million home owners, 30 sod producers, 240 golf courses, approximately, 800 public schools, 80 colleges, approximately 100 federal, state and municipal parks or

# Calendar of Events

recreation areas, other state agencies, airports, apartment complexes, business establishments and all areas maintained in turf for aesthetic value. This regulation was specifically and meticulously designed to disrupt to the smallest extent possible that lawn and turf seed already on the market. All seed presently marketed can continue to be marketed, but the label will reveal by name and rate of occurrence the noxious weed seed which are present in lawn and turf seed.

**Statement of Basis:** To ensure that seed identified as lawn and turf seed be labeled with the name and number per ounce or per pound of restricted noxious weed seeds under the heading of Noxious Weed Seed or Undesirable Grass Seed, if any are present. Provide the labeler of lawn and turf seed an opportunity to label and market uncontaminated seed in fair competition with all other on the market. Provide information to the purchaser that is not available from any other source.

**Statement of Basis:** To ensure that seed identified as lawn and turf seed be labeled with the name and number per ounce or per pound of restricted noxious weed seeds under the heading of Noxious Weed Seed or Undesirable Grass Seed, if any are present. Provide the labeler of lawn and turf seed an opportunity to label and market uncontaminated seed in fair competition with all others on the market. Provide information to the purchaser that is not available from any other source.

For the above reasons, it is necessary to establish a noxious weed seed list specifically for lawn and turf seed that is different from agricultural seed. In addition, it is necessary to maintain an inspecting, sampling, and testing program that will monitor lawn and turf seed sold in order that the purchaser will be protected.

Statutory Authority: § 3.1-271 of the Code of Virginia.

Written comments may be submitted until May 20, 1986, to Raymond D. Vaughan, Secretary, Board of Agriculture and Consumer Services, 1100 Bank Street, Room 210, Richmond, Virginia 23219

**Contact:** D. E. Brown, Supervisor, Seed Section, Virginia Department of Agriculture and Consumer Services, Division of PAIR, 1100 Bank Street, Room 505, Richmond, Va. 23219, telephone (804) 786-3797

## STATE AIR POLLUTION CONTROL BOARD

† April 7, 1986, 9 a.m. – Open Meeting  
General Assembly Building, Capitol Square, Senate Room A, Richmond, Virginia. (Location accessible to handicapped.)

A general meeting of the board.

**Contact:** Dick Stone, P.O. Box 10089, Richmond, Va. 23240,

telephone (804) 786-5478

† April 9, 1986 - 7:30 p.m. – Public Hearing  
Rural Retreat Community Center, Catron Street, Rural Retreat, Virginia. (Location accessible to handicapped.)

Following a 30-day public comment period, the Region I office of the State Air Pollution Control Board will hold a public hearing on a permit application from Parker-Hannifin Corporation to install and operate equipment to recondition automotive brake shoes at a plant in Rural Retreat, Virginia.

**Contact:** Michael D. Overstreet, 121 Russell Rd., Abingdon, Va., telephone (703) 628-7841.

† April 10, 1986 - 7:30 p.m. – Public Hearing  
1 County Complex Court, Prince William, Virginia

Following a 30-day public comment period, a public hearing will be held on a permit application from the Cunningham-Mountcastle Funeral Home to install and operate a crematory in Dale City, Virginia.

**Contact:** Lewis R. Baumann, State Air Pollution Control Board, 6320 Augusta Dr., Springfield Towers, Suite 502, Springfield, Va. 22150, telephone (703) 644-0311

\* \* \* \* \*

May 5, 1986 - 10 a.m. – Public Hearing  
Council Chambers, Town of Abingdon Municipal Building, 133 West Main Street, Abingdon, Virginia

May 5, 1986 - 10 a.m. – Public Hearing  
State Air Pollution Control Board, Valley of Virginia Regional Office, Executive Office Park, Suite A, 5338 Peters Creek Road, Roanoke, Virginia

May 5, 1986 - 10 a.m. – Public Hearing  
Auditorium of the Recreation Center, 301 Grove Street, Lynchburg, Virginia

May 5, 1986 - 10 a.m. – Public Hearing  
State Capitol, House Room 1, Richmond, Virginia. (Location accessible to handicapped.)

May 5, 1986 - 10 a.m. – Public Hearing  
State Air Pollution Control Board, Hampton Roads Regional Office, Pembroke Office Park, Pembroke IV, Suite 409, Virginia Beach, Virginia. (Location accessible to handicapped.)

May 5, 1986 - 11:00 a.m. – Public Hearing  
State Air Pollution Control Board, National Capital Regional Office, 6320 Augusta Drive, Springfield Towers - Suite 502, Springfield, Virginia

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia and the requirements of § 110(a)(1) of the Federal Clean Air Act that the State

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Air Pollution Control Board intends to amend regulations entitled: **Regulations for the Control and Abatement of Air Pollution (VR 120-01)**. The regulations establish limits on sources of air pollution to the extent necessary to achieve and maintain levels of air quality as will protect human health and welfare.

## STATEMENT

**Subject:** Documents incorporated by reference.

**Substance:** The amendments establish a new appendix to the agency's regulations which provide a consolidated list of documents incorporated by reference. The list includes the name, reference number and edition for each document. The edition is the latest available. Also included for each document is the name and address of the organization from whom it can be obtained.

**Purpose:** The purpose of the intended amendments is to change the agency's regulations to provide the latest edition of referenced documents and to provide a consolidated list of referenced documents to facilitate easy location.

**Basis:** The basis for incorporating documents by reference is § 9-6.18 of the Code of Virginia.

**Issues:** The issue is whether the regulation should specify the most current edition of any documents incorporated by reference.

**Statutory Authority:** § 10-17.18(B) of the Code of Virginia.

Written comments may be submitted until May 5, 1986 to the Director of Program Development.

**Other pertinent information:** Location of Draft. The proposals and any supporting documents may be examined by the public in Room 825, Ninth Street Office Building, Richmond, Virginia and at any of the agency's regional offices (listed below) between 8:30 a.m. and 4:30 p.m. of each business day until the day of the hearing. While the proposed regulations and supporting documents are available at all offices of the Board, the specific documents incorporated by reference are only available for inspection by the public at the central office of the State Air Pollution Control Board, Room 825, Ninth Street Office Building, Richmond, Virginia.

Southwestern Virginia Regional Office  
State Air Pollution Control Board  
121 Russell Road  
Abingdon, Virginia 24210,  
telephone (703) 628-7841

Valley of Virginia Regional Office  
State Air Pollution Control Board  
Executive Office Park - Suite A,  
5338 Peters Creek Road,

Roanoke, Virginia 24019  
telephone (703) 982-7328

Central Virginia Regional Office,  
State Air Pollution Control Board  
7701-03 Timberlake Road,  
Lynchburg, Virginia 24502,  
telephone (804) 528-6641

State Capital Regional Office  
State Air Pollution Control Board,  
8205 Hermitage Road,  
Richmond, Virginia 23228,  
telephone (804) 265-3067

Hampton Roads Regional Office,  
State Air Pollution Control Board  
Pembroke Office Park, Pembroke Four - Suite 409  
Virginia Beach, Virginia 23462,  
telephone (804) 499-6845

National Capital Regional Office  
State Air Pollution Control Board  
Springfield Towers - Suite 502  
6320 Augusta Drive  
Springfield, Virginia 22150,  
telephone (703) 644-0311

**Nature of Proceedings:** Persons desiring to testify at the hearings shall furnish the agency with two copies of their presentation and the original of any exhibit relied upon. Written comments may also be submitted to the agency, at any of its regional offices, no later than the day of the hearing. All testimony, exhibits and documents received are matters of public record.

**Contact:** M. E. Lester, Division of Program Development,  
State Air Pollution Control Board, P.O. Box 10089,  
Richmond, Va. 23240, telephone (804) 786-7564

## VIRGINIA ALCOHOLIC BEVERAGE CONTROL BOARD

April 8, 1986 - 9:30 a.m. - Open Meeting  
April 14, 1986 - 9:30 a.m. - Open Meeting  
April 22, 1986 - 9:30 a.m. - Open Meeting  
May 6, 1986 - 9:30 a.m. - Open Meeting  
May 12, 1986 - 9:30 a.m. - Open Meeting  
May 20, 1986 - 9:30 a.m. - Open Meeting  
June 3, 1986 - 9:30 a.m. - Open Meeting  
June 9, 1986 - 9:30 a.m. - Open Meeting  
June 17, 1986 - 9:30 a.m. - Open Meeting  
Virginia Alcoholic Beverage Control Board, 2901 Hermitage Road, Richmond, Virginia. (Location accessible to handicapped.)

A meeting to receive and discuss reports on activities from staff members. Other matters not yet determined.

**Contact:** Larry E. Gilman, 2901 Hermitage Rd., Richmond, Va., telephone (804) 257-0616

## STATE BOARD OF ARCHITECTS, PROFESSIONAL ENGINEERS, LAND SURVEYORS, AND CERTIFIED LANDSCAPE ARCHITECTS

† **May 16, 1986 - 9 a.m. - Open Meeting**  
Department of Commerce, Travelers Building, 3600 West Broad Street, 3rd Floor, Room 395, Richmond, Virginia. (Location accessible to handicapped.)

An informational proceeding will be held to take any comments regarding suggested changes in the board's regulations in accordance with the public participation guidelines. This will be followed by the board's regular meeting to be held in the board room on the 5th floor. The board will meet to (i) approve minutes of the March 14, 1986, meeting; (ii) discuss regulations; and (iii) review investigative cases.

### Board of Architects

† **May 2, 1986 - 9 a.m. - Open Meeting**  
Department of Commerce, Travelers Building, 3600 West Broad Street, 5th Floor, Richmond, Virginia. (Location accessible to handicapped.)

The board will meet to (i) approve minutes of March 7, 1986 meeting; (ii) review investigative cases; (iii) discuss regulations; and (iv) review applications.

### Board of Certified Landscape Architects

† **June 24, 1986 - 9 a.m. - Open Meeting**  
Department of Commerce, Travelers Building, 3600 West Broad Street, 5th Floor, Richmond, Virginia. (Location accessible to handicapped.)

Board members grading exam.

### Board of Land Surveyors

† **April 11, 1986 - 8 a.m. - Open Meeting**  
John Marshall Hotel, 6th and Franklin Streets, Richmond, Virginia

Land surveyor examinations.

**April 12, 1986 - 9 a.m. - Open Meeting**  
Department of Commerce, Travelers Building, 3600 West Broad Street, 5th Floor, Richmond, Virginia. (Location accessible to handicapped.)

A meeting to grade examination cases.

**Contact:** Johnsie Williams, Assistant Director, Department of Commerce, 3600 W. Broad St., 5th Floor, Room 507, Richmond, Va. 23230-4917, telephone (804) 257-8506

## Board of Professional Engineers

† **April 11, 1986 - 8 a.m. - Open Meeting**  
† **April 12, 1986 - 8 a.m. - Open Meeting**  
Arthur Ashe Center, 3001 North Boulevard, Richmond, Virginia. (Location accessible to handicapped.)

Professional engineer E.I.T. examinations.

† **May 2, 1986 - 2:30 p.m. - Open Meeting**  
Department of Commerce, Travelers Building, 3600 West Broad Street, 5th Floor, Richmond, Virginia. (Location accessible to handicapped.)

Board members will review exam appeals.

**Contact:** Johnsie Williams, Assistant Director, Department of Commerce, 3600 W. Broad St., Richmond, Va. 23220, telephone (804) 257-8512

## VIRGINIA BOARD OF EXAMINERS FOR AUDIOLOGY AND SPEECH PATHOLOGY

† **April 14, 1986, 10 a.m. - Open Meeting**  
Department of Commerce, Travelers Building, 3600 West Broad Street, Conference Room 1, Richmond, Virginia. (Location accessible to handicapped.)

The board will meet to consider (i) reinstatement of temporary permits; (ii) committee report on transfer of Board to Department of Health Regulatory Boards; (iii) update on expenditures, revenue and fees; and (iv) action on complaints.

**Contact:** Gerald W. Morgan, Assistant Director, 3600 W. Broad St., Richmond, Va. 23230-4917, telephone (804) 257-8554

## VIRGINIA AVIATION BOARD

**April 1, 1986 - 9 a.m. - Open Meeting**  
Moton Conference Center, Gloucester, Virginia. (Location accessible to handicapped.)

A meeting to discuss aviation matters.

**Contact:** Kenneth A. Rowe, Director, Department of Aviation, 4508 S. Laburnum Ave., P.O. 7716, Richmond Va. 23221, telephone (804) 786-6284

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## VIRGINIA CAVE BOARD

† May 10, 1986 - 1 p.m. - Open Meeting  
Longwood College, 163 East Ruffner, Board Room,  
Farmville, Virginia. (Location accessible to handicapped.)

Business of the board will include current issues and problems concerning the preservation, conservation, and protection of Virginia's cave resources.

Contact: Ms. Evelyn Bradshaw, Chairperson, 1732 Byron St.  
Alexandria, Va. 22303

## INTERDEPARTMENTAL LICENSURE AND CERTIFICATION OF CHILDREN'S RESIDENTIAL FACILITIES

### Coordinating Committee

April 11, 1986 - 8:30 a.m. - Open Meeting  
Koger Executive Center, 8007 Discovery Drive, Blair  
Building, 2nd Floor, Conference Room A, Richmond,  
Virginia. (Location accessible to handicapped; interpreter  
for deaf provided if necessary.)

A meeting to consider: (i) progress report on core standards adoption, (ii) progress report on core training plan; and (iii) to discuss structured monitored strategies for residential facilities.

Contact: Sandra G. Davis, 8007 Discovery Dr., Blair Bldg.,  
Richmond, Va. 23229-8699, telephone (804) 281-9025

## DEPARTMENT OF COMMERCE

April 30, 1986 - 10 a.m. - Open Meeting  
Department of Commerce, Travelers Building, 3600 West  
Broad Street, Richmond, Virginia. (Location accessible to  
handicapped.)

The board will meet for the purpose of administering the Virginia Polygraph Examiner Licensing Examination to eligible licensed examiner interns.

Contact: Iva B. Frizzell, Department of Commerce, 3600  
W. Broad St., Richmond, Va. 23230, telephone (804)  
257-8515/8563

## BOARD OF CONSERVATION AND HISTORIC RESOURCES

† April 23, 1986 - 12 p.m. - Open Meeting  
Douthat State Park, Route 1, Box 212, Millboro, Virginia

The Board of Conservation and Historic Resources will meet to approve easements and rights-of-way followed by a showcase of cabin and park reservations demonstrating similar projects throughout the state park system.

Contact: Bonnie S. Greenwood, Administrative Staff  
Specialist, Department of Conservation and Historic  
Resources, 1100 Washington Bldg., Richmond, Va. 23219,  
telephone (804) 786-2121

## DEPARTMENT OF CONSERVATION AND HISTORIC RESOURCES

### Historic Landmarks Board

† April 15, 1986 - 2 p.m. - Open Meeting  
221 Governor St., Richmond, Virginia

The board will hold a general business meeting.

Contact: Margaret T. Peters, Information Officer, 221  
Governor Street, Richmond, Va. 23219, telephone (804)  
786-3143

### Virginia Soil and Water Conservation Board

May 15, 1986 - 9 a.m. - Open Meeting  
203 Governor Street, Room 200, Richmond, Virginia.  
(Location accessible to handicapped.)

A regular bi-monthly business meeting.

Contact: Donald L. Wells, 203 Governor St., Suite 206,  
Richmond, Va. 23219-2094, telephone (804) 786-2064

## BOARD OF CORRECTIONS

† April 16, 1986 - 10 a.m. - Open Meeting  
† May 14, 1986 - 10 a.m. - Open Meeting  
† June 18, 1986 - 10 a.m. - Open Meeting  
4615 West Broad Street, Richmond, Virginia. (Location  
accessible to handicapped.)

A regular monthly meeting to consider such matters  
as may be presented to the Board of Corrections.

Contact: Vivian Toler, Secretary to the Board, 4615 W.  
Broad St., P.O. Box 26963, Richmond, Va. 23261, telephone  
(804) 257-6274

**VIRGINIA BOARD OF COSMETOLOGY**

† April 21, 1986 - 9 a.m. - Open Meeting  
Department of Commerce, Travelers Building, 3600 West  
Broad Street, Conference Room 3, Richmond, Virginia.  
(Location accessible to handicapped.)

The board will (i) review investigative reports of  
complaints and determine disposition, and (ii) consider  
general correspondence pertinent to the operation of  
the board.

Contact: Virginia Board of Cosmetology, 3600 W. Broad St.,  
5th Floor, Richmond, Va. 23230, telephone (804) 257-8509

**CRIMINAL JUSTICE SERVICES BOARD**

April 2, 1986 - 1:30 p.m. - Open Meeting  
Division of Motor Vehicles, 2300 West Broad Street,  
Agecroft Room, Richmond, Virginia. (Location accessible to  
handicapped.)

A meeting to consider matters related to the board's  
responsibilities for criminal justice training and  
improvement of the criminal justice system.

Contact: Jay W. Malcan, Staff Executive, Department of  
Criminal Justice Services, 805 E. Broad St., Richmond, Va.  
23219, telephone (804) 786-4000

\* \* \* \* \*

April 2, 1986 - 9:30 a.m. - Public Hearing  
Division of Motor Vehicles, 2300 West Broad Street,  
Agecroft Room, Richmond, Virginia. (Location accessible to  
handicapped.)

Notice is hereby given in accordance with § 9-6.14:7.1  
of the Code of Virginia that the Criminal Justice  
Services Board intends to amend regulations entitled:  
**Rules Relating to Certification of Criminal Justice  
Instructors.** This regulation amends existing training  
and certification requirements for criminal justice  
instructors.

**STATEMENT**

Basis and Purpose: The rules, as proposed, are being  
considered for amendment pursuant to the provisions of §  
9-170 (1) and (11) of the Code of Virginia.

Those who instruct in the Commonwealth's criminal justice  
academies are responsible for providing a foundation for  
action for criminal justice officers across the state. Prior  
to being accepted as an instructor, these individuals should

be able to demonstrate through experience and ability, a  
fundamental competence to provide the necessary  
instruction. Since only those who wish to instruct in  
approved training programs are subject to these  
regulations, they will impact less than 15% of the criminal  
justice officers in the Commonwealth.

Subject and Substance: The proposed amendments to the  
rules mandate minimum requirements for certification and  
recertification of criminal justice instructors.

Impact: This proposal is an amendment to existing rules.  
The review and proposed amendments resulted from the  
cyclical review process previously established by the  
department. Minimal fiscal impact is anticipated.

Compliance Cost: Rules pertaining to this subject matter  
currently exist. Some minimal compliance costs may be  
associated with the requirement for retraining prior to  
recertification. No increase in costs is anticipated relative  
to the changes involving initial certification.

The proposed recertification requirement calls for  
completion of a seminar approved by the department, to  
ensure that the individuals are up-to-date with the subject  
matter in their respective categories of certification. In  
many cases, this retraining will be accomplished through  
the existing in-service training requirement.

Implementation Costs: Implementation costs to the  
Department of Criminal Justice Services is not expected to  
exceed those costs associated with compliance with the  
Administrative Process Act, Executive Order No. 51, and  
the board's Public Participation Guidelines. No additional  
costs are anticipated.

Contact: Mr. Jay Malcan, Executive Assistant, Department  
of Criminal Justice Services, 805 E. Broad St., Richmond,  
Va. 23219, telephone (804) 786-4000

\* \* \* \* \*

April 2, 1986 - 9:30 a.m. - Public Hearing  
Division of Motor Vehicles, 3200 West Broad Street,  
Agecroft Room, Richmond, Virginia. (Location accessible to  
handicapped.)

Notice is hereby given in accordance with § 9-6.14:7.1  
of the Code of Virginia that the Criminal Justice  
Services Board intends to adopt regulations entitled:  
**Rules Relating to Compulsory Minimum Training  
Standards for Courthouse and Courtroom Security  
Personnel and Deputy Sheriffs Designated to Serve  
Process.** The regulation amends existing training  
standards for deputy sheriffs and other  
law-enforcement and designated personnel to provide  
security for the courthouse and courtroom and serve  
process.

**STATEMENT**

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**Basis and Purpose:** The rules, as proposed, are being considered for amendment pursuant to the provisions of § 9-170 (5 & 5a.) of the Code of Virginia. The protection of property and persons during the judicial process is a specialized function requiring certain knowledge, skills and abilities. The purpose of the proposed rules is to provide training necessary for effective protection of the courthouse and courtroom and for the protection of the individuals upon whom process is served.

**Subject and Substance:** The proposed amendments to the rules mandate minimum training standards for those criminal justice personnel designated to provide courthouse and courtroom security or who serve process.

**Impact:** This proposal is an amendment to existing rules. The review and proposed amendments resulted from the cyclical review process previously established by the department. No fiscal impact is anticipated.

**Statutory Authority:** § 9-170 (5 and 5a) of the Code of Virginia.

**Contact:** Jay Malcan, Executive Assistant, Department of Criminal Justice Services, 805 E. Broad St., Richmond, Va. 23219, telephone (804) 786-4000

## VIRGINIA BOARD OF DENTISTRY

† April 10, 1986 - 4 p.m. - Open Meeting  
Jefferson-Sheraton Hotel, Franklin and Adams Streets,  
Richmond, Virginia. (Location accessible to handicapped.)

The Board of Dentistry will hold an informal conference on William D. Crockett, D.D.S.

† April 11, 1986 - 2 p.m. - Open Meeting  
Jefferson-Sheraton Hotel, Franklin and Adams Streets,  
Richmond, Virginia. (Location accessible to handicapped.)

The Board of Dentistry will hold a formal hearing on Craig Stoner, D.D.S.

April 10, 1986 - 10 a.m. - Public Hearing  
April 11, 1986 - 9 a.m. - Public Hearing  
April 12, 1986 - 9 a.m. - Public Hearing  
Jefferson-Sheraton Hotel, Franklin & Adams Streets,  
Richmond, Virginia. (Location accessible to handicapped.)

The Board of Dentistry will hold a public hearing on proposed regulations (previously listed) and conduct regular board business.

**Contact:** Nancy T. Feldman, Executive Director, 517 W. Grace St., Richmond, Va. 23220, telephone (804) 786-3011

\* \* \* \* \*

April 10, 1986 - 10 a.m. - Public Hearing

Jefferson-Sheraton Hotel, Franklin and Adams Streets,  
Richmond, Virginia. (Location accessible to handicapped.)

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Virginia Board of Dentistry intends to adopt regulations entitled: **Rules and Regulations Governing the Practice of Dentistry and Dental Hygiene.**

## STATEMENT

**Purpose:** The purpose of these regulations is to establish the requirements for licensure as dentists and dental hygienists in Virginia, to regulate the licensure of dentists and dental hygienists and to discharge the duties required of the board by § 54-163 of the Code of Virginia in the protection of the health, safety and welfare of the citizens of the Commonwealth.

**Basis:** § 54-163 of the Code of Virginia.

**Impact:** The proposed regulations would affect approximately 4,331 licensed dentists, 2,003 licensed dental hygienists and 29 temporary permits. The Board of Dentistry depends on fees from licensees and applicants to fulfill its statutory responsibilities. Proposed changes in fees will allow the board to meet this obligation.

**Statutory Authority:** § 54-163 of the Code of Virginia

Written comments may be submitted until April 4, 1986.

**Contact:** Nancy T. Feldman, Executive Director, P. O. Box 27708, Richmond, Va. 23261, telephone (804) 786-0311

## STATE BOARD OF EDUCATION

April 9, 1986 - 7 p.m. - Open Meeting  
Manor High School, Portsmouth, Virginia. (Location accessible to handicapped; interpreter for deaf provided if requested.)

April 9, 1986 - 7 p.m. - Open Meeting  
Midlothian High School, Midlothian, Virginia. (Location accessible to handicapped; interpreter for deaf provided if requested.)

April 9, 1986 - 7 p.m. - Open Meeting  
Pulaski County Senior High School, Pulaski, Virginia. (Location accessible to handicapped; interpreter for deaf provided if requested.)

A meeting to receive comments or recommendations concerning the proposed revision in accreditation standards. Five copies of written testimony should be available in order that board members may have a copy for reference during the presentation. There is no limit on the length of the written testimony; however, participants are requested to limit their oral

# Calendar of Events

comments to not more than three minutes.

**Contact:** Dr. Robert B. Jewell, Acting Associate Director, School Accreditation and Evaluation, Department of Education, P.O. Box 6Q, Richmond, Va. 23216, telephone (804) 225-2104

\* \* \* \* \*

**May 5, 1986 - 10 a.m. - Public Hearing**  
James Monroe Building, 101 North 14th Street, Room D, Richmond, Virginia. (Location accessible to handicapped.)

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the State Board of Education intends to amend regulations entitled: **Regulations Governing Special Education Programs for Handicapped Children and Youth in Virginia.** These regulations are being amended to include Part V, Procedures For Identification of Children in Mental Health and Mental Retardation Facilities Eligible to be Appropriately Placed in Public School Programs. Only Part V of these regulations is to be open for public comment and deals with the identification of children residing in mental health and mental retardation facilities who can be placed in public day school program.

## STATEMENT

**Summary:** Part V, Procedures for Identification of Children in Mental Health and Mental Retardation Facilities Eligible to be Appropriately Placed in Public School Programs is a proposed amendment to the Regulations Governing Special Education for Handicapped Children and Youth in Virginia. Only Part V of the above regulations will be open for review and public comment. The 1985 General Assembly enacted legislation which amended § 22.1-215 of the Code of Virginia requiring the Board of Education to promulgate these regulations.

**Basis and Purpose:** The proposed amendment is to identify children, ages two to 21, inclusive, residing in mental health and mental retardation facilities who are eligible for placement within a public school program.

**Statutory Authority:** Article II (§ 22.1-215) of Chapter 13 of the Code of Virginia.

Written comments may be submitted until May 1, 1986.

**Contact:** James T. Micklem, Director, Division of Special Education Programs and Pupil Personnel Services, P.O. Box 6Q, Richmond, Va. 23216-2060, telephone (804) 225-2861

## VIRGINIA BOARD OF FUNERAL DIRECTORS AND EMBALMERS

April 2, 1986 - 9 a.m. - Open Meeting  
April 3, 1986 - 9 a.m. - Open Meeting  
April 4, 1986 - 9 a.m. - Open Meeting

Department of Health Regulatory Boards, 517 West Grace Street, Main Board Room, Richmond, Virginia

State board meeting; disciplinary matters, and various board subcommittee meetings.

**Contact:** Mark L. Forberg, Executive Secretary, 517 W. Grace St., P.O. Box 27708, Richmond, Va. 23261, telephone (804) 786-0076

## DEPARTMENT OF GENERAL SERVICES

### Art and Architectural Review Board

**April 4, 1986 - 10 a.m. - Open Meeting**  
Virginia Museum of Fine Arts, Boulevard and Grove Avenue, Main Conference Room, Richmond, Virginia. (Location accessible to handicapped.)

The council will advise the Director of the Department of General Services and the Governor on architecture of state facilities to be constructed and works of art to be accepted or acquired by the Commonwealth.

**Contact:** Dorothy E. Ivankoe, Department of General Services, Room 209 Ninth Street Office Bldg., Richmond, Va. 23219, telephone (804) 786-3311

## VIRGINIA STATE BOARD OF GEOLOGY

† **May 7, 1986 - 9 a.m. - Open Meeting**  
Department of Commerce, Travelers Building, 3600 West Broad Street, 3rd Floor, Room 395, Richmond, Virginia. (Location accessible to handicapped.)

In accordance with the board's public participation guidelines, it will conduct an informational proceeding to take any comments regarding suggested changes in the board's regulations. This will be followed by the board's regular meeting to be held in the board room on the 5th floor. The board will approve the minutes of the February 12, 1986, meeting, review and discuss regulations, and review applications.

**Contact:** Johnsie Williams, Assistant Director, Geology, 3600 W. Broad St., Richmond, Va. 23230, telephone (804) 257-8555

## VIRGINIA STATEWIDE HEALTH COORDINATING COUNCIL

† **May 30, 1986 - 1 p.m. - Public Hearing**  
James Madison Building, 109 Governor Street, Main Floor



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Conference Room, Richmond, Virginia. (Location accessible to handicapped.)

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Virginia Statewide Health Coordinating Council intends to amend regulations entitled: **Virginia State Health Plan 1980-84: Magnetic Resonance Imaging; Virginia State Health Plan 1980-84, Amendment Number 4, Volume 1, pp 528, 533-540, 545, 547-549 and Volume 2, pp. 183-193.** These standards evaluate Certificate of Public Need applications to establish or expand computed tomography or magnetic resonance imaging services.

## STATEMENT

**Basis:** Section 32.1-120 of the Code of Virginia authorizes the Virginia Statewide Health Coordinating Council to revise as necessary the State Health Plan, which contains both nonregulatory and regulatory material. Related laws include § 32.1-102.1, et seq. of the Code of Virginia and the National Health Planning and Resources Development Act of 1974 (P.L. 93-641), as amended.

**Purpose:** The purpose of these proposed regulations is to contain the cost of health care in Virginia by promoting an efficient distribution of efficacious computed tomography and magnetic resonance imaging services, consistent with the population's need for reasonable access to such services.

These regulations are expected to reduce the cost of complying with the Medical Care Facilities Certificate of Public Need law by setting forth specific standards and criteria for the evaluation of applications. The regulations are intended to avoid the high cost of preparing and analyzing superfluous and subjective information that would otherwise be submitted to defend a project, and to avoid the preparation and analysis of applications for projects that would not normally be approved.

**Summary:** Computed tomography (CT) and magnetic resonance imaging (MRI) services are highly sophisticated technologies by which cross-sectional images of the human anatomy may be constructed with the assistance of computer analysis. Under state law, a medical care facility may not acquire or place in service a CT or MRI device without having obtained a Certificate of Public Need. A major reference document pertaining to the evaluation of Certificate of Public Need applications is the State Health Plan, as amended, which presently contains standards specific to CT and MRI services. Considerable experience with these technologies has been gained, however, since the promulgation of those standards.

The proposed new standards are the result of a review of recently published information on CT and MRI services as well as information provided by an ad hoc advisory panel of interested parties consistent with the council's

Guidelines for Public Participation in the Development of Regulations. This information led to a number of proposed changes that would focus the regulations primarily upon efficient use of resource capacity, logical distribution of resources, and efficacy of operations.

Proposed deletions from the present CT standards are requirements that all applicants must be hospitals that (alone or in combination with other health service providers) offer 24-hour ER services with physician on duty, offer a radiology department that has at least three full time radiologists and performs at least 30,000 examinations annually, and have active nuclear medicine and ultrasound facilities that are effectively utilized.

Two other current CT standards are proposed to be deleted. These require the proposed owner to provide written assurances that CT services will be available for emergency cases at all times, and that no patient referred for an indicated study will be denied timely access to the service. The proposed standards would require supervision of a CT service by one or more qualified physicians rather than by radiologists.

The current CT standards require a projected annual utilization of 2,500 HECTs (Head Equipment Computed Tomograms) as a condition of approval, but do not specify how that projection is to be derived. The proposed standards would set forth a specific formula for projecting HECTs and would raise the required number to 3,000.

Since the present CT standards were developed prior to the introduction of MRI services, they fail to address the impact of one upon the other. The American Hospital Association estimates that at least 34% of current CT service volume will be replaced by MRI. Accordingly, the proposed regulations preclude the addition of a stationary CT scanner to an existing CT service if the facility also offers MRI services (or is approved to do so), but whose MRI services have not been in operation for at least one year.

Three elements of the current MRI standards are proposed to be deleted. First, the site would no longer need to be a hospital; however, the service would have to be under the operational control of one or more hospitals that meet standards similar to those currently required. Second, there would no longer be a restriction of actions by parties to a previous shared service agreement. Third, there would no longer be a reduced standard for placement for an MRI device at a hospital with an AMA-accredited residency training program in diagnostic radiology that proposes to perform a significant amount of MRI work within a formal investigational program.

**Impact:** These regulations would apply to any medical care facility desiring to establish or expand CT or MRI services. While general hospitals are the most likely such facilities (they numbered 108 as of January, 1986), a small number of private physicians' offices could also be affected. These regulations will expand opportunities for

small businesses interested in providing CT and MRI services compared with such opportunities under the current regulations, primarily through recognition of mobile technology.

Statutory Authority: § 32.1-120 of the Code of Virginia.

Written comments may be submitted until May 30, 1986

Contact: John P. English, Health Planning Consultant, Madison Bldg., 109 Governor St., Room 1010, Richmond, Va. 23219, telephone (804) 786-4891

## STATE BOARD OF HEALTH

May 2, 1986 - 10 a.m. - Public Hearing  
Hampton City Council Chambers, 22 Lincoln Street,  
Hampton, Virginia. (Location accessible to handicapped.)

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the State Board of Health intends to amend regulations entitled: **Prohibiting the Taking of Finfish in Designated Portions of the James River and Its Tributaries (VR 355-22-1.1)**. Proposed amendment 2 to these regulations prohibits certain kinds of commercial finfishing activities because of kepone contamination.

### STATEMENT

**Basis and Authority:** Chapter 7, Title 28.1 authorizes the State Health Commissioner to limit or set boundaries on taking shellfish, finfish, or crustacea where pollution conditions render the produce unfit for market, and may establish standards by which fish, shellfish, and crabmeat are sanitary and fit to market. The State Board of Health, § 32.1-248 of Title 31.1, is authorized to adopt regulations closing any river in which a toxic substance is present in such a manner as to constitute a present threat to public health and to amend said regulations without application of the Administrative Process Act where the threat has been abated in part.

**Purpose:** The State Board of Health and State Health Commissioner promulgate these amended regulations to restrict taking, distribution, and consumption of finfish from designated portions of the James River and its tributaries because of contaminant levels in finfish above the action level for kepone. Levels of kepone, a toxic pesticide, have been found to constitute a threat to public health in specified finfish species.

**Summary and Analysis:** The proposed amendment slightly revises the regulations which became effective on July 1, 1982. By this amendment 2, recreational finfishing and crabbing continues without restriction in all portions of the James River and its tributaries. As in the previous regulations, commercial fishing for Striped Bass, Croaker, and Eel not depurated is prohibited throughout the

effective period of this amendment. All previous restrictions on commercial crabbing, removed from the regulations, continue to be suspended in this amendment 2. As in the previous amendment, Spot are not restricted for commercial finfishing between July 1, and December 31.

Changes reflected in this amendment deal with simplifying and clarifying language, as required by the Registrar of Regulations for all regulations promulgated in Virginia.

Unless specifically restricted, all other finfish may be taken commercially and marketed.

**Impact:** The amendment continues the kepone ban on the James River as it has existed for the past two years under amendment 1.

Limitations on Striped Bass and Croaker constitute a continuing economic impact to the industry. An estimated 200 working watermen are affected by the fishing limitations of this amended ban.

Monitoring costs to the Commonwealth will be approximately \$300,000 during the effective period. There is no adverse impact to local government anticipated from this amendment.

**Forms:** None required

**Evaluation:** Quarterly review of monitoring data is required to be submitted to the Commissioner, and to the Board of Health, to assure closure for the minimum resource. Enforcement is vested with the Virginia Marine Resources Commission.

Statutory Authority: §§ 28.1-176, 28.1-177 and 32.1-248 of the Code of Virginia.

Written comments may be submitted until May 2, 1986.

Contact: Robert B. Stroube, M.D., Assistant Health Commissioner, 109 Governor St., Richmond, Va. 23219, telephone (804) 786-6029

## BOARD ON HEALTH REGULATORY BOARDS

† April 15, 1986 - 10 a.m. - Open Meeting - Executive Committee

† April 15, 1986 - 11 a.m. - Open Meeting - Professional Review Committee

† April 15, 1986 - 1 p.m. - Open Meeting - Board Meeting  
Department of Health Regulatory Boards, 517 West Grace Street, Richmond, Virginia. (Interpreter for deaf provided if requested.)

The regular quarterly meeting of the Virginia Board on Health Regulatory Boards will convene at 1 p.m.. This meeting of the full board will be preceded by a meeting of the Board's Executive Committee (10 a.m.)

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and the Professional Review Committee (11 a.m.).

**Contact:** Richard D. Morrison, Department of Health Regulatory Boards, 517 W. Grace St., P.O. Box 27708, Richmond, Va. 23261, telephone (804) 786-0822

## VIRGINIA HEALTH SERVICES COST REVIEW COUNCIL

**April 23, 1986 - 9:30 a.m. - Open Meeting**  
Virginia Center for Health Affairs, 4200 Innslake Drive, Glen Allen, Virginia. (Location accessible to handicapped.)

A monthly business meeting for the purpose of addressing financial, policy or technical matters which may have arisen since last meeting.

**Contact:** Ann Y. McGee, Director, 805 E. Broad St., 9th Floor, Richmond, Va., telephone (804) 786-6371

## BOARD OF HEARING AID DEALERS AND FITTERS

† **April 28, 1986 - 9 a.m. - Open Meeting**  
Department of Commerce, Travelers Building, 3600 West Broad Street, Richmond, Virginia. (Location accessible to handicapped.)

The board will (i) review disciplinary cases; (ii) review correspondence; (iii) review public comments regarding regulatory action; and (iv) administer examination.

**Contact:** Roberta L. Banning, Department of Commerce, 3600 W. Broad St., Richmond, Va. 23220, telephone (804) 257-8505

## STATE COUNCIL OF HIGHER EDUCATION FOR VIRGINIA

**April 2, 1986 - 9 a.m. - Open Meeting**  
Christopher Newport College, Newport News, Virginia

A monthly council meeting. The agenda available upon request.

**Contact:** Grace I. Lessner, James Monroe Bldg., 101 N. 14th St., Richmond, Va. 23219, telephone (804) 225-2638

## DEPARTMENT OF HIGHWAYS AND TRANSPORTATION

† **April 1, 1986 - 1:30 p.m. - Public Hearing**  
Lynchburg District Highway Office Building, Lynchburg, Virginia. (Location accessible to handicapped; interpreter for deaf provided if requested.)

† **April 3, 1986 - 9 a.m. - Public Hearing**  
Richmond District Highway Office Building, Petersburg, Virginia. (Location accessible to handicapped; interpreter for deaf provided if requested.)

† **April 8, 1986 - 1:30 p.m. - Public Hearing**  
Bristol District Highway Office Building, Bristol, Virginia. (Location accessible to handicapped; interpreter for deaf provided if requested.)

† **April 9, 1986 - 9 a.m. - Public Hearing**  
Salem District Highway Office Building, Salem, Virginia. (Location accessible to handicapped; interpreter for deaf provided if requested.)

† **April 11, 1986 - 9 a.m. - Public Hearing**  
Culpeper District Highway Office Building, Culpeper, Virginia. (Location accessible to handicapped; interpreter for deaf provided if requested.)

† **April 11, 1986 - 1:30 p.m. - Public Hearing (Northern Virginia District Preallocation Hearing)**  
McCoart Building, 1 County Court Complex, (between Route 641 & 642), Prince William County, Virginia. (Location accessible to handicapped; interpreter for deaf provided if requested.)

Public hearing to receive comments on highway allocations for the coming year and on updating the six-year improvement program for the interstate, primary and urban systems.

**Contact:** Albert W. Coates, Jr., Director of Administration, Department of Highways and Transportation, 1401 E. Broad St., Richmond, Va. 23219, telephone (804) 786-9950

## BOARD OF HOUSING AND COMMUNITY DEVELOPMENT

**May 19, 1986 - 10 a.m. - Public Hearing**  
General Assembly Building, Capitol Square, House Room C, Richmond, Virginia. (Location accessible to handicapped.)

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Board of Housing and Community Development intends to amend regulations entitled: **Virginia Uniform Statewide Building Code, Volume II, Building Maintenance Code, 1984.** Volume II Building Maintenance Code of the 1984 edition of the Virginia Uniform Statewide Building Code (USBC) is a mandatory, statewide, uniform set of regulations that must be complied with in all buildings to protect the occupants from health and safety hazards that might arise from improper maintenance and use.

### STATEMENT

Subject and Substance: Proposed amendment by the Board of Housing and Community Development of § 100.5.1 of

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the 1984 edition of the Virginia Uniform Statewide Building Code, Volume II, Building Maintenance Code.

**Issue:** 1. Estimated impact with respect to number of persons affected: All citizens of Virginia who own buildings will be affected.

2. Projected costs for implementation and compliance: Because the amendment further limits the amount of retrofit required under the Building Maintenance Code, the cost of compliance will be reduced.

**Basis:** §§ 36-97 through 36-119 of the Code of Virginia.

**Purpose:** It is the intent of the amendment to limit changes required by the Building Maintenance Code to existing buildings in good repair, to those that are necessary to maintain compliance with the standards under which they were constructed, and with the Virginia Public Building Safety Regulations.

**Reporting Forms:** None required.

The public hearing is being held to afford interested persons and groups an opportunity to submit data, views and arguments regarding a proposed amendment to the 1984 edition of the Virginia Uniform Statewide Building Code, Volume II - Building Maintenance Code in response to a legislative objection filed by the House General Laws Committee and published in the February 3 edition of the Virginia Register of Regulations.

Anyone wishing to speak or offer written statements relating to the proposed amendment will be given an opportunity to do so on the day of the hearing. Written statements may be prefiled with the agency if received by May 19, 1986.

**Statutory Authority:** Article 1 (§ 36-97 et seq.) of Chapter 6 of the Code of Virginia.

Written comments may be submitted until May 19, 1986.

**Contact:** C. S. Mullen, Deputy Director, Department of Housing and Community Development, 205 N. Fourth St., Richmond, Va. 23219, telephone (804) 786-4751

## VIRGINIA HOUSING DEVELOPMENT AUTHORITY

### Board of Commissioners

† April 15, 1986 - 10 a.m. - Open Meeting  
13 South 13th Street, Richmond, Virginia. (Location accessible to handicapped.)

This will be the regular monthly meeting of the Board of Commissioners of the Virginia Housing Development Authority. The Board of Commissioners will review

and, if appropriate, approve the minutes from the prior monthly meeting; consider for approval and ratification mortgage loan commitments under its various program; review the authority's operations for the prior month; and consider such other matters and take such other actions as they may deem appropriate. 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:** Judson McKellar, Jr., General Counsel, 13 S. 13th St., Richmond, Va. 23219, telephone (804) 782-1986

## VIRGINIA STATE LIBRARY BOARD

† April 28, 1986 - 11 a.m. - Open Meeting  
Virginia State Library, State Librarian' Office, 11th Street at Capitol Square, Richmond, Virginia. (Location accessible to handicapped.)

The board will hold its regular quarterly meeting to discuss administrative matters.

**Contact:** Jean Reynolds, Virginia State Library, 11th St. at Capitol Square, Richmond, Va. 23219, telephone (804) 786-2332

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April 7, 1986 - 10 a.m. - Public Hearing  
Virginia State Library, 11th Street at Capitol Square, Old Supreme Court Room, Richmond, Virginia. (Location accessible to handicapped.)

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Virginia State Library Board intends to repeal existing regulations and to adopt regulations entitled: **Standard for Microfilming of Public Records for Archival Retention, VR 440-01-137.1**. These regulations provide minimum standards for film stock, microfilming procedures, processing, handling and inspection, and storage of microfilm used in filming records of permanent value.

### STATEMENT

**Subject and Substance:** Standards for the Microfilming of Public Records for Archival Retention are being rewritten by the State Library Board and provide minimum standards for microfilming public records of archival value. They are being rewritten to conform to the revised format for regulations and to bring them into conformance with and to reference national standards published or revised since the standards were adopted. Some revisions have been made in the text to remove discretionary and vague language. Specific technical changes are:

1. Requirement for methylene blue testing was changed from no specified frequency to every eight hours for

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commercial labs.

2. The acceptable density range was increased from 1.0-1.2 to .9-1.2.

3. The resolution requirement was changed from 90 lines per millimeter to 80 lines per millimeter and resolution of the 4.0 pattern.

4. The residual thiosulfate concentration was changed from an optimum of .7 micrograms to greater than zero and less than .7 micrograms.

**Issues:** 1. Quality of Microfilm Image - The regulation provides minimum standards for film stock, microfilming procedures, processing, handling and inspection, and storage of microfilm used in filming public records of permanent value.

2. Exclusions - The standards do not apply to the microfilming of public records of nonpermanent value.

**Basis:** § 42.1-82 of the Code of Virginia.

**Purpose:** To ensure that when records of permanent value are microfilmed the microfilm on which the images are recorded and the images are archival, and can be read, and will produce legible copies.

**Statutory Authority:** § 42.1-82 of the Code of Virginia.

Written comments may be submitted until April 7, 1986.

**Contact:** Louis H. Manarin, State Archivist, 11th St. at Capitol Square, Richmond, Va. 23219-3491, telephone (804) 786-5597

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**April 7, 1986 - 10 a.m. - Public Hearing**  
Virginia State Library, 11th Street at Capitol Square, Old Supreme Court Room, Richmond, Virginia. (Location accessible to handicapped.)

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Virginia State Library Board intends to repeal existing regulations and to adopt regulations entitled: **Archival Standards for Recording Deeds and Other Writings by a Procedural Microphotographic Process, VR 440-01-137.2** These regulations provide minimum standards for film stock, microfilming procedures, processing, handling and inspection, and storage of microfilm used in a procedural microphotographic process for microfilming permanent records.

## STATEMENT

**Subject and Substance:** Standards for Recording Deeds and Other Writings by a Procedural Microphotographic Process are being rewritten by the State Library Board and

provide minimum standards for microfilming deeds and other writings by a procedural microphotographic process. They are being rewritten to conform to the revised format for regulations and to bring them into conformance with and to reference national standards published or revised since the standards were adopted. Some revisions have been made in the text to remove discretionary and vague language. Specific technical changes are:

1. The requirement for methylene blue testing by commercial labs was changed from every four hours to every eight hours.

2. The acceptable density range was changed from 1.0-1.2 to .9-1.2.

3. The resolution requirement was changed from 5.0 pattern for 16mm and the 7.1 pattern for 35mm was changed to resolution of the 5.0 pattern and 120 lines per millimeter regardless of the reduction ratio.

4. The reduction ratio is no longer specified.

**Issues:** 1. Quality of Microfilm Image - The regulation provides minimum standards for film stock, microfilming procedures, processing, handling and inspection, and storage of microfilm used in filming deeds and other writings by a procedural microphotographic process.

2. Exclusions - The standards do not apply to the microfilming of public records of nonpermanent value.

**Basis:** §§ 17-60, 17-70, 42.1-82 of the Code of Virginia.

**Purpose:** To ensure that when deeds and other writings are recorded by a procedural microphotographic process the microfilm on which the images are recorded and the images are archival, and can be read, and will produce legible copies.

**Statutory Authority:** § 42.1-82 of the Code of Virginia.

Written comments may be submitted until April 7, 1986.

**Contact:** Louis H. Manarin, State Archivist, 11th St. at Capitol Square, Richmond, Va. 23219-3491, telephone (804) 786-5579

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**April 7, 1986 - 10 a.m. - Public Hearing**  
Virginia State Library, 11th Street at Capitol Square, Old Supreme Court Building, Richmond, Virginia. (Location accessible to handicapped.)

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Virginia State Library intends to repeal existing regulations and to adopt regulations entitled: **Minimum Standards for Instruments Recorded by a Microphotographic Process, VR 440-01-137.3**. This regulation provides

minimum standards for paper size and quality inscription color and quality and document format for instruments recorded by a microphotographic process.

STATEMENT

**Subject and Substance:** Minimum Standards for Instruments Recorded by a Microphotographic Process applies only to instruments recorded by a microphotographic process. The standard is being repealed by the State Library Board because of the adoption of Standards for Recorded Instruments (VR 440-01-137.7) which applies to all instruments submitted for recordation.

**Statutory Authority:** § 42.1-82 of the Code of Virginia.

Written comments may be submitted until April 7, 1986.

Other pertinent information: Superceded by Standards for Recorded Instruments VR 440-01-137.7.

**Contact:** Louis H. Manarin, State Archivist, Virginia State Library, 11th St. at Capitol Square, Richmond, Va. 23219-3491, telephone (804) 786-5579

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April 7, 1986 - 10 a.m. - Public Hearing

Virginia State Library, 11th Street at Capitol Square, Old Supreme Court Building, Richmond, Virginia. (Location accessible to handicapped.)

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Virginia State Library Board intends to repeal existing regulations and adopt regulations entitled: **Standards for the Microfilming of Ended Law Chancery and Criminal Cases by the Clerks of the Circuit Courts Prior to Disposition, VR 440-01-137.4.** This regulation provides minimum standards for film stock, microfilming procedures, processing, handling and inspection, and storage of microfilm used in filming all ended records, papers, or documents pertaining to law chancery, and criminal cases.

STATEMENT

**Subject and Substance:** Standards for the Microfilming of Ended Law Chancery and Criminal Cases by the Clerks of the Circuit Courts Prior to Disposition are being rewritten by the State Library Board and provide minimum standards for microfilming all ended records, papers or documents pertaining to law, chancery, and criminal cases. They are being rewritten to conform to the revised format for regulations and to bring them into conformance with and to reference national standards published or revised since the standards were adopted. Some revisions have been made in the text to remove discretionary and vague language. Specific technical changes are:

1. The requirement for methylene blue testing by commercial labs was changed from every four hours to every eight hours.

2. The resolution requirement for 35mm film was changed from the 7.1 pattern to the 4.0 pattern and 90 lines per millimeter. The resolution requirement for 16mm film was changed from the 5.0 pattern to the 4.0 pattern and 90 lines per millimeter.

3. The requirement for a specific reduction ratio was removed.

4. The requirement for the background density was changed from 1.0-1.2 to .9-1.2.

**Issues:** 1. Quality of Microfilm Image - The regulation provides minimum standards for film stock, microfilming procedures, processing, handling and inspection, and storage of microfilm used in filming all ended records, papers, or documents pertaining to law, chancery, and criminal cases.

2. Exclusions - The standards do not apply to the microfilming of public records of nonpermanent value.

**Basis:** §§ 17-47.4 and 42.1-82 of the Code of Virginia.

**Purpose:** To ensure that when ended law, chancery, and criminal files are microfilmed, the microfilm on which the images are recorded and the images are archival, and can be read, and will produce legible copies.

Statutory Authority: § 42.1-82 of the Code of Virginia

Written comments may be submitted until April 7, 1986.

**Contact:** Louis H. Manarin, State Archivist, Virginia State Library, 11th St. at Capitol Square, Richmond, Va. 23219-3491, telephone (804) 786-5579

\* \* \* \* \*

April 7, 1986 - 10 a.m. - Public Hearing

Virginia State Library, 11th Street at Capitol Square, Old Supreme Court Building, Richmond, Virginia. (Location accessible to handicapped.)

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Virginia State Library Board intends to repeal existing regulations and adopt regulations entitled: **Standards for Computer Output Microfilm (COM) for Archival Retention, VR 440-01-137.5.** These regulations provide minimum standards for film stock, microfilming procedures, processing, handling and inspection, and storage of computer output microfilm (COM) generated of public records of permanent value.

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## STATEMENT

**Subject and Substance:** Standards for Computer Output Microfilm (COM) for Archival Retention are being rewritten by the State Library Board and provide minimum standards for microfilm of public records of permanent value produced by the computer output microfilm (COM) process. They are being rewritten to conform to the revised format for regulations and to bring them into conformance with and to reference national standards published or revised since the standards were adopted. Some revisions have been made in the text to remove discretionary and vague language. Specific technical changes are:

1. The acceptable density range was changed from 1.0-1.2 to 1.8 or higher.
2. The acceptable residual thiosulfate concentration was changed from an optimum concentration of .7 micrograms to greater than zero and less than .7 micrograms.

**Issues:** 1. Quality of Microfilm Image - The regulation provides minimum standards for film stock, microfilming procedures, processing, handling and inspection, and storage of computer output microfilm (COM) generated for records of permanent value.

2. Exclusions - The standards do not apply to computer output microfilm (COM) generated for records of nonpermanent value.

**Basis:** § 42.1-82. of the Code of Virginia

**Purpose:** To ensure that when public records of permanent value are generated by the computer output microfilm (COM) process, the microfilm on which the images are recorded and the images are archival, can be read, and will produce legible copies.

**Statutory Authority:** § 42.1-82 of the Code of Virginia.

Written comments may be submitted until April 7, 1986.

**Contact:** Louis H. Manarin, State Archivist, 11th St. at Capitol Square, Richmond, Va. 23219-3491, telephone (804) 786-5579

## MARINE RESOURCES COMMISSION

**April 22, 1986 - 9:30 a.m. - Open Meeting**  
2401 West Avenue, Newport News, Virginia

The Marine Resources Commission normally meets on the fourth Tuesday each month, at 9:30 a.m., at the agency office, 24th Street and West Avenue, Newport News, Virginia. It hears and decides cases on fishing licensing; oyster ground leasing, environmental permits in wetlands, bottomlands, coastal sand dunes, and beaches. It hears and decides appeals made on local wetlands board decisions. Fishery Management and

Conservation measures are discussed by the commission. The commission is empowered to exercise general regulatory power within 15 days, and is empowered to take specialized marine life harvesting and conservation measures within 5 days.

**Contact:** Virginia S. Chappell, Secretary to the Commission, Marine Resources Commission, P. O. Box 756, Newport News, Va. 23607, telephone (804) 247-2208

## BOARD OF MEDICAL ASSISTANCE SERVICES

**May 21, 1986 - 9 a.m. - Public Hearing**  
James Madison Building, 109 Governor Street, Main Floor Conference Room, Richmond, Virginia. (Location accessible to handicapped.)

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Board of Medical Assistance Services intends to amend regulations entitled: **Nursing Home Payment System**. These regulations are contained in the Medicaid State Plan as Supplement to Attachment 4.19D, and define the payment methodology for nursing homes. These regulations also address industry concerns about specific requirements needing clarification and updating.

## STATEMENT

**Basis and Authority:** Section 32.1-325 of the Code of Virginia gives the State Board of Medical Assistance Services the authority to prepare and amend the State Plan for Medical Assistance (Medicaid), subject to the Governor's approval. The Code of Federal Regulations requires annual reviews of reimbursement policies determining providers payment rates. The Federal Code also requires public notice of changes in statewide methods and standards for setting payment rates at 42 CFR 447.205.

**Purpose:** The purpose of the proposed is to ensure that nursing homes which provide patient care under Title XIX of the Social Security Act are adequately reimbursed for certain costs incurred by providing such care.

**Summary and Analysis:** The Virginia Reimbursement System for Nursing Homes as presently written contains certain regulations and limits pertinent to allowable reimbursable costs. The Virginia Health Care Association, as representative of the nursing homes, has brought to the attention of the department's director, areas of the system's reimbursement which the providers feel do not provide adequate reimbursement of costs incurred while providing services to Virginia Medicaid recipients. The board has, to the extent possible, incorporated the recommended changes into these proposed regulations. The Virginia Health Care Association has undertaken a survey of its members to support other recommended changes but

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the received data has not yet been sufficiently evaluated to enable the board to incorporate these changes in the proposed regulations. These other recommendations include the limitations on interest rates on long and short term borrowings. During the public comment stage of regulatory revision, the board shall consider the results of this survey and make further changes to these regulations.

**Impact:** Impact of these and other modifications still under development is dependent on the survey information received by the association.

**Forms:** No new forms will be required by these regulatory changes.

**Evaluation:** The board will monitor the regulations to assure only allowable costs for patient care are reimbursed.

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

Written comments may be submitted until 5 p.m. on May 21, 1986.

**Contact:** N. Stanley Fields, Director, Division of Provider Reimbursement, Department of Medical Assistance Services, 805 E. Broad St., 9th Floor, Richmond, Va. 23219, telephone (804) 786-7931

### VIRGINIA STATE BOARD OF MEDICINE

† April 25, 1986 - 9:30 a.m. - Open Meeting  
Hyatt Richmond, 6500 West Broad Street, I-64 West, Richmond, Virginia. (Location accessible to handicapped.)

A formal hearing of the board to inquire into allegations that a practitioner may have violated laws and regulations governing the practice of the medicine in Virginia.

#### Chiropractic Examination Committee

April 8, 1986 - 12 p.m. - Open Meeting  
Hyatt Richmond, 6500 West Broad Street, I-64 West, Richmond, Virginia. (Location accessible to handicapped.)

The Chiropractic Examination Committee will meet in open and executive session to continue the development of the Virginia Chiropractic Part III examination.

#### Credentials Committee

##### NOTE CHANGE IN DATE

April 26, 1986 - 8 a.m. - Open Meeting  
April 27, 1986 - 8 a.m. - Open Meeting  
Hyatt Richmond, 6500 West Broad Street, I-64 West,

Richmond, Virginia. (Location accessible to handicapped.)

**AMENDED NOTICE OF MEETING** - To interview and review medical credentials of applicants applying for licensure in Virginia in open and executive session.

**Contact:** Eugenia K. Dorson, Executive Secretary, 517 W. Grace St., P.O. Box 27708, Richmond, Va. 23261, telephone (804) 786-0575

### BOARD OF MENTAL HEALTH AND MENTAL RETARDATION

† April 23, 1986 - 10 a.m. - Open Meeting  
Northern Virginia Mental Health Institute, 3302 Gallows Road, Auditorium, Falls Church, Virginia. (Location accessible to handicapped.)

A regular monthly meeting. The agenda will be published on March 19 and may be obtained by calling Jane Helfrich.

**Contact:** Jane V. Helfrich, State Mental Health and Mental Retardation Board Secretary, P.O. Box 1797, Richmond, Va. 23214, telephone (804) 786-3921

### DEPARTMENT OF MENTAL HEALTH AND MENTAL RETARDATION

† April 9, 1986 - 9 a.m. - Open Meeting  
† April 10, 1986 - 9 a.m. - Open Meeting  
Omni Hotel, Charlottesville, Virginia. (Location accessible to handicapped.)

A meeting relating to training, resource-sharing, and networking activities for training coordinators in CSBS and facilities.

**Contact:** Ken Howard, Department of Mental Health and Mental Retardation, P.O. Box 1797, Richmond, Va. 23214, telephone (804) 786-6133

#### State Human Rights Committee

† April 18, 1986 - 11 a.m. - Open Meeting  
Southwestern State Hospital, Marion, Virginia

The committee will hold its regular meeting to discuss business relating to human rights issues. The agenda items are listed prior to the meeting.

**Contact:** Elsie D. Little, A.C.S.W., P.O. Box 1797, Richmond, Va. 23214, telephone (804) 786-3988



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## DEPARTMENT OF MENTAL HEALTH AND MENTAL RETARDATION; UNIVERSITY OF VIRGINIA INSTITUTE OF LAW, PSYCHIATRY AND PUBLIC POLICY; DIVISION OF CONTINUING EDUCATION, AND OFFICE OF CONTINUING MEDICAL EDUCATION

May 28-30, 1986 - Open Meeting  
Conference Center, Colonial Williamsburg, Williamsburg, Virginia. (Location accessible to handicapped.)

Ninth Annual Symposium on Mental Health and the Law.

An annual symposium addressing issues related to mental health and the law. 8.5 hours in Category 1 and 1.2 CEU credits available for.

Contact: Lynn Daidone, Administrator, Institute of Law, Psychiatry and Public Policy, Blue Ridge Hospital, Box 100, Charlottesville, Va. 22901, telephone (804) 924-5435

## DEPARTMENT OF MINES, MINERALS AND ENERGY

### Division of Mined Land Reclamation

† May 1, 1986 - 10 a.m. - Open Meeting  
7705 Timberlake Road, Lynchburg, Virginia. (Location accessible to handicapped.)

The Division of Mined Land Reclamation has drafted proposed amended rules for the Minerals Other Than Coal Mining and Reclamation program. A public meeting is scheduled for the purpose of reviewing both existing and the proposed amended regulations.

Contact: William O. Roller, P.O. Box 4499, Lynchburg, Va. 24502, telephone (804) 239-0602

## VIRGINIA MUSEUM OF FINE ARTS

### The Executive Committee

† April 17, 1986 - 11:30 a.m. - Open Meeting  
Virginia Museum of Fine Arts, Boulevard and Grove Avenue, Auditorium, Richmond, Virginia. (Location accessible to handicapped.)

A bi-monthly meeting to review museum activities; staff reports; and committee reports.

### Programs Committee

† April 17, 1986 - 2 p.m. - Open Meeting  
Virginia Museum of Fine Arts, Boulevard and Grove Avenue, Richmond, Virginia. (Location accessible to

handicapped.)

A meeting to review the yearly museum programs.

### West Wing Building Committee

† April 30, 1986 - 12:30 p.m. - Open Meeting  
Virginia Museum of Fine Arts, Boulevard and Grove Avenue, Payne Room (Members' Suite), Richmond, Virginia. (Location accessible to handicapped.)

A regularly scheduled meeting to review issues relating to closing out the building project.

Contact: Emily C. Robertson, Secretary, Virginia Museum of Fine Arts, Boulevard and Grove Ave, Richmond, Va. 23221, telephone (804) 257-0553, 327-0553 SCATS

## NORFOLK STATE UNIVERSITY

### Board of Visitors

† April 1, 1986 - 9 a.m. - Open Meeting  
Norfolk State University, Harrison B. Wilson Administration Building, Board Room, Norfolk, Virginia. (Location accessible to handicapped.)

A meeting to discuss various issues pertaining to the university. The agenda should be available at least five working days prior to the meeting.

Contact: Gerald D. Tyler, Norfolk State University, 2401 Corprew Ave., Wilson Hall-S340, Norfolk, Va. 23504, telephone (804) 623-8373

## OLD DOMINION UNIVERSITY

### Board of Visitors

April 4, 1986 - (Specific time will be included in the agenda to be distributed two weeks prior to meeting.) - Open Meeting  
Old Dominion University, Webb University Center, Norfolk, Virginia

A regular meeting of the Board of Visitors to handle affairs of the university.

Contact: Dr. Gary N. Rubin, Associate Vice President for Advancement and Secretary to the Board of Visitors, Old Dominion University, Norfolk, Va. 23508, telephone (804) 440-3072

# Calendar of Events

## VIRGINIA BOARD OF OPTOMETRY

**April 16, 1986 - 10 a.m. - Public Hearing**  
Holiday Inn, 6351 West Broad Street, I-64 West, Richmond, Virginia. (Location accessible to handicapped.)

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Virginia Board of Optometry intends to repeal the existing regulations and adopt regulations entitled: **VR 510-01-1: Regulations of the Virginia Board of Optometry.** The proposed regulations, a revision of existing ones, provide the standards for the practice of optometry in Virginia; state the requirements for candidates for examination and licensure as optometrists; and govern the board in the performance of its duties.

### STATEMENT

**Subject:** The proposed regulations provide the standards for the practice of optometry in Virginia. The regulations state the requirements for licensure as an optometrist, for taking a practical examination, for renewing a license, and for obtaining continuing education. The regulations also describe acceptable professional designations for optometrists, and list conduct that is unprofessional. Additionally, fees charged by the board for examinations and licensure are stated in the regulations.

**Purpose:** To ensure the safety of the public in obtaining eye care.

**Impact:** The regulations will affect the 905 licensed optometrists in Virginia.

**Basis:** These regulations are issued under the authority granted by § 54-376 of the Code of Virginia.

**Statutory Authority:** § 54-376 of the Code of Virginia.

Written comments may be submitted until April 16, 1986.

**Contact:** Moira C. Lux, Executive Director, Virginia Board of Optometry, P. O. Box 27708, Richmond, Va. 23261, telephone (804) 786-0077

## BOARD OF PROFESSIONAL COUNSELORS

† **April 11, 1986 - 9 a.m. - Open Meeting**  
517 West Grace Street, Richmond, Virginia

The board will (i) conduct general board business; (ii) review applications for licensure, supervision and trainee status; (iii) make policies, and (iv) respond to board correspondence.

**Contact:** John W. Braymer, 517 W. Grace St., Richmond, Va. 23220, telephone (804) 786-7702

## VIRGINIA REAL ESTATE BOARD

**April 10, 1986 - 10 a.m. - Open Meeting**  
**April 11, 1986 - 10 a.m. - Open Meeting**  
Alexandria Courthouse, 520 King Street, Hearing Room 303, Alexandria, Virginia

The board will meet to conduct a formal administrative hearing regarding the Virginia Real Estate Board v. Mary Rosalie Gilligan

**April 17, 1986 - 10 a.m. - Open Meeting**  
Williamsburg-James City County Courthouse, Court and Henry Streets, Council Chambers, Williamsburg, Virginia

The board will meet to conduct a formal administrative hearing regarding the Virginia Real Estate Board v. Diana T. MacDonnell

**April 18, 1986 - 10 a.m. - Open Meeting**  
Williamsburg-James City County Courthouse, Court and Henry Streets, Council Chambers, Williamsburg, Virginia

The board will meet to conduct a formal administrative hearing regarding the Virginia Real Estate Board v. Marie H. Kammer

**April 23, 1986 - 10 a.m. - Open Meeting**  
**April 24, 1986 - 10 a.m. - Open Meeting**  
Chesapeake Circuit Court, 300 Cedar Road, Courtroom 3, Chesapeake, Virginia

The board will meet to conduct a formal administrative hearing regarding the Virginia Real Estate Board v. John Henry Martin

**Contact:** Sylvia W. Bryant, Hearings Coordinator, Department of Commerce, 3600 W. Broad St., Richmond, Va. 23230, telephone (804) 257-8524

**April 25, 1986 - 9 a.m. - Open Meeting**  
Department of Commerce, Travelers Building, 3600 West Broad Street, 5th Floor, Conference Room 1, Richmond, Virginia. (Location accessible to handicapped.)

A meeting to (i) approve minutes of the March 14, 1986 meeting; (ii) review investigative cases; and (iii) review applications for licensure, appointments.

**April 26, 1986 - 9 a.m. - Open Meeting**  
**April 27, 1986 - 9 a.m. - Open Meeting**  
Department of Commerce, Travelers Building, 3600 West Broad Street, 5th Floor, Conference Room 1, Richmond, Virginia. (Location accessible to handicapped.)

A meeting to review the regulations and any comments received by the public in order to propose amendments, deletions, and addition to the rules governing the "Virginia Real Estate Board's Regulations, Fair Housing Regulations, and Condominium and Time-Share Regulations."

# Calendar of Events

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**Contact:** Elinor Powell, Interim Assistant Director for Real Estate, Department of Commerce, 3600 W. Broad St., Richmond, Va. 23230, telephone (804) 257-8552

† May 6, 1986 - 10 a.m. - Open Meeting  
Radford Circuit Court, 619 Second Street, Radford, Virginia

The board will meet to conduct a formal administrative hearing: Virginia Real Estate Board v. Anna W. Edwards.

† May 7, 1986 - 10 a.m. - Open Meeting  
Radford Circuit Court, 619 Second Street, Radford, Virginia

The board will meet to conduct a formal administrative hearing: Virginia Real Estate Board v. Lowell D. Clay.

† May 19, 1986 - 10 a.m. - Open Meeting  
Ramada Oceanside Tower, Dolphin Room, 57th Street and Ocean Front, Virginia Beach, Virginia

The board will meet to conduct a formal administrative hearing: Virginia Real Estate Board v. Donald M. Leneski.

† May 28, 1986 - 10 a.m. - Open Meeting  
Department of Commerce, Travelers Building, 3600 West Broad Street, 5th Floor, Conference Room 1, Richmond, Virginia. (Location accessible to handicapped.)

The board will meet to conduct a formal administrative hearing: Virginia Real Estate Board v. Lloyd N. Dallas.

† May 29, 1986 - 10 a.m. - Open Meeting  
Department of Commerce, Travelers Building 3600 West Broad Street, 5th Floor, Conference Room 1, Richmond, Virginia. (Location accessible to handicapped.)

The board will meet to conduct a formal administrative hearing: Virginia Real Estate Board v. Walter H. Loving.

**Contact:** Sylvia W. Bryant, Hearings Coordinator, Department of Commerce, 3600 W. Broad St., Richmond, Va. 23230, telephone (804) 257-8524

## DEPARTMENT OF REHABILITATIVE SERVICES (BOARD OF)

† April 25, 1986 - 9 a.m. - Open Meeting  
Department of Rehabilitative Services, 4901 Fitzhugh Avenue, Richmond, Virginia. (Location accessible to handicapped.)

The board will meet to develop and promulgate regulations governing the provision of vocational rehabilitation services.

## Evaluation Committee

† April 18, 1986 - 1 p.m. - Open Meeting  
Department of Rehabilitative Services, 4901 Fitzhugh Avenue, Richmond, Virginia. (Location accessible to handicapped.)

The committee will meet to discuss policy and procedures.

## Finance Committee

† April 24, 1986 - 3 p.m. - Open Meeting  
Department of Rehabilitative Services, 4901 Fitzhugh Avenue, Richmond, Virginia. (Location accessible to handicapped.)

The board will meet to discuss the budget and General Assembly actions.

## Program Committee

† April 14, 1986 - 8:30 a.m. - Open Meeting  
Department of Rehabilitative Services, 4901 Fitzhugh Avenue, Richmond, Virginia. (Location accessible to handicapped.)

The board will meet to develop and promulgate regulations governing the provision of vocational rehabilitation services.

**Contact:** Jim Hunter, 4901 Fitzhugh Ave., Richmond, Va. 23230, telephone (804) 257-6446 (toll-free number 1-800-552-5019)

## STATE SEWAGE HANDLING AND DISPOSAL APPEALS REVIEW BOARD

April 23, 1986 - 9 a.m. - Open Meeting  
James Monroe Building, 101 North 14th Street, Conference Room E, Richmond, Virginia. (Location accessible to handicapped.)

A meeting to hear and render a decision on all Appeals of Denials of On-Site Sewage Disposal System Permits.

† April 30, 1986 - 9 a.m. - Open Meeting  
General Assembly Building, Capitol Square, Senate Room A, Richmond, Virginia. (Location accessible to handicapped.)

The board will meet to hear and render a decision on all appeals and denials of On-Site Sewage Disposal System Permits.

**Contact:** P.M. Brooks, 502 Madison Bldg., Richmond, Va.

23219, telephone (804) 786-1931

## VIRGINIA SMALL BUSINESS FINANCING AUTHORITY

**April 15, 1986 - 9 a.m. - Public Hearing**  
State Capitol, House Room 2, Richmond, Virginia.  
(Location accessible to handicapped)

The authority will conduct a public hearing to consider Industrial Development Bond applications received by the authority and for which public notice has appeared in the appropriate newspapers of general circulation. Prior to the public hearing, which starts at 10:00 a.m., the authority will conduct its regular business meeting.

**Contact:** Nic Walker, Executive Director, Virginia Small Business Financing Authority, 1000 Washington Bldg. Richmond, Va., telephone (804) 786-3791

## THE GOVERNOR'S COMMISSION ON TRANSPORTATION IN THE TWENTY-FIRST CENTURY

† **March 31, 1986 - 12 p.m. - Public Hearing**  
University of Virginia, Zehma Hall, 104 Midmont Lane, Charlottesville, Virginia. (Location accessible to handicapped.)

† **April 1, 1986 - 12 p.m. - Public Hearing**  
General Assembly Building, Capitol Square, House Room D, Richmond, Virginia. (Location accessible to handicapped.)

† **April 2, 1986 - 12 p.m. - Public Hearing**  
1 County Complex Court, Prince William, Virginia. (Location accessible handicapped.)

† **April 3, 1986 - 12 p.m. - Public Hearing**  
Tidewater Community College, 1700 College Crescent, Pungo Auditorium, Virginia Beach, Virginia. (Location accessible to handicapped.)

† **April 4, 1986 - 12 p.m. - Public Hearing**  
Virginia Highland Community College, Abingdon, Virginia. (Location accessible to handicapped.)

The commission will solicit public participation and receive testimony of interested parties, groups, state and regional elected officials, and local government officials for the purpose of formulating and exploring: (i) the critical highway and transportation needs of the Commonwealth; (ii) alternative means of financing highway maintenance and construction, including the use of taxes, tolls, and other sources of revenue; (iii) the structural and legal requirements to split the highway trust fund into two parts (maintenance and construction).

**Contact:** Jewel A. Paige, Administrative Assistant, Ninth Street Office Bldg., 10th Floor, 9th and Grace Sts., Richmond, Va. 23219, telephone (804) 786-2405/2437

## VIRGINIA BOARD OF VETERINARY MEDICINE

† **April 8, 1986 - 1:30 p.m. - Open Meeting**  
517 West Grace Street, Richmond, Virginia

The board will hold informal fact-finding conferences with veterinarians.

**Contact:** Moria C. Lux, 517 W. Grace St., Richmond, Va. 23220, telephone (804)786-0069

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**April 8, 1986 - 10 a.m. - Public Hearing**  
Holiday Inn, 6531 West Broad Street, I-64 West, Ballroom, Richmond, Virginia. (Location accessible to handicapped.)

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Virginia Board of Veterinary Medicine intends to repeal the existing regulations and adopt regulations entitled: **VR 645-01-1: Regulations Governing the Practice of Veterinary Medicine**. The proposed regulations, a revision of existing ones, provides the standards for the practice of veterinary medicine and surgery in Virginia and states the requirements for candidates for licensure as veterinarians and certification as animal technicians.

## STATEMENT

**Subject:** The proposed regulations provide standards for the practice of veterinary medicine in Virginia. Requirements for the licensure of veterinarians and the certification of animal technicians are described in the regulations, which also set forth conditions for the registry and operation of animal facilities. The regulations require that animal facilities have a room reserved for surgery and access to laboratory equipment to perform certain tests. Should a veterinarian's practice be limited in scope, the regulations provide a means for the issuance of a restricted facility permit. Radiology equipment must be operated in accordance with the Virginia Department of Health's "Ionizing Radiation Rules and Regulations." The proposed regulations establish rules for the dispensing and storage of drugs. It is required that veterinary facilities maintain drug inventory records, as well as medical records on each animal treated, or client. Fees charged by the board for costs such as examinations and licensure are listed in the regulations, as are actions that constitute unprofessional conduct. The regulations contain public participation guidelines which already are in effect. The combined package is a revision of existing regulations updated to accommodate the changing nature of veterinary medicine.

# Calendar of Events

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**Purpose:** To protect animal health and to ensure the safety of the public.

**Impact:** The regulations will affect the 1,698 licensed veterinarians, the 369 certified animal technicians, and 436 permitted animal facilities.

**Basis:** These regulations are issued under authority granted by § 54-784.03 (13) of the Code of Virginia.

**Statutory Authority:** § 54-784.03 (13) of the Code of Virginia.

Written comments may be submitted until April 8, 1986.

**Contact:** Moira C. Lux, Executive Director, Virginia Board of Veterinary Medicine, P. O. Box 27708, Richmond, Va. 23261, telephone (804) 786-0069

## VIRGINIA COMMONWEALTH UNIVERSITY

### Board of Visitors

**May 22, 1986 - 9 a.m. – Open Meeting**  
Virginia Commonwealth University, University Meeting Center, 101 North Harrison Street (corner of Harrison and Floyd), Richmond, Virginia. (Location accessible to handicapped.)

Regularly scheduled meetings of the board to discuss issues regarding Virginia Commonwealth University. Agendas for these meetings will be available 5 working days prior to the meeting through Carole Roper's office.

### Joint Executive/Hospital Committee

**April 17, 1986 - 9 a.m. – Open Meeting**  
Virginia Commonwealth University, University Meeting Center, 101 North Harrison Street (corner of Harrison and Floyd), Richmond, Virginia. (Location accessible to handicapped.)

A meeting of the Board of Visitors to discuss issues regarding Virginia Commonwealth University. An agenda for this meeting will be available 5 working days prior to the meeting through Carole Roper's office.

**Contact:** Carole Roper, University Relations, 826 W. Franklin St., Richmond, Va. 23284, telephone (804) 257-1231, (804) 786-7329

## VIRGINIA BOARD FOR THE VISUALLY HANDICAPPED

**April 9, 1986 - 11 a.m. – Open Meeting**  
Administrative Headquarters, 397 Azalea Avenue, Richmond, Virginia. (Location accessible to handicapped; interpreter for deaf provided if requested.)

A quarterly meeting to review policy and procedures of the Virginia Department for the Visually Handicapped. The board reviews and approves the department's budget, executive agreements, and operating plans.

**Contact:** Diane Allen, Acting Confidential Secretary, 397 Azalea Avenue, Richmond, Va. 23227, telephone (804) 264-3145

## COLLEGE OF WILLIAM AND MARY

### Board of Visitors

**April 24, 1986 - 5 p.m. – Open Meeting**  
**April 25, 1986 - 8 a.m. – Open Meeting**  
**April 26, 1986 - 8 a.m. – Open Meeting**  
Alumni House, 500 Richmond Road, Williamsburg, Virginia

A regularly scheduled meeting of the Board of Visitors of the College of William and Mary to review quarterly operations of the college, and Richard Bland College, to receive reports from several committees of the board, and to act on those resolutions that are presented by the administrations of William and Mary and Richard Bland College. An informational release will be available four days prior to the board meeting for those individual and/or organizations who request it.

**Contact:** Office of University Relations, James Blair Hall, Room 308, College of William and Mary, Williamsburg, Va. 23185, telephone (804) 253-4226

## VIRGINIA COUNCIL ON THE STATUS OF WOMEN

**† April 8, 1986 - 9:30 a.m. – Open Meeting**  
Days Inn/Broad Street, 2100 Dickens Road, I-64 at Broad Street, 1st Floor, Conference Room, Richmond, Virginia. (Location accessible to handicapped.)

A regular meeting of the council to conduct general business and to receive reports from the committees of the council.

**Contact:** Bonnie H. Robinson, Executive Director, Virginia Council on the Status of Women, 8007 Discovery Dr., Richmond, Va., telephone (804) 281-9200

## LEGISLATIVE

### VIRGINIA CODE COMMISSION

† Friday, April 11, 1986 - 9:30 a.m. - Open Meeting  
General Assembly Building, Capitol Square, 6th Floor  
Conference Room, Richmond, Virginia. (Location accessible  
to handicapped.)

The commission will meet to discuss several matters,  
including the revisions of Titles 29 and 54 of the Code  
of Virginia.

Contact: Joan W. Smith, Registrar of Regulations, Virginia  
Code Commission, General Assembly Building, 9th and  
Broad Sts., Richmond, Va. 23219, telephone (804) 786-3591

## CHRONOLOGICAL LIST

### OPEN MEETINGS

#### April 1

Aviation Board, Virginia  
Norfolk State University, Board of Visitors

#### April 2

Criminal Justice Services Board  
Funeral Directors and Embalmers, Virginia Board of  
Higher Education for Virginia, State Council of

#### April 3

Funeral Directors and Embalmers, Virginia Board of

#### April 4

Funeral Directors and Embalmers, Virginia Board of  
General Services, Department of  
- Art and Architectural Review Board  
Old Dominion University, Board of Visitors

#### April 7

Air Pollution Control Board, State

#### April 8

Alcoholic Beverage Control Board, Virginia  
Highways and Transportation, Department of  
Medicine, Virginia State Board of  
- Chiropractic Examination Committee  
Veterinary Medicine, Virginia Board of  
Women, Council on the Status of

#### April 9

Education, State Board of  
Mental Health and Mental Retardation, Department of  
Visually Handicapped, Virginia Board for the

#### April 10

Dentistry, Virginia Board of  
Mental Health and Mental Retardation, Department of  
Real Estate Board, Virginia

#### April 11

Architects, Professional Engineers, Land Surveyors  
and Certified Landscape Architects  
- Board of Land Surveyors  
- Board of Professional Engineers  
Children's Residential Facilities, Interdepartmental  
Licensure and Certification of  
- Coordinating Committee  
Code Commission, Virginia  
Dentistry, Virginia Board of  
Professional Counselors, Board of  
Real Estate Board, Virginia

#### April 12

Architects, Professional Engineers, Land Surveyors  
and Certified Landscape Architects, State Board of  
- Board of Land Surveyors  
- Board of Professional Engineers  
Dentistry, Virginia Board of

#### April 14

Alcoholic Beverage Control Board, Virginia  
Audiology and Speech Pathology, Virginia Board  
of Examiners for  
Rehabilitative Services, Department of (Board of)  
- Program Committee

#### April 15

Conservation and Historic Resources, Department of  
- Historic Landmarks Board  
Health Regulatory Boards, Board on  
Housing Development Authority, Virginia  
- Board of Commissioners

#### April 16

Corrections, Board of

#### April 17

Museum of Fine Arts, Virginia  
- Executive Committee  
- Programs Committee  
Real Estate Board, Virginia  
Virginia Commonwealth University  
- Joint Executive/Hospital Committee

#### April 18

Mental Health and Mental Retardation, Department of  
- State Human Rights Committee  
Real Estate Board, Virginia  
Rehabilitative Services, Department of (Board of)  
- Evaluation Committee

#### April 21

Accountancy, State Board of  
Cosmetology, Virginia Board of

## Calendar of Events

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### April 22

Accountancy, State Board of  
Alcoholic Beverage Control Board, Virginia  
Marine Resources Commission  
College of William and Mary, Board of Visitors

### April 23

Conservation and Historic Resources, Board of  
Health Service Cost Review Council, Virginia  
Mental Health and Mental Retardation Board  
Real Estate Board, Virginia  
Sewage Handling and Disposal Appeals  
Review Board, State

### April 24

Real Estate Board, Virginia  
Rehabilitative Services, Department of (Board of)  
- Finance Committee  
College of William and Mary, Board of Visitors

### April 25

Medicine Virginia State Board of  
Real Estate Board, Virginia  
Rehabilitative Services, Department of (Board of)  
College of William and Mary, Board of Visitors

### April 26

Medicine, Virginia State Board of  
- Credentials Committee  
Real Estate Board, Virginia  
College of William and Mary, Board of Visitors

### April 27

Real Estate Board, Virginia  
Medicine Virginia State Board of  
- Credentials Committee

### April 28

Hearing Aid Dealers and Fitters, Board of  
Library Board, Virginia State

### April 30

Commerce, Department of  
Museum of Fine Arts, Virginia  
- West Wing Building Committee  
Sewage, Handling and Disposal Appeals Review  
Board, State

### May 1

Mines, Minerals and Energy, Department of  
- Division of Mined Land Reclamation

### May 2

Architects, Professional Engineers, Land Surveyors  
and Certified Landscape Architect, State Board of  
- Board of Architects  
- Board of Professional Engineers

### May 6

Alcoholic Beverage Control Board, Virginia  
Real Estate Board, Virginia

### May 7

Geology, Virginia State Board of  
Real Estate Board, Virginia

### May 10

Cave Board, Virginia

### May 12

Alcoholic Beverage Control Board, Virginia

### May 14

Corrections, Board of

### May 15

Conservation and Historic Resources, Department of  
- Virginia Soil and Water Conservation Board

### May 16

Architects, Professional Engineers, Land Surveyors  
and Certified Landscape Architects, State Board of

### May 19

Real Estate Board, Virginia

### May 20

Alcoholic Beverage Control Board, Virginia

### May 22

Virginia Commonwealth University  
- Board of Visitors

### May 28

Real Estate Board, Virginia

### May 29

Mental Health and Mental Retardation, Department of;  
University of Virginia Institute of Law, Psychiatry and  
Public Policy, Division of Continuing Education; and  
Office of Continuing Medical Education  
Real Estate Board, Virginia

### May 30

Mental Health and Mental Retardation, Department of;  
University of Virginia Institute of Law, Psychiatry and  
Public Policy, Division of Continuing Education; and  
Office of Continuing Medical Education

### June 3

Alcoholic Beverage Control Board, Virginia

### June 9

Alcoholic Beverage Control Board, Virginia

### June 17

Alcoholic Beverage Control Board Virginia

### June 18

Corrections, Board of

### June 24

Architects, Professional Engineers, Land Surveyors

and Certified Landscape Architects, State Board of  
- Board of Certified Landscape Architects

Education, State Board of

## PUBLIC HEARINGS

**May 19**  
Housing and Community Development, Board of

**March 31**  
Transportation in the Twenty-First Century,  
Governor's Commission on

**May 21**  
Medical Assistance Services, Board of

**April 1**  
Highways and Transportation, Department of  
Transportation in the Twenty-First Century  
Governor's Commission on

**May 22**  
Agriculture and Consumer Services, Board of

**April 2**  
Criminal Justice Services Board  
- Committee on Criminal Justice  
- Information Systems  
Transportation in the Twenty-First Century  
Governor's Commission on

**May 30**  
Health Coordinating Council, Virginia Statewide

**April 3**  
Highways and Transportation, Department of  
Transportation in the Twenty-First Century  
Governor's Commission on

**April 4**  
Transportation in the Twenty-First Century  
Governor's Commission on

**April 7**  
Library Board, Virginia State

**April 8**  
Highways and Transportation, Department of  
Veterinary Medicine, Virginia Board of

**April 9**  
Air Pollution Control Board, State  
Highways and Transportation, Department of

**April 10**  
Air Pollution Control Board, State  
Dentistry, Virginia Board of

**April 11**  
Highways and Transportation, Department of

**April 15**  
Small Business Financing Authority, Virginia

**April 16**  
Optometry, Virginia Board of

**May 2**  
Health, State Board of

**May 5**  
Air Pollution Control Board, State



**Calendar of Events**

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