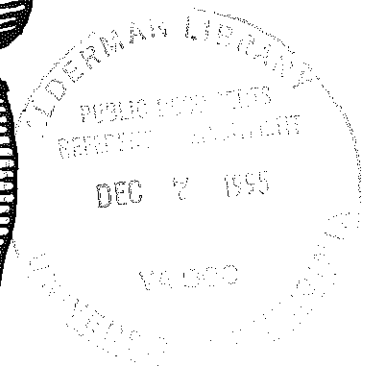
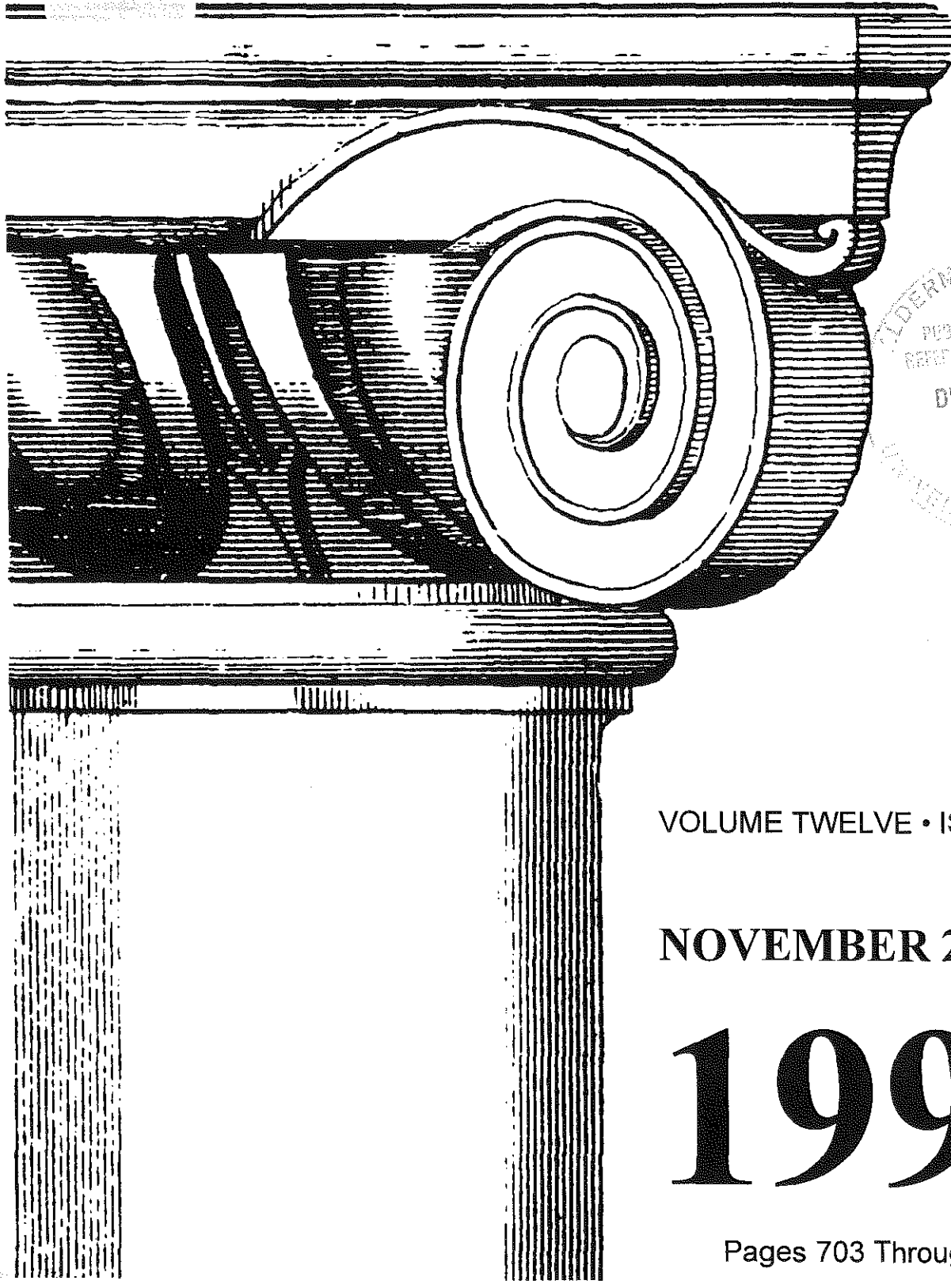


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# THE VIRGINIA REGISTER

OF REGULATIONS

VA  
DOC



VOLUME TWELVE • ISSUE FIVE

NOVEMBER 27, 1995

# 1995

Pages 703 Through 818

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# THE VIRGINIA REGISTER INFORMATION PAGE

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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, is 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 periodically 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 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 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 the regulation becomes final.

## 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-month 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 (§ 9-6.14:7.1 et seq.) of Chapter 1.1:1 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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*The Virginia Register of Regulations* is published pursuant to Article 7 (§ 9-6.14:22 et seq.) of Chapter 1.1:1 of the Code of Virginia. Individual copies are available for \$4 each from the Registrar of Regulations.

Members of the Virginia Code Commission: Joseph V. Gartlan, Jr., Chairman; W. Tayloe Murphy, Jr., Vice Chairman; Russell M. Carneal; Bernard S. Cohen; Frank S. Ferguson; E. M. Miller, Jr.; Theodore V. Morrison, Jr.; William F. Parkerson, Jr.; Jackson E. Reasor, Jr.; James B. Wilkinson.

Staff of the Virginia Register: E. M. Miller, Jr., Acting Registrar of Regulations; Jane D. Chaffin, Assistant Registrar of Regulations.

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## November 1995 through September 1996

### Material Submitted By Noon Wednesday

### Will Be Published On

#### Volume 12

November 8, 1995

November 27, 1995

November 21, 1995 (Tuesday)

December 11, 1995

December 6, 1995

December 25, 1995

#### **INDEX 1 - Volume 12**

#### **January 1996**

December 19, 1995 (Tuesday)

January 8, 1996

January 3, 1996

January 22, 1996

January 17, 1996

February 5, 1996

January 31, 1996

February 19, 1996

February 14, 1996

March 4, 1996

February 28, 1996

March 18, 1996

#### **INDEX 2 - Volume 12**

#### **April 1996**

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April 1, 1996

March 27, 1996

April 15, 1996

April 10, 1996

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June 24, 1996

#### **INDEX 3 - Volume 12**

#### **July 1996**

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#### **October 1996**

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# NOTICES OF INTENDED REGULATORY ACTION

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## Symbol Key

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

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## STATE AIR POLLUTION CONTROL BOARD

### Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the State Air Pollution Control Board intends to consider amending regulations entitled: **VR 120-01. Regulations for the Control and Abatement of Air Pollution, specifically technical documents incorporated by reference (Appendix M).** The purpose of the proposed action is to amend the regulations to incorporate the latest edition of referenced technical documents.

**Public meeting:** A public meeting will be held by the department in House Room One, State Capitol Building, Capitol Square, Richmond, Virginia, at 10 a.m. on December 13, 1995, to discuss the intended action. Unlike a public hearing, which is intended only to receive testimony, this meeting is being held to discuss and exchange ideas and information relative to regulation development.

**Public hearing plans:** After publication in the Virginia Register of Regulations, the department will hold at least one public hearing to provide opportunity for public comment on any regulation amendments drafted pursuant to this notice.

**Need:** The amendments are needed because the regulations must be current and timely, which means that the technical documents incorporated must be the most recent edition. In addition to meeting federal requirements for the provision of enforceable test methods which are acceptable to EPA, incorporation of these documents has many additional advantages to the public and to the state.

The amendments concern documents that are technical in nature and pertain to areas in which the agency has limited expertise or resources to conduct extensive research. For example, the "Flammable and Combustible Liquids Code," which is published by the National Fire Protection Association as an American National Standard contains important information that would not otherwise be readily determined by the state with its own devices.

In addition, the agency must ensure that its references to technical standards—for example, test methods—must be consistent with standards developed and accepted by the scientific and industrial communities. By keeping state requirements consistent with these standards, the state and the regulated community avoid conflict and confusion, and ensure technical accuracy. The Annual Book of ASTM Standards, produced by the American Society for Testing and Materials, is an example of this type of document.

Use of these standards is advantageous to industry. Most of the standards have been developed by industrial professional societies. Like the state, many industries do not have the wherewithal to do their own research and develop their own standards. Use of these standards assures convenience and

consistency for their users, as well as a strong degree of confidence in their accuracy.

Relying on existing standards also saves the state time and financial resources by eliminating duplication of research. Finally, the regulations must reflect the most up-to-date technical information available to ensure that public health and welfare are protected.

**Alternatives:** Alternatives to the proposed regulation amendments being considered by the department are discussed below.

1. Amend the regulations to incorporate the most recent editions of technical documents.
2. Take no action to amend the regulations and continue using outdated references.

**Costs and benefits:** The department is soliciting comments on the costs and benefits of the alternatives stated above or other alternatives.

**Applicable statutory requirements:** Section 110(a)(2)(B) of the federal Clean Air Act Amendments of 1990 (42 USC 7471) requires that the state implementation plan shall "provide for the establishment and operation of appropriate devices, methods, systems, and procedures necessary to . . . monitor, compile, and analyze data on ambient air quality . . ." This law is implemented by the U.S. Environmental Protection Agency (EPA) through the Code of Federal Regulations, 40 CFR 51.212, which states that the plan must provide for "enforceable test methods for each emission limit specified in the plan."

To meet these requirements, the department has, where appropriate, incorporated by reference a series of primarily industry-generated test methods that reflect the most current technical information available, and that will enable the state to meet Clean Air Act requirements.

Statutory Authority: § 10.1-1308 of the Code of Virginia.

Public comments may be submitted until 4:30 p.m. on December 14, 1995, to the Director, Office of Air Program Development, Department of Environmental Quality, P.O. Box 10009, Richmond, Virginia 23240.

**Contact:** Karen G. Sabasteanski, Policy Analyst, Air Programs Section, Department of Environmental Quality, P.O. Box 10009, Richmond, VA 23240, telephone (804) 762-4426.

V.A.R. Doc. No. R96-75; Filed October 25, 1995, 11:29 a.m.

## BOARD OF HEALTH PROFESSIONS

### † Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Board of Health Professions intends

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## Notices of Intended Regulatory Action

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to consider promulgating regulations entitled: **VR 365-01-3 [ 18 VAC 75-30-10 et seq. ] Regulations Governing Standards for Dietitians and Nutritionists**. The purpose of the proposed action is to establish minimum requisite education, training, and experience appropriate for a person to hold himself out to be, or advertise or allow himself to be advertised as, a dietitian or nutritionist. The agency intends to hold a public hearing on the proposed regulation after publication.

Statutory Authority: §§ 54.1-2400, 54.1-2503 and 54.1-2731 of the Code of Virginia.

Public comments may be submitted until December 27, 1995.

**Contact:** Robert A. Nebiker, Executive Director, Board of Health Professions, 6606 W. Broad St., 4th Floor, Richmond, VA 23230-1717, telephone (804) 662-9919, FAX (804) 662-9943 or (804) 662-7197/TDD ☎

VA.R. Doc. No. R96-83; Filed November 2, 1995, 12:53 p.m.

### **VIRGINIA HEALTH SERVICES COST REVIEW COUNCIL**

#### **Notice of Intended Regulatory Action**

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Virginia Health Services Cost Review Council intends to consider amending regulations entitled: **VR 370-01-001 [ 12 VAC 25-20-10 et seq. ] Rules and Regulations of the Virginia Health Services Cost Review Council**. The purpose of the proposed action is to amend regulations in accordance with legislation enacted by the 1995 session of the General Assembly. That legislation exempts nursing homes from budgetary and Commercial Diversification Survey filing requirements and eliminates duplicative and unnecessary health care institution reporting requirements. The agency intends to hold a public hearing on the proposed regulation after publication.

Statutory Authority: §§ 9-158 and 9-160 of the Code of Virginia.

Public comments may be submitted until 5 p.m. on November 30, 1995.

**Contact:** Richard L. Walker, Director of Administration, Virginia Health Services Cost Review Council, 805 E. Broad St., 6th Floor, Richmond, VA 23219, telephone (804) 786-6371, FAX (804) 371-0284 or (804) 786-6371/TDD ☎

VA.R. Doc. No. R96-61; Filed October 11, 1995, 11:47 a.m.

### **DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT (BOARD OF)**

#### **† Notice of Intended Regulatory Action**

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 consider amending regulations entitled: **VR 394-01-2 [ 13 VAC 5-20-10 et seq. ] Virginia**

**Certification Standards**. The purpose of the proposed action is to amend the regulation by deleting unnecessary text and making the regulation more easily understandable. The agency intends to hold a public hearing on the proposed regulation after publication.

Statutory Authority: §§ 27-97, 36-98.3, and 36-137(6) of the Code of Virginia.

Public comments may be submitted until December 29, 1995.

**Contact:** Norman R. Crumpton, Program Manager, Department of Housing and Community Development, 501 North Second St., Richmond, VA 23219-1321, telephone (804) 371-7170 or FAX (804) 371-7092.

VA.R. Doc. No. R96-94; Filed November 8, 1995, 9:32 a.m.

#### **† Notice of Intended Regulatory Action**

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 consider amending regulations entitled: **VR 394-01-6 [ 13 VAC 5-50-10 et seq. ] Virginia Statewide Fire Prevention Code/1993**. The purpose of the proposed action is to amend the regulation regarding blasting, qualifications of fire officials, Virginia public building regulations and liquefied petroleum gas. The agency intends to hold a public hearing on the proposed regulation after publication.

Statutory Authority: §§ 27-97 and 36-137(6) of the Code of Virginia.

Public comments may be submitted until December 29, 1995.

**Contact:** Norman R. Crumpton, Program Manager, Department of Housing and Community Development, 501 North Second St., Richmond, VA 23219-1321, telephone (804) 371-7170 or FAX (804) 371-7092.

VA.R. Doc. No. R96-92; Filed November 8, 1995, 9:32 a.m.

#### **† Notice of Intended Regulatory Action**

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 consider amending regulations entitled: **VR 394-01-21 [ 13 VAC 5-60-10 et seq. ] Virginia Uniform Statewide Building Code - Volume I - New Construction Code/1993**. The purpose of the proposed action is to amend the regulation regarding swimming pools and storage magazines. The agency intends to hold a public hearing on the proposed regulation after publication.

Statutory Authority: § 36-98 of the Code of Virginia.

Public comments may be submitted until December 29, 1995.

**Contact:** Norman R. Crumpton, Program Manager, Department of Housing and Community Development, 501 North Second St., Richmond, VA 23219-1321, telephone (804) 371-7170 or FAX (804) 371-7092.

VA.R. Doc. No. R96-93; Filed November 8, 1995, 9:32 a.m.

# Notices of Intended Regulatory Action

## † Notice of Intended Regulatory Action

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 consider amending regulations entitled: **VR 394-01-22 [ 13 VAC 5-70-10 et seq. ] Virginia Uniform Statewide Building Code - Volume II - Building Maintenance Code/1993**. The purpose of the proposed action is to establish standards for automatic sprinkler systems in hospitals regardless of when such facilities were constructed. The agency intends to hold a public hearing on the proposed regulation after publication.

Statutory Authority: § 36-99.9:1 of the Code of Virginia.

Public comments may be submitted until December 29, 1995.

**Contact:** Norman R. Crumpton, Program Manager, Department of Housing and Community Development, 501 North Second St., Richmond, VA 23219-1321, telephone (804) 371-7170 or FAX (804) 371-7092.

VA.R. Doc. No. R96-91; Filed November 6, 1995, 2:15 p.m.

## Notice of Intended Regulatory Action

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 consider amending regulations entitled: **VR 394-01-101 [ 13 VAC 5-110-10 et seq. ] Enterprise Zone Program**. The purpose of the proposed action is to amend the Enterprise Zone Programs regulations to implement new incentives and provisions provided in 1995 legislative action. Such incentives are intended to stimulate new job creation and private investment in designated distressed enterprise zones. Amendments will also implement greater flexibility for businesses in qualifying for the use of these incentives. Amendments reflect an increased number of zones statewide and greater flexibility for localities to have multiple zones. The agency intends to hold a public hearing on the proposed regulation after publication.

Statutory Authority: § 59.1-278 of the Code of Virginia.

Public comments may be submitted until December 13, 1995.

**Contact:** Shea Hollifield, Associate Director, Department of Housing and Community Development, 501 North Second St., Richmond, VA 23219, telephone (804) 371-7030, FAX (804) 371-7093 or (804) 371-7089/TDD ☎

VA.R. Doc. No. R96-76; Filed October 25, 1995, 2:57 p.m.

## DEPARTMENT OF MEDICAL ASSISTANCE SERVICES

### Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Department of Medical Assistance Services intends to consider amending regulations entitled: **VR 460-03-3.1100 [ 12 VAC 30-50-100 through 12 VAC 30-50-310 ] Amount, Duration and Scope of Services**

(Supplement 1 to Attachment 3.1 A and B); and **VR 460-02-4.1910 [ 12 VAC 30-70-10 et seq. ] Methods and Standards for Establishing Payment Rates - Inpatient Hospital Care (Attachment 4.19 A)**. The purpose of the proposed action is to make permanent policies to reduce the lengths of inpatient hospital and obstetric stays when medically appropriate in compliance with amendments to the budget. The agency does not intend to hold a public hearing on the proposed regulation after publication.

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

Public comments may be submitted until November 29, 1995, to Scott Crawford, Department of Medical Assistance Services, 600 East Broad Street, Suite 1300, Richmond, VA 23219.

**Contact:** Victoria P. Simmons or Roberta J. Jonas, Regulatory Coordinators, Department of Medical Assistance Services, 600 E. Broad St., Suite 1300, Richmond, VA 23219, telephone (804) 371-8850 or FAX (804) 371-4981.

VA.R. Doc. No. R96-60; Filed October 11, 1995, 11:18 a.m.

## † Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Department of Medical Assistance Services intends to consider amending regulations entitled: **VR 460-03-3.1100 [ 12 VAC 30-50-100 through 12 VAC 30-50-310 ] Amount, Duration and Scope of Services (Supplement 1 to Attachment 3.1 A and B) and VR 460-02-4.1920 [ 12 VAC 30-80-10 et seq. ] Methods and Standards for Establishing Payment Rates -- Other Types of Care (Attachment 4.19-B)**. The purpose of the proposed action is to implement savings to the Medicaid Program by covering the less expensive over-the-counter alternative medications as therapeutic alternatives to more expensive legend drugs. The agency does not intend to hold a public hearing on the proposed regulation after publication.

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

Public comments may be submitted until December 27, 1995, to David Shepherd, Division of Program Operations, Department of Medical Assistance Services, 600 East Broad Street, Suite 1300, Richmond, VA 23219.

**Contact:** Victoria P. Simmons or Roberta J. Jonas, Regulatory Coordinators, Department of Medical Assistance Services, 600 E. Broad St., Suite 1300, Richmond, VA 23219, telephone (804) 371-8850 or FAX (804) 371-4981.

VA.R. Doc. No. R96-81; Filed October 31, 1995, 3:53 p.m.

## BOARD OF MEDICINE

### † Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Board of Medicine intends to consider repealing regulations entitled: **VR 465-10-01 [ 18 VAC 85-100-10 et seq. ] Regulations Governing the Practice of Radiologic Technologists**. The purpose of the



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## Notices of Intended Regulatory Action

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proposed action is to repeal current regulations for the certification of radiologic technologists to replace with regulations for licensure by January 1, 1997, in accordance with statutory mandate. The agency intends to hold a public hearing on the proposed action after publication.

Statutory Authority: §§ 54.1-2400 and 54.1-2956.8:1 of the Code of Virginia.

Public comments may be submitted until December 27, 1995.

**Contact:** Warren W. Koontz, M.D., Executive Director, Board of Medicine, 6606 W. Broad St., 4th Floor, Richmond, VA 23230-1717, telephone (804) 662-9908, FAX (804) 662-9943 or (804) 662-7197/TDD ☎

VA.R. Doc. No. R96-84; Filed November 2, 1995, 12:53 p.m.

### † Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Board of Medicine intends to consider promulgating regulations entitled: **VR 465-10-01:1 [ 18 VAC 85-101-10 et seq. ] Regulations Governing the Practice of Radiologic Technologists.** The purpose of the proposed action is to establish requirements for licensure to practice as a radiologic technologist by January 1, 1997, in accordance with statutory mandate. The agency intends to hold a public hearing on the proposed action after publication.

Statutory Authority: §§ 54.1-2400 and 54.1-2956.8:1 of the Code of Virginia.

Public comments may be submitted until December 27, 1995.

**Contact:** Warren W. Koontz, M.D., Executive Director, Board of Medicine, 6606 W. Broad St., 4th Floor, Richmond, VA 23230-1717, telephone (804) 662-9908, FAX (804) 662-9943 or (804) 662-7197/TDD ☎

VA.R. Doc. No. R96-85; Filed November 2, 1995, 12:53 p.m.

## STATE MILK COMMISSION

### † Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the State Milk Commission intends to consider amending regulations entitled: **VR 475-02-01 [ 2 VAC 15-10-10 et seq. ] Public Participation Guidelines.** The purpose of the proposed action is to amend regulations to comply with style, form and format recommended by the Registrar of Regulations to provide consistency and uniformity, in general, with public participation guidelines utilized by other state agencies. This action is consistent with the regulatory analysis performed pursuant to Executive Order 15(94). The commission has formed an ad-hoc advisory committee to draft amendments to the regulations. The committee desires to solicit public comment, oral and written, to assist in drafting amendments. The committee will welcome oral comments at its first scheduled meeting on January 17, 1996. Further, information concerning the time and location of the meeting may be obtained from Edward C.

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

Statutory Authority: § 3.1-430 of the Code of Virginia.

Public comments may be submitted until January 15, 1996.

**Contact:** Edward C. Wilson, Jr., Deputy Administrator, State Milk Commission, 200 N. 9th St., Suite 1015, Richmond, VA 23219-3414, telephone (804) 786-2013 or FAX (804) 786-3779.

VA.R. Doc. No. R96-78; Filed October 26, 1995, 1:26 p.m.

### † Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the State Milk Commission intends to consider amending regulations entitled: **VR 475-02-02 [ 2 VAC 15-20-10 et seq. ] Rules and Regulations for the Control, Regulation and Supervision of the Milk Industry in Virginia.** The purpose of the proposed action is to amend §§ 1, 2, 3, 5, 6, 9, 10, 11, 12 and 13 of VR 475-02-02 to achieve regulatory control in the least intrusive manner, providing for the protection of the safety and welfare of Virginians as mandated by law, and for the efficient administration of the regulations. This action is consistent with the regulatory analysis performed pursuant to Executive Order 15(94). The commission has formed an ad-hoc advisory committee to draft amendments to the regulations. The committee will welcome oral comments at its first scheduled meeting on January 17, 1996. Further, information concerning the time and location of the meeting may be obtained from Edward C. Wilson, Jr. The agency intends to hold a public hearing on the proposed regulation after publication.

Statutory Authority: § 3.1-430 of the Code of Virginia.

Public comments may be submitted until January 15, 1996.

**Contact:** Edward C. Wilson, Jr., Deputy Administrator, State Milk Commission, 200 N. 9th St., Suite 1015, Richmond, VA 23219-3414, telephone (804) 786-2013 or FAX (804) 786-3779.

VA.R. Doc. No. R96-79; Filed October 26, 1995, 1:26 p.m.

## BOARD OF PROFESSIONAL COUNSELORS AND MARRIAGE AND FAMILY THERAPISTS

### † Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Board of Professional Counselors and Marriage and Family Therapists intends to consider amending regulations entitled: **VR 560-01-02 [ 18 VAC 115-20-10 et seq. ] Regulations Governing the Practice of Professional Counselors.** The purpose of the proposed action is to consider a reduction in some of its fees in compliance with statutory mandate. The agency intends to hold a public hearing on the proposed regulation after publication.

# Notices of Intended Regulatory Action

Statutory Authority: §§ 54.1-113 and 54.1-2400 of the Code of Virginia.

Public comments may be submitted until December 27, 1995.

**Contact:** Evelyn Brown, Executive Director, Board of Professional Counselors and Marriage and Family Therapists, 6606 W. Broad St., 4th Floor, Richmond, VA 23230-1717, telephone (804) 662-9912, FAX (804) 662-9943 or (804) 662-7197/TDD ☎

VA.R. Doc. No. R96-86; Filed November 2, 1995, 12:53 p.m.

## † Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Board of Professional Counselors and Marriage and Family Therapists intends to consider amending regulations entitled: **VR 560-01-03 [ 18 VAC 115-30-10 et seq. ] Regulations Governing the Certification of Substance Abuse Counselors.** The purpose of the proposed action is to consider a reduction in some of its fees in compliance with statutory mandate. The agency intends to hold a public hearing on the proposed regulation after publication.

Statutory Authority: §§ 54.1-113 and 54.1-2400 of the Code of Virginia.

Public comments may be submitted until December 27, 1995.

**Contact:** Evelyn Brown, Executive Director, Board of Professional Counselors and Marriage and Family Therapists, 6606 W. Broad St., 4th Floor, Richmond, VA 23230-1717, telephone (804) 662-9912, FAX (804) 662-9943 or (804) 662-7197/TDD ☎

VA.R. Doc. No. R96-111; Filed November 14, 1995, 3:54 p.m.

## † Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Board of Professional Counselors and Marriage and Family Therapists intends to consider amending regulations entitled: **VR 560-01-04 [ 18 VAC 115-40-10 et seq. ] Regulations Governing the Practice of Rehabilitation Providers.** The purpose of the proposed action is to establish educational criteria and standards for the licensure of rehabilitation providers as required by the 1994 Acts of the Assembly. The agency intends to hold a public hearing on the proposed regulation after publication.

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

Public comments may be submitted until December 27, 1995.

**Contact:** Evelyn Brown, Executive Director, Board of Professional Counselors and Marriage and Family Therapists, 6606 W. Broad St., 4th Floor, Richmond, VA 23230-1717, telephone (804) 662-9912, FAX (804) 662-9943 or (804) 662-7197/TDD ☎

VA.R. Doc. No. R96-82; Filed November 2, 1995, 12:53 p.m.

## † Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Board of Professional Counselors and Marriage and Family Therapists intends to consider promulgating regulations entitled: **VR 560-01-05 [ 18 VAC 115-50-10 et seq. ] Regulations Governing the Licensure of Marriage and Family Therapists.** The purpose of the proposed action is to establish regulations for licensure of marriage and family therapists in compliance with statutory mandate. The agency intends to hold a public hearing on the proposed regulation after publication.

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

Public comments may be submitted until December 27, 1995.

**Contact:** Evelyn Brown, Executive Director, Board of Professional Counselors and Marriage and Family Therapists, 6606 W. Broad St., 4th Floor, Richmond, VA 23230-1717, telephone (804) 662-9912, FAX (804) 662-9943 or (804) 662-7197/TDD ☎

VA.R. Doc. No. R96-87; Filed November 2, 1995, 12:53 p.m.

## BOARD OF SOCIAL WORK

### † Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Board of Social Work intends to consider amending regulations entitled: **VR 620-01-2 [ 18 VAC 140-20-10 et seq. ] Regulations Governing the Practice of Social Work.** The purpose of the proposed action is to consider a reduction in fees in order to maintain revenues consistent with expenditures. The agency intends to hold a public hearing on the proposed regulation after publication.

Statutory Authority: §§ 54.1-113 and 54.1-2400 of the Code of Virginia.

Public comments may be submitted until December 27, 1995.

**Contact:** Evelyn Brown, Executive Director, Board of Social Work, 6606 W. Broad St., 4th Floor, Richmond, VA 23230-1717, telephone (804) 662-9912, FAX (804) 662-9943 or (804) 662-7197/TDD ☎

VA.R. Doc. No. R96-89; Filed November 2, 1995, 12:53 p.m.

## DEPARTMENT OF TRANSPORTATION (COMMONWEALTH TRANSPORTATION BOARD)

### Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Commonwealth Transportation Board intends to consider amending regulations entitled: **VR 385-01-6 [ 24 VAC 30-70-10 et seq. ] Minimum Standards of Entrances to State Highways.** The purpose of the proposed action is to provide for improved safe and efficient movement of people and goods to commercial, industrial,

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## Notices of Intended Regulatory Action

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and private properties abutting state roads, and to foster economic development in the Commonwealth. The agency intends to hold a public hearing on the proposed regulation after publication.

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

Public comments may be submitted until November 29, 1995.

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

VA.R. Doc. No. R96-48; Filed October 4, 1995, 10:29 a.m.

### BOARD OF VETERINARY MEDICINE

#### † Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Board of Veterinary Medicine intends to consider amending regulations entitled: **VR 645-01-1 [ 18 VAC 150-20-10 et seq. ] Regulations Governing the Practice of Veterinary Medicine**. The purpose of the proposed action is to establish requirements for continuing education for licensure renewal as mandated by Acts of the 1995 General Assembly. The agency intends to hold a public hearing on the proposed regulation after publication.

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

Public comments may be submitted until December 27, 1995.

**Contact:** Elizabeth Carter, Executive Director, Board of Veterinary Medicine, 6606 W. Broad St., 4th Floor, Richmond, VA 23230-1717, telephone (804) 662-9909, FAX (804) 662-9943 or (804) 662-7197/TDD ☎

VA.R. Doc. No. R96-88; Filed November 2, 1995, 12:54 p.m.

### STATE WATER CONTROL BOARD

#### † Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the State Water Control Board intends to consider repealing regulations entitled: **VR 680-14-07 [ 9 VAC 25-90-10 et seq. ] Oil Discharge Contingency Plans and Administrative Fees for Approval**. The purpose of the proposed action is to repeal this regulation and incorporate necessary provisions into new regulations (VR 680-14-07:1, Facility and Aboveground Storage Tank Requirements, and VR 680-14-08:1, Tank Vessel Requirements). (See notice regarding VR 680-14-07:1 [ 9 VAC 25-95-10 et seq. ] and VR 680-14-08:1 [ 9 VAC 25-105-10 et seq. ]). The agency intends to hold a public hearing on the proposed action after publication.

Statutory Authority: §§ 62.1-44.34:15, 62.1-44.34:15.1, 62.1-44.34:19.1, and 62.1-44.34:21 of the Code of Virginia.

Public comments may be submitted until 4 p.m. on January 17, 1996.

**Contact:** David Ormes, Office of Spill Response and Remediation, Department of Environmental Quality, P.O. Box 10009, Richmond, VA 23240, telephone (804) 762-4263.

VA.R. Doc. No. R96-100; Filed November 8, 1995, 11:32 a.m.

#### † Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the State Water Control Board intends to consider promulgating regulations entitled: **VR 680-14-07:1 [ 9 VAC 25-95-10 et seq. ] Facility and Aboveground Storage Tank Requirements**. The purpose of the proposed action is to adopt a new regulation which combines the necessary requirements for facilities and aboveground storage tanks into a single regulation in order to provide a clearly written and understandable regulation that can be implemented more efficiently. Combining VR 680-14-07, VR 680-14-08, VR 680-14-12 and VR 680-14-13 will aid DEQ's efforts to streamline government services, provide uniformity in regulation, eliminate duplication and increase performance and efficiency. The action is also necessary (i) to consider providing operators with a coordinated federal/state approach by acceptance of the federally approved response plans and (ii) to provide regulatory relief and variance options to those facilities and oil products addressed in the 1994 amendments to state law.

**Need:** The regulations protect the health and safety of the citizens within the Commonwealth and the protection of the environment. This regulatory action is necessary to coordinate the implementation of these regulations and to eliminate confusion as to applicability of each regulation. For instance, definitions found in § 62.1-44.34:14 were added and modified as additional legislation was developed thereby causing definitions to be fragmented among the regulations.

Combining the four regulations into two will provide more clearly written and understandable regulations that can be implemented more efficiently. The recent promulgation of final federal tank vessel and facility regulations by the U.S. Coast Guard (USCG) and Environmental Protection Agency (EPA) allows the DEQ to develop a coordinated approach for planning and emergency response efforts within state waters.

**Subject Matter and Intent:** Currently four regulations (VR 680-14-07, VR 680-14-08, VR 680-14-12 and VR 680-14-13) apply to facilities located in the Commonwealth that have an aboveground storage capacity of 25,000 gallons or more of oil and tank vessels. Each regulation was developed as a result of separate statutory changes and with each statutory amendment, the definitions of Article 11 (§ 62.1-44.34:14 et seq.) were modified. For example, a facility may be subject to the Oil Discharge Contingency Plan (ODCP) regulations and not subject to the pollution prevention requirements. Inconsistencies between the regulations can be eliminated by this proposal, resulting in a more efficient and understandable regulation for preventing or responding to a discharge of oil.

In addition, the DEQ has reviewed final tank vessel and facility response plan regulations implementing the provisions

## Notices of Intended Regulatory Action

of the federal Oil Pollution Act of 1990 and found them to be compatible with the ODCP requirements of VR 680-14-07. The EPA facility regulations will not be applicable to the vast majority of facilities subject to the DEQ ODCP regulations. To better facilitate the one plan concept, DEQ will evaluate and take the necessary steps to accept USCG and EPA approved response plans either wholly or with state specific information added. Reevaluation of the administrative fee for approval will also be undertaken.

Section 62.1-44.34:15.1 of the State Water Control Law was amended to exempt certain ASTs located at facilities not engaged in the resale of oil from inventory control and testing for significant inventory variations requirements. Section 62.1-44.34:15.1.5 was added to enable the board to establish criteria for granting variances from the AST Pollution Prevention Requirements (VR 680-14-13) for facilities not engaged in the resale of oil.

In addition, § 62.1-44.34:17 was amended to provide that facilities not engaged in the resale of oil shall not be subject to § 62.1-44.34:15.1 until July 1, 1995 (changed until variance requirements are promulgated) and ASTs with a capacity of 5,000 gallons or less containing heating oil for consumption on the premises where stored be exempt from any requirements of § 62.1-44.34:15.1. In addition, the amendment provides that the definition of oil, for the purposes of §§ 62.1-44.34:15.1 and 62.1-44.34:16 and for any requirement under § 62.1-44.34:15 to install ground water monitoring wells, ground water protection devices, or to conduct ground water characterization studies, does not include asphalt and asphalt compounds which are not liquid at standard conditions of temperature and pressure.

**Estimated Impacts:** All impacts associated with this intended regulatory action are expected to be beneficial to the regulated community as well as the DEQ. Consolidation of regulations within the AST program will enable the public, industry and the DEQ to better understand the impact of the regulations and to provide for options to be considered. Providing a coordinated spill response with the USCG and the EPA by accepting federally approved spill plans will demonstrate Virginia's concern for protecting the environment and eliminate duplication of regulatory requirements. The DEQ will require specific information to be submitted with the addition to demonstration of federal approvals. It is estimated that 450 AST facilities with approximately 2,500 ASTs will each save \$550 per year by not having to perform the inventory control or testing for variance requirements. Estimates are that the ability to grant variances will save approximately 100 facilities approximately \$1,000 per year. The extension of compliance is projected to affect 450 AST facilities with approximately 2,500 ASTs and will save each facility \$500 for the year extension. Exemption from pollution prevention requirements for heating oil ASTs of 5,000 gallons or less will save 750 AST facilities approximately \$500 per year per facility. The asphalt exemption will save 20 facilities statewide approximately \$10,000 per facility initially and \$1,000 per facility annually.

**Alternatives:** An alternative is to retain, unchanged, the existing separate regulations. This is not considered to be an efficient alternative. The proposed amendment to combine

the four regulations into two is the least burdensome and intrusive alternative available.

Having to determine individual applicability of the regulations is counterproductive and not in the best interest of the DEQ or the regulated community. It is confusing at best and difficult for staff to coordinate compliance efforts. Additionally, having several response plans on a tank vessel or at a facility often leads to confusion of responsibility and therefore an ineffective response.

The 1994 statutory amendments to § 62.1-44.34:15.1 provided that facilities not engaged in the resale of oil should not be subject to VR 680-14-13 until July 1, 1995 (the new date is until variance provisions are promulgated); that specific ASTs located at these facilities should not be subject to inventory control; and, that these facility operators should be able to request variances to VR 680-14-13 based on established criteria. This requirement is mandated by statute and provides a beneficial extension of the compliance date as well as enables DEQ to evaluate evolving technologies for acceptance within the regulation.

**Comments:** The Department of Environmental Quality (DEQ) seeks written and oral comments from interested persons on this intended regulatory action and on the costs and benefits of the stated alternatives as well as other alternatives. To be considered, comments should be directed to Mr. David Ormes, at the address below and should be received by 4 p.m. on Wednesday, January 17, 1996.

**Public Meetings:** Public meetings will be held on Monday, January 8, 1996, at 7 p.m. at the Virginia War Memorial Auditorium, 621 S. Belvidere Street, Richmond, and on Wednesday, January 10, 1996, at 7 p.m. in the Roanoke County Administration Center, 5204 Bernard Drive, Roanoke.

**Accessibility to Persons with Disabilities:** The meeting will be held at a public facility believed to be accessible to persons with disabilities. Any person with questions on the accessibility of the facility should contact Mr. David Ormes, Department of Environmental Quality, P.O. Box 10009, Richmond, Virginia 23240-0009, or by telephone at (804) 762-4263 (effective 12/1/95 - 698-4263) or TDD (804) 762-4021 (effective 12/1/95 - 698-4021). Persons needing interpreter services for the deaf must notify Mr. Ormes no later than Wednesday, December 27, 1995.

**Advisory Committee/Group:** All legal requirements related to public participation and all public participation guidelines will be strictly followed. An ad hoc advisory group will be convened to provide input to the department regarding the content of the proposed regulation and to ensure that the citizens have reasonable access and opportunity to present their comments and concerns. The ad hoc group may be composed of representatives from state, federal and local agencies; industry, manufacturers, facility and tank vessel owners/operators, environmental groups and the public. This group will meet at least twice during the regulation development.

The DEQ intends to hold at least one public hearing (informational proceeding) on the proposed regulation after it is published in the Register of Regulations. The public hearing will be convened by a member of the board. The DEQ does not intend to hold a formal hearing (evidentiary) on

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the proposed regulation after the proposal is published in the Register of Regulations.

**Impact on Family Formation, Stability and Autonomy:** DEQ will consider the impact of the regulatory actions on family formation, stability and autonomy during the formulation of proposals. However, it is not anticipated that these regulations will have a direct impact on families. There may be positive indirect impacts in that the proposals will result in regulatory efficiency, thus promoting job retention and economic growth.

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

Statutory Authority: §§ 62.1-44.34:15, 62.1-44.34:15.1, 62.1-44.34:19.1, and 62.1-44.34:21 of the Code of Virginia.

Public comments may be submitted until 4 p.m. on January 17, 1996.

**Contact:** David Ormes, Office of Spill Response and Remediation, Department of Environmental Quality, P.O. Box 10009, Richmond, VA 23240, telephone (804) 762-4263.

VA.R. Doc. No. R96-102; Filed November 8, 1995, 11:32 a.m.

### † Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the State Water Control Board intends to consider repealing regulations entitled: **VR 680-14-08 [ 9 VAC 25-100-10 et seq. ] Tank Vessel Financial Responsibility Requirements and Administrative Fees for Approval.** The purpose of the proposed action is to repeal this regulation and incorporate necessary provisions into a new regulation (VR 680-14-08:1, Tank Vessel Requirements). (See notice regarding VR 680-14-08:1 [ 9 VAC 25-105-10 et seq. ]) The agency intends to hold a public hearing on the proposed action after publication.

Statutory Authority: §§ 62.1-44.34:15, 62.1-44.34:15.1, 62.1-44.34:19.1, and 62.1-44.34:21 of the Code of Virginia.

Public comments may be submitted until 4 p.m. on January 17, 1996.

**Contact:** David Ormes, Office of Spill Response and Remediation, Department of Environmental Quality, P.O. Box 10009, Richmond, VA 23240, telephone (804) 762-4263.

VA.R. Doc. No. R96-99; Filed November 8, 1995, 11:32 a.m.

### † Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the State Water Control Board intends to consider promulgating regulations entitled: **VR 680-14-08:1 [ 9 VAC 25-105-10 et seq. ] Tank Vessel Requirements.** The purpose of the proposed action is to adopt a new regulation which combines the necessary requirements of two existing tank vessel regulations (part of VR 680-14-07 and VR 680-14-08) and to evaluate acceptance of federally approved oil spill response plans and financial responsibility requirements. Combining VR 680-14-07, VR 680-14-08, VR 680-14-12 and VR 680-14-13 will aid

DEQ's efforts to streamline government services, provide uniformity in regulation, eliminate duplication and increase performance and efficiency. The action is also necessary (i) to consider providing operators with a coordinated federal/state approach by acceptance of the federally approved response plans and (ii) to provide regulatory relief and variance options to those facilities and oil products addressed in the 1994 amendments to state law.

**Need:** The regulations protect the health and safety of the citizens within the Commonwealth and the protection of the environment. This regulatory action is necessary to coordinate the implementation of these regulations and to eliminate confusion as to applicability of each regulation. For instance, definitions found in § 62.1-44.34:14 were added and modified as additional legislation was developed thereby causing definitions to be fragmented among the regulations.

Combining the four regulations into two will provide more clearly written and understandable regulations that can be implemented more efficiently. The recent promulgation of final federal tank vessel and facility regulations by the U.S. Coast Guard (USCG) and Environmental Protection Agency (EPA) allows the DEQ to develop a coordinated approach for planning and emergency response efforts within state waters.

**Subject Matter and Intent:** Currently four regulations (VR 680-14-07, VR 680-14-08, VR 680-14-12 and VR 680-14-13) apply to facilities located in the Commonwealth that have an aboveground storage capacity of 25,000 gallons or more of oil and tank vessels. Each regulation was developed as a result of separate statutory changes and with each statutory amendment, the definitions of Article 11 (§ 62.1-44.34:14 et. seq.) were modified. For example, a facility may be subject to the Oil Discharge Contingency Plan (ODCP) regulations and not subject to the pollution prevention requirements. Inconsistencies between the regulations can be eliminated by this proposal, resulting in a more efficient and understandable regulation for preventing or responding to a discharge of oil.

In addition, the DEQ has reviewed final tank vessel and facility response plan regulations implementing the provisions of the federal Oil Pollution Act of 1990 and found them to be compatible with the ODCP requirements of VR 680-14-07. The EPA facility regulations will not be applicable to the vast majority of facilities subject to the DEQ ODCP regulations. To better facilitate the one plan concept, DEQ will evaluate and take the necessary steps to accept USCG and EPA approved response plans either wholly or with state specific information added. Reevaluation of the administrative fee for approval will also be undertaken.

Section 62.1-44.34:15.1 of the State Water Control Law was amended to exempt certain ASTs located at facilities not engaged in the resale of oil from inventory control and testing for significant inventory variations requirements. Section 62.1-44.34:15.1.5 was added to enable the board to establish criteria for granting variances from the AST Pollution Prevention Requirements (VR 680-14-13) for facilities not engaged in the resale of oil.

In addition, § 62.1-44.34:17 was amended to provide that facilities not engaged in the resale of oil shall not be subject to § 62.1-44.34:15.1 until July 1, 1995 (changed until

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variance requirements are promulgated) and ASTs with a capacity of 5,000 gallons or less containing heating oil for consumption on the premises where stored be exempt from any requirements of § 62.1-44.34:15.1. In addition, the amendment provides that the definition of oil, for the purposes of §§ 62.1-44.34:15.1 and 62.1-44.34:16 and for any requirement under § 62.1-44.34:15 to install ground water monitoring wells, ground water protection devices, or to conduct ground water characterization studies, does not include asphalt and asphalt compounds which are not liquid at standard conditions of temperature and pressure.

**Estimated Impacts:** All impacts associated with this intended regulatory action are expected to be beneficial to the regulated community as well as the DEQ. Consolidation of regulations within the AST program will enable the public, industry and the DEQ to better understand the impact of the regulations and to provide for options to be considered. Providing a coordinated spill response with the USCG and the EPA by accepting federally approved spill plans will demonstrate Virginia's concern for protecting the environment and eliminate duplication of regulatory requirements. The DEQ will require specific information to be submitted with the addition to demonstration of federal approvals. It is estimated that 450 AST facilities with approximately 2,500 ASTs will each save \$550 per year by not having to perform the inventory control or testing for variance requirements. Estimates are that the ability to grant variances will save approximately 100 facilities approximately \$1,000 per year. The extension of compliance is projected to affect 450 AST facilities with approximately 2,500 ASTs and will save each facility \$500 for the year extension. Exemption from pollution prevention requirements for heating oil ASTs of 5,000 gallons or less will save 750 AST facilities approximately \$500 per year per facility. The asphalt exemption will save 20 facilities statewide approximately \$10,000 per facility initially and \$1,000 per facility annually.

**Alternatives:** An alternative is to retain, unchanged, the existing separate regulations. This is not considered to be an efficient alternative. The proposed amendment to combine the four regulations into two is the least burdensome and intrusive alternative available.

Having to determine individual applicability of the regulations is counterproductive and not in the best interest of the DEQ or the regulated community. It is confusing at best and difficult for staff to coordinate compliance efforts. Additionally, having several response plans on a tank vessel or at a facility often leads to confusion of responsibility and therefore an ineffective response.

The 1994 statutory amendments to § 62.1-44.34:15.1 provided that facilities not engaged in the resale of oil should not be subject to VR 680-14-13 until July 1, 1995 (the new date is until variance provisions are promulgated); that specific ASTs located at these facilities should not be subject to inventory control; and, that these facility operators should be able to request variances to VR 680-14-13 based on established criteria. This requirement is mandated by statute and provides a beneficial extension of the compliance date as well as enables DEQ to evaluate evolving technologies for acceptance within the regulation.

**Comments:** The Department of Environmental Quality (DEQ) seeks written and oral comments from interested persons on this intended regulatory action and on the costs and benefits of the stated alternatives as well as other alternatives. To be considered, comments should be directed to Mr. David Ormes, at the address below and should be received by 4 p.m. on Wednesday, January 17, 1996.

**Public Meetings:** Public meetings will be held on Monday, January 8, 1996, at 7 p.m. at the Virginia War Memorial Auditorium, 621 S. Belvidere Street, Richmond, and on Wednesday, January 10, 1996, at 7 p.m. in the Roanoke County Administration Center, 5204 Bernard Drive, Roanoke.

**Accessibility to Persons with Disabilities:** The meeting will be held at a public facility believed to be accessible to persons with disabilities. Any person with questions on the accessibility of the facility should contact Mr. David Ormes, Department of Environmental Quality, P.O. Box 10009, Richmond, Virginia 23240-0009, or by telephone at (804) 762-4263 (effective 12/1/95 - 698-4263) or TDD (804) 762-4021 (effective 12/1/95 - 698-4021). Persons needing interpreter services for the deaf must notify Mr. Ormes no later than Wednesday, December 27, 1995.

**Advisory Committee/Group:** All legal requirements related to public participation and all public participation guidelines will be strictly followed. An ad hoc advisory group will be convened to provide input to the department regarding the content of the proposed regulation and to ensure that the citizens have reasonable access and opportunity to present their comments and concerns. The ad hoc group may be composed of representatives from state, federal and local agencies; industry, manufacturers, facility and tank vessel owners/operators, environmental groups and the public. This group will meet at least twice during the regulation development.

The DEQ intends to hold at least one public hearing (informational proceeding) on the proposed regulation after it is published in the Register of Regulations. The public hearing will be convened by a member of the board. The DEQ does not intend to hold a formal hearing (evidentiary) on the proposed regulation after the proposal is published in the Register of Regulations.

**Impact on Family Formation, Stability and Autonomy:** DEQ will consider the impact of the regulatory actions on family formation, stability and autonomy during the formulation of proposals. However, it is not anticipated that these regulations will have a direct impact on families. There may be positive indirect impacts in that the proposals will result in regulatory efficiency, thus promoting job retention and economic growth.

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

Statutory Authority: §§ 62.1-44.34:15, 62.1-44.34:15.1, 62.1-44.34:19.1, and 62.1-44.34:21 of the Code of Virginia.

Public comments may be submitted until 4 p.m. on January 17, 1996.

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**Contact:** David Ormes, Office of Spill Response and Remediation, Department of Environmental Quality, P.O. Box 10009, Richmond, VA 23240, telephone (804) 762-4263.

VA.R. Doc. No. R96-101; Filed November 8, 1995, 11:32 a.m.

### † Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the State Water Control Board intends to consider repealing regulations entitled: **VR 680-14-12 [ 9 VAC 25-130-10 et seq. ] Facility and Aboveground Storage Tank Registration Requirements Regulation.** The purpose of the proposed action is to repeal this regulation and incorporate necessary provisions into a new regulation (VR 680-14-07:1, Facility and Aboveground Storage Tank Requirements). (See notice regarding VR 680-14-07:1 [ 9 VAC 25-95-10 et seq. ] The agency intends to hold a public hearing on the proposed action after publication.

Statutory Authority: §§ 62.1-44.34:15, 62.1-44.34:15.1, 62.1-44.34:19.1, and 62.1-44.34:21 of the Code of Virginia.

Public comments may be submitted until 4 p.m. on January 17, 1996.

**Contact:** David Ormes, Office of Spill Response and Remediation, Department of Environmental Quality, P.O. Box 10009, Richmond, VA 23240, telephone (804) 762-4263.

VA.R. Doc. No. R96-98; Filed November 8, 1995, 11:32 a.m.

### † Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the State Water Control Board intends to consider repealing regulations entitled: **VR 680-14-13 [ 9 VAC 25-140-10 et seq. ] Aboveground Storage Tanks Pollution Prevention.** The purpose of the proposed action is to repeal this regulation and incorporate necessary provisions into a new regulation (VR 680-14-07:1, Facility and Aboveground Storage Tank Requirements). (See notice regarding VR 680-14-07:1 [ 9 VAC 25-95-10 et seq. ] The agency intends to hold a public hearing on the proposed action after publication.

Statutory Authority: §§ 62.1-44.34:15, 62.1-44.34:15.1, 62.1-44.34:19.1, and 62.1-44.34:21 of the Code of Virginia.

Public comments may be submitted until 4 p.m. on January 17, 1996.

**Contact:** David Ormes, Office of Spill Response and Remediation, Department of Environmental Quality, P.O. Box 10009, Richmond, VA 23240, telephone (804) 762-4263.

VA.R. Doc. No. R96-103; Filed November 8, 1995, 11:32 a.m.



# PUBLIC COMMENT PERIODS - PROPOSED REGULATIONS



## PUBLIC COMMENT PERIODS REGARDING STATE AGENCY REGULATIONS

Effective July 1, 1995, publication of notices of public comment periods in a newspaper of general circulation in the state capital is no longer required by the Administrative Process Act (§ 9-6.14:1 et seq. of the Code of Virginia). Chapter 717 of the 1995 Acts of Assembly eliminated the newspaper publication requirement from the Administrative Process Act. In *The Virginia Register of Regulations*, the Registrar of Regulations has developed this section entitled "Public Comment Periods - Proposed Regulations" to give notice of public comment periods and public hearings to be held on proposed regulations. The notice will be published once at the same time the proposed regulation is published in the Proposed Regulations section of the *Virginia Register*. The notice will continue to be carried in the Calendar of Events section of the *Virginia Register* until the public comment period and public hearing date have passed.

Notice is given in compliance with § 9-6.14:7.1 of the Code of Virginia that the following public hearings and public comment periods regarding proposed state agency regulations are set to afford the public an opportunity to express their views.

### DEPARTMENT OF TAXATION

† March 22, 1996 - 10 a.m. -- Public Hearing  
Department of Taxation, 2220 West Broad Street, Richmond,  
Virginia.

† March 31, 1996 -- Public comments may be submitted until  
this date.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Department of Taxation intends to adopt regulations entitled: **VR 630-3-439 [ 23 VAC 10-120-291 through 23 VAC 10-120-299 ] . Major Business Facility Job Tax Credit.** The regulation provides guidance for qualification, computation and recapture of the major business facility job tax credit.

Statutory Authority: § 58.1-439 of the Code of Virginia.

**Contact:** David M. Vistica, Tax Policy Analyst, Office of Tax Policy, Department of Taxation, P.O. Box 1880, Richmond, VA 23282-1880, telephone (804) 367-0167.

### STATE WATER CONTROL BOARD

† January 18, 1996 - 7 p.m. -- Public Hearing  
James City County Board of Supervisors Room, 101C  
Mounts Bay Road, Building C, Williamsburg, Virginia.

† January 29, 1996 -- Public comments may be submitted  
until 4 p.m. on this date.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the State Water Control Board intends to adopt regulations entitled: **VR 680-14-10 [ 9 VAC 25-115-10 et seq. ] General Virginia Pollutant Discharge Elimination System (VPDES) Permit for Seafood Processing Facilities.** The purpose of the proposed regulation is to establish limits for the discharge of wastewater and storm water associated with industrial activity from seafood processing facilities.

**Question and answer period:** A question and answer period will be held one half hour prior to the public hearing at the same location. Interested citizens will have an opportunity to ask questions pertaining to the proposal at that time.

**Accessibility to persons with disabilities:** The public hearing will be held at facilities believed to be accessible to persons with disabilities. Any person with questions should contact Mr. Michael B. Gregory at the address below. Persons needing interpreter services for the deaf should notify Mr. Gregory no later than Monday, January 8, 1996, TDD (804) 762-4021.

**Request for comments:** The board is seeking written comments from interested persons on both the proposed regulatory action and the draft permit. Also, comments regarding the benefits of the stated alternative or any other alternatives are welcome. Comments shall include the name, address, and telephone number of the writer, and shall contain a complete, concise statement of the factual basis for comments. Only those comments received by January 29, 1996, will be considered by the board.

**Other information:** The department has conducted analyses on the proposed regulation related to the basis, purpose, substance, issues and estimated impacts. These are available upon request from Mr. Gregory at the address below.

Statutory Authority: § 62.1-44.15(10) of the Code of Virginia.

**Contact:** Michael B. Gregory, Department of Environmental Quality, P.O. Box 10009, Richmond, VA 23240, telephone (804) 762-4065 or (804) 762-4021/TDD.



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# PROPOSED REGULATIONS

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For information concerning Proposed Regulations, see Information Page.

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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.

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## VIRGINIA HOUSING DEVELOPMENT AUTHORITY

**NOTICE:** The Virginia Housing Development Authority is exempted from the Administrative Process Act (§ 9-6.14:1 et seq. of the Code of Virginia); however, under the provisions of § 9-6.14:22, it is required to publish all proposed and final regulations.

**Title of Regulation:** ~~VR 400-02-0044~~, 13 VAC 10-180-10 et seq. Rules and Regulations for Allocation of Low-Income Housing Tax Credits.

**Statutory Authority:** § 36-55.30:3 of the Code of Virginia.

### Summary:

The proposed authority's rules and regulations for allocation of low-income housing tax credits will (i) require some applicants to serve more lower income households, (ii) clarify site control requirements, (iii) add requirements for admission into the nonprofit pool, (iv) revise and clarify scoring categories, (v) make adjustments as to how credits are moved to other pools, (vi) limit applicants to one development, unless additional developments are in undersubscribed pools, (vii) prohibit certain transfers of partnership interests, and (viii) make other technical and clarification changes.

13 VAC 10-180-10 et seq. Rules and Regulations for Allocation of Low-Income Housing Tax Credits.

### CHAPTER 180.

### RULES AND REGULATIONS FOR ALLOCATION OF LOW-INCOME HOUSING TAX CREDITS.

#### §-4. 13 VAC 10-180-10. Definitions.

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

"Applicant" means an applicant for credits under this chapter and also means the owner of the development to whom the credits are allocated.

"Credits" means the low-income housing tax credits as described in § 42 of the IRC.

"Estimated highest gross square footage per bedroom" means in subdivision 3 a of §-6 13 VAC 10-180-60, the highest total usable, heated square footage, as certified by an architect (or contractor for rehabilitation developments of 24 units or less), divided by the total number of bedrooms in any development in the state (or, if the executive director shall so determine, in each pool ~~or subpool~~) for which an application for credits has been filed at the time of assignment of points pursuant to §-6 13 VAC 10-180-60.

"Estimated lowest gross square footage per bedroom" means in subdivision 3 a of §-6 13 VAC 10-180-60, the

lowest total usable, heated square footage, as certified by an architect (or contractor for rehabilitation developments of 24 units or less), divided by the total number of bedrooms in any development in the state (or, if the executive director shall so determine, in each pool ~~or subpool~~) for which an application for credits has been filed at the time of assignment of points pursuant to §-6 13 VAC 10-180-60.

"Estimated highest per bedroom cost for new construction units" means, in subdivision 6 d of §-6 13 VAC 10-180-60, the highest total development cost (adjusted by the authority for location) per bedroom, as proposed by an applicant, in any development in the state (or, if the executive director shall so determine, in each pool ~~or subpool~~) for which an application for credits has been filed at the time of assignment of points pursuant to §-6 13 VAC 10-180-60 and which is composed solely of new construction units.

"Estimated highest per bedroom cost for rehabilitation units" means, in subdivision 6 d of §-6 13 VAC 10-180-60, the highest total development cost (adjusted by the authority for location) per bedroom, as proposed by an applicant, in any development in the state (or, if the executive director shall so determine, in each pool ~~or subpool~~) for which an application for credits has been filed at the time of assignment of points pursuant to §-6 13 VAC 10-180-60 and which is composed solely of rehabilitation units.

"Estimated highest per bedroom credit amount for new construction units" means, in subdivision 6 b of §-6 13 VAC 10-180-60, the highest amount of credits per bedroom (within the low-income housing units), as requested by an applicant, in any development in the state (or, if the executive director shall so determine, in each pool ~~or subpool~~) for which an application for credits has been filed at the time of assignment of points pursuant to §-6 13 VAC 10-180-60 and which is composed solely of new construction units.

"Estimated highest per bedroom credit amount for rehabilitation units" means, in subdivision 6 b of §-6 13 VAC 10-180-60, the highest amount of credits per bedroom (within the low-income housing units), as requested by an applicant, in any development in the state (or, if the executive director shall so determine, in each pool ~~or subpool~~) for which an application for credits has been filed at the time of assignment of points pursuant to §-6 13 VAC 10-180-60 and which is composed solely of rehabilitation units.

"Estimated highest per unit cost for new construction units" means, in subdivision 6 c of §-6 13 VAC 10-180-60, the highest total development cost (adjusted by the authority for location), as proposed by an applicant, in any development in the state (or if the executive director shall so determine, in each pool ~~or subpool~~) for which an application for credits has been filed at the time of assignment of points pursuant to §-6 13 VAC 10-180-60 and which is composed solely of new construction units.

"Estimated highest per unit cost for rehabilitation units" means, in subdivision 6 c of §-6 13 VAC 10-180-60, the highest total development cost (adjusted by the authority for location), as proposed by an applicant, in any development in the state (or if the executive director shall so determine, in each pool or subpool) for which an application for credits has been filed at the time of assignment of points pursuant to §-6 13 VAC 10-180-60 and which is composed solely of rehabilitation units.

"Estimated highest per unit credit amount for new construction units" means, in subdivision 6 a of §-6 13 VAC 10-180-60, the highest amount of credits per low-income unit, as requested by an applicant, in any development in the state (or if the executive director shall so determine, in each pool or subpool) for which an application for credits has been filed at the time of assignment of points pursuant to §-6 13 VAC 10-180-60 and which is composed solely of new construction units.

"Estimated highest per unit credit amount for rehabilitation units" means, in subdivision 6 a of §-6 13 VAC 10-180-60, the highest amount of credits per low-income unit, as requested by an applicant, in any development in the state (or, if the executive director shall so determine, in each pool or subpool) for which an application for credits has been filed at the time of assignment of points pursuant to §-6 13 VAC 10-180-60 and which is composed solely of rehabilitation units.

"IRC" means the Internal Revenue Code of 1986, as amended, and the rules, regulations, notices and other official pronouncements promulgated thereunder.

"IRS" means the Internal Revenue Service.

"Low-income housing units" means those units which are defined as "low income units" under § 42 of the IRC.

"Qualified application" means a written request for tax credits which is submitted on a form or forms prescribed or approved by the executive director together with all documents required by the authority for submission and meets all minimum scoring requirements.

"Qualified low-income buildings" or "qualified low-income development" means the buildings or development which meets the applicable requirements in § 42 of the IRC to qualify for an allocation of credits thereunder.

## §-2. 13 VAC 10-180-20. Purpose and applicability.

The following rules and regulations will govern the allocation by the authority of credits pursuant to § 42 of the IRC.

Notwithstanding anything to the contrary herein, the executive director is authorized to waive or modify any provision herein where deemed appropriate by him for good cause to promote the goals and interests of the Commonwealth in the federal low-income housing tax credit program, to the extent not inconsistent with the IRC.

The rules and regulations set forth herein are intended to provide a general description of the authority's processing requirements and are not intended to include all actions involved or required in the processing and administration of the credits. This chapter is subject to change at any time by

the authority and may be supplemented by policies, rules and regulations adopted by the authority from time to time.

Any determination made by the authority pursuant to this chapter as to the financial feasibility of any development or its viability as a qualified low-income development shall not be construed to be a representation or warranty by the authority as to such feasibility or viability.

Notwithstanding anything to the contrary herein, all procedures and requirements in the IRC must be complied with and satisfied.

## §-3. 13 VAC 10-180-30. General description.

The IRC provides for credits to the owners of residential rental developments comprised of qualified low-income buildings in which low-income housing units are provided, all as described therein. The aggregate amount of such credits (other than credits for developments financed with certain tax-exempt bonds as provided in the IRC) allocated in any calendar year within the Commonwealth may not exceed the Commonwealth's annual state housing credit ceiling for such year under the IRC. An amount not less than 10% of such ceiling is set-aside for developments in which certain qualified nonprofit organizations hold an ownership interest and materially participate in the development and operation thereof. Credit allocation amounts are counted against the Commonwealth's annual state housing credit ceiling for credits for the calendar year in which the credits are allocated. The IRC provides for the allocation of the Commonwealth's state housing credit ceiling for credits to the housing credit agency of the Commonwealth. The authority has been designated by executive order of the Governor as the housing credit agency under the IRC and, in such capacity, shall allocate for each calendar year credits to qualified low-income buildings or developments in accordance herewith.

Credits may be allocated to each qualified low-income building in a development separately or to the development as a whole in accordance with the IRC.

Credits may be allocated to such buildings or development either (i) during the calendar year in which such building or development is placed in service or (ii) if the building or development meets the requirements of § 42(h)(1)(E) of the IRC, during one of the two years preceding the calendar year in which such building or development is expected to be placed in service. Prior to such allocation, the authority shall receive and review applications for reservations of credits as described hereinbelow and shall make such reservations of credits to eligible applications in accordance herewith and subject to satisfaction of certain terms and conditions as described herein. Upon compliance with such terms and conditions and, as applicable, either (i) the placement in service of the qualified low-income buildings or development or (ii) the satisfaction of the requirements of § 42(h)(1)(E) of the IRC with respect to such buildings or the development, the credits shall be allocated to such buildings or the development as a whole in the calendar year for which such credits were reserved by the authority.

Except as otherwise provided herein or as may otherwise be required by the IRC, this chapter shall not apply to credits with respect to any development or building to be financed by

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certain tax-exempt bonds in an amount so as not to require under the IRC an allocation of credits hereunder. (See §40 hereinbelow 13 VAC 10-180-100.)

The authority shall charge to each applicant fees in such amounts as the executive director shall determine to be necessary to cover the administrative costs to the authority, but not to exceed the maximum amount permitted under the IRC. Such fees shall be payable at such time or times as the executive director shall require.

§4. 13 VAC 10-180-40. Adoption of allocation plan; solicitations of applications.

The IRC requires that the authority adopt a qualified allocation plan which shall set forth the selection criteria to be used to determine housing priorities of the authority which are appropriate to local conditions and which shall give certain priority to and preference among developments in accordance with the IRC. The executive director from time to time may cause housing needs studies to be performed in order to develop the qualified allocation plan and, based upon any such housing needs study and any other available information and data, may direct and supervise the preparation of and approve the qualified allocation plan and any revisions and amendments thereof in accordance with the IRC. The IRC requires that the qualified allocation plan be subject to public approval in accordance with rules similar to those in § 147(f)(2) of the IRC. The executive director may include all or any portion of this chapter in the qualified allocation plan. However, the authority may amend the qualified allocation plan without public approval if required to do so by changes to the IRC.

The executive director may from time to time take such action as he may deem necessary or proper in order to solicit applications for credits. Such actions may include advertising in newspapers and other media, mailing of information to prospective applicants and other members of the public, and any other methods of public announcement which the executive director may select as appropriate under the circumstances. The executive director may impose requirements, limitations and conditions with respect to the submission of applications and the selection thereof as he shall consider necessary or appropriate.

§5. 13 VAC 10-180-50. Application.

Application for a reservation of credits shall be commenced by filing with the authority an application, on such form or forms as the executive director may from time to time prescribe or approve, together with such documents and additional information as may be requested by the authority in order to comply with the IRC and this chapter and to make the reservation and allocation of the credits in accordance with this chapter. *The executive director may reject any application from consideration for a reservation or allocation of credits if in such application the applicant does not provide the proper documentation or information on the forms prescribed by the executive director.*

The application shall *should* include a breakdown of sources and uses of funds sufficiently detailed to enable the authority to ascertain what costs will be incurred and what will comprise the total financing package, including the various

subsidies and the anticipated syndication or placement proceeds that will be raised. The following cost information ~~must, if applicable, needs to be included in the application:~~ site acquisition costs, site preparation costs, construction costs, construction contingency, general contractor's overhead and profit, architect and engineer's fees, permit and survey fees, insurance premiums, real estate taxes during construction, title and recording fees, construction period interest, financing fees, organizational costs, rent-up and marketing costs, accounting and auditing costs, working capital and operating deficit reserves, syndication and legal fees, development fees, and other cost and fees.

*Each applicant shall agree in the application to restrict, for occupancy to households at or below 50% of the area median income, 1.0% of the proposed number of units (rounded to the nearest 5.0%, rounding up if there are two choices) for every 2.0% the area median income of the development's locality exceeds the statewide average area median income.*

Each application shall include evidence of (i) sole fee simple ownership of the site of the proposed development by the applicant, (ii) lease of such site by the applicant for a term exceeding the compliance period (as defined in the IRC) or for such longer period as the applicant represents in the application that the development will be held for occupancy by low-income persons or families or (iii) right to acquire or lease such site pursuant to a valid and binding written option or contract between the applicant and the fee simple owner of such site *for a period extending at least three months beyond any application deadline established by the executive director*, provided that such option or contract shall have no conditions within the discretion or control of such owner of such site. *A contract that permits the owner to continue to market the property, even if the applicant has a right of first refusal does not constitute the requisite site control required in clause (iii) above.* No application shall be considered for a reservation or allocation of credits unless such evidence is submitted with the application and the authority determines that the applicant owns, leases or has the right to acquire or lease the site of the proposed development as described in the preceding sentence.

Each application shall include, in a form required by the executive director, a listing of all residential real estate developments in which the general partner(s) has or had an ownership interest, the location of such developments and the number of residential units and low-income housing units in such developments. Furthermore, the applicant must indicate, for developments receiving an allocation of tax credits under § 42 of the IRC, whether any such development has ever been determined to be out of compliance with the requirements of the IRC by the appropriate state housing credit agency, and if so, an explanation of such noncompliance and whether it has been corrected. ~~No~~ *The executive director may reject any application shall be considered from consideration* for a reservation or allocation of credits unless the above information is submitted with the application. If an applicant is in substantial noncompliance with the requirements of the IRC, the executive director, in his sole discretion, may reject applications by the applicant.

The application shall *should* include pro forma financial statements setting forth the anticipated cash flows during the credit period as defined in the IRC. The application shall include a certification by the applicant as to the full extent of all federal, state and local subsidies which apply (or which the applicant expects to apply) with respect to each building or development. The executive director may also require the submission of a legal opinion or other assurances satisfactory to the executive director as to, among other things, compliance of the proposed development with the IRC and a certification, together with an opinion of an independent certified public accountant or other assurances satisfactory to the executive director, setting forth the calculation of the amount of credits requested by the applicant and certifying, among other things, that under the existing facts and circumstances the applicant will be eligible for the amount of credits requested.

If an applicant submits an application for reservation or allocation of credits that contains a material misrepresentation or fails to include information regarding developments involving the applicant that have been determined to be out of compliance with the requirements of the IRC, the executive director may reject the application or stop processing such application upon discovery of such misrepresentation or noncompliance and may prohibit such applicant from submitting applications for credits to the authority in the future.

The executive director may establish criteria and assumptions to be used by the applicant in the calculation of amounts in the application, and any such criteria and assumptions shall *may* be indicated on the application form or, instructions or other communication available to the public.

The executive director may prescribe such deadlines for submission of applications for reservation and allocation of credits for any calendar year as he shall deem necessary or desirable to allow sufficient processing time for the authority to make such reservations and allocations.

After receipt of the applications, the authority shall notify the chief executive officers (or the equivalent) of the local jurisdictions in which the developments are to be located and shall provide such officers a reasonable opportunity to comment on the developments.

The development for which an application is submitted may be, but shall not be required to be, financed by the authority. If any such development is to be financed by the authority, the application for such financing shall be submitted to and received by the authority in accordance with its applicable rules and regulations.

The authority may consider and approve, in accordance herewith, both the reservation and the allocation of credits to buildings or developments which the authority may own or may intend to acquire, construct and/or rehabilitate.

§—6. 13 VAC 10-180-60. Review and selection of applications; reservation of credits.

The executive director may divide the amount of credits into separate pools and ~~may further subdivide those pools into subpools~~. The division of such pools and ~~subpools~~ may

be based upon one or more of the following factors: geographical areas of the state; types or characteristics of housing, construction, financing, owners, or occupants, or *source of credits*; or any other factors deemed appropriate by him to best meet the housing needs of the Commonwealth.

An amount, as determined by the executive director, not less than 10% of the Commonwealth's annual state housing credit ceiling for credits, shall be available for reservation and allocation to buildings or developments with respect to which the following requirements are met:

1. A *community-based* (as defined by the executive director) "qualified nonprofit organization" (as described in § 42(h)(5)(C) of the IRC) *chartered in Virginia* is to materially participate (within the meaning of § 469(h) of the IRC) in the development and operation of the development throughout the "compliance period" (as defined in § 42(i)(1) of the IRC); and

2. (i) The "qualified nonprofit organization" described in the preceding subdivision 1 is to own an interest in the development (directly or through a partnership) as required by the IRC; (ii) such qualified nonprofit organization is to, prior to the *allocation reservation* of credits to the buildings or development, own a ~~general partnership interest in the development which shall constitute not less than 51% of all of the general partnership interests of the ownership entity thereof (such that the qualified nonprofit organizations have at least a 51% interest in both the income and profit allocated to all of the general partners and in all items of cash flow distributed to the general partners) and which will result in such qualified nonprofit organization receiving not less than 51% of all fees, except builder's overhead and builder's profit, paid or to be paid to all of the general partners (and any other entities determined by the authority to be related to or affiliated with one or more of such general partners) in connection with the development;~~ (iii) the executive director of the authority shall have determined that such qualified nonprofit organization is not affiliated with or controlled by a for-profit organization; (iv) the executive director of the authority shall have determined that the qualified nonprofit organization was not ~~or will not be~~ formed by one or more individuals or for-profit entities for the principal purpose of being included in any nonprofit pools or ~~subpools~~ (as defined below) established by the executive director, and (v) the executive director of the authority shall have determined that no *staff member*, officer or member of the board of directors of such qualified nonprofit organization will materially participate, *directly or indirectly*, in the proposed development as a for-profit entity. In making the ~~determination~~ *determinations* required by ~~clause clauses~~ (iii), (iv) and (v) of this subdivision, the executive director may apply such factors as he deems relevant, including, without limitation, the past experience and anticipated future activities of the qualified nonprofit organization, the sources and manner of funding of the qualified nonprofit organization, the date of formation and expected life of the qualified nonprofit organization, the number of *paid* staff members and volunteers of the qualified nonprofit organization, the nature and extent of the qualified

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nonprofit organization's proposed involvement in the construction or rehabilitation and the operation of the proposed development, and the relationship of the staff, directors or other principals involved in the formation or operation of the qualified nonprofit organization with any persons or entities to be involved in the proposed development on a for-profit basis. The executive director may include in the application of the foregoing factors any other nonprofit organizations which, in his determination, are related (by shared directors, staff or otherwise) to the qualified nonprofit organization for which such determination is to be made.

For purposes of the foregoing requirements, a qualified nonprofit organization shall be treated as satisfying such requirements if any qualified corporation (as defined in § 42(h)(5)(D)(ii) of the IRC) in which such organization (by itself or in combination with one or more qualified nonprofit organizations) holds 100% of the stock satisfies such requirements.

The applications shall include such representations and warranties and such information as the executive director may require in order to determine that the foregoing requirements have been satisfied. In no event shall more than 90% of the Commonwealth's annual state housing credit ceiling for credits be available for developments other than those satisfying the preceding requirements. The executive director may establish such pools or subpools ("nonprofit pools or subpools") of credits as he may deem appropriate to satisfy the foregoing requirement. If any such nonprofit pools or subpools are so established, the executive director may rank the applications therein and reserve credits to such applications before ranking applications and reserving credits in other pools and subpools, and any such applications in such nonprofit pools or subpools not receiving any reservations of credits or receiving such reservations in amounts less than the full amount permissible hereunder (because there are not enough credits then available in such nonprofit pools or subpools to make such reservations) shall be assigned to such other pool or subpool as shall be appropriate hereunder; provided, however, that if credits are later made available (pursuant to the IRC or as a result of either a termination or reduction of a reservation of credits made from any nonprofit pools or subpools or a rescission in whole or in part of an allocation of credits made from such nonprofit pools or subpools or otherwise) for reservation and allocation by the authority during the same calendar year as that in which applications in the nonprofit pools or subpools have been so assigned to other pools or subpools as described above, the executive director may, in such situations, designate all or any portion of such additional credits for the nonprofit pools or subpools (or for any other pools or subpools as he shall determine) and may, if additional credits have been so designated for the nonprofit pools or subpools, reassign such applications to such nonprofit pools or subpools, rank the applications therein and reserve credits to such applications in accordance with the IRC and this chapter. In the event that during any round (as authorized hereinbelow) of application review and ranking the amount of credits reserved within such nonprofit pools or subpools is less than the total amount of credits made available therein, the executive director may either (i) leave

such unreserved credits in such nonprofit pools or subpools for reservation and allocation in any subsequent round or rounds or (ii) redistribute, to the extent permissible under the IRC, such unreserved credits to such other pool or pools or subpools as the executive director shall designate and in which there are or remain qualified applications for credits which have not then received reservations therefor in the full amount permissible hereunder (which applications shall hereinafter be referred to as "excess qualified applications") or (iii) carry over such unreserved credits to the next succeeding calendar year for inclusion in the state housing credit ceiling (as defined in § 42(h)(3)(C) of the IRC) for such year. Any redistribution made pursuant to clause (ii) above shall be made pro rata based on the amount originally distributed to each such pool or subpool with excess qualified applications divided by the total amount originally distributed to all such pools or subpools with excess qualified applications. Notwithstanding anything to the contrary herein, no allocation reservation of credits shall be made from any nonprofit pools or subpools to any application with respect to which the qualified nonprofit organization has not yet been legally formed in accordance with the requirements of the IRC. In addition, no application for credits from any nonprofit pools or subpools or any combination of pools or subpools may request a reservation or allocation of annual credits in an amount greater than \$500,000. For the purposes of implementing this limitation, the executive director may determine that more than one application for more than one development which he deems to be a single development shall be considered as a single application.

The authority shall review each application, and, based on the application and other information available to the authority, shall assign points to each application as follows:

1. Readiness.

a. Approval by local authorities of:

(1) a. *Written evidence satisfactory to the authority of approval by local authorities of (i) the plan of development or special use permit, or site plan for the proposed development or written evidence satisfactory to the authority (ii) that such approval is not required or will be obtained prior to the end of the calendar year.* (20 points)

(2) b. *Written evidence satisfactory to the authority of approval by local authorities of (i) proper zoning for such site or written evidence satisfactory to the authority (ii) that no zoning requirements are applicable.* (30 points)

(3) c. *Building permit(s) or letter dated within three months of the application deadline stating that all approvals are in place and building permits will be issued upon receipt of all fees.* (20 points)

b. d. Evidence satisfactory to the authority documenting:

(1) *Availability of all requisite public utilities for such site.* (15 points)

(2) Dedicated public right of way to a state publicly maintained road or that property is contiguous on a state publicly maintained road. (15 points)

~~(3) Completion~~ e. Submission of plans and specifications or, in the case of rehabilitation for which plans will not be used, work write-up for such rehabilitation with certification in such form and from such person satisfactory to the executive director as to the completion of such plans or specifications or work write-up. (20 points multiplied by the quotient calculated by dividing the percentage of completion of such plans and specifications or such work write-up by 75% not to exceed 20 points.)

2. Housing needs characteristics.

a. (1) A letter dated within three months of the application deadline addressed to the authority and signed by the chief executive officer of the locality in which the proposed development is to be located stating, without qualification or limitation, the following:

"The construction or rehabilitation of (name of development) and the allocation of federal housing tax credits available under IRC Section 42 for that development will help meet the housing needs and priorities of (name of locality). Accordingly, (name of locality) supports the allocation of federal housing tax credits requested by (name of applicant) for that development." (50 points)

(2) No letter from the chief executive officer of the locality in which the proposed development is to be located, or a letter addressed to the authority and signed by such chief executive officer stating neither support (as described in subdivision a (1) above) nor opposition (as described in subdivision a (3) below) as to the allocation of credits to the applicant for the development. (25 points)

(3) A letter in response to its notification to the chief executive officer of the locality in which the proposed development is to be located opposing the allocation of credits to the applicant for the development. In any such letter, the chief executive officer must certify that the proposed development (i) is not consistent with current zoning or other applicable land use regulations, or (ii) is not consistent with the local Comprehensive Housing Affordability Strategy. (0 points)

b. Documentation from the local authorities that the proposed development is located in a Qualified Census Tract (QCT) or Difficult Development Area as defined by the U.S. Department of Housing and Urban Development or in an Enterprise Zone designated by the state. (20 points)

c. Commitment by the applicant to give leasing preference to individuals and families on public housing waiting lists maintained by the local housing authority operating in the locality in which the proposed development is to be located and notification

of the availability of such units to the local housing authority by the applicant. (10 points)

d. Commitment by the applicant to give leasing preference to individuals and families on section 8 (as defined in § 9 hereinbelow 13 VAC 10-180-90) waiting lists maintained by the local or nearest section 8 administrator for the locality in which the proposed development is to be located and notification of the availability of such units to the local section 8 administrator by the applicant. (10 points)

e. Firm financing commitment(s) from the local government or housing authority or the Rural Housing and Community Development Service of the Department of Agriculture or a resolution passed by the locality in which the proposed development is to be located committing a grant or below-market rate loan to the development. (The amount of such financing will be divided by the total development sources of funds and the proposed development receives two points for each percentage point up to a maximum of 40 points.)

3. Development characteristics.

a. The average unit size per bedroom (100 points multiplied by the quotient calculated by (i) the actual gross square footage per bedroom minus the estimated lowest gross square footage per bedroom divided (ii) the estimated highest gross square footage per bedroom minus the estimated lowest gross square footage per bedroom.)

b. Increase in the housing stock attributable to new construction or adaptive reuse of units or to the rehabilitation of units determined by the applicable local governmental unit to be uninhabitable and so documented in the application. (80 points multiplied by the percentage of such units in the proposed development)

c. Lower amount of credit request. (30 points multiplied by the percentage by which the total amount of the annual tax credits requested is less than \$1,000,000.)

d. The quality of the proposed development's amenities as determined by the following:

(1) If all 2-bedroom units have 1.5 bathrooms and all 3-bedroom units have 2 bathrooms. (15 points)

(2) If all units have a washer and dryer. (7 points)

(3) If all units have a balcony or patio. (5 points)

(4) If all units have a washer and dryer hook-up only. (3 points)

(5) If all units have a dishwasher. (2 points)

(6) If all units have a garbage disposal. (1 point)

(7) If the development has a laundry room. (1 point)

4. Tenant population characteristics.

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a. Commitment by the applicant to lease low-income housing units in the proposed development only to one or more of the following: (i) persons 62 years or older, (ii) homeless persons or families, or (iii) physically or mentally disabled persons. Applicants receiving points under this subdivision a may not receive points under subdivision b below. (30 points)

b. Commitment by the applicant to creating a development in which 20% or more of the low-income units have three or more bedrooms. Applicants receiving points under this subdivision b may not receive points under subdivision a above. (30 points)

c. Commitment by the applicant to provide relocation assistance to displaced households at such level required by the authority. (30 points)

### 5. Sponsor characteristics.

a. Evidence that the development team for the proposed development has the demonstrated experience, qualifications and ability to perform. In comparison with the proposed development, the controlling general partner or partners, acting in the capacity of controlling general partner or partners, has placed in service one or more developments which, in the aggregate, would result in the highest number of points under one of the following: ~~(i) at least an equal number of residential rental units (10 points); or (ii) two or more times as many residential rental units (20 points); or (iii) three or more times as many residential rental units (30 points); or (iv) at least an equal number of low-income housing units in any state, as evidenced by issuance of IRS Forms 8609 (40 points); or (v) two or more times as many low-income housing units in any state, as evidenced by issuance of IRS Forms 8609 (50 points); or (vi) three or more times as many low-income housing units in any state, as evidenced by issuance of IRS Forms 8609 (60 points); or (vii) at least an equal number of low-income housing units in Virginia as evidenced by issuance of IRS Forms 8609 (70 60 points); or (viii) *i*) two or more times as many low-income housing units in Virginia as evidenced by issuance of IRS Forms 8609 (80 90 points); or (ix) three or more times as many low-income housing units in Virginia as evidenced by issuance of IRS Forms 8609 (90 points).~~ For purposes of this subdivision 5 a of this section, each low-income housing tax credit unit developed in Virginia, as evidenced by the issuance of IRS forms 8609, shall count as a full low-income housing unit; each low-income housing tax credit unit developed out of Virginia shall count as 75% of a low-income housing unit; any other developed residential units (either for sale or rental) shall count as 50% of a low-income unit.

b. Participation in the ownership of the proposed development (either directly or through a wholly owned subsidiary) by any organization which has its principal place of business in Virginia and which is exempt from federal taxation. ~~(10 points)~~ Participation by a community based qualified nonprofit organization chartered in Virginia that (i) acts as a managing general partner according to the partnership

agreement (60 points); and (ii) has the option to purchase the proposed development at the end of the compliance period for a price not to exceed the outstanding debt and exit taxes of the for-profit entity (30 points); or (iii) materially participates in the development and the operation of the development and owns at least a 10% ownership interest in the general partnership interest of the partnership (10 points). No staff member, officer or member of the board of directors of such qualified nonprofit organization may materially participate, directly or indirectly, in the proposed development as a for-profit entity. Points awarded under clause (iii) of this subdivision b may not be combined with any points awarded under clauses (i) or (ii).

### 6. Efficient use of resources.

a. The percentage by which the total of the amount of credits per low-income housing unit (the "per unit credit amount") of the proposed development is less than the weighted average of the estimated highest per unit credit amount for new construction units and the estimated highest per unit credit amount for rehabilitation units based upon the number of new construction units and rehabilitation units in the proposed development. (If the per unit credit amount of the proposed development equals or exceeds such weighted average, the proposed development is assigned no points; if the per unit credit amount of the proposed development is less than such weighted average, the difference is calculated as a percentage of such weighted average, and then multiplied by 120 points.)

b. The percentage by which the total of the amount of credits per bedroom in such low-income housing units (the "per bedroom credit amount") of the proposed development is less than the weighted average of the estimated highest per bedroom credit amount for new construction units and the estimated highest per bedroom credit amount for rehabilitation units based upon the number of new construction units and rehabilitation units in the proposed development. (If the per bedroom credit amount of the proposed development equals or exceeds such weighted average, the proposed development is assigned no points; if the per bedroom credit amount of the proposed development is less than such weighted average, the difference is calculated as a percentage of such weighted average, and then multiplied by 120 points.)

c. The percentage by which the cost per low-income housing unit (the "per unit cost"), adjusted by the authority for location, of the proposed development is less than the weighted average of the estimated highest per unit cost for new construction units and the estimated highest per unit cost for rehabilitation units based upon the number of new construction units and rehabilitation units in the proposed development. (If the per unit cost of the proposed development equals or exceeds such weighted average, the proposed development is assigned no points; if the per unit cost



of the proposed development is less than such weighted average, the difference is calculated as a percentage of such weighted average, and then multiplied by 55 points.)

d. The percentage by which the total of the cost per bedroom in such low-income housing units (the "per bedroom cost"), adjusted by the authority for location, of the proposed development is less than the weighted average of the estimated highest per bedroom cost for new construction units and the estimated highest per bedroom cost for rehabilitation units based upon the number of new construction units and rehabilitation units in the proposed development. (If the per bedroom cost of the proposed development equals or exceeds such weighted average, the proposed development is assigned no points; if the per bedroom cost of the proposed development is less than such weighted average, the difference is calculated as a percentage of such weighted average, and then multiplied by 55 points.)

With respect to this subdivision 6 only, the term "new construction units" shall be deemed to include adaptive reuse units and units determined by the applicable local governmental unit to be uninhabitable which are intended to be rehabilitated. Also, for the purpose of calculating the points to be assigned pursuant to such subdivision 6 above, all credit amounts shall be those requested in the applicable application, and the per unit credit amount and per bedroom credit amount for any building located in a qualified census tract or difficult development area (such tract or area being as defined in the IRC) shall be determined based upon 100% of the eligible basis of such building, in the case of new construction, or 100% of the rehabilitation expenditures, in the case of rehabilitation of an existing building, notwithstanding any use by the applicant of 130% of such eligible basis or rehabilitation expenditures in determining the amount of credits as provided in the IRC.

After points have been assigned to each application in the manner described above, the executive director shall compute the total number of points assigned to each such application. Notwithstanding any other provisions herein, any application which is assigned a total number of points less than a threshold amount of 350 points shall be rejected from further consideration hereunder and shall not be eligible for any reservation or allocation of credits.

7. Bonus points. For each application to which the total number of points assigned is equal to or more than the above-described threshold amount of points, bonus points shall be assigned as follows:

a. Commitment by the applicant to impose income limits on the low-income housing units throughout the extended use period (as defined in the IRC) below those required by the IRC in order for the development to be a qualified low-income development. (The product of (i) 50 points multiplied by (ii) the percentage exceeding the minimum required percentage of low-income housing units restricted for occupancy to households at or below 50% of the area median gross

income, provided, however, the maximum number of points that may be awarded under both this subdivision a and subdivision 7 b of this section is 50 points, *unless the applicant commits to serve persons 62 years or older under subdivision 4 a (i) of this section, then no limitation applies.*)

b. Commitment by the applicant to maintain the low-income housing units in the development as a qualified low-income housing development beyond the 15-year compliance period as defined in the IRC; such commitment beyond the end of the 15-year compliance period and prior to the end of the 30-year extended use period (as defined in the IRC) being deemed to represent a waiver of the applicant's right under the IRC to cause a termination of the extended use period in the event the authority is unable to present during the period specified in the IRC a qualified contract (as defined in the IRC) for the acquisition of the building by any person who will continue to operate the low-income portion thereof as a qualified low-income building. Applicants receiving points under this subdivision b may not receive bonus points under subdivision c below. (40 points for a 15-year commitment beyond the 15-year compliance period or 50 points for a 25-year commitment beyond the 15-year compliance period), provided, however, the maximum number of points that may be awarded under both this subdivision b and subdivision 7 a of this section is 50 points, *unless the applicant commits to serve persons 62 years or older under subdivision 4 a (i) of this section, then no limitation applies.*

c. Commitment by the applicant to convert the low-income housing units to homeownership by qualified low income tenants at the end of the 15-year compliance period, as defined by IRC, according to a homeownership plan approved by the authority. Such plan must include, but not be limited to, (i) a provision that a portion of the rental revenue will be set aside in an escrow account for each tenant for the purpose of accumulating funds for a down payment, (ii) a provision for determining a sale price, affordable to the tenant, at the end of the 15-year compliance period, (iii) a provision for maintaining a replacement reserve for the property which would be transferable to the tenant at the time of sale to the tenant, (iv) an agreement by the applicant to record such plan as an exhibit to the low-income housing commitment described in ~~§ 7 herein~~ below 13 VAC 10-180-70. The authority reserves the right to waive any of the above conditions, if in the sole discretion of the authority, the applicant proposes a satisfactory alternative condition. Applicants receiving points under this subdivision c may not receive bonus points under subdivision b above. *Applicants cannot receive any points under this subdivision c if the applicant commits to serve persons 62 years or older under subdivision 4 a (i) above. (50 points)*

d. Applications for developments located in communities which have removed local regulatory barriers to affordable housing, as evidenced by a certification and appropriate documentation from the



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chief executive officer, *the chief elected officer*, or city or county attorney of the locality for each of the following actions: (i) waived utility tap fees for low-income housing units, (ii) adopted a local affordable dwelling unit (ADU or density bonus) ordinance under the provisions of § 15.1-491.8 or § 15.1-491.9 of the Code of Virginia, (iii) adopted a local ordinance in accordance with § 15.1-37.3:9 of the Code of Virginia to provide a source of local funding for the repair or production of low- or moderate-income housing units, (iv) adopted an ordinance in accordance with § 58.1-3220 of the Code of Virginia to provide for the partial exemption of qualifying rehabilitated residential real estate from real property taxes, (v) adopted local land use regulations permitting the permanent placement of all manufactured housing units conforming in appearance to site-built housing in one or more residential zoning districts in addition to those currently required under the terms of § 15.1-486.4 of the Code of Virginia, (vi) adopted local zoning, site plan, and subdivision regulations permitting the use of the full range of attached single-family dwelling units by right in designated districts and zoning land for such purposes, (vii) adopted local subdivision street standards no more stringent than those adopted by the Virginia Department of Transportation, (viii) adopted a linked deposits ordinance under the provisions of § 11-47.33 of the Code of Virginia, (ix) adopted a coordinated program to facilitate the local development review process, including self-imposed deadlines, preapplication conferences on request, review expeditors or similar methods, and (x) adopted other innovative local actions removing or mitigating regulatory barriers to affordable housing which may be submitted for review and approval by the authority. (10 points for each of the above actions taken, up to a maximum of 30 points)

The executive director may exclude and disregard any application which he determines is not submitted in good faith or which he determines would not be financially feasible.

Upon assignment of points to all of the applications, the executive director shall rank the applications based on the number of points so assigned. If any pools ~~or subpools~~ shall have been established, each application shall be assigned to a pool ~~or subpool~~ and shall be ranked within such pool ~~or subpool~~. Those applications assigned more points shall be ranked higher than those applications assigned fewer points.

In the event of a tie in the number of points assigned to two or more applications within the same pool ~~or subpool~~, or, if none, within the state, and in the event that the amount of credits available for reservation to such applications is determined by the executive director to be insufficient for the financial feasibility of all of the developments described therein, the authority shall, to the extent necessary to fully utilize the amount of credits available for reservation within such pool ~~or subpool~~ or, if none, within the Commonwealth, select one or more of the applications with the most bonus points as described above, and each application so selected shall receive (in order based upon the number of such bonus points, beginning with the application with the most bonus points) a reservation of credits in the lesser of the full amount

determined by the executive director to be permissible hereunder or the amount of credits remaining therefor in such pool ~~or subpool~~ or, if none, in the Commonwealth. If two or more of the tied applications receive the same number of bonus points and if the amount of credits available for reservation to such tied applications is determined by the executive director to be insufficient for the financial feasibility of all the developments described therein, the executive director shall select one or more of such applications by lot, and each application so selected by lot shall receive (in order of such selection by lot) the lesser of the full amount determined by the executive director to be permissible hereunder or the amount of credits remaining therefor in such pool ~~or subpool~~ or, if none, in the Commonwealth.

For each application which may receive a reservation of credits, the executive director shall determine the amount, as of the date of the deadline for submission of applications for reservation of credits, to be necessary for the financial feasibility of the development and its viability as a qualified low-income development throughout the credit period under the IRC. In making this determination, the executive director shall consider the sources and uses of the funds, the available federal, state and local subsidies committed to the development, the total financing planned for the development as well as the investment proceeds or receipts expected by the authority to be generated with respect to the development, and the percentage of the credit dollar amount used for development costs other than the costs of intermediaries. He shall also examine the development's costs, including developer's fees and other amounts in the application, for reasonableness and, if he determines that such costs or other amounts are unreasonably high, he shall reduce them to amounts that he determines, in his sole discretion, to be reasonable. The executive director shall review the applicant's projected rental income, operating expenses and debt service for the credit period. The executive director may establish such criteria and assumptions as he shall deem reasonable for the purpose of making such determination, including, without limitation, criteria as to the reasonableness of fees and profits and assumptions as to the amount of net syndication proceeds to be received (based upon such percentage of the credit dollar amount used for development costs, other than the costs of intermediaries, as the executive director shall determine to be reasonable for the proposed development), increases in the market value of the development, and increases in operating expenses, rental income and, in the case of applications without firm financing commitments (as defined hereinabove) at fixed interest rates, debt service on the proposed mortgage loan.

At such time or times during each calendar year as the executive director shall designate, the executive director shall reserve credits to applications in descending order of ranking within each pool ~~or subpool~~, if applicable, until either substantially all credits therein are reserved or all qualified applications therein have received reservations. (For the purpose of the preceding sentence, if there is not more than a de minimis amount, as determined by the executive director, of credits remaining in a pool ~~or subpool~~ after reservations have been made, "substantially all" of the credits in such pool shall be deemed to have been reserved.) The

executive director may rank the applications within pools or subpools at different times for different pools or subpools and may reserve credits, based on such rankings, one or more times with respect to each pool or subpool. The executive director may also establish more than one round of review and ranking of applications and reservation of credits based on such rankings, and he shall designate the amount of credits to be made available for reservation within each pool or subpool during each such round. The amount reserved to each such application shall be equal to the lesser of (i) the amount requested in the application or (ii) an amount determined by the executive director, as of the date of application, to be necessary for the financial feasibility of the development and its viability as a qualified low-income development throughout the credit period under the IRC; provided, however, that in no event shall the amount of credits so reserved exceed the maximum amount permissible under the IRC.

If the amount of credits available in any pool is determined by the executive director to be insufficient for the financial feasibility of the proposed development to which such available credits are to be reserved, the executive director may (i) permit the applicant to modify such proposed development and his application so as to achieve financial feasibility based upon the amount of such available credits, *if the credits available equal to or exceed 75% of the credits needed for the financial feasibility of the proposed development*, (ii) *move the proposed development and the credits available to another pool*, or (iii), for developments which meet the requirements of § 42(h)(1)(E) of the IRC only, reserve additional credits from the Commonwealth's annual state housing credit ceiling for the following year in such an amount necessary for the financial feasibility of the proposed development. Any modifications shall be subject to the approval of the executive director; provided, however, that in no event shall such modifications result in a material reduction in the number of points assigned to the application pursuant to § 6 hereof 13 VAC 10-180-60. The reservation of credits from the Commonwealth's annual state housing credit ceiling for the following year shall be made only to proposed developments that rank high enough to receive some credits from the state housing credit ceiling for the current year. However, any such reservation shall be in the sole discretion of the executive director if he determines it to be in the best interest of the plan. In the event a reservation or an allocation of credits from the current year or a prior year is reduced, terminated or cancelled, the executive director may substitute such credits for any credits reserved from the following year's annual state housing credit ceiling.

In the event that during any round of application review and ranking the amount of credits reserved within any pools or subpools is less than the total amount of credits made available therein during such round, the executive director may either (i) leave such unreserved credits in such pools or subpools for reservation and allocation in any subsequent round or rounds or (ii) redistribute such unreserved credits to such other pool or pools or subpools as the executive director may designate and in which there remain excess qualified applications or (iii) carry over such unreserved credits to the next succeeding calendar year for inclusion in the state housing credit ceiling (as defined in § 42(h)(3)(C) of the IRC)

for such year. ~~Any redistribution made pursuant to subparagraph (ii) above shall be made pro rata based on the amount originally distributed to each of such pools or subpools designated by the executive director with excess qualified applications divided by the total amount originally distributed to all such designated pools or subpools with excess qualified applications. Such redistributions may continue to be made until either all of the credits are reserved or all qualified applications have received reservations.~~

*Notwithstanding anything contained herein, the executive director shall not reserve credits to more than one application in any credit year submitted by any general partner(s) or principal(s) of such general partner(s), directly or indirectly, unless the additional applications of such general partner(s) are in a pool or pools containing unreserved credits after the review and ranking of all applications in such pool or pools. If after the review and ranking of applications, the general partner(s) or principal(s) of such general partner(s), directly or indirectly, has more than one application ranked high enough to receive a reservation of credits in a pool or pools in which the request for credits from qualified applications exceed the amounts of credits available for reservation, the executive director shall reserve credits to the application designated by the general partner.*

Within a reasonable time after credits are reserved to any applicants' applications, the executive director shall notify each applicant for such reservations of credits either of the amount of credits reserved to such applicant's application (by issuing to such applicant a written binding commitment to allocate such reserved credits subject to such terms and conditions as may be imposed by the executive director therein, by the IRC and by this chapter) or, as applicable, that the applicant's application has been rejected or excluded or has otherwise not been reserved credits in accordance herewith. *The written binding commitment shall prohibit any transfer, direct or indirect, of partnership interests (except those involving the admission of limited partners) prior to the placed-in-service date of the proposed development.*

The authority's board shall review and consider the analysis and recommendation of the executive director for the reservation of credits to an applicant, and, if it concurs with such recommendation, it shall by resolution ratify the reservation by the executive director of the credits to the applicant, subject to such terms and conditions as it shall deem necessary or appropriate to assure compliance with the aforementioned binding commitment issued or to be issued to the applicant, the IRC and this chapter. If the board determines not to ratify a reservation of credits or to establish any such terms and conditions, the executive director shall so notify the applicant.

Subsequent to such ratification of the reservation of credits, the executive director may, in his discretion and without ratification or approval by the board, increase the amount of such reservation by an amount not to exceed 10% of the initial reservation amount.

The executive director may require the applicant to make a good faith deposit or to execute such contractual agreements providing for monetary or other remedies as it may require, or both, to assure that the applicant will comply with all requirements under the IRC, this chapter and the binding

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commitment (including, without limitation, any requirement to conform to all of the representations, commitments and information contained in the application for which points were assigned pursuant to ~~§ 6 hereof~~ 13 VAC 10-180-60). Upon satisfaction of all such aforementioned requirements (including any post-allocation requirements), such deposit shall be refunded to the applicant or such contractual agreements shall terminate, or both, as applicable.

If, as of the date the application is approved by the executive director, the applicant is entitled to an allocation of the credits under the IRC, this chapter and the terms of any binding commitment that the authority would have otherwise issued to such applicant, the executive director may at that time allocate the credits to such qualified low-income buildings or development without first providing a reservation of such credits. This provision in no way limits the authority of the executive director to require a good faith deposit or contractual agreement, or both, as described in the preceding paragraph, nor to relieve the applicant from any other requirements hereunder for eligibility for an allocation of credits. Any such allocation shall be subject to ratification by the board in the same manner as provided above with respect to reservations.

The executive director may require that applicants to whom credits have been reserved shall submit from time to time or at such specified times as he shall require, written confirmation and documentation as to the status of the proposed development and its compliance with the application, the binding commitment and any contractual agreements between the applicant and the authority. If on the basis of such written confirmation and documentation as the executive director shall have received in response to such a request, or on the basis of such other available information, or both, the executive director determines any or all of the buildings in the development which were to become qualified low-income buildings will not do so within the time period required by the IRC or will not otherwise qualify for such credits under the IRC, this chapter or the binding commitment, then the executive director may terminate the reservation of such credits and draw on any good faith deposit. If, in lieu of or in addition to the foregoing determination, the executive director determines that any contractual agreements between the applicant and the authority have been breached by the applicant, whether before or after allocation of the credits, he may seek to enforce any and all remedies to which the authority may then be entitled under such contractual agreements.

The executive director may establish such deadlines for determining the ability of the applicant to qualify for an allocation of credits as he shall deem necessary or desirable to allow the authority sufficient time, in the event of a reduction or termination of the applicant's reservation, to reserve such credits to other eligible applications and to allocate such credits pursuant thereto.

Any material changes to the development, as proposed in the application, occurring subsequent to the submission of the application for the credits therefor shall be subject to the prior written approval of the executive director. As a condition to any such approval, the executive director may, as necessary to comply with this chapter, the IRC, the

binding commitment and any other contractual agreement between the authority and the applicant, reduce the amount of credits applied for or reserved or impose additional terms and conditions with respect thereto. If such changes are made without the prior written approval of the executive director, he may terminate or reduce the reservation of such credits, impose additional terms and conditions with respect thereto, seek to enforce any contractual remedies to which the authority may then be entitled, draw on any good faith deposit, or any combination of the foregoing.

In the event that any reservation of credits is terminated or reduced by the executive director under this section, he may reserve, allocate or carry over, as applicable, such credits in such manner as he shall determine consistent with the requirements of the IRC and this chapter.

### § 7. 13 VAC 10-180-70. Allocation of credits.

At such time as one or more of an applicant's buildings or an applicant's development which has received a reservation of credits is (i) placed in service or satisfies the requirements of § 42(h)(1)(E) of the IRC and (ii) meets all of the preallocation requirements of this chapter, the binding commitment and any other applicable contractual agreements between the applicant and the authority, the applicant shall so advise the authority, shall request the allocation of all of the credits so reserved or such portion thereof to which the applicant's buildings or development is then entitled under the IRC, this chapter, the binding commitment and the aforementioned contractual agreements, if any, and shall submit such application, certifications, legal and accounting opinions, evidence as to costs, a breakdown of sources and uses of funds, pro forma financial statements setting forth anticipated cash flows, and other documentation as the executive director shall require in order to determine that the applicant's buildings or development is entitled to such credits as described above. The applicant shall certify to the authority the full extent of all federal, state and local subsidies which apply (or which the applicant expects to apply) with respect to the buildings or the development.

As of the date of allocation of credits to any building or development and as of the date such building or such development is placed in service, the executive director shall determine the amount of credits to be necessary for the financial feasibility of the development and its viability as a qualified low-income housing development throughout the credit period under the IRC. In making such determinations, the executive director shall consider the sources and uses of the funds, the available federal, state and local subsidies committed to the development, the total financing planned for the development as well as the investment proceeds or receipts expected by the authority to be generated with respect to the development and the percentage of the credit dollar amount used for development costs other than the costs of intermediaries. He shall also examine the development's costs, including developer's fees and other amounts in the application, for reasonableness and, if he determines that such costs or other amounts are unreasonably high, he shall reduce them to amounts that he determines, in his sole discretion, to be reasonable. The executive director shall review the applicant's projected rental

income, operating expenses and debt service for the credit period. The executive director may establish such criteria and assumptions as he shall then deem reasonable (or he may apply the criteria and assumptions he established pursuant to §-6 13 VAC 10-180-60) for the purpose of making such determinations, including, without limitation, criteria as to the reasonableness of fees and profits and assumptions as to the amount of net syndication proceeds to be received (based upon such percentage of the credit dollar amount used for development costs, other than the costs of intermediaries, as the executive director shall determine to be reasonable for the proposed development), increases in the market value of the development, and increases in operating expenses, rental income and, in the case of applications without firm financing commitments (as defined in §-6 hereinabove 13 VAC 10-180-60) at fixed interest rates, debt service on the proposed mortgage loan. The amount of credits allocated to the applicant shall in no event exceed such amount as so determined by the executive director by more than a de minimis amount of not more than \$100.

Prior to allocating the credits to an applicant, the executive director shall require the applicant to execute, deliver and record among the land records of the appropriate jurisdiction or jurisdictions an extended low-income housing commitment in accordance with the requirements of the IRC. Such commitment shall require that the applicable fraction (as defined in the IRC) for the buildings for each taxable year in the extended use period (as defined in the IRC) will not be less than the applicable fraction specified in such commitment and which prohibits both (i) the eviction or the termination of tenancy (other than for good cause) of an existing tenant of a low-income unit and (ii) any increase in the gross rent with respect to such unit not otherwise permitted under the IRC. The amount of credits allocated to any building shall not exceed the amount necessary to support such applicable fraction, including any increase thereto pursuant to § 42(f)(3) of the IRC reflected in an amendment to such commitment. The commitment shall provide that the extended use period will end on the day 15 years after the close of the compliance period (as defined in the IRC) or on the last day of any longer period of time specified in the application during which low-income housing units in the development will be occupied by tenants with incomes not in excess of the applicable income limitations; provided, however, that the extended use period for any building shall be subject to termination, in accordance with the IRC, (i) on the date the building is acquired by foreclosure or instrument in lieu thereof unless a determination is made pursuant to the IRC that such acquisition is part of an agreement with the current owner thereof, a purpose of which is to terminate such period or (ii) the last day of the one-year period following the written request by the applicant as specified in the IRC (such period in no event beginning earlier than the end of the fourteenth year of the compliance period) if the authority is unable to present during such one-year period a qualified contract (as defined in the IRC) for the acquisition of the building by any person who will continue to operate the low-income portion thereof as a qualified low-income building. In addition, such termination shall not be construed to permit, prior to close of the three-year period following such termination, the eviction or termination of tenancy of any existing tenant of any low-income housing unit

other than for good cause or any increase in the gross rents over the maximum rent levels then permitted by the IRC with respect to such low-income housing units. Such commitment shall also contain such other terms and conditions as the executive director may deem necessary or appropriate to assure that the applicant and the development conform to the representations, commitments and information in the application and comply with the requirements of the IRC and this chapter. Such commitment shall be a restrictive covenant on the buildings binding on all successors to the applicant and shall be enforceable in any state court of competent jurisdiction by individuals (whether prospective, present or former occupants) who meet the applicable income limitations under the IRC.

In accordance with the IRC, the executive director may, for any calendar year during the project period (as defined in the IRC), allocate credits to a development, as a whole, which contains more than one building. Such an allocation shall apply only to buildings placed in service during or prior to the end of the second calendar year after the calendar year in which such allocation is made, and the portion of such allocation allocated to any building shall be specified not later than the close of the calendar year in which such building is placed in service. Any such allocation shall be subject to satisfaction of all requirements under the IRC.

If the executive director determines that the buildings or development is so entitled to the credits, he shall allocate the credits (or such portion thereof to which he deems the buildings or the development to be entitled) to the applicant's qualified low-income buildings or to the applicant's development in accordance with the requirements of the IRC. If the executive director shall determine that the applicant's buildings or development is not so entitled to the credits, he shall not allocate the credits and shall so notify the applicant within a reasonable time after such determination is made. In the event that any such applicant shall not request an allocation of all of its reserved credits or whose buildings or development shall be deemed by the executive director not to be entitled to any or all of its reserved credits, the executive director may reserve or allocate, as applicable, such unallocated credits to the buildings or developments of other qualified applicants at such time or times and in such manner as he shall determine consistent with the requirements of the IRC and this chapter.

The executive director may prescribe (i) such deadlines for submissions of requests for allocations of credits for any calendar year as he deems necessary or desirable to allow sufficient processing time for the authority to make such allocations within such calendar year and (ii) such deadlines for satisfaction of all preallocation requirements of the IRC the binding commitment, any contractual agreements between the authority and the applicant and this chapter as he deems necessary or desirable to allow the authority sufficient time to allocate to other eligible applicants any credits for which the applicants fail to satisfy such requirements.

The executive director may make the allocation of credits subject to such terms as he may deem necessary or appropriate to assure that the applicant and the development comply with the requirements of the IRC.

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## Proposed Regulations

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The executive director may also (to the extent not already required under ~~§ 6 hereof~~ 13 VAC 10-180-60) require that all applicants make such good faith deposits or execute such contractual agreements with the authority as the executive director may require with respect to the credits, (i) to ensure that the buildings or development are completed in accordance with the binding commitment, including all of the representations made in the application for which points were assigned pursuant to ~~§ 6 hereof~~ 13 VAC 10-180-60 and (ii) only in the case of any buildings or development which are to receive an allocation of credits hereunder and which are to be placed in service in any future year, to assure that the buildings or the development will be placed in service as a qualified low-income housing project (as defined in the IRC) in accordance with the IRC and that the applicant will otherwise comply with all of the requirements under the IRC.

In the event that the executive director determines that a development for which an allocation of credits is made shall not become a qualified low-income housing project (as defined in the IRC) within the time period required by the IRC or the terms of the allocation or any contractual agreements between the applicant and the authority, the executive director may terminate the allocation and rescind the credits in accordance with the IRC and, in addition, may draw on any good faith deposit and enforce any of the authority's rights and remedies under any contractual agreement. An allocation of credits to an applicant may also be cancelled with the mutual consent of such applicant and the executive director. Upon the termination or cancellation of any credits, the executive director may reserve, allocate or carry over, as applicable, such credits in such manner as he shall determine consistent with the requirements of the IRC and this chapter.

~~§ 8.~~ 13 VAC 10-180-80. Reservation and allocation of additional credits.

Prior to the initial determination of the qualified basis (as defined in the IRC) of the qualified low-income buildings of a development pursuant to the IRC, an applicant to whose buildings' credits have been reserved may submit an application for a reservation of additional credits. Subsequent to such initial determination of the qualified basis, the applicant may submit an application for an additional allocation of credits by reason of an increase in qualified basis based on an increase in the number of low-income housing units or in the amount of floor space of the low-income housing units. Any application for an additional allocation of credits shall include such information, opinions, certifications and documentation as the executive director shall require in order to determine that the applicant's buildings or development will be entitled to such additional credits under the IRC and this chapter. The application shall be submitted, reviewed, ranked and selected by the executive director in accordance with the provisions of ~~§ 6 hereof~~ 13 VAC 10-180-60, and any allocation of credits shall be made in accordance with ~~§ 7 hereof~~ 13 VAC 10-180-70. For the purposes of such review, ranking and selection and the determinations to be made by the executive director under the rules and regulations as to the financial feasibility of the development and its viability as a qualified low-income development during the credit period, the amount of credits previously reserved to the application or allocated to the

buildings or development (or, in the case of any development or building to be financed by certain tax-exempt bonds in an amount so as not to require an allocation of credits hereunder, the amount of credit which may be claimed by the applicant) shall be included with the amount of such credits so requested.

~~§ 9.~~ 13 VAC 10-180-90. Monitoring for IRS compliance.

A. Federal law requires the authority to monitor developments receiving credits for compliance with the requirements of § 42 of the IRC and notify the IRS of any noncompliance of which it becomes aware. Compliance with the requirements of § 42 of the IRC is the responsibility of the owner of the building for which the credit is allowable. The monitoring requirements set forth hereinbelow are to qualify the authority's allocation plan of credits. The authority's obligation to monitor for compliance with the requirements of § 42 of the IRC does not make the authority liable for an owner's noncompliance, nor does the authority's failure to discover any noncompliance by an owner excuse such noncompliance.

B. The owner of a low-income housing development must keep records for each qualified low-income building in the development that show for each year in the compliance period:

1. The total number of residential rental units in the building (including the number of bedrooms and the size in square feet of each residential rental unit).
2. The percentage of residential rental units in the building that are low-income units.
3. The rent charged on each residential rental unit in the building (including any utility allowances).
4. The number of occupants in each low-income unit, but only if rent is determined by the number of occupants in each unit under § 42(g)(2) of IRC (as in effect before the amendments made by the Revenue Reconciliation Act of 1989).
5. The low-income unit vacancies in the building and information that shows when, and to whom, the next available units were rented.
6. The annual income certification of each low-income tenant per unit.
7. Documentation to support each low-income tenant's income certification (for example, a copy of the tenant's federal income tax return, Forms W-2, or verifications of income from third parties such as employers or state agencies paying unemployment compensation). Tenant income is calculated in a manner consistent with the determination of annual income under section 8 of the United States Housing Act of 1937, 42 USC § 1401 *et seq.* ("section 8"), not in accordance with the determination of gross income for federal income tax liability. In the case of a tenant receiving housing assistance payments under section 8, the documentation requirement of this subdivision 7 is satisfied if the public housing authority provides a statement to the building owner declaring that the tenant's income does not

exceed the applicable income limit under § 42(g) of the IRC.

8. The eligible basis and qualified basis of the building at the end of the first year of the credit period.

9. The character and use of the nonresidential portion of the building included in the building's eligible basis under § 42(d) of the IRC (e.g., tenant facilities that are available on a comparable basis to all tenants and for which no separate fee is charged for use of the facilities, or facilities reasonably required by the development).

The owner of a low-income housing development must retain the records described in this subsection B for at least six years after the due date (with extensions) for filing the federal income tax return for that year. The records for the first year of the credit period, however, must be retained for at least six years beyond the due date (with extensions) for filing the federal income tax return for the last year of the compliance period of the building.

C. The owner of a low-income housing development must certify annually to the authority, on the form prescribed by the authority, that, for the preceding 12-month period:

1. The development met the requirements of the 20-50 test under § 42(g)(1)(A) of the IRC or the 40-60 test under § 42(g)(2)(B) of the IRC, whichever minimum set-aside test was applicable to the development.

2. There was no change in the applicable fraction (as defined in § 42(c)(1)(B) of the IRC) of any building in the development, or that there was a change, and a description of the change.

3. The owner has received an annual income certification from each low-income tenant, and documentation to support that certification; or, in the case of a tenant receiving section 8 housing assistance payments, the statement from a public housing authority described in subdivision 7 of subsection B.

4. Each low-income unit in the development was rent-restricted under § 42(g)(2) of the IRC.

5. All units in the development were for use by the general public and used on a nontransient basis (except for transitional housing for the homeless provided under § 42(i)(3)(B)(iii) of the IRC).

6. Each building in the development was suitable for occupancy, taking into account local health, safety, and building codes.

7. There was no change in the eligible basis (as defined in § 42(d) of the IRC) of any building in the development, or if there was a change, the nature of the change (e.g., a common area has become commercial space, or a fee is now charged for a tenant facility formerly provided without charge).

8. All tenant facilities included in the eligible basis under § 42(d) of the IRC of any building in the development, such as swimming pools, other recreational facilities, and parking areas, were provided on a comparable basis without charge to all tenants in the building.

9. If a low-income unit in the development became vacant during the year, that reasonable attempts were or are being made to rent that unit or the next available unit of comparable or smaller size to tenants having a qualifying income before any units in the development were or will be rented to tenants not having a qualifying income.

10. If the income of tenants of a low-income unit in the development increased above the limit allowed in § 42(g)(2)(D)(ii) of the IRC, the next available unit of comparable or smaller size in the development was or will be rented to tenants having a qualifying income.

11. An extended low-income housing commitment as described in § 42(h)(6) of the IRC was in effect (for buildings subject to § 7108(c)(1) of the Revenue Reconciliation Act of 1989).

Such certifications shall be made annually covering each year of the compliance period and must be made under the penalty of perjury.

In addition, each owner of a low-income housing development must provide to the authority, on a form prescribed by the authority, a certification containing such information necessary for the Commonwealth to determine the eligibility of tax credits for the first year of the development's compliance period.

D. The authority will review each certification set forth in subsection C of this section for compliance with the requirements of § 42 of the IRC. Also, the authority will inspect at least 20% of low-income housing developments each year and will inspect the low-income certification, the documentation the owner has received to support that certification, and the rent record for each low-income tenant in at least 20% of the low-income units in those developments. The authority will determine which low-income housing developments will be reviewed in a particular year and which tenant's records are to be inspected.

In addition, the authority, at its option, may request an owner of a low-income housing development not selected for the review procedure set forth above in a particular year to submit to the authority for compliance review copies of the annual income certifications, the documentation such owner has received to support those certifications and the rent record for each low-income tenant of the low-income units in their development.

All low-income housing developments may be subject to review at any time during the compliance period.

E. The authority has the right to perform, and each owner of a development receiving credits shall permit the performance of, an on-site inspection of any low-income housing development through the end of the compliance period of the building. The inspection provision of this subsection E is separate from the review of low-income certifications, supporting documents and rent records under subsection D of this section.

The owner of a low-income housing development should notify the authority when the development is placed in service. The authority, at its sole discretion, reserves the



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## Proposed Regulations

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right to inspect the property prior to issuing IRS Form 8609 to verify that the development conforms to the representations made in the Application for Reservation and Application for Allocation.

F. The authority will provide written notice to the owner of a low-income housing development if the authority does not receive the certification described in subsection C of this section, or does not receive or is not permitted to inspect the tenant income certifications, supporting documentation, and rent records described in subsection D of this section or discovers by inspection, review, or in some other manner, that the development is not in compliance with the provisions of § 42 of the IRC.

Such written notice will set forth a correction period which shall be that period specified by the authority during which an owner must supply any missing certifications and bring the development into compliance with the provisions of § 42 of the IRC. The authority will set the correction period for a time not to exceed 90 days from the date of such notice to the owner. The authority may extend the correction period for up to 6 months, but only if the authority determines there is good cause for granting the extension.

The authority will file Form 8823, "Low-Income Housing Credit Agencies Report of Noncompliance," with the IRS no later than 45 days after the end of the correction period (as described above, including any permitted extensions) and no earlier than the end of the correction period, whether or not the noncompliance or failure to certify is corrected. The authority must explain on Form 8823 the nature of the noncompliance or failure to certify and indicate whether the owner has corrected the noncompliance or failure to certify. Any change in either the applicable fraction or eligible basis under subdivisions 2 and 7 of subsection C of this section, respectively, that results in a decrease in the qualified basis of the development under § 42(c)(1)(A) of the IRC is noncompliance that must be reported to the IRS under this subsection F. If the authority reports on Form 8823 that a building is entirely out of compliance and will not be in compliance at any time in the future, the authority need not file Form 8823 in subsequent years to report that building's noncompliance.

The authority will retain records of noncompliance or failure to certify for six years beyond the authority's filing of the respective Form 8823. In all other cases, the authority must retain the certifications and records described in subsection C of this section for three years from the end of the calendar year the authority receives the certifications and records.

G. If the authority decides to enter into the agreements described below, the review requirements under subsection D of this section will not require owners to submit, and the authority is not required to review, the tenant income certifications, supporting documentation and rent records for buildings financed by the Rural Economic Community Development (RECD) under the § 515 program, or buildings of which 50% or more of the aggregate basis (taking into account the building and the land) is financed with the proceeds of obligations the interest on which is exempt from tax under § 103 (tax-exempt bonds). In order for a monitoring procedure to except these buildings, the authority must enter into an agreement with the RECD or tax-exempt bond issuer.

Under the agreement, the RECD or tax-exempt bond issuer must agree to provide information concerning the income and rent of the tenants in the building to the authority. The authority may assume the accuracy of the information provided by RECD or the tax-exempt bond issuer without verification. The authority will review the information and determine that the income limitation and rent restriction of § 42(g)(1) and (2) of the IRC are met. However, if the information provided by the RECD or tax-exempt bond issuer is not sufficient for the authority to make this determination, the authority will request the necessary additional income or rent information from the owner of the buildings. For example, because RECD determines tenant eligibility based on its definition of "adjusted annual income," rather than "annual income" as defined under section 8, the authority may have to calculate the tenant's income for purposes of § 42 of the IRC and may need to request additional income information from the owner.

H. The owners of low-income housing developments must pay to the authority such fees in such amounts and at such times as the authority shall, in its sole discretion, reasonably require the owners to pay in order to reimburse the authority for the costs of monitoring compliance with § 42 of the IRC.

~~§-40- 13 VAC 10-180-100.~~ Tax-exempt bonds.

In the case of any buildings or development to be financed by certain tax-exempt bonds of the authority, or an issuer other than the authority, in such amount so as not to require under the IRC an allocation of credits hereunder, the owner of the buildings or development shall submit to the authority, in a timely fashion, an application for allocation of credits and supporting information and documents as described in ~~§-7 hereof 13 VAC 10-180-70,~~ and such other information and documents as the executive director may require. The executive director shall determine, in accordance with the IRC, whether such buildings or development satisfies the requirements for allocation of credits hereunder. For the purposes of such determination, buildings or a development shall be deemed to satisfy the requirements for allocation of credits hereunder if (i) the application submitted to the authority in connection therewith is assigned not fewer than the threshold number of points (exclusive of bonus points) under the ranking system described in ~~§-6 hereof 13 VAC 10-180-60,~~ and (ii) the executive director shall determine that the buildings or development shall receive an amount of credits necessary for the financial feasibility of the development and its viability as a qualified low-income housing development throughout the credit period under the IRC, and more fully described in ~~§-7 hereof 13 VAC 10-180-70.~~ The owner of the buildings or development shall, as required by the executive director, pay such fees as described in ~~§-5 hereof 13 VAC 10-180-50,~~ and such good faith deposits as described in ~~§-7 hereof 13 VAC 10-180-70.~~ Furthermore, the owner of the buildings or development shall satisfy all other requirements for an allocation as required by the executive director, including execution, delivery and recordation of an extended low-income housing commitment as more fully described in ~~§-7 hereof 13 VAC 10-180-70~~ and all requirements for compliance monitoring as described in ~~§-9 hereof 13 VAC 10-180-90.~~

Ex. A

COMMONWEALTH OF VIRGINIA  
LOW-INCOME HOUSING TAX CREDIT PROGRAM

1995 ANNUAL OWNER'S CERTIFICATION  
(please do not retype form)

Date Due: \_\_\_\_\_, 1996  
Fees Submitted with Report (\$15 per low-income unit allocation): \_\_\_\_\_  
Project Name: \_\_\_\_\_  
Project Address: \_\_\_\_\_  
Owner: \_\_\_\_\_  
Bldg. Identification #(s): (from IRS Form 8609) \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

(if more space is needed, attach extra sheets)

Initial each certification, indicating your acceptance and verification of each statement: for the 12-month period of January 1, 1995 to December 31, 1995, I/we hereby certify that:

- \_\_\_\_\_ a. The project met the requirements of the 20-50 test under section 42(g)(1)(A) or the 40-60 test under section 42(g)(2)(B), whichever minimum set-aside test was applicable to the project;
- \_\_\_\_\_ b. There was no change in the applicable fraction (as defined in section 42(c)(1)(B)) of any building in the project, or that there was a change, and a description of the change \_\_\_\_\_;
- \_\_\_\_\_ c. The owner or his representative has received an annual income certification from each low-income tenant, and documentation to support that certification; or, in the case of a tenant receiving Section 8 housing assistance payments, an acceptable alternative, is a statement from a public housing authority declaring that the tenant's income does not exceed the applicable income limit under section 42(g);
- \_\_\_\_\_ d. Each low-income unit in the project was rent-restricted under section 42(g)(2);
- \_\_\_\_\_ e. All units in the project were for use by the general public and used on a nontransient basis (except for transitional housing for the homeless provided under section 42(i)(3)(B)(iii));
- \_\_\_\_\_ f. Each building in the project was suitable for occupancy, taking into account local health, safety, and building codes;
- \_\_\_\_\_ g. There was no change in the eligible basis (as defined in section 43(d)) of any building in the project, or that there was a change, and the nature of the change \_\_\_\_\_;
- \_\_\_\_\_ h. All tenant facilities included in the eligible basis under section 42(d) of any building in the project were provided on a comparable basis without charge to all tenants in the building;
- \_\_\_\_\_ i. If a low-income unit in the project became vacant during the year, that reasonable attempts were or are being made to rent that unit or the next available unit of comparable or smaller size to tenants having a qualifying income before any units in the project were or will be rented to tenants not having a qualifying income;

1/96

- \_\_\_\_\_ j. If the income of tenants of a low-income unit in the project increased above the limit allowed in section 42(g)(2)(D)(ii), the next available unit of comparable or smaller size in the project was or will be rented to tenants having a qualifying income; and
- \_\_\_\_\_ k. An extended low-income housing commitment as described in section 42(h)(6) was in effect (for buildings receiving low-income housing tax credits after January 1, 1990).

The undersigned certifies under penalty of perjury that the information on this form and the certifications herein have been verified as required. The undersigned certifies that the documentation to support the information herein has been received and such documentation shall be kept for the minimum amount of time required under law by the Internal Revenue Service. The undersigned understands that any non-compliance with Section 42 of the Internal Revenue Code will be reported to the Internal Revenue Service in accordance with their published regulations on compliance monitoring.

Report submitted by:

\_\_\_\_\_  
Owner - print name  
(Management Agents should not sign)  
  
\_\_\_\_\_  
Signature  
  
\_\_\_\_\_  
Title  
  
\_\_\_\_\_  
Date  
  
\_\_\_\_\_  
Owner Address  
  
\_\_\_\_\_  
Telephone/Fax

\_\_\_\_\_  
City/County of \_\_\_\_\_ of \_\_\_\_\_, To-Wit:  
The foregoing Certification was acknowledged before me this \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_, by \_\_\_\_\_ of \_\_\_\_\_ the \_\_\_\_\_ of \_\_\_\_\_.  
My commission expires: \_\_\_\_\_

[ S E A L ]

\_\_\_\_\_  
Notary Public

1/96



# Proposed Regulations

Ex. B

## COMMONWEALTH OF VIRGINIA LOW-INCOME HOUSING TAX CREDIT PROGRAM

### PROJECT INFORMATION REPORT

Complete and mail to: Cara A. Wallo, Tax Credit Compliance Officer, VHDA, 601 South Belvidere Street,  
Richmond, VA 23220. Due date: \_\_\_\_\_, 1996.

Property Name: \_\_\_\_\_  
Check box that applies:  
 I am not yet renting units in this property (anticipated date to begin renting: \_\_\_\_\_)  
 I am renting units in this property but am not claiming credits for 1995  
 I am renting units in this property and am claiming partial credits for 1995  
 The property is fully in service and I am claiming credits for 1995  
\_\_\_\_\_ Total Units in Property  
\_\_\_\_\_ Total LIHTC Units in Property

Provide the following information only if  
(i) '95 is your first year placed in service (claiming credits) or  
(ii) there has been a change from the '94 monitoring year

Owner Name: \_\_\_\_\_  
Owner Address: \_\_\_\_\_

Owner Employer ID/Taxpayer ID Number: \_\_\_\_\_  
Owner Phone & Fax #'s: \_\_\_\_\_

Property Address: \_\_\_\_\_  
Phone & Fax #'s at the Property: \_\_\_\_\_

Contact Person (if different from Owner): \_\_\_\_\_  
Contact Person's Address: \_\_\_\_\_  
Contact Person's Phone & Fax #'s: \_\_\_\_\_

Income election chosen: 40% at 60% \_\_\_\_\_ or 20% at 50% \_\_\_\_\_ Other--list: \_\_\_\_\_

Check which utilities residents pay to a third party:  
water? \_\_\_\_\_ sewer? \_\_\_\_\_ gas? \_\_\_\_\_ electricity? \_\_\_\_\_ garbage? \_\_\_\_\_  
(Note: If resident pays any utilities, you must subtract an allowance from the gross max. rent for the unit.)  
Date the utility allowance estimate was reviewed in 1995: \_\_\_\_\_

State the character and use of the nonresidential portions of each building in the project that are included in the  
building's eligible basis that are available on a comparable basis to all tenants and for which no separate fee is  
charged for use of the facilities (if different for different buildings, please indicate): \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

List any subsidies on the property: \_\_\_\_\_

Monitoring Year: 1995  
\_\_\_\_\_  
Signature  
\_\_\_\_\_  
Date  
\_\_\_\_\_

COMPLETE THIS FORM ONLY IF THIS IS THE FIRST YEAR OF YOUR CREDIT PERIOD

COMMONWEALTH OF VIRGINIA  
LOW-INCOME HOUSING TAX CREDIT PROGRAM

BUILDING INFORMATION REPORT

Project Name \_\_\_\_\_  
Monitoring Year: 1995

Page \_\_\_\_\_ of \_\_\_\_\_ Pages  
Total Units in Property: \_\_\_\_\_  
Total LIHTC Units in Property: \_\_\_\_\_

Building Address	BIN Number	Eligible Basis - Acquisition	Eligible Basis - Rehab	Eligible Basis - New Construction	Qualified Basis - Acquisition	Qualified Basis - Rehab	Qualified Basis - New Construction	Acquisition Placed in Service Date	New/Rehab Placed in Service Date	In Service Election Date (if applicable)	Credits #'s Allocated - Acquisition	Credits #'s Allocated - Rehab	Credits #'s Allocated - New Construction	Actual info from first credit year					
														Total Units per Building	No. of Low Income Units in Bldg.	Percent of Units Low Income in Bldg.	Total Sq. Ft. in Building	Total Low Income Sq. Ft. in Bldg.	Percent of Sq. Ft. Low Income

Under penalty of perjury, I declare that I have examined this form and to the best of my knowledge and belief, it is true, correct and complete.

Signature: \_\_\_\_\_  
Date: \_\_\_\_\_

Proposed Regulations

EX. C

COMMONWEALTH OF VIRGINIA  
LOW-INCOME HOUSING TAX CREDIT PROGRAM  
OCCUPANCY STATUS REPORT

Project Name \_\_\_\_\_  
Bldg. ID # \_\_\_\_\_  
Monitoring Year **1995**

Page \_\_\_\_ of \_\_\_\_ Pages  
Total Units in this Building \_\_\_\_\_  
Total LIHTC Units in this Building \_\_\_\_\_

Unit Number	Number of BR's	Gross Square Feet	LIHTC Unit ("Y" or "N")	At 50% or 60% of Median Income?	Move-Out Date of Prev. Resident	Household Name	Family Size @ Move-in	Initial Move-in Date	Initial Annual Income	Family Size at 12/31/95	Last Income Recert Date in 1995	Income on Last Recert Date	Res-Paid Monthly Rent @ 12/31/95	Type of Subsidy (if any)	Utility Allowance at 12/31/95

Under penalty of perjury, I declare that I have examined this form and to the best of my knowledge and belief, it is true, correct and complete.

Signature: \_\_\_\_\_  
Date: \_\_\_\_\_

Jan 95

Ex. D

**G. Building by Building Information** Must complete.

Qualified basis must be determined on a building-by-building basis. Complete the section below. Building street addresses are required by the IRS.

Building No.	Street Address	30% Present Value Credit for Acquisition			30% Present Value Credit for Construction			70% Present Value Credit			Show basis under which area provisions of Section 453(b) (2)(A) apply (Specify by 100% basis)	Y-1993 previously placed in service
		Estimate Qualified Basis	Actual or Anticipated In-Service Date	Applicable Percentage	Credit Amount	Estimate Qualified Basis	Actual or Anticipated In-Service Date	Applicable Percentage	Credit Amount	Actual or Anticipated In-Service Date		
1												
2												
3												
4												
5												
6												
7												
8												
9												
10												
11												
12												
13												
14												
15												
16												
17												
18												
19												
		Qualified Basis Totals (must agree with VIII A(1))										
		Credit Amount Totals (must agree with VIII A(2))										

# Proposed Regulations

## DEPARTMENT OF MINES, MINERALS AND ENERGY

### Board of Mineral Mining Examiners

#### REPRINT

**EDITOR'S NOTICE:** The following regulation is being reprinted to include the economic impact analysis prepared by the Department of Planning and Budget and the agency's response, which were inadvertently omitted from publication in 12:1 VA.R. 70-76 October 2, 1995. There are no changes to the text of the proposed regulation from the text previously published.

**Title of Regulation:** VR 480-04-3. Certification Requirements for Mineral Miners.

**Statutory Authority:** § 45.1-161.46 of the Code of Virginia.

**Public Comments:** Written comments may be submitted until December 1, 1995.

(See Calendar of Events section for additional information)

**Basis:** This regulation is being promulgated under the authority of § 45.1-161.46 of the Code of Virginia. The section sets forth the authority of the Board of Mineral Mining Examiners to develop a regulation for the certification of mineral miners and meet the requirements of the Virginia Mine Safety Act.

**Purpose:** The purpose of this regulation is to set forth requirements for the certification of persons performing specialized tasks in mineral mines in order to protect the health, safety and welfare of persons in and around mineral mines.

**Substance:** The regulation sets forth requirements for the certification of mineral miners. This includes requirements for initial certification, examinations, reciprocity, renewal and experience, and education requirements for each specific type of certification. The regulation also establishes new requirements for a general mineral miner certification mandated by the Virginia Mine Safety Act.

**Issues:** The primary advantage to the public in implementing this regulation is that it serves to protect the health, safety and welfare of persons on mine sites and persons in the vicinity of mineral mines. Improper actions by mineral miners are a significant cause of accidents and fatalities in work that is inherently dangerous. Likewise, use of explosives and other mining practices may cause injuries, fatalities and property damage near the mine site. Certification ensures that mineral miners have the knowledge and experience to complete their tasks safely and efficiently. The advantage to the Commonwealth is that this action will serve to separate the certification requirements for the coal and mineral mining industries and allow for more efficient and effective administration of the regulation program. There are no disadvantages associated with this regulation from the agency's or public's standpoint.

**Estimated Impact:** The regulation will affect those mineral mine workers seeking certification and renewal of certification, and new workers who are required to obtain the general mineral miner certification. It will also affect the

companies who employ the workers and the people who live or work in the vicinity of the mine.

The Division of Mineral Mining (DMM) estimates that approximately 1,375 certified persons are actively working and would be renewing their certification under the requirements in the new Mine Safety Act. This means the division would be renewing approximately 275-300 certifications a year over the next five years as the requirements are phased in over this period. It is estimated that 80% (240 workers) would opt to take the class and 20% (60) would choose the examination. There is no charge to certificate holders to take the eight hour class, though the employer may pay for him to attend. If training was paid, it is estimated that this would cost \$11 per hour per person or \$88. If the certificate holder chose to renew through the examination, it would be less expensive for the employer, as the examination would take no more than half a day.

It is estimated that 400 workers will be entering the mineral mining industry each year and applying for the general mineral miner certification. Employers may either provide this training themselves or take advantage of training offered by DMM. The longest that the required training on first aid and mineral mining laws and regulations would last is eight hours. Based on this estimate, and an \$8 an hour wage for these workers, employers who paid for this training would pay \$64. Some workers, however, would not be employed at the time of training, others would already meet the first aid requirements and not have to take all of the training, and others may be offered training that covers the required information in a shorter period of time. In addition, some workers may choose to take an exam in lieu of training which would take less time than any training. Other cost considerations are that the employer would need to cover the cost of a trainer to provide the training and devise a test if he chose to offer this as an option to his employee. These costs will vary depending on the salary of the trainer and the length and type of training provided.

The record keeping requirements for both of these new legal requirements are minimal for employers. The only information that might not be kept ordinarily as part of personnel records would be the date that workers entered the mineral mining industry, which is needed to determine if they would qualify for an exemption for the general mineral miner certification, and a copy of the completed forms submitted to DMM and a record of the certification received.

These requirements are also minimal, both in terms of time and money, for workers. Illiterate workers are even given the option of taking an oral exam for the general mineral miner certification.

The cost of administering the renewal and general mineral miner program will be paid for largely by the existing appropriation to the agency, but also by the \$10 certification fee. Mineral mines are located throughout the state so all localities will be affected by the regulation.

The cost of the regulations for other certificate holders will not be different than it is under the current regulation.

## Department of Planning and Budget's Economic Impact Analysis:

The Department of Planning and Budget (DPB) has analyzed the economic impact of this proposed regulation in accordance with § 9-6.14:7.1 G of the Administrative Process Act and Executive Order Number 13 (94). Section 9-6.14:7.1 G requires that such economic impact analyses include, but need not be limited to, the projected number of businesses or other entities to whom the regulation would apply; the identity of any localities and types of businesses or other entities particularly affected; the projected number of persons and employment positions to be affected; and the projected costs to affected businesses or entities to implement or comply with the regulation. The analysis presented below represents DPB's best estimate of these economic impacts.

**Summary of the Proposed Regulation.** Prior to legislation enacted by the 1994 General Assembly, coal and mineral miners were both certified by the Board of Examiners. The new legislation created separate certification processes for mineral and coal miners, and placed responsibility for these certification processes under distinct boards -- the Board of Mineral Mining Examiners and the Board of Coal Mining Examiners. The proposed regulation establishes requirements for the certification of mineral miners.

**Estimated Economic Impact.** There are three primary economic impacts of the proposed mineral mining certification requirements. The first is the cost that such requirements impose on entrants into the profession. With regard to the proposed regulation, these costs are fairly trivial. Applicants for certification are required by statute to pay a \$10 examination fee. In addition, some applicants will have to undergo training. This training, however, involves a single class of no longer than eight hours. For applicants seeking certification renewal, the cost of the class is borne by the Division of Mineral Mining (DMM). For new applicants for certification, the cost is either borne by DMM or the employer. In all cases these costs are quite small and unlikely to have a significant effect on the number of individuals applying for certification.

The second economic impact of the proposed mineral mining certification requirements is the increased benefit associated with improved protection of the health, safety, and welfare of mineral miners and persons in the vicinity of mine sites. Although the exact magnitude of this benefit would be costly to quantify, it is the opinion of DPB that it certainly outweighs the minimal costs imposed by the proposed regulation.

The third economic impact of the proposed mineral mining certification requirements is the cost associated with administering the program. These costs will be paid for largely out of the existing appropriation to the agency, and also by the \$10 examination fee.

**Projected Number of Businesses or Other Entities to Whom the Regulation will Apply.** The proposed regulation will apply to the approximately 325 mineral mining operators in Virginia. In addition, the proposed regulation will apply to the approximately 1,375 active certified miners who are likely to seek certification renewal, and the projected 400 individuals each year who will apply for new certificates.

**Localities and Types of Businesses Particularly Affected.** No localities are particularly affected by this proposed regulation. Mineral mining operations exist in almost every county in Virginia. Mineral miners and mineral mining operations are particularly affected.

**Projected Number of Persons and Employment Positions Affected.** The regulation is not anticipated to have a measurable effect on employment.

**Projected Costs to Affected Businesses or Entities.** The total projected costs to persons seeking certification as mineral miners in Virginia are anticipated to be fairly trivial --- somewhere in the neighborhood of \$74 or less per person. This cost includes the \$10 examination fee borne by the applicant, and the opportunity cost associated with attending an eight hour preparatory class (*i.e.*, the \$8 per hour average going wage for these workers times eight hours) which will be borne by the employer, if the employee is compensated for attending the class, or by the employee, as forgone income if the employee is not compensated for attending the class.

**Agency's Response to Department of Planning and Budget's Economic Impact Analysis:** The Department of Mines, Minerals and Energy (DMME) has reviewed the Department of Planning and Budget's economic impact analysis of the proposed VR 480-04-03, Certification Requirements for Mineral Miners. DMME agrees with the analysis.

### Summary:

*The Board of Mineral Mining Examiners is promulgating a permanent regulation for the certification of mineral miners performing specialized tasks at a mineral mine. The regulation implements § 45.1-161.46 of the Code of Virginia and will replace the Board of Examiners regulation VR 480-04-2 as it pertains to mineral miners.*

*The regulation sets forth requirements for mineral miners apart from coal miners as mandated by the Virginia Mine Safety Act which became effective on July 1, 1994. In addition to establishing the new general mineral miner certification requirements, the regulation includes requirements for initial certification, examinations, reciprocity, renewal and experience and education requirements for each specific type of certification. The board will no longer issue certifications for first aid instructor and advanced first aid.*

VR 480-04-3. Certification Requirements for Mineral Miners.

### PART I.

#### GENERAL AND SPECIFIC REQUIREMENTS.

#### § 1.1. Initial certification requirements.

##### A. Applicants shall submit:

1. The Application for Certification Examination form (BMME-1).
2. A copy of all degrees required for certification and a valid first aid certificate or card or as noted in Part II, Minimum Certification Requirements. When not otherwise specified, first aid cards shall be issued by an organization that uses nationally recognized standards and is approved by the Division of Mineral Mining

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## Proposed Regulations

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(DMM), e.g., American Red Cross and National Safety Council.

3. A \$10 fee for each examination application received at least five working days prior to an examination. Cash will be accepted if paying in person at a Department of Mines, Minerals and Energy (DMME) office.

4. A Verification of Work Experience form (BMME-2) and documentation of equivalent work experience for approval by DMM, if required for the certification. This form shall be signed by a company official who is knowledgeable of the experience of the applicant and shall be notarized.

B. Applicants shall fulfill the requirements of § 1.1 and accumulate the required years of experience within five years of taking the examination or start the process over including payment of fee.

C. Applicants for the general mineral miner certification shall submit a \$10 processing fee with their application.

D. Persons requesting replacement of a lost or destroyed certificate shall submit a letter to DMM with a \$1.00 fee. The fee shall be in the form of a certified check, cashier's check or money order made payable to the Treasurer of Virginia per § 45.1-161.50 of the Code of Virginia. Cash will be accepted if paying in person at a DMME office.

### § 1.2. Examination requirements.

A. All applicants for certification shall take a written examination except candidates for the general mineral miner certification, and electrical certification applicants who hold a journeyman card or those applicants with comparable work experience acceptable to DMM under § 2.6 A. Applicants for the foreman certification shall score at least 85% and applicants for other certifications shall score at least 80% on each section of the written examination.

B. If all or part of an examination is failed, the applicant must pay the examination fee and retake the failed section or sections within 90 days to continue the certification process. If a section of the examination is failed a second time, the applicant must pay the fee and retake the entire examination. If the examination is failed on the third try, the applicant must pay the fee and wait the longer of 90 days from the re-examination date or one year from the initial examination date before retaking the entire exam. After the third attempt, the application cycle starts over.

### § 1.3. Reciprocity requirements.

Reciprocity shall be available for certified persons in other states as provided for in § 45.1-161.51 of the Code of Virginia. Applicants for reciprocity must submit a current copy of their pocket card or certificate, examination grades, and documentation of equivalent work experience for review and approval by the Board of Mineral Mining Examiners (BMME).

### § 1.4. Renewal requirements.

A. Certificates issued by the Board of Examiners (BOE) prior to July 1, 1994, shall be accepted as valid until the BMME issues a certificate to replace the BOE certificate.

The BMME will issue replacement certificates with expiration dates spread between 1996 until 1999. No BOE certificate shall be valid after July 1, 1999.

B. DMM will send renewal notices to the last known address of the certificate holder at least 180 days prior to the expiration of the certificate. Certified persons shall apply for renewal of certificates by submitting the Application for Renewal form (BMME-3) and the Verification of Work Experience form (BMME-2) to DMM no more than 180 days prior to the expiration of their certificate. The forms shall be submitted in time to be received at least five working days prior to the date of the examination or refresher class.

C. Certified persons, except mine inspectors, who have worked a cumulative minimum of 24 months in the last five years, shall select one of two options to renew their certificates; either take an examination or complete a refresher class on any changes in regulations and law since the initial certification or the certificate was last renewed. No examination or class shall be required if there have been no such changes.

D. Certified persons shall take the examination described in § 1.2 if their certificate has expired, they have not worked in the area for which they are certified for a cumulative minimum of 24 months in the last five years, or DMM has issued the individual violations which have not been corrected.

E. Successful completion of the mine inspector renewal shall suffice for renewing the mine foreman certification.

F. Applicants for renewal of certifications shall hold a valid first aid certificate or card to renew their certification.

G. Applicants shall submit a \$10 fee for the examination or the refresher class which shall be received at least five working days prior to the examination or class. Cash will be accepted if paying in person at a DMME office.

## PART II.

### MINIMUM CERTIFICATION REQUIREMENTS.

#### § 2.1. Underground foreman.

A. Applicants for certification as an underground foreman shall possess five years mining experience at an underground mineral mine or equivalent work experience approved by DMM.

B. Applicants may be given three years credit for a surface foreman certificate or bachelor degree in mining engineering, mining technology, civil engineering or geology, or two years credit for an associate degree in mining technology or civil technology.

C. Applicants shall possess a valid first aid certificate which represents completion of an approved first aid course.

#### § 2.2. Surface foreman.

A. Applicants for certification as a surface foreman shall possess five years mining experience, at least one year at a surface mineral mine, or equivalent work experience approved by DMM.

B. Applicants may be given three years credit for a bachelor degree in mining engineering, mining technology, civil engineering, civil technology or geology, or two years credit for an associate degree in mining technology or civil technology.

C. Applicants shall possess a valid first aid certificate which represents completion of an approved first aid course.

§ 2.3. Surface foreman, open pit (not applicable to mines with on-site blasting).

A. Surface foreman, open pit applicants shall possess five years mining experience with at least one year at a surface mineral mine, or equivalent work experience approved by DMM.

B. Applicants may be given three years credit for a bachelor degree in mining engineering, mining technology, civil engineering, civil technology or geology, or two years credit for an associate degree in mining technology or civil technology.

C. Applicants shall possess a valid first aid certificate which represents completion of an approved first aid course.

§ 2.4. Surface blaster.

A. Surface blaster applicants shall possess one year blasting experience on a surface mineral mine under the supervision of a certified blaster or possess equivalent work experience approved by DMM.

B. Applicants shall possess a valid Mine Safety and Health Administration (MSHA) 5000-23 form showing training in first aid.

§ 2.5. Underground mining blaster.

A. Underground mining blaster applicants shall possess two years of work experience in an underground mine with at least one year handling and using explosives underground or possess equivalent work experience approved by DMM.

B. Applicants shall possess a valid MSHA 5000-23 form showing training in first aid.

§ 2.6. Mineral mining electrician (electrical repairman).

A. Applicants for certification as a mineral mining electrician shall hold a valid journeyman electrical certification issued under Department of Professional and Occupational Regulation, Board for Contractors' criteria or possess equivalent work experience approved by DMM.

B. Applicants shall submit documentation of training as required by 30 CFR Part 48 or provide evidence of their knowledge of safe working practices on the mine site as approved by DMM.

§ 2.7. Mine inspector.

In addition to the requirements set forth in § 45.1-161.19 of the Code of Virginia, mine inspector applicants shall demonstrate knowledge and competence in those areas specified in § 45.1-161.20 of the Code of Virginia through the examination process. A certificate will not be issued until an applicant is employed by DMME.

§ 2.8. General mineral miner.

A. As set forth in § 45.1-161.55 of the Code of Virginia, miners commencing work after January 1, 1996, shall have a general mineral miner certification. For the purposes of these regulations, "commencing work" means after employment but before beginning job duties. Persons excluded from the general mineral miner certification are those involved in delivery, office work, maintenance, service and construction work, other than the extraction and processing of minerals, who are contracted by the mine operator. Hazard training as required by 30 CFR Part 48 shall be provided to these persons.

B. Applicants shall complete certification training in first aid and mineral mining regulations and law which is conducted by a certified foreman or training instructor approved by DMM. Training shall include the following topics, subtopics and practical applications:

1. First aid training shall convey a knowledge of first aid practices including identification of trauma symptoms, recognition and treatment of external and internal bleeding, shock, fractures, and exposure to extreme heat or cold. To prove to the BMME that an applicant has knowledge of first aid practices, the training shall include a demonstration of skills or passing a written examination, as evidenced by the instructor certification as contained in the BMME-4 form.

2. Law and regulation training shall convey highlights of the mineral mine safety laws of Virginia and the safety and health regulations of Virginia. Specifically, information shall be provided on miner responsibilities and accountability, certification requirements, violations, penalties, appeals and reporting violations to DMM. To prove to the BMME that an applicant has knowledge of the mineral mine safety laws of Virginia and the safety and health regulations, the training shall include a demonstration of skills or passing a written examination, as evidenced by the instructor certification as contained in the BMME-4 form.

C. The trainer will certify to the BMME that the training and demonstrations required by § 45.1-161.55 B of the Code of Virginia and this section have occurred by completing the BMME-4 form.

D. Applicants who hold a valid first aid card or certificate as noted in § 1.1 shall be considered to have met the first aid requirements.

E. Applicants who have completed training may commence work and shall be considered provisionally certified for up to 60 days from the date the instructor completes the training.

F. The instructor shall submit a BMME-4 form and the \$10 fee for each applicant who completes the training, together with a class roster of all persons who complete the training, within 30 days of the training date.

G. The mine operator shall maintain the following records for those miners required to obtain a general mineral miner certification and those who qualify for exemption, starting January 1, 1996:



# Proposed Regulations

1. The employee name, address, phone number.
2. The job title, employment date and general mineral miner number if applicable.
3. The date training was completed and the instructor providing it for nonexempt employees.
4. If the employee is exempt from the requirements, the date they began working in the mineral mining industry in Virginia.

## APPLICATION FOR CERTIFICATION EXAMINATION Board of Mineral Mining Examiners

Type or print the application in ink and pay the \$10 fee with a certified check, cashier's check, or money order made payable to the TREASURER OF VIRGINIA. Cash will be accepted if paid in person at a DMME office. Submit to the Board of Mineral Mining Examiners, P.O. Box 3727, Charlottesville, VA 22903-0727 in time to be received at least FIVE WORKING DAYS prior to the date of examination.

1. Full name \_\_\_\_\_ S.S. # \_\_\_\_\_  
*Note: Disclosure of your social security number is voluntary.*

2. Address \_\_\_\_\_  
street or P.O. Box city state zip code

3. Date of birth \_\_\_\_\_ Home phone no. ( ) \_\_\_\_\_  
month/day/year

4. Total years employed at a mineral mine \_\_\_\_\_  
underground surface

5. Current (or most recent) mining experience

Company name \_\_\_\_\_

Address \_\_\_\_\_  
street or P.O. Box city state zip code

Job title \_\_\_\_\_ from \_\_\_\_\_ to \_\_\_\_\_  
month/day/year month/day/year

6. I have attached a copy of my valid first aid card, the degrees to be used for credit toward the experience requirement, and payment for the exam.

7. Examination requested (check one)

- underground foreman
- surface foreman
- surface foreman - open pit
- surface blaster
- underground mining blaster
- mineral mining electrician
- mine inspector

I HEREBY CERTIFY THAT THE ABOVE ANSWERS ARE TRUE TO THE BEST OF MY KNOWLEDGE AND BELIEF.

Signed \_\_\_\_\_ Date \_\_\_\_\_

BMME-1 Rev. 3/14/95

### VERIFICATION OF WORK EXPERIENCE Board of Mineral Mining Examiners

All applicants for certification must complete one form for each employer sufficient to certify the required years of mining experience for the certificate requested. Applicants must have the form signed by a company official knowledgeable of the applicants work history before a notary public. Type or print the information in ink and submit to the Board of Mineral Mining Examiners, P.O. Box 3727, Charlottesville, VA 22903-0727.

1. Full name \_\_\_\_\_ S.S. # \_\_\_\_\_  
*Note: Disclosure of social security number is voluntary.*

2. Address \_\_\_\_\_  
street or P.O. Box city state zip code

3. Employer/company name \_\_\_\_\_ Mine name \_\_\_\_\_

VA mine ID number \_\_\_\_\_ Employer phone number \_\_\_\_\_

Address \_\_\_\_\_  
street or P.O. Box city state zip code

Job title \_\_\_\_\_ Job duties \_\_\_\_\_

Employment dates from \_\_\_\_\_ to \_\_\_\_\_  
month/day/year month/day/year

Job title \_\_\_\_\_ Job duties: \_\_\_\_\_

Employment dates from \_\_\_\_\_ to \_\_\_\_\_  
month/day/year month/day/year

Job title \_\_\_\_\_ Job duties: \_\_\_\_\_

Employment dates from \_\_\_\_\_ to \_\_\_\_\_  
month/day/year month/day/year

Continue on back of page if needed.

4. I hereby certify, under the penalties of perjury, that the information related to this applicant's experience as submitted on this form is correct.

Name printed and signed \_\_\_\_\_  
company official title date

5. State of \_\_\_\_\_ county/city of \_\_\_\_\_ to wit: I, \_\_\_\_\_  
\_\_\_\_\_, a notary public in and for the State and county/city aforesaid, do certify that  
\_\_\_\_\_ whose name is signed to #4 above, company official on the \_\_\_\_ day  
of \_\_\_\_\_, 19\_\_ has acknowledged the same before me in my county/city aforesaid. Given  
under my hand this \_\_\_\_ day of \_\_\_\_\_, 19\_\_.

notary public

My commission expires the \_\_\_\_ day of \_\_\_\_\_, 19\_\_.

SEAL

BMME-2 Rev. 3/14/95

APPLICATION FOR RENEWAL  
Board of Mineral Mining Examiners

Type or print this application in ink and complete the VERIFICATION OF WORK EXPERIENCE form (BMME-2), listing work experience acquired since initial certification or renewal. Submit the \$10 fee for the examination or refresher course in the form of a certified check, cashier's check, or money order made payable to the TREASURER OF VIRGINIA. Cash will be accepted if paid in person at a DMME office. Submit to the Board of Mineral Mining Examiners, P.O. Box 3727, Charlottesville, VA 22903-0727 so that it is received at least FIVE WORKING DAYS prior to the date of examination or class.

1. Full name \_\_\_\_\_ Home phone no. (\_\_\_\_) \_\_\_\_\_

Address \_\_\_\_\_  
street or P.O. Box city state zip code

2. Certificate no. \_\_\_\_\_ Certificate expiration date \_\_\_\_\_

3. Requesting renewal as an:

- underground foreman \_\_\_\_\_
- surface foreman \_\_\_\_\_
- surface foreman - open pit \_\_\_\_\_
- mine inspector \_\_\_\_\_
- surface blaster \_\_\_\_\_
- underground mining blaster \_\_\_\_\_
- mineral mining electrician \_\_\_\_\_

4. Check the statement that applies to you:

a. I have worked a cumulative minimum of 24 months in the last five years in the area for which I am currently certified and am requesting the examination or refresher class covering changes in regulations and laws. \_\_\_\_\_

b. My card has expired, I have not worked in the area for which I am certified for a cumulative minimum of 24 months in the last five years, or I have uncorrected violations (described in 5. below), so I am requesting the examination. \_\_\_\_\_

5. If you checked a., mark your choice for renewal: examination \_\_\_\_\_ refresher course \_\_\_\_\_

6. If you checked b. above, describe any uncorrected violations issued to you by DMME since you were certified. \_\_\_\_\_

Continue on back if necessary.

7. Attach a copy of your valid first aid certificate or card, first aid instructor certification or journeyman card, as applicable to your certification, and the \$10 fee.

I HEREBY CERTIFY THAT THE ABOVE ANSWERS ARE TRUE TO THE BEST OF MY KNOWLEDGE AND BELIEF.

Signed \_\_\_\_\_ Date \_\_\_\_\_

BMME-3 3/23/95

VERIFICATION OF TRAINING COMPLETED  
FOR GENERAL MINERAL MINER CERTIFICATION  
Board of Mineral Mining Examiners

Type or print this application in ink and submit it to the Board of Mineral Mining Examiners, P.O. Box 3727, Charlottesville, VA 22903-0727 with a \$10 processing fee in the form of a certified check, cashier's check, or money order made payable to the TREASURER OF VIRGINIA. Cash will be accepted if paid in person at a DMME office. Applicants who are employed and have completed training shall be provisionally certified for up to 60 days from the date of the training.

1. Full name \_\_\_\_\_ S.S. # \_\_\_\_\_

Note: Disclosure of social security number is voluntary.

2. Address \_\_\_\_\_  
street or P.O. Box city state zip code

3. Home phone no. (\_\_\_\_) \_\_\_\_\_ Date of employment \_\_\_\_\_

4. Employer/company name \_\_\_\_\_ Mine name \_\_\_\_\_

VA mine ID number \_\_\_\_\_ Employer phone number (\_\_\_\_) \_\_\_\_\_

Address \_\_\_\_\_  
street or P.O. Box city state zip code

5. Job title/description of job duties \_\_\_\_\_

6. I received training in first aid, or I have attached a copy of my valid first aid card, and received training in Virginia's mineral mining law and regulations on \_\_\_\_\_  
date or dates

I HEREBY CERTIFY THAT THE ABOVE ANSWERS ARE TRUE TO THE BEST OF MY KNOWLEDGE AND BELIEF.

Signed \_\_\_\_\_ Date \_\_\_\_\_

Signature of applicant for certification

I HEREBY CERTIFY TO THE BMME THAT THE TRAINING I PROVIDED TO THE APPLICANT SET FORTH ABOVE MEETS THE REQUIREMENTS OF VIRGINIA CODE §45.1-161.55.B., VR 480-04-3 §2.8.B (1) AND §2.8.B (2) AND THE APPLICANT HAS SATISFACTORILY PROVED TO ME THE REQUIRED KNOWLEDGE OF FIRST AID PRACTICES AND THE MINE SAFETY LAWS OF VIRGINIA.

Name printed and signed \_\_\_\_\_

Certified foreman or instructor approved by DMM providing training

Cert. No. \_\_\_\_\_

Name printed and signed when the applicant is hired \_\_\_\_\_

Mine operator employing applicant

BMME-4 3/23/95

## DEPARTMENT OF TAXATION

**Title of Regulation:** VR 630-3-439 [23 VAC 10-120-291 through 23 VAC 10-120-299]. Major Business Facility Job Tax Credit.

**Statutory Authority:** § 58.1-439 of the Code of Virginia.

**Public Hearing Date:** March 22, 1996 - 10 a.m.

Written comments may be submitted until March 31, 1996.

(See Calendar of Events section for additional information)

**Basis:** This regulation is issued under the authority granted to the Tax Commissioner pursuant to § 58.1-203 of the Code of Virginia. Pursuant to this section the Tax Commissioner has the authority to issue regulations relating to the interpretation and enforcement of Virginia tax laws administered by the Department of Taxation.

Section 58.1-439 L of the Code of Virginia provides that the Tax Commissioner shall promulgate regulations relating to the computation, carryover and recapture of the credit, and defining criteria for a major business facility, qualifying jobs and economically distressed areas.

**Purpose:** This regulation sets forth and explains the procedures relating to the computation, recapture and carryover of the Major Business Facility Job Tax Credit. The regulation also provides guidance as to the types of facilities and jobs which qualify for the credit. This regulation is intended to provide guidance to those taxpayers who have qualified for, and those taxpayers interested in, the new tax incentive provided by § 58.1-439 of the Code of Virginia.

Section 58.1-439 of the Code of Virginia is effective for taxable years beginning on or after January 1, 1995. The section was amended by Chapter 365 of the 1995 Acts of Assembly. This regulation reflects the provisions of § 58.1-439, including the 1995 amendments thereto.

**Substance:** The regulation provides for the calculation, recapture and carryover of the Major Business Facility Job Tax Credit.

In general, a company may claim a credit in the amount of \$1,000 for each qualifying job created in excess of a threshold. The threshold is generally 100 jobs; however, the threshold is reduced to 50 for jobs created within an enterprise zone or an economically distressed area. The credit is claimed ratably in three equal parts, beginning in the taxable year following the year in which the 100 qualifying jobs are created.

In order to qualify, a company must create at least 100 jobs (50 in an enterprise zone or economically distressed area) during a continuous 12-month period ending within their taxable year. In addition, a company must be engaged in a qualified industry or must establish or expand a major business facility. Qualified industries include manufacturing or mining, agriculture, forestry or fishing, transportation or communications or a public utility which is subject to the corporation income tax. A major business facility means a headquarters, or portion of such a facility, located in Virginia where company staff employees are physically employed,

and where the majority of the company's financial, personnel, legal, or planning functions are handled either on a regional or national basis. A major business facility shall also include facilities located in Virginia that perform a central management or administrative function for other establishments of the same enterprise such as general management, accounting, computing, tabulating, data processing, order filling, customer service, purchasing, transportation or shipping, engineering and systems planning, advertising, legal, financial, and research and development.

The credit is subject to recapture in the event that employment decreases in a subsequent taxable year. Unused credits may be carried over for 10 taxable years.

**Issues:** The regulation is required pursuant to § 58.1-439 L of the Code of Virginia. Notwithstanding the statutory requirement, the department believes that it is in the best interests of the taxpayers of this Commonwealth to have detailed guidance with respect to taxation readily available.

This regulation provides guidance as to the computation of a valuable tax credit. An accurate determination of the credit is essential so that taxpayers may determine their net tax liability, and avoid disputes with the department.

This regulation will also provide assurance and confidence to companies considering the establishment or expansion of facilities in Virginia. A regulation will offer the highest level of assurance available outside of the actual legislation.

There are no disadvantages associated with this regulation from the agency's or the public's standpoint.

### Department of Planning and Budget's Economic Impact Analysis:

The Department of Planning and Budget (DPB) has analyzed the economic impact of this proposed regulation in accordance with § 9-6.14:7.1 G of the Administrative Process Act and Executive Order Number Thirteen (94). Section 9-6.14:7.1 G requires that such economic impact analyses include, but need not be limited to, the projected number of businesses or other entities to whom the regulation would apply; the identity of any localities and types of businesses or other entities particularly affected; the projected costs to affected businesses or entities to implement or comply with the regulation; and the projected number of persons and employment positions to be affected. The analysis presented below represents DPB's best estimate of these economic impacts.

### Summary of the Proposed Regulation

The proposed regulation sets forth and explains procedures relating to the calculation, recapture, and carryover of the Major Business Facility Job Tax Credit. The Major Business Facility Job Tax Credit was enacted by Chapters 750 and 768 of the 1994 Acts of Assembly, and amended by Chapter 365 of the 1995 Acts of Assembly. This credit is effective for taxable years beginning on and after January 1, 1995, but before January 1, 2005.

The Major Business Facility Job Tax Credit provides a \$1,000 tax credit for each employment position created above a threshold of 100 (50 in enterprise zones) by companies

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## Proposed Regulations

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opening new major business facilities in the Commonwealth, or more generally, by new or expanding companies within certain qualified industries. One third of the tax credit is applied in each of the three taxable years following the taxable year in which the qualified employment increase occurred. The credit is subject to recapture if employment falls below the threshold in any of the five taxable years following the year of the employment increase.

### Estimated Economic Impact

In DPB's opinion, the proposed regulation will likely have three primary economic impacts.

#### 1) Forgone tax revenue:

Based on information provided by the Department of Economic Development (DED) and the Department of Taxation (Tax), DPB estimates that the forgone tax revenue attributable to this regulation would be \$1,823,819 per year in 1995 dollars.

It is important to keep in mind the following caveats, however, when evaluating this estimate of forgone tax revenue:

- The estimate is based largely on data provided by DED regarding announced new business facilities or business expansions and the number of new jobs that these facilities are expected to create.
- All data are for planned new jobs rather than actual jobs created. DED does not track whether companies that announce the creation of new employment positions ultimately employ the number of individuals announced.
- Not all new jobs announced in a given year are likely to be created in that year. By using data on job announcements for all years, however, the errors caused by this difficulty should average out over the period as whole.
- At the time this report was drafted, the only complete data available from DED for planned new jobs announced after the tax credit went into effect was for the first quarter of 1995. As a result, the data presented here do not include announcements of planned job expansions made after the first quarter of 1995. Given the magnitude of some of these subsequent announcements (e.g., the IBM-Toshiba venture), it is likely that projection of announced new jobs for 1995 presented in this report understates the actual number of new jobs that will be announced. Unless the number and size of the planned new facilities announced in the second and third quarter of 1995 are typical of the number and size of planned new facilities announced in each quarter of the next 10 years, however, it may well be that the projections made from the first quarter of 1995 will prove more representative.
- Due to a lack of relevant data no additional provision is made for companies that create jobs in enterprise zones.

The estimate of \$1,823,819 per year in 1995 dollars in forgone tax revenue attributable to this regulation is based on the following:

- According to data compiled by DED on announced new business facilities or business expansions, 1,095 jobs

were announced in the first quarter of 1995 that would likely qualify for the \$1,000 tax credit. Based on this figure, DPB projects that 4,380 qualifying jobs (i.e., 4 x 1,095) will be created in 1995.

- Assuming that only 50% of these jobs will be created by companies that have sufficient profits to apply the tax credit, the total tax credit attributable to these planned new jobs is \$2,190,000 (i.e.,  $(0.5 \times 4,380 \times \$1,000)$ ).<sup>1</sup>
- Because this \$2,190,000 tax credit is charged over a three year period, the credit taken the first year of the program is \$730,000 (i.e., the first third of the total credit for the first year of the program), the credit taken in the second year of the program is \$1,460,000 (i.e., the first third of the total credit for the second year of the program, plus the second third of the total credit for the first year of the program), and the credit taken in the third year of the program is \$2,190,000 (i.e., the first third of the total credit for the third year of the program, plus the second third of the total credit for the second year of the program, plus the last third of the total credit for the first year of the program). The annualized discounted present value of this stream of forgone tax receipts over the 12 years in which tax credits will be taken is \$1,823,819.<sup>2</sup>

#### 2) Agency costs:

Based on information provided by Tax in their 1994 fiscal impact assessment of the authorizing legislation, it is anticipated that implementation costs will be \$185,942 in 1995 dollars.<sup>3</sup> In addition, systems costs of \$22,540 per year in 1995 dollars will be incurred.<sup>4</sup>

#### 3) Impact of increased economic activity:

Increases in employment generate direct and indirect economic impacts. The direct economic impact is the market value of the increase in goods and services generated by the new workers. The indirect economic impact is the market value of the goods and services that the companies employing the new workers must purchase as inputs for their increased production.

DPB has used IMPLAN, a computerized regional economic impact modeling system, to calculate the direct and indirect

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<sup>1</sup> This assumption is based on information provided by Tax in their fiscal impact assessment of the authorizing legislation.

<sup>2</sup> Discounted present value is used to facilitate comparison of unequal costs and benefits arising at different points in time. The annualized figure of \$1,823,819 is derived by computing the discounted present value of the stream of forgone tax revenues (\$19,169,589), and then computing the annual payment that would be required to fund this total.

A 2.1% discount rate was used to perform this calculation and all other discounted present value computations presented in this report. This discount rate is calculated as the average nominal rate of return on the Commonwealth's general account for the last 11 months (5.8%) less the 1994 inflation rate (3.7%) as calculated using the CPI. This rate was selected because it represents the opportunity cost to the Commonwealth of the forgone tax revenue.

<sup>3</sup> This figure represents Tax's 1994 estimate of \$181,413 adjusted for inflation using the April, 1995 CPI.

<sup>4</sup> This figure represents Tax's 1994 estimate of \$21,991 adjusted for inflation using the April, 1995 CPI.

economic impacts created by the new employment positions announced by companies that would have likely qualified for the tax credit in 1994 (the last year before the tax credit became effective), and the direct and indirect economic impacts created by the projected new employment positions announced by companies that will likely qualify for the tax credit in 1995 (the first year after the tax credit became effective). The difference between these two totals provides a rough estimate of the likely economic impact of the tax credit.

It is important to keep in mind the following caveats when evaluating this estimate of economic impact, however:

- All data on new jobs is based on announcements of planned new employment positions rather than actual jobs created.
- The projection for 1995 of the number of planned new positions announced by companies that will likely qualify for the tax credit is based on a small number of observations and may, or may not, be truly representative of the total number of positions that will eventually be announced.
- The direct and indirect economic impacts reported here are based only on the increased output of goods and services attributable to the new employment positions and do not take into account any negative externalities that may, or may not, be associated with this increase (e.g., environmental effects, traffic congestion, etc.).
- Some portion of the direct and indirect economic impact generated by the tax credit will be returned to the Commonwealth in the form of increased tax revenue. It is not possible to estimate an actual dollar figure for this amount however.
- The tax credit is unlikely to be the sole reason for any company choosing to locate in the Commonwealth, or expand its operations here. As a result, although it is reasonable to assume that some portion of the difference between 1994 and 1995 in the direct and indirect economic impacts created new employment positions is attributable to the tax credit, it is not possible to know how large, or how small, this portion is.

DPB's analysis of the direct and indirect economic impact of indicates that the direct and indirect economic impact created by the projected number of new employment positions announced by qualifying companies in 1995 is \$249,069,550 per year greater in 1995 dollars than the direct and indirect economic impact of the new employment positions announced by companies that would have qualified in 1994.

Projected Number of Businesses or Other Entities to Whom the Regulation will Apply

Based on 1994 announcements of planned new employment positions, and projected 1995 announcements of planned new employment positions, DPB estimates that the proposed regulation will apply to approximately 40 to 45 businesses annually.

## Localities and Types of Businesses Particularly Affected

No localities are particularly affected by this proposed regulation. The proposed regulation does specifically affect businesses engaged in manufacture, mining, agriculture, forestry, fishing, transportation, communication, public utilities subject to taxation, and businesses opening major facilities.

## Projected Costs to Affected Businesses or Entities

DPB anticipates that the proposed regulation will impose no significant costs to affected business or entities.

## Projected Number of Persons and Employment Positions Affected

Based on announcements of planned new employment positions for 1994 and 1995, and estimates derived from IMPLAN, DPB anticipates that the proposed regulation will likely be responsible for some unknown portion of the roughly 10,000 new employment positions created annually by companies that qualify for the tax credit, and the roughly 4,300 new employment positions created annually as a result of indirect economic impact attributable to the increased goods and services purchased by those companies.

## Agency Response to Economic Impact Analysis:

The Department of Taxation has reviewed the economic impact analysis prepared by the Department of Planning and Budget. The department found no errors, omissions, or problems with the analysis, and is in agreement with the conclusions reached therein.

## Summary:

*The regulation provides for the calculation, recapture and determination of the Major Business Facility Job Tax Credit. The credit, as enacted by Chapters 750 and 768 of the 1994 Acts of Assembly, and as amended by Chapter 365 of the 1995 Acts of Assembly, is effective for taxable years beginning on or after January 1, 1995. This regulation is promulgated as required by § 58.1-439 L of the Code of Virginia.*

*In general, a company may claim a credit in the amount of \$1,000 for each qualifying job created in excess of a threshold. The threshold is generally 100 jobs; however, the threshold is reduced to 50 for jobs created within an enterprise zone or an economically distressed area. The credit is claimed ratably in three equal parts, beginning in the taxable year following the year in which the qualifying employment began. The credit may be claimed against the income taxes imposed on individuals (§ 58.1-320 et seq.), trusts and estates (§ 58.1-360 et seq.) and corporations (§ 58.1-400 et seq.); the Bank Franchise Tax (§ 58.1-1200 et seq.); the premium tax on insurance companies (§ 58.1-2500 et seq.); and the license tax on Telegraph, Telephone, Water, Heat, Light, Power and Pipeline Companies (§ 58.1-2620 et seq.).*

*In order to qualify, a company must create at least 100 jobs (50 in an enterprise zone or economically distressed area) during a continuous 12-month period ending within their taxable year. In addition, a company must be engaged in a qualified industry or must establish or expand a major business facility. Qualified industries*

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include manufacturing or mining, agriculture, forestry or fishing, transportation or communications or a public utility which is subject to the corporation income tax. A major business facility means a headquarters, or portion of such a facility located in Virginia, where company staff employees are physically employed, and where the majority of the company's financial, personnel, legal, or planning functions are handled either on a regional or national basis. A major business facility shall also include facilities located in Virginia that perform a central management or administrative function for other establishments of the same enterprise such as general management, accounting, computing, tabulating, data processing, order filling, customer service, purchasing, transportation or shipping, engineering and systems planning, advertising, legal, financial, and research and development.

The credit is subject to recapture in the event that employment decreases in a subsequent taxable year. Unused credits may be carried over for 10 taxable years.

23 VAC 10-120-291 through 23 VAC 10-120-299. Major Business Facility Job Tax Credit.

23 VAC 10-120-291. Major business facility job tax credit; definitions.

The following words and terms, when used in 23 VAC 10-120-291 through 23 VAC 10-120-299, shall have the following meaning unless the context clearly indicates otherwise:

"Credit" means the major business facility job tax credit provided by § 58.1-439 of the Code of Virginia.

"Credit year" means the first taxable year following the taxable year during which a major business facility commenced or expanded operations, or the first taxable year following the taxable year in which a qualifying job expansion is deemed to have occurred.

"Major business facility" means a headquarters, or portion of such a facility located in Virginia, where company staff employees are physically employed, and where the majority of the company's financial, personnel, legal, or planning functions are handled either on a regional or national basis. A major business facility shall also include facilities located in Virginia that perform a central management or administrative function for other establishments of the same enterprise such as general management, accounting, computing, tabulating, data processing, order filling, customer service, purchasing, transportation or shipping, engineering and systems planning, advertising, legal, financial, and research and development.

"New, permanent full-time position" means a job of an indefinite duration, created by the company as the result of the establishment or expansion of a major business facility, or created by the company as part of a qualified job expansion, requiring a minimum of 35 hours of an employee's time per week for the entire normal year of the company's operations, which normal year must consist of at least 48 weeks, or a position of indefinite duration which requires a minimum of 35 hours of an employee's time per week for the

portion of the taxable year in which the employee was initially hired for, or transferred to, the major business facility in Virginia. Seasonal or temporary positions, or jobs created when a job function is shifted from an existing location in Virginia to the new major business facility shall not qualify as new, permanent full-time positions.

"Qualified company" means a company engaged in a qualified industry in Virginia which has satisfied the requirements of 23 VAC 10-120-293 A 1, or any company which establishes or expands a major business facility in accordance with the requirements of 23 VAC 10-120-293 A 2.

"Qualified job expansion" means that at least 100 jobs for qualified full-time employees have been created within a continuous 12-month period ending within a taxpayer's taxable year (50 jobs if located within an enterprise zone or economically distressed area in accordance with 23 VAC 10-120-298).

"Qualified industry" means (i) manufacturing or mining; (ii) agriculture, forestry or fishing; (iii) transportation or communications; or (iv) a public utility which is subject to the corporation income tax.

"Qualified full-time employee" means an employee with a new, permanent full-time position in Virginia.

"This regulation" means 23 VAC 10-120-291 through 23 VAC 10-120-299.

"Threshold amount" means the first 100 jobs for qualified full-time employees created by the company as the result of the establishment or expansion of a major business facility or created by the company as part of a qualified job expansion (the first 50 jobs if located within an enterprise zone or economically distressed area in accordance with 23 VAC 10-120-298).

23 VAC 10-120-292. Major business facility job tax credit; general provisions.

A. *Effective dates.* For taxable years beginning on and after January 1, 1995, but before January 1, 2005, a taxpayer shall be allowed a credit against the taxes imposed by Articles 2 (Individuals; § 58.1-320 et seq.), 6 (Trusts and Estates; § 58.1-360 et seq.) and 10 (Corporations; § 58.1-400 et seq.) of Chapter 3; Chapter 12 (Bank Franchise; § 58.1-1200 et seq.), Article 1 (Insurance Companies; § 58.1-2500 et seq.) of Chapter 25, or Article 2 (Telegraph, Telephone, Water, Heat, Light, Power and Pipeline Companies; § 58.1-2620 et seq.) of Chapter 26 of Title 58.1 of the Code of Virginia as provided in this regulation. A taxable year beginning on or after January 1, 1995, may qualify as a credit year.

B. *Computation of credit.*

1. For any qualified company, the amount of credit earned shall be equal to \$1,000 per qualified full-time employee, over the threshold amount, employed during the credit year. The credit shall be allowed ratably, with one-third of the credit amount allowed annually for three years beginning with the credit year.

a. The portion of the \$1,000 credit earned with respect to any qualified full-time employee who is

employed in Virginia for less than 12 full months during the credit year will be determined by multiplying \$1,000 by a fraction, the numerator of which is the number of full months that the qualified full-time employee worked for the qualified company in Virginia during the credit year, and the denominator of which is 12.

b. A separate credit year and a three-year allowance period will exist for each distinct major business facility or qualified job expansion of a single taxpayer.

*Example 1.* ABC Corporation ("ABC"), a calendar year taxpayer, meets the definition of a qualified company in accordance with 23 VAC 10-120-293 in 1994. ABC employed 130 qualified full-time employees during 12 full months of 1995, its credit year. ABC's credit earned is \$30,000 ( $\$1,000 \times (130-100)$ ). Assuming ABC's tax liability is sufficient to absorb the credit, ABC will be allowed to claim a credit of \$10,000 ( $\$30,000 \div 3$ ) in 1995, 1996 and 1997, respectively.

*Example 2.* Green Company ("Green"), a calendar year taxpayer, meets the definition of a qualified company in accordance with 23 VAC 10-120-293 in 1995. Green employs 120 qualified full-time employees during 12 full months of 1996, its credit year. Green also employs six qualified full-time employees for six full months of 1996, and 10 qualified full-time employees for three full months of 1996. Green determines its credit as follows:

(A)	(B)	(C)	(D)
# Employees	Full Months Employed	Total Months	Total (A X B ÷ C)
120	12	12	120
6	6	12	3
10	3	12	2.5
<b>Total</b>			<b>125.5</b>

Green's credit earned is \$25,500 ( $\$1,000 \times (125.5-100)$ ). Assuming Green's tax liability is sufficient to absorb the credit, Green will be allowed to claim a credit of \$8,500 ( $\$25,500 \div 3$ ) in 1996, 1997 and 1998, respectively.

*Example 3.* XYZ Corporation ("XYZ"), a calendar year taxpayer, meets the definition of a qualified company in accordance with 23 VAC 10-120-293 as the result of a qualified job expansion in 1994. XYZ employs 150 qualified full-time employees during 1995, its credit year. XYZ's credit earned is \$50,000 ( $\$1,000 \times (150-100)$ ). Assuming XYZ's tax liability is sufficient to absorb the credit, XYZ will be allowed to claim a credit of \$16,667 ( $\$50,000 \div 3$ ) in 1995, 1996 and 1997, respectively.

Assume that in 1996, XYZ creates an additional 25 jobs. Because 1996 is not a credit year, no credit is allowed with respect to the additional 25 jobs.

Assume that in 1997, XYZ creates an additional 200 jobs for qualified full-time employees, and meets the definition of a qualified company for 1997 as a result of this qualified job expansion. Assuming these 200 qualified full-time employees are employed for 12 full months in 1998, the credit year, XYZ will earn an additional credit of \$100,000 ( $\$1000 \times (200-100)$ ), \$33,333 of which may be utilized in 1998, 1999 and 2000, respectively.

2. The amount of credit allowed shall not exceed the tax imposed for such taxable year. The credit is nonrefundable; any credit not usable for the taxable year in which the credit was allowed may be, to the extent usable, carried over to the next 10 succeeding taxable years. No credit shall be carried back to a preceding taxable year.

*Example.* DEF Corporation ("DEF"), a calendar year taxpayer, and meets the definition of a qualified company in 1994, and earns a credit of \$45,000 during 1995, its credit year. DEF's tax liability in 1995, 1996 and 1997, is \$10,000, \$25,000 and \$7,000, respectively, and the company is entitled to a credit of \$15,000 ( $\$45,000 \div 3$ ) in each of those years. Since the credit exceeds DEF's tax liability for 1995 and 1997, the company must compute a carryover of the unused credit as follows:

Taxable Year	1995	1996	1997
Tax Liability	\$10,000	\$25,000	\$7,000
Credit available	15,000	15,000	15,000
Credit limitation	10,000	25,000	7,000
Carryover	5,000		8,000
Carryover applied	n/a	5,000	n/a
Total credit allowed	10,000	20,000	7,000

DEF will have a credit carryover of \$8,000 from 1997 which may be carried over for 10 taxable years, beginning with 1998.

3. In the event that a taxpayer who is subject to the tax limitation imposed pursuant to subdivision B 2 of this section is also allowed another credit pursuant to any other section of the Code of Virginia, or has a credit carryover from a preceding taxable year, such taxpayer shall be considered to have first utilized any credit allowed which does not have a carryover provision, and then any credit which is carried forward from a preceding taxable year, prior to the utilization of any credit allowed pursuant to this regulation.

4. In order to claim the credit, the following information must be supplied by the taxpayer with its tax return for the credit year: the name and social security number of each qualified full-time employee employed during the credit year; the number of full months during the credit year that each qualified full-time employee was employed, a brief description of the position held by each qualified full-time employee, e.g. "data programmer" or "assembly line," and other information as directed by the Department of Taxation.



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C. *Affiliated corporations.* In the case of affiliated corporations filing a combined or consolidated Virginia income tax return, the limitations contained in subdivisions B 2 and B 3 of this section shall be applied to the combined or consolidated tax liability, respectively.

23 VAC 10-120-293. Major business facility job tax credit; qualification.

A. *Qualified company.* Qualification for the credit can occur by satisfying the criteria of either subdivision A 1 or A 2 of this section.

1. Any company engaged in a qualified industry in Virginia shall be considered a qualified company eligible for the credit if:

- a. The company is primarily engaged in a qualified industry in Virginia;
- b. The company has experienced a qualified job expansion; and
- c. The company certifies to the Department of Taxation on prescribed forms the date on which such qualified job expansion is deemed to have occurred.

2. Any company which establishes or expands a major business facility in Virginia shall be considered a qualified company eligible for the credit if:

- a. The company has established or expanded a major business facility in Virginia resulting in the creation of at least 100 jobs for qualified full-time employees (50 jobs if located in an enterprise zone or economically distressed area in accordance with 23 VAC 10-120-298);
- b. The company's activities in Virginia, whether operated as a separate trade or business or as a separate support operation of another business, constitute: central administrative offices, warehouses, research and development or testing laboratories, computer programming, data processing and other computer-related services facilities, financial services, insurance services, or real estate services, or the company is engaged in a qualified industry in Virginia; and
- c. The company certifies to the Department of Taxation on prescribed forms the date on which such facility commenced or expanded operations.

3. In making determinations as to classifications, the terms used in this regulation to refer to various types of businesses and business activities shall have the same meanings as those terms are defined in the Standard Industrial Classification Manual.

4. The credit shall not be available where an announcement of intent to create additional jobs or establish or expand a major business facility was made prior to January 1, 1994.

B. *Qualified job expansion.*

1. Any company primarily engaged in a qualified industry in Virginia may qualify for the credit if it creates

at least 100 new jobs for qualified full-time employees within a continuous 12-month period ending within the company's taxable year. Companies primarily engaged in a qualified industry are not required to establish or expand a major business facility; rather, they simply must satisfy the 100 new jobs criteria. However, the establishment or expansion of a major business facility by a taxpayer engaged in a qualified industry shall not result in multiple credits for the same qualified, full-time employees. In accordance with 23 VAC 10-120-298, the threshold is 50 jobs for qualified full-time employees where such jobs are located in an economically distressed area or an enterprise zone.

*Example.* XYZ Corporation (XYZ) is engaged in manufacturing in Virginia. During 1994, XYZ moves its corporate headquarters to Virginia, creating jobs for 125 qualified full time employees who are employed for a full 12 months in 1995. Although XYZ is engaged in a qualified industry and has established a major business facility, its credit earned in 1995 is limited to \$25,000 (\$1,000 X (125-100)).

2. The company may elect to use any continuous 12-month period ending within its taxable year for purposes of determining if a qualified job expansion has occurred. Once such period has been elected, it must be used for purposes of measuring any future qualified job expansions in the taxable year immediately following the credit year.

*Example 1.* ABC Company (ABC), a calendar year taxpayer, creates 125 jobs for qualified full-time employees between July 1, 1994, and June 30, 1995. ABC may elect to use the 12-month period ending June 30 for purposes of determining if it has incurred a qualified job expansion. Assuming ABC otherwise qualifies, it will have incurred a qualified job expansion in 1995. ABC's credit year will be calendar year 1996. For purposes of measuring a qualified job expansion in 1997, ABC must measure employment increases over the 12-month period ended June 30, 1997. Assuming no qualified job expansion is deemed to occur during 1997, ABC may measure employment increases over any 12-month period ending in 1998 for purposes of determining a qualified job expansion in 1998.

*Example 2.* XYZ Company ("XYZ"), is a calendar year taxpayer. During the 12 months ended January 31, 1996, XYZ creates 295 jobs for qualified full-time employees. XYZ meets the definition of a qualified company in accordance with subdivision A 1 of this section as the result of a qualified job expansion which resulted in the creation of more than 100 jobs for qualified full-time employees during a continuous 12-month period ending within its 1996 taxable year (the 12 months ending January 31, 1996). In 1997, the credit year, XYZ actually employs 450 qualified full-time employees as the result of hiring 40 additional full time employees between February 1, 1996, and December 31, 1996, hiring 102 additional full-time employees in January of 1997, and hiring 13 additional full-time employees in December of 1997 (295 + 40 +

102 + 13 = 450). XYZ determines its credit in 1997 as follows:

(A) # Employees	(B) Full Months Employed in 1997	(C) Total Months	(D) Total (A X B ÷ C)
295 (initial hires)	12	12	295
40 (1996 new hires)	12	12	40
102 (hired January 97)	11	12	94
13 (hired December 97)	1	12	1
<b>Total</b>			<b>430</b>

XYZ's credit earned is \$330,000 ( $\$1,000 \times (430-100)$ ). Assuming XYZ's tax liability is sufficient to absorb the credit, XYZ will be allowed to claim a credit of \$110,000 ( $\$330,000 \div 3$ ) in 1997, 1998 and 1999, respectively. Because XYZ elected to measure its qualified job expansion over the 12 months beginning February 1, 1995, and ending January 31, 1996, it calculates its credit in 1997 by determining the total hires between February 1, 1995, and December 31, 1997 (35 months). Although new hires must be prorated for the number of full months of employment during the credit year (1997), XYZ does not need to exceed the 100 job threshold more than once during this 35-month period, and all hiring does not need to fall within the same 12 months.

**C. Expansion of a major business facility.**

1. An expansion of a major business facility shall be deemed to occur when at least 100 jobs for qualified full-time employees are created at an existing major business facility in Virginia during a continuous 12-month period ending within the taxpayer's taxable year. In accordance with 23 VAC 10-120-298, the threshold is 50 jobs for qualified full-time employees where such major business facility is located in an economically distressed area or an enterprise zone.

In order to qualify, the facility must otherwise qualify as a major business facility.

2. The company may elect to use any continuous 12-month period ending within its taxable year for purposes of determining if a major business facility has been expanded. Once such period has been elected, it must be used for purposes of determining any future job expansions in the taxable year immediately following the credit year.

**D. Affiliated corporations.** For purposes of this section, qualification for the credit must be determined on a separate company basis. An affiliated group of corporations shall not

aggregate the activities of two or more members for purposes of determining eligibility requirements for the credit.

**E. Major business facility.** For purposes of the credit, it is not necessary for a major business facility to be physically contained at a single location. Activities at separate locations may only be aggregated where the activities conducted at each location are part of the same process or operation, or where qualified full-time employees located at separate facilities are hired within the same continuous 12-month period.

*Example 1.* ABC Corporation ("ABC") moves its data processing operations to Virginia in 1995. Part of these operations are physically located in Richmond, Virginia. The remainder are physically located in three separate buildings in an office park in Fairfax, Virginia. Assuming that the functions performed at each location are part of the same process (they are consistent data processing functions) and otherwise qualify pursuant to this regulation, ABC may aggregate its 1995 employment increases at its data processing centers for purposes of determining qualification for the credit, and will be subject to a single threshold amount.

*Example 2.* Green Corporation ("Green") is engaged in retail operations in Virginia. Green expanded its corporate headquarters in Norfolk, Virginia in 1995, adding 75 jobs at that facility. Green also established its shipping and transportation center in Hanover County, Virginia in 1995, adding 100 jobs at that location. Because the employment activity occurred within a single 12-month period, and because both facilities qualify as a major business facility, for purposes of determining qualification for and computation of the credit, Green may aggregate the activity and determine its credit based on 175 jobs and a single 100 job threshold.

*Example 3.* Black Corporation ("Black") is engaged in a service industry in Virginia. Black expanded its corporate headquarters in Hopewell, Virginia in 1994, adding 125 jobs at that facility. Black also established a research and development laboratory in Vienna, Virginia in 1995, adding 130 jobs at that location. Because the activities at the separate locations are not part of the same process (i.e., each location does not perform the same function), and because the employment increases do not occur within the same 12-month period, Black may not aggregate the activity for purposes of determining qualification for the credit. Assuming Black otherwise qualifies for the credit, it will earn a credit of \$25,000 ( $((125-100) \times \$1,000)$ ) with respect to the corporate headquarters for credit year 1995, and \$30,000 ( $((130-100) \times \$1,000)$ ) with respect to the research and development laboratory for credit year 1996. If, however, the employment increases at both locations had occurred during the same 12-month period, Black could aggregate the activity for purposes of determining qualification for the credit.

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23 VAC 10-120-294. Major business facility job tax credit; qualified full-time employees.

A. In the event that a company meets the definition of a qualified company in accordance with 23 VAC 10-120-293 A 1 (a qualified job expansion), the qualified full-time employee's new, permanent full-time position must be in the qualified industry. Positions created for other nonqualifying activities of the taxpayer shall not qualify regardless of the taxpayer's primary industry.

*Example.* Green Corporation (Green) is primarily engaged in manufacturing in Virginia, but also operates several retail stores in the state. During 1994, Green adds 250 employees to its retail operations. During 1995, Green adds 150 employees to its manufacturing production lines. The 1994 activity is not a qualified job expansion, because the jobs created are not engaged in a qualified industry. Assuming the 150 jobs created in 1995 otherwise meet the definition of qualified full-time employees, Green will be considered to have incurred a qualified job expansion in 1995.

B. In the event that a company meets the definition of a qualified company in accordance with 23 VAC 10-120-293 A 2 (a major business facility), the qualified full-time employees' positions must be created in connection with the establishment or expansion of a major business facility. Positions created for other, nonqualifying activities of the taxpayer shall not qualify for the credit.

Only those positions which are related to the purpose and function of the major business facility shall be considered to be new, permanent full-time positions regardless of their location.

*Example.* ABC Corporation ("ABC") is primarily engaged in retail activity in Virginia. During 1994, ABC adds 200 employees to its retail operations. During 1994, ABC also moves its corporate headquarters to Virginia, establishing a major business facility and adding 175 employees at such facility. The 200 employees added to the retail operations are not considered qualified full-time employees because the jobs are not connected to the corporate headquarters facility. Assuming the 175 jobs created at the headquarters facility otherwise meet the definition of qualified full-time employees, ABC will be considered a qualified company with 175 qualified full-time employees.

C. A qualified full-time employee shall not include any employee:

1. For whom a credit under this regulation was previously earned by a related party as defined by Internal Revenue Code § 267(b) or a trade or business under common control as defined by Internal Revenue Code § 52(b);
2. Who was previously employed in the same job function in Virginia by a related party as defined by Internal Revenue Code § 267(b) or a trade or business under common control as defined by Internal Revenue Code § 52(b);

3. Whose job function was previously performed at a different location in Virginia by an employee of the taxpayer, a related party as defined by Internal Revenue Code § 267(b) or a trade or business under common control as defined by Internal Revenue Code § 52(b);

4. Whose job function previously qualified for a credit in connection with a different major business facility or qualified job expansion on behalf of the taxpayer, a related party as defined by Internal Revenue Code § 267(b), or a trade or business under common control as defined by Internal Revenue Code § 52(b).

5. Whose job function was counted as part of the threshold amount for purposes of determining a credit in an earlier taxable year on behalf of the taxpayer, a related party as defined by Internal Revenue Code § 267(b), or a trade or business under common control as defined by Internal Revenue Code § 52(b).

D. A new, permanent full-time position which otherwise qualifies for the credit will not be disqualified for purposes of the credit where the employer chooses to use more than one individual to fill the position. This exception is limited to those situations where no more than two employees are used to fill a position, such employees are eligible for essentially the same benefits as full-time employees, and each employee works at least 20 hours per week for at least 48 weeks per year.

*Example.* As part of the expansion of a major business facility, XYZ Corporation (XYZ) has the need to fill 30 positions which, if filled by individual employees, would require a 40-hour work week. XYZ satisfies its employment needs by hiring 75 different employees, 26 of whom will regularly work at least 20 hours per week and receive the same benefits as full-time employees, and 49 of whom will work less than 20 hours per week. For purposes of determining the credit, XYZ may consider the 26 employees who work at least 20 hours per week to constitute 13 new, permanent full-time positions.

23 VAC 10-120-295. Major business facility job tax credit; qualified full-time employees employed during the credit year.

A. The credit is allowed with respect to qualified full-time employees employed during the credit year. A qualified full-time employee who is employed by the taxpayer during the credit year may qualify for the credit even though such employee's position may have been created after the date of qualification.

*Example 1.* During 1994, ABC Corporation ("ABC"), a calendar year taxpayer, meets the definition of a qualified company in accordance with 23 VAC 10-120-293 A 1 as the result of a qualified job expansion which resulted in 125 jobs for qualified full-time employees. In 1995, the credit year, ABC actually employs 138 qualified full-time employees, as the result of hiring an additional 13 qualified full-time employees after the date of qualification. ABC may base its credit calculation on 138 qualified full-time employees.

**Example 2.** During 1994, XYZ Corporation ("XYZ"), a calendar year taxpayer, meets the definition of a qualified company in accordance with 23 VAC 10-120-293 A 2 as the result of establishing a major business facility in Virginia which resulted in 145 jobs for qualified full-time employees. In 1995, the credit year, XYZ actually employs 124 qualified full-time employees at the facility, as a result of the termination of 21 qualified full-time employees after the date of certification. XYZ must base its credit calculation on the 124 qualified full-time employees actually employed in 1995.

**Example 3.** During 1996, Blue Corporation ("Blue"), a calendar year taxpayer, meets the definition of a qualified company in accordance with 23 VAC 10-120-293 A 1 as the result of a qualified job expansion which resulted in the creation of 115 jobs for qualified full-time employees during the 12-month period ended January 31, 1996. In 1997, the credit year, Blue actually employs 250 qualified full-time employees as the result of hiring 57 additional full time employees between February 1, 1996, and December 31, 1996, and hiring 78 additional full-time employees in June of 1997.

Blue determines its credit in 1997 as follows:

(A)	(B)	(C)	(D)
# Employees	Full Months Employed in 1997	Total Months	Total (A X B ÷ C)
115 (initial hires)	12	12	115
57 (1996 new hires)	12	12	57
78 (hired June 97)	6	12	39
<b>Total</b>			<b>211</b>

Blue's credit earned is \$111,000 ( $\$1,000 \times (211-100)$ ). Assuming Blue's tax liability is sufficient to absorb the credit, Blue will be allowed to claim a credit of \$37,000 ( $\$111,000 \div 3$ ) in 1997, 1998 and 1999, respectively.

23 VAC 10-120-296. Major business facility job tax credit; recapture of credit.

A. The tax shall be increased for any of the five years succeeding the credit year in which the average number of qualified full-time employees employed during such year decreases below the average number of qualified full-time employees employed during the credit year. Such increase shall be determined by: (i) recomputing the credit which would have been earned for the original credit year using the decreased number of qualified full-time employees, and (ii) subtracting such recomputed credit from the amount of credit previously earned.

1. For purposes of this section, average employment will be determined using the number of qualified full-time employees reported on its quarterly employment tax reports made to the Virginia Employment Commission.

The average number of qualified employees shall be determined to two decimal places.

2. Recapture is based on qualified full-time employees, but is not contingent upon specific employees. Thus, recapture will not occur as a result of employee turnover if average employment does not decrease.

**Example.** ABC Corporation ("ABC"), a calendar year taxpayer, earns a credit of \$30,000 in 1995 with respect to 130 qualified full-time employees who were employed for a full 12 months during 1995 ( $\$1,000 \times (130-100)$ ). In 1996, ABC's average number of qualified full-time employees decreases to 125. ABC must recapture \$5,000 of the original credit ( $\$30,000 - (\$1,000 \times (125-100))$ ).

B. In the event that the average number of qualifying full-time employees employed at a major business facility falls below the threshold amount in any of the five taxable years succeeding the credit year, all credits earned with respect to such major business facility shall be recaptured.

**Example.** Blue Corporation ("Blue"), a calendar year taxpayer, earns a credit of \$50,000 in 1995 with respect to 150 qualified full-time employees who were employed for a full 12 months during 1995 ( $\$1,000 \times (150-100)$ ). In 1997, Blue's average number of qualified full-time employees decreases to 98. Blue must recapture \$50,000, the original credit.

C. No credit amount will be recaptured more than once pursuant to this subsection. Any recapture pursuant to this section shall reduce credits earned but not yet allowed, and credits allowed but carried forward, before the taxpayer's tax liability may be increased.

**Example.** Red Corporation ("Red"), a calendar year taxpayer, established a major business facility in 1994. Red earns a credit of \$70,000 in 1995 with respect to 170 qualified full-time employees who were employed for a full 12 months during 1995 ( $\$1,000 \times (170-100)$ ). In 1995 Red may claim a credit of \$23,333 ( $\$70,000 \div 3$ ).

In 1996, Red's average number of qualified full-time employees decreases to 165. Red must recapture \$5,000 in 1996 ( $\$70,000 - (\$1,000 \times (165-100))$ ). Because Red has not fully utilized its credit as of December 31, 1996, Red may reduce the amount of credit available in 1997 by the amount of the required recapture. Thus, Red may claim a credit of \$23,333 in 1996 ( $\$70,000 \div 3$ ), and \$18,333 in 1997 ( $(\$70,000 \div 3) - \$5,000$ ).

In 1998, Red's average number of qualified full-time employees decreases to 145. Red has already claimed the credit in 1995, 1996 and 1997, and must therefore increase its tax by \$20,000 in 1998 ( $\$65,000 - (\$1,000 \times (145-100))$ ).

# Proposed Regulations

Taxable Year	1995	1996	1997	Total
Gross Credit Available	\$23,333	\$23,333	\$23,334	
1996 Recapture	0	0	\$5,000	
Credit claimed	\$23,333	\$23,333	\$18,334	\$65,000
1998 Recapture:				
Credit claimed				\$65,000
Recomputed Credit (\$1,000 X (145-100))				\$45,000
Total credit allowed				\$20,000

23 VAC 10-120-297. Major business facility job tax credit; pass through entities.

The amount of any credit attributable to a partnership, S corporation, or limited liability company shall be allocated to the individual partners, shareholders, or members, respectively. The credit will be allocated in the manner in which profits are allocated for federal income tax purposes.

23 VAC 10-120-298. Major business facility job tax credit; enterprise zones and economically distressed areas.

A. In the event that a major business facility, or jobs created in connection with a qualified job expansion, are located in an economically distressed area or an enterprise zone as defined in § 59.1-271 of the Code of Virginia, the number of jobs required to qualify for a credit in accordance with 23 VAC 10-120-293 A 1 and 2, the threshold used to compute the credit, and the number of average employees required to avoid full recapture in accordance with 23 VAC 10-120-296, shall be reduced from 100 to 50.

1. A major business facility shall be deemed to be located in an economically distressed area if such area is designated as economically distressed: (i) for the calendar year in which an announcement of intent to establish or expand a major business facility is made; (ii) for the calendar year in which construction begins or the facility commences operations; (iii) for any part of the 12-month period defined in 23 VAC 10-120-293 C 2; or (iv) for any part of the credit year.

2. Jobs created in connection with a qualified job expansion shall be deemed to be located in an economically distressed area if such area is designated as economically distressed: (i) for the calendar year in which an announcement of intent to create such jobs is made; (ii) for any part of the 12-month period defined in 23 VAC 10-120-293 B 2; or (iii) for any part of the credit year.

B. An area shall qualify as economically distressed if it is a city or county with an unemployment rate for the preceding year of at least 0.5% higher than the average statewide unemployment rate for such year. Prior to January 1 of each calendar year, cities and counties shall be designated as

economically distressed for such calendar year, based on unemployment data available from the Virginia Employment Commission as of October 1 for the Commonwealth's fiscal year ending in June of the preceding year.

C. In order to qualify under this section, jobs must be principally located within the economically distressed area or enterprise zone. Jobs will be considered principally located at the situs of the majority of the employee's duties.

D. In the event that a company has activities located both within and without an economically distressed area or enterprise zone, the company may not aggregate activity from outside such area and still utilize the lower threshold amount.

Example. ABC Corporation ("ABC") is engaged in manufacturing in several locations throughout Virginia. In 1994, ABC creates 85 jobs for qualified full-time employees at a facility it operates in an enterprise zone, and creates 35 jobs for qualified full-time employees at a facility that is not within an enterprise zone or an economically distressed area. ABC may qualify for and compute the credit by comparing 85 jobs located in the enterprise zone to a threshold of 50, or by comparing 120 jobs to a threshold of 100. Thus the maximum credit allowed to ABC as a result of the 1994 activity will be \$35,000, the greater of \$35,000 ((85-50) X \$1,000) or \$20,000 ((120-100) X \$1,000).

23 VAC 10-120-299. Major business facility job tax credit; bank franchise tax.

A. On or before March 1 of each year, each bank is required to file a bank franchise tax return which measures net capital of the bank as of January 1 of the current year. The first return upon which the credit may be used by a bank to reduce the bank franchise tax will be the return due as of March 1, 1996, which measures net capital as of January 1, 1996.

B. A bank's credit year shall be the 12-month period which ends on the December 31 immediately preceding the January 1 measurement of net capital. For example, the credit year for the bank franchise tax return due as of March 1, 1996, which measures net capital as of January 1, 1996, is the 12-month period ending December 31, 1995.

C. The credit shall be allowed after the bank franchise tax has been reduced by the credit against the state tax pursuant to § 58.1-1213 of the Code of Virginia for amounts paid to cities, towns and counties.

Example. ABC Bank has a gross bank franchise tax liability of \$15,000, a credit for franchise tax assessed by a city of \$12,000 and an available major business facility job tax credit of \$25,000. ABC Bank determines its tax liability as follows:

Bank Franchise tax	\$15,000
Less credit for city franchise tax	12,000
Net	3,000
Major business facility job tax credit	3,000

Net tax due 0

ABC Bank may carry over the excess major business facility job tax credit (\$25,000 - 3,000) to the next 10 taxable years.

## Documents Incorporated by Reference

Standard Industrial Classification Manual.

VA.R. Doc. No. R96-90; Filed November 3, 1995, 3:01 p.m.

## STATE WATER CONTROL BOARD

**Title of Regulation:** VR 680-14-10. [9 VAC 25-115-10 et seq.] **General Virginia Pollutant Discharge Elimination System (VPDES) Permit for Seafood Processing Facilities.**

**Statutory Authority:** § 62.1-44.15(10) of the Code of Virginia.

**Public Hearing Date:** January 18, 1996 - 7 p.m.

Written comments may be submitted until January 29, 1996.

(See Calendar of Events section for additional information)

**Basis:** The basis for this regulation is § 62.1-44.2 et seq. of the Code of Virginia. Specifically, § 62.1-44.15(5) authorizes the State Water Control Board (board) to issue permits for the discharge of treated sewage, industrial wastes or other waste into or adjacent to state waters. Section 62.1-44.15(7) authorizes the board to adopt rules governing the procedures of the board with respect to the issuance of permits. Further, § 62.1-44.15(10) authorizes the board to adopt such regulations as it deems necessary to enforce the general water quality management program; § 62.1-44.15(14) authorizes the board to establish requirements for the treatment of sewage, industrial wastes and other wastes; § 62.1-44.20 provides that agents of the board may have the right of entry to public or private property for the purpose of obtaining information or conducting necessary surveys or investigations; and § 62.1-44.21 authorizes the board to require owners to furnish information necessary to determine the effect of the wastes from a discharge on the quality of state waters.

Section 402 of the Clean Water Act (33 USC 1251 et seq.) authorizes states to administer the National Pollutant Discharge Elimination System (NPDES) permit program under state law. The Commonwealth of Virginia received such authorization in 1975 under the terms of a Memorandum of Understanding with the U.S. Environmental Protection Agency (EPA) to administer a Virginia Pollutant Discharge Elimination System (VPDES) permit program. This Memorandum of Understanding was modified on May 20, 1991, to authorize the Commonwealth to administer a VPDES General Permit Program.

**Purpose:** The purpose of this proposed regulatory action is to adopt a general VPDES permit for discharges of process wastewaters and storm waters from facilities primarily engaged in processing seafood. Currently these facilities are covered by individual VPDES permits. Managing and controlling the type and quantity of discharges into the

surface waters of the Commonwealth is essential to protect the health, safety and welfare of the citizens of the Commonwealth. A general permit regulation provides for the management and control of a discharge as well as reducing the paperwork, time and expense of obtaining a permit for the public.

**Substance:** The facilities covered by this general permit process or handle seafood intended for human consumption or as bait. They produce a variety of final products, however their wastes are similar in nature and can be covered by the same general permit. The covered facilities would be those processors of various seafood products which produce minimal volumes of waste waters during processing and whose wastes are not considered to be significant threats to water quality.

The general permit contains standard language required for all VPDES permits relative to monitoring and reporting of discharge quality and the management of the facility being permitted. As with an individual VPDES permit, the effluent limits in the general permit are set to protect the quality of the receiving waters. No discharge will be covered by the general permit unless the local governing body has certified that the facility complies with all applicable zoning and planning ordinances. Seafood processing facilities whose discharges are believed to impact water quality would be required to obtain individual VPDES permits, rather than be covered by this general permit.

The proposed general permit consists of limitations and monitoring requirements on discharges to surface waters for the following parameters: flow, pH, oil and grease and total suspended solids and for certain facilities, BOD<sub>5</sub>. Discharges of sanitary wastes would not be authorized by this permit.

On the basis of preliminary review and application of lawful standards and regulations, the board proposes to adopt the regulation and issue the general permit subject to certain conditions. Permit No. VAG52 may be issued to any owner of an active or inactive Seafood Producing Facility which is classified as Standard Industrial Classification Codes 2091, 2092, 5142 and 5146, except as specified below. The owner must also agree to be regulated under the terms of this general permit and facilities must be located within the Commonwealth of Virginia. This general permit authorizes discharges to all surface waters within the boundaries of the Commonwealth of Virginia, except those where board regulations or policies prohibit such discharges.

**Issues:** The advantages to the agency and the public are described in the "Estimated Impact" section. There may be certain disadvantages associated with this proposal. As noted above, there will be some seafood processing facilities which will not fall within the criteria of the general VPDES permit. For example, a mechanized clam processor has expressed interest in obtaining coverage under the proposed general permit. This plant currently has an individual VPDES permit with site specific limits, stricter than the EPA promulgated limits found in the proposed regulation. The staff believes that because of these site specific limits, this facility may not be eligible for general permit coverage.

Facilities which process trout have also expressed interest in obtaining a general permit to cover their process discharges.

# Proposed Regulations

The seafood processing facility general permit was designed for discharges to tidal waters which possess adequate dilution and dispersion characteristics. Trout processing facilities typically discharge to smaller, nontidal bodies of water without these characteristics.

Once the general permit regulation is adopted, there will not be a separate public notice each time a seafood processing plant is accepted for coverage under the conditions of the general permit itself. The public may perceive this as a disadvantage.

**Estimated Impacts:** This regulation will allow for the streamlining of the permit process for the covered discharges. Coverage under the general permit would reduce the paper work, time and expense of obtaining a permit for the owners and operators in this category, and reduce the time and expense of issuing individual permits by the Department of Environmental Quality.

Adoption of this proposed regulation and issuance of the general permit will affect approximately 300 seafood processing establishments in the state. The fee for coverage under the general permit would be \$200, while the fee for an individual permit for these facilities could be as much as \$3,500.

**Affected Locality:** The regulation will be applicable statewide and will not affect any one locality disproportionately.

**Applicable Federal Requirements:** Section 402 of the Clean Water Act (33 USC 1251 et seq.) authorizes states to administer the NPDES permit program under state law. The Commonwealth of Virginia received such authorization in 1975 under the terms of a Memorandum of Understanding with the U.S. EPA. The general permit for seafood processing facilities contains effluent limits provided in 40 CFR 408.

**Department of Planning and Budget's Economic Impact Analysis:**

Under Section 402 of the federal Clean Water Act and §§ 62.1-44.2 et seq. of the Code of Virginia, Virginia is authorized to administer the National Pollutant Discharge Elimination System (NPDES) permit program for discharges into or adjacent to state waters. The Virginia Pollutant Discharge Elimination System (VPDES) permit program is administered under a memorandum of understanding with the U.S. Environmental Protection Agency (EPA).

In many circumstances, federal and state law require the issuance of an individual VPDES permit to each establishment discharging wastes into state waters. However, the memorandum of understanding with EPA allows for the issuance, under certain conditions, of a generic VPDES permit to cover a category of discharger. Once the generic permit is issued, then qualifying facilities do not need to apply for a separate VPDES permit. Rather, they only need to certify that they meet the conditions set out in the general permit. The specific and general permits are the only alternatives available under the federal Clean Water Act.

It is the purpose of these regulations to replace the current, establishment-specific permit system for the seafood processing industry with a general permit system. The

Department of Environmental Quality (DEQ) suggests that the change will result in lower administrative and compliance costs without causing any material changes in water quality.

**Administrative and compliance costs:** This proposal will greatly reduce the costs to firms of obtaining a VPDES permit and to DEQ of granting the permits. DEQ estimates that there are 300 seafood processors with VPDES permits. Five of these are larger facilities classified as "industrial minors with no standard limits." The rest are somewhat smaller and are classified as "industrial minors with standard limits." The importance of this classification is in the cost of administering the permits. Table 1 shows the fees paid for a permit and the costs associated with permit processing. DEQ estimates that, on average, firms incur costs (in addition to the fee) of \$700 applying for a specific permit. A reasonable estimate of the cost of applying for coverage under the general permit is \$100. At the current rates, the fees only cover about 75% of DEQ's cost of processing the permit.<sup>5</sup> The taxpayers must pay for the remainder.

The yearly savings are estimated to be nearly \$200,000. About \$40,000 of that amount will be savings in government expenditures and the rest in reduced costs to the seafood processing firms. It is unknown what portion of these savings will be earned by Virginia residents as either increased return on investments or lower food prices.

Number of firms	DEQ fee	Current	Proposed
Large	5 Large	\$3,400	\$200
Small	295 Small	\$2,200	\$200
		Current regulations	Proposed regulations
Fees paid	\$666,000	\$60,000	\$606,000
Taxpayer costs	\$222,000	\$20,000	\$202,000
Other firm costs	\$210,000	\$30,000	\$180,000
Total permit costs	\$1,098,000	\$110,000	
Total undiscounted savings over 5 years	\$988,000	Savings per year	\$197,600

<sup>5</sup> DEQ's estimated an 80% figure 3 years ago. The 75% figure makes a reasonable adjustment for inflation.



Water quality: Performance requirements under both specific and general permits are the same. They are based on the established "best conventional pollution control technology" as defined in the federal Clean Water Act and state water pollution control laws. Separate standards are established for various sizes of facilities. Standards also depend on whether a plant already exists or is a new facility. The level of control required of the facilities will be the same whether it is regulated under a specific or general permit. The key conclusion, for the purposed of this economic impact analysis, is that the use of general permits rather than specific permits will not change the amount of effluents generated per unit of output at a given facility.

That does not necessarily imply that the total amount of effluents will not rise. There are reasons why a general permit could conceivably lead to an increase in nutrient flows. First, a reduction in costs due to lower compliance costs could result in an increase in the amount of seafood processed in Virginia due to production shifting from other states or an increase in the demand for locally processed seafood. Neither of these potential impacts are likely to be significant in response to this regulation. The cost to firms of processing the permit application is a very small part of the total cost of compliance with the effluent limitations. Thus, the shift to a general permit will have a negligible impact on the amount of seafood processing taking place in Virginia.

The second possible impact of general versus specific permits is due to the difference in public notice provisions. The specific VPDES requires that public notice be given of the pending application. Since the general permit eliminates the need to permit each facility, there is no requirement of public notice for covering a given facility under the general permit. This notice is given to the public in the area near the location of the establishment applying for the permit. There are two possible benefits of giving the public some notification when a facility is covered under a general permit. First, at the time of the permitting, the members of the public may be able to provide DEQ with information about possible local impacts on water quality of which the agency is unaware. Another advantage of this public notice is that, once aware of the location of the facility and the terms of the permit, the public can assist in the enforcement of the permit by reporting obvious violations.

DEQ indicates that the proportion of routine VPDES permits on which there is significant public input is very small. Information about the extent of private citizen contributions to enforcement of VPDES permits is not readily available. So, the magnitude of any benefits from public notification are highly speculative.

DEQ may be able to capture most, if not all, of the benefits of public notice by providing some form of notification to interested parties when a facility is approved for coverage under the general permit. DEQ already maintains a mailing list of members of the public interested in the VPDES permit process. It may be possible, at very low cost, to include information about facilities newly covered under the general permit on the mailings sent to those interested parties. This would have the added advantage of dispelling concerns people might have about general permits limiting public knowledge of regulatory activities.

Conclusions: The annual savings expected from this proposed regulation are expected to be nearly \$200,000. Eighty percent of these savings will be in the form of reduced costs to seafood processing firms and 20% will be savings in state expenditures. The anticipated impact on water quality is nil since there is no change in the actual effluent standards applicable to the establishments covered under the general permit. DPB recommends that DEQ consider providing some notification to the public of establishments covered under the general permit.

This proposed rule has a high likelihood of producing significant savings both to taxpayers and seafood processing plants without any significant changes in ambient water quality.

Agency's Response to Department of Planning and Budget's Economic Impact Analysis: We have reviewed the economic impact analysis prepared by the Department of Planning and Budget and concur with its conclusion that the proposed regulation has a high likelihood of producing significant savings to taxpayers and seafood processing plants, without significant changes to water quality.

#### Summary:

*The State Water Control Board (board) proposes to adopt a General Virginia Pollutant Discharge Elimination System (VPDES) permit for seafood processing facilities. This proposed regulatory action will set forth guidelines for the permitting of discharge of process wastewaters and storm waters from businesses primarily engaged in processing seafood. Currently these facilities are covered by individual VPDES permits.*

9 VAC 25-115-10 et seq. General Virginia Pollutant Discharge Elimination System (VPDES) Permit for Seafood Processing Facilities.

#### CHAPTER 115. GENERAL VIRGINIA POLLUTANT DISCHARGE ELIMINATION SYSTEM (VPDES) PERMIT FOR SEAFOOD PROCESSING FACILITIES.

9 VAC 25-115-10. Definitions.

*The words and terms used in this chapter shall have the meanings defined in the State Water Control Law and 9 VAC 25-30-10 et seq. (Permit Regulation) unless the context clearly indicates otherwise, except that for the purposes of this chapter:*

*"Board" means the State Water Control Board.*

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

*"Director" means the Director of the Virginia Department of Environmental Quality, or his designee.*

*"Seafood processing facility" means any facility classified under Standard Industrial Classification (SIC) 2091, 2092, 5142 or 5146 (Office of Management and Budget (OMB) SIC Manual, 1987) which processes or handles seafood intended for human consumption or as bait. Seafood includes but is not limited to crabs, oysters, clams, scallops, squid, eels, turtles, fish, conchs and crayfish.*



# Proposed Regulations

"Industrial activity" means the facilities classified under SIC 2091 or 2092.

"Runoff coefficient" means the fraction of total rainfall that will appear at the conveyance as runoff.

"Significant materials" includes, but is not limited to, raw materials; fuels; materials such as solvents, detergents, and plastic pellets; finished materials such as metallic products; raw materials used in food processing or production (except oyster, clam or scallop shells); hazardous substances designated under § 101(14) of the Comprehensive Environmental Response, Compensation and Liability Act of 1980 (CERCLA); any chemical the facility is required to report pursuant to EPCRA § 313; fertilizers; pesticides; and waste products such as ashes, slag and sludge that have the potential to be released with storm water discharges.

"Storm water" means storm water runoff, snow melt runoff, and surface runoff and drainage.

"Storm water discharge associated with industrial activity" means the discharge from any conveyance which is used for collecting and conveying storm water and which is directly related to manufacturing, processing or raw materials storage areas at an industrial plant. The term does not include discharges from facilities or activities excluded from the NPDES program under 40 CFR 122 (1992). For the categories of industries identified in the "industrial activity" definition, the term includes, but is not limited to, storm water discharges from industrial plant yards; immediate access roads and rail lines used or traveled by carriers of raw materials, manufactured products, waste material, or byproducts (except for oyster, clam or scallop shells) used or created by the facility; material handling sites; refuse sites; sites used for the application or disposal of process wastewaters (as defined at 40 CFR 401 (1992)); sites used for the storage and maintenance of material handling equipment; sites used for residual treatment, storage, or disposal; shipping and receiving areas; manufacturing buildings; storage area (including tank farms) for raw materials, and intermediate and finished products; and areas where industrial activity has taken place in the past and significant materials remain and are exposed to storm water. For the purposes of this paragraph, material handling activities include the storage, loading and unloading, transportation, or conveyance of any raw material, intermediate product, finished product, byproduct or waste product (except for oyster, clam or scallop shells). The term excludes areas located on plant lands separate from the plant's industrial activities, such as office buildings and accompanying parking lots as long as the drainage from the excluded areas is not mixed with storm water drained from the above described areas.

9 VAC 25-115-20. Purpose; delegation of authority; effective date of permit.

A. This general permit regulation governs the discharge of wastewater and storm water associated with industrial activity from seafood processing facilities.

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

C. This general permit will become effective on \*\*\*\*\* 199\*. This general permit will expire five years after the effective date. This general permit is effective as to any covered owner upon compliance with all the provisions of 9 VAC 25-115-30 and the receipt of this general permit.

9 VAC 25-115-30. Authorization to discharge.

Any owner governed by this general permit is hereby authorized to discharge to surface waters of the Commonwealth of Virginia provided that the owner files and receives acceptance by the director of the registration statement of 9 VAC 25-115-40, files the required permit fee, complies with the effluent limitations and other requirements of 9 VAC 25-115-50, and provided that:

1. Individual permit. The owner shall not have been required to obtain an individual permit as may be required in the VPDES Permit Regulation (9 VAC 25-30-10 et seq.).
2. Prohibited discharge locations. The owner shall not be authorized by this general permit to discharge to state waters where other board regulations or policies prohibit such discharges.
3. Local government notification. The owner shall obtain the notification from the governing body of the county, city or town required by § 62.1-44.15:3 of the Code of Virginia.

Receipt of this general permit does not relieve any owner of the responsibility to comply with any other federal, state or local statute, ordinance or regulation.

9 VAC 25-115-40. Registration statement.

The owner shall file a complete general VPDES permit registration statement for seafood processors. Any owner of an existing seafood processing facility which is covered by this general permit, who wishes to add a process to the existing permit, shall file an amended registration statement at least 30 days prior to commencing operation of the new process. Any owner proposing a new discharge shall file the registration statement at least 30 days prior to the date planned for commencing construction or operation of the new discharge. Any owner of an existing seafood processing facility covered by an individual VPDES permit who is proposing to be covered by this general permit shall file the registration statement at least 120 days prior to the expiration date of the individual VPDES permit. Any owner of an existing seafood processing facility not currently covered by a VPDES permit who is proposing to be covered by this general permit shall file the registration statement. The required registration statement shall be in the following form:

VIRGINIA POLLUTANT DISCHARGE ELIMINATION  
SYSTEM  
GENERAL PERMIT REGISTRATION STATEMENT FOR  
SEAFOOD PROCESSING FACILITIES

1. APPLICANT INFORMATION

- A. Name of Facility: \_\_\_\_\_  
B. Facility Owner: \_\_\_\_\_

# Proposed Regulations

**C. Owner's Mailing Address**

- a. Street or P.O. Box \_\_\_\_\_
- b. City or Town \_\_\_\_\_
- c. State \_\_\_ d. Zip Code \_\_\_\_\_
- e. Phone Number \_\_\_\_\_

**D. Facility Location:** \_\_\_\_\_  
 Street No., Route No., or Other Identifier

**E. Is the operator of the facility also the owner?**

\_\_\_ Yes \_\_\_ No  
 If No, complete F & G.

**F. Name of Operator:** \_\_\_\_\_

**G. Operator's Mailing Address**

- a. Street or P.O. Box \_\_\_\_\_
- b. City or Town \_\_\_\_\_
- c. State \_\_\_ d. Zip Code \_\_\_\_\_
- e. Phone Number \_\_\_\_\_

**2. FACILITY INFORMATION**

Will this facility discharge to surface waters

\_\_\_ Yes \_\_\_ No.

If yes, name of receiving stream \_\_\_\_\_

Does this facility currently have an existing VPDES Permit?

\_\_\_ Yes \_\_\_ No

If yes, what is the permit No. \_\_\_\_\_

Provide the original date of construction of the seafood processing facility building and dates and description of all subsequent facility construction.

\_\_\_\_\_

\_\_\_\_\_

**3. MAP**

Attach a USGS topographic map extending to at least one mile beyond property boundary, indicate location of facility and name of topographical quadrangle.

**4. SIC CODES (check all applicable categories)**

- \_\_\_ 2091 Canning and Curing Fish and Seafood
- \_\_\_ 2092 Preparing Fresh or Frozen Fish and Seafood
- \_\_\_ 5142 Wholesale Distribution of Packaged Frozen Fish and Other Seafood
- \_\_\_ 5146 Wholesale Distribution of Fish and Seafood, Including Product Cured, Fresh or Frozen But Not Packaged or Canned

**5. NATURE OF BUSINESS: (provide a brief description)**

**6. OUTFALL INFORMATION**

List all wastewater discharge outfalls by a number that is the same as on the drawings required in Question 8. Identify the processes which discharge through each outfall. Give the name of the waterbody receiving the discharge.

Outfall No.	Operation (Process)	Receiving Stream
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____

**7. MAXIMUM DAILY PRODUCTION (the highest production value on any one day during a calendar year)**

Operation (Process)	Quantity Per Day	Unit of Measurement
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____

**8. FACILITY DRAWING**

A. Attach a line drawing for each process showing the source of the water and its flow through the facility. Show each step of the process, (i.e., what happens to the water from the time it arrives at the facility until the time it leaves showing all individual floor drains, where pipes run through the building and where they discharge in relation to the receiving waters.)

B. Will any of the above processes operate simultaneously and discharge to the same outfall(s)?  
 Yes \_\_\_ No \_\_\_

If so, please provide specific information regarding simultaneous discharges.

\_\_\_\_\_

\_\_\_\_\_

**9. TREATMENT INFORMATION**

A. If settling basins or screens are used in wastewater treatment, provide the dimensions and capacity of the settling basin(s) and/or screen mesh size and location.

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

# Proposed Regulations

\_\_\_\_\_  
\_\_\_\_\_  
B. Describe the method and frequency of solid wastes disposal.

Name of person(s) signing above: \_\_\_\_\_  
(printed or typed)

\_\_\_\_\_  
\_\_\_\_\_  
Title(s): \_\_\_\_\_  
(printed or typed)

## 10. CHEMICALS

Are any chemicals other than cleaners and sanitizers approved by the U. S. Department of Agriculture for food plant applications used in such a way that they might be in the discharge?

Yes \_\_\_\_\_ No \_\_\_\_\_

If yes, provide the name of the chemical(s) here and describe how it is used.

## 11. LOCAL GOVERNMENT ORDINANCE COMPLIANCE

The owner of any proposed discharge into or adjacent to state waters or the owner of any discharge into or adjacent to state waters which has not previously been covered by a valid VPDES permit must attach to this registration statement notification from the governing body of the county, city or town in which the discharge is to take place that the location and operation of the discharging facility is consistent with all ordinances adopted pursuant to Chapter 11 (Section 15.1-427 et seq.) of Title 15.1 of the Code of Virginia.

## 12. CERTIFICATION

I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system or those persons directly responsible for gathering the information, the information submitted is to the best of my knowledge and belief true, accurate, and complete. I am aware that there are significant penalties for submitting false information including the possibility of fine and imprisonment for knowing violations.

Signature(s): \_\_\_\_\_ Date: \_\_\_\_\_

\_\_\_\_\_ Date: \_\_\_\_\_

## REQUIRED ATTACHMENTS

Facility Drawing

USGS Topographic Map

Local Government Ordinance Form (If needed, see No. 12)

For Department use only:

Accepted/Not Accepted by: \_\_\_\_\_ Date: \_\_\_\_\_

Basin \_\_\_\_\_ Stream Class \_\_\_\_\_ Section \_\_\_\_\_

Special Standards \_\_\_\_\_

9 VAC 25-115-50. General permit.

Any owner whose registration statement is accepted by the director will receive the following permit and shall comply with the requirements therein and be subject to all requirements of the Permit Regulation.

General Permit No.: VAG52\*\*\*\*\*

Effective Date: \*\*\*\*\* 199\*

Expiration Date: \*\*\*\*\* 199\*

## GENERAL PERMIT FOR SEAFOOD PROCESSING FACILITY AUTHORIZATION TO DISCHARGE UNDER THE VIRGINIA POLLUTANT DISCHARGE ELIMINATION SYSTEM AND THE VIRGINIA STATE WATER CONTROL LAW

In compliance with the provisions of the Clean Water Act, as amended and pursuant to the State Water Control Law and regulations adopted pursuant thereto, owners of seafood processing facilities are authorized to discharge to surface waters within the boundaries of the Commonwealth of Virginia, except those where board regulations or policies prohibit such discharges.

The authorized discharge shall be in accordance with this cover page, Part I - Effluent Limitations and Monitoring Requirements, Part II - Storm Water Pollution Prevention Plans, Part III - Monitoring and Reporting, and Part IV - Management Requirements, as set forth herein.

# Proposed Regulations

## PART I

### A. EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTS - SEAFOOD PROCESSING NOT LIMITED ELSEWHERE IN PART I. A.- ALL SOURCES

1. During the period beginning with the permittee's coverage under this general permit and lasting until the permit's expiration date, the permittee is authorized to discharge wastewater from seafood processing not otherwise classified from outfall(s) \_\_\_\_\_.

Such discharges shall be limited and monitored by the permittee as specified below:

EFFLUENT CHARACTERISTICS	MONITORING REQUIREMENTS kg/day		DISCHARGE LIMITATIONS kg/kkg			SAMPLE	SAMPLE
	Monthly Avg	Daily Max	Monthly Avg	Daily Max	Daily Min	Frequency	Type
Flow (MGD)	NA	NL	NA	NA	NA	1/YEAR	Estimate
pH (S.U.)	NA	NA	NA	9.0	6.0	1/YEAR	Grab
TSS	NL	NL	NA	NA	NA	1/YEAR	Comp
Oil and Grease	NL	NL	NA	NA	NA	1/YEAR	Grab
Production	NA	NL	NA	NA	NA	1/YEAR	Measure

NL = No Limitation, monitoring required

NA = Not applicable

Grab = Individual grab sample is to be taken in the middle of a composite sampling period.

Comp = Hourly grab samples taken over the duration of a processing cycle (including cleanup) combined to form one representative sample, not to exceed eight grab samples.

Samples shall be collected by the end of the year and reported by the 10th of January of the following year on the facility's Discharge Monitoring Report (DMR). All calculations shall be submitted with the DMR.

## PART I

### A. EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTS - CONVENTIONAL (HANDPICKED) BLUE CRAB PROCESSING - EXISTING SOURCES PROCESSING MORE THAN 3,000 LBS OF RAW MATERIAL PER DAY ON ANY DAY

2. During the period beginning with the permittee's coverage under this general permit and lasting until the permit's expiration date, the permittee is authorized to discharge wastewater from conventional blue crab processing, from outfall(s) \_\_\_\_\_.

Such discharges shall be limited and monitored by the permittee as specified below:

EFFLUENT CHARACTERISTICS	MONITORING REQUIREMENTS kg/day		DISCHARGE LIMITATIONS kg/kkg			SAMPLE	SAMPLE
	Monthly Avg	Daily Max	Monthly Avg	Daily Max	Daily Min	Frequency	Type
Flow (MGD)	NA	NL	NA	NA	NA	1/3 Months	Estimate
pH (S.U.)	NA	NA	NA	9.0	6.0	1/3 Months	Grab
TSS	NL	NL	0.74	2.2	NA	1/3 Months	Comp
Oil and Grease	NL	NL	0.20	0.60	NA	1/3 Months	Grab
Production	NA	NL	NA	NA	NA	1/3 Months	Measure

NL = No Limitation, monitoring required

NA = Not applicable

# Proposed Regulations

Grab = Individual grab sample is to be taken in the middle of a composite sampling period.

Comp = Hourly grab samples taken over the duration of a processing cycle (including cleanup) combined to form one representative sample, not to exceed eight grab samples.

Samples shall be collected by March 31, June 30, September 30 and December 31 and reported by the 10th of the following month on the facility's Discharge Monitoring Report (DMR). All calculations shall be submitted with the DMR.

## PART I

### A. EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTS - CONVENTIONAL (HANDPICKED) BLUE CRAB PROCESSING - ALL NEW SOURCES

3. During the period beginning with the permittee's coverage under this general permit and lasting until the permit's expiration date, the permittee is authorized to discharge wastewater from conventional blue crab processing, from outfall(s)

Such discharges shall be limited and monitored by the permittee as specified below:

EFFLUENT CHARACTERISTICS	MONITORING REQUIREMENTS kg/day		DISCHARGE LIMITATIONS kg/kkg			SAMPLE Frequency	SAMPLE Type
	Monthly Avg	Daily Max	Monthly Avg	Daily Max	Daily Min		
Flow (MGD)	NA	NL	NA	NA	NA	1/3 Months	Estimate
pH (S.U.)	NA	NA	NA	9.0	6.0	1/3 Months	Grab
BOD <sub>5</sub>	NL	NL	0.15	0.30	NA	1/3 Months	Comp
TSS	NL	NL	0.45	0.90	NA	1/3 Months	Comp
Oil and Grease	NL	NL	0.065	0.13	NA	1/3 Months	Grab
Production	NA	NL	NA	NA	NA	1/3 Months	Measure

NL = No Limitation, monitoring required

NA = Not applicable

Grab = Individual grab sample is to be taken in the middle of a composite sampling period.

Comp = Hourly grab samples taken over the duration of a processing cycle (including cleanup) combined to form one representative sample, not to exceed eight grab samples.

Samples shall be collected by March 31, June 30, September 30 and December 31 and reported by the 10th of the following month on the facility's Discharge Monitoring Report (DMR). All calculations shall be submitted with the DMR.

## PART I

### A. EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTS - MECHANIZED BLUE CRAB PROCESSING - ALL EXISTING SOURCES

4. During the period beginning with the permittee's coverage under this general permit and lasting until the permit's expiration date, the permittee is authorized to discharge wastewater from mechanized blue crab processing, from outfall(s)

Such discharges shall be limited and monitored by the permittee as specified below:

EFFLUENT CHARACTERISTICS	MONITORING REQUIREMENTS kg/day		DISCHARGE LIMITATIONS kg/kkg			SAMPLE Frequency	SAMPLE Type
	Monthly Avg	Daily Max	Monthly Avg	Daily Max	Daily Min		
Flow (MGD)	NA	NL	NA	NA	NA	1/3 Months	Estimate
pH (S.U.)	NA	NA	NA	9.0	6.0	1/3 Months	Grab

## Proposed Regulations

TSS	NL	NL	12.0	36.0	NA	1/3 Months	Comp
Oil and Grease	NL	NL	4.2	13.0	NA	1/3 Months	Grab
Production	NA	NL	NA	NA	NA	1/3 Months	Measure

NL = No Limitation, monitoring required

NA = Not applicable

Grab = Individual grab sample is to be taken in the middle of a composite sampling period.

Comp = Hourly grab samples taken over the duration of a processing cycle (including cleanup) combined to form one representative sample, not to exceed eight grab samples.

Samples shall be collected by March 31, June 30, September 30 and December 31 and reported by the 10th of the following month on the facility's Discharge Monitoring Report (DMR). All calculations shall be submitted with the DMR.

### PART I

#### A. EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTS - MECHANIZED BLUE CRAB PROCESSING - ALL NEW SOURCES

5. During the period beginning with the permittee's coverage under this general permit and lasting until the permit's expiration date, the permittee is authorized to discharge wastewater from mechanized blue crab processing, from outfall(s)

Such discharges shall be limited and monitored by the permittee as specified below:

EFFLUENT CHARACTERISTICS	MONITORING REQUIREMENTS kg/day		DISCHARGE LIMITATIONS kg/kkg			SAMPLE Frequency	SAMPLE Type
	Monthly Avg	Daily Max	Monthly Avg	Daily Max	Daily Min		
Flow (MGD)	NA	NL	NA	NA	NA	1/3 Months	Estimate
pH (S.U.)	NA	NA	NA	9.0	6.0	1/3 Months	Grab
BOD <sub>5</sub>	NL	NL	2.5	5.0	NA	1/3 Months	Comp
TSS	NL	NL	6.3	13	NA	1/3 Months	Comp
Oil and Grease	NL	NL	1.3	2.6	NA	1/3 Months	Grab
Production	NA	NL	NA	NA	NA	1/3 Months	Measure

NL = No Limitation, monitoring required

NA = Not applicable

Grab = Individual grab sample is to be taken in the middle of a composite sampling period.

Comp = Hourly grab samples taken over the duration of a processing cycle (including cleanup) combined to form one representative sample, not to exceed eight grab samples.

Samples shall be collected by March 31, June 30, September 30 and December 31 and reported by the 10th of the following month on the facility's Discharge Monitoring Report (DMR). All calculations shall be submitted with the DMR.

### PART I

#### A. EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTS - NON-BREADED SHRIMP PROCESSING - EXISTING SOURCES PROCESSING MORE THAN 2,000 LBS OF RAW MATERIAL PER DAY ON ANY DAY

6. During the period beginning with the permittee's coverage under this general permit and lasting until the permit's expiration date, the permittee is authorized to discharge wastewater from non-breaded shrimp processing, from outfall(s)

Such discharges shall be limited and monitored by the permittee as specified below:

# Proposed Regulations

EFFLUENT CHARACTERISTICS	MONITORING REQUIREMENTS kg/day		DISCHARGE LIMITATIONS kg/kkg			SAMPLE	SAMPLE
	Monthly Avg	Daily Max	Monthly Avg	Daily Max	Daily Min	Frequency	Type
Flow (MGD)	NA	NL	NA	NA	NA	1/3 Months	Estimate
pH (S.U.)	NA	NA	NA	9.0	6.0	1/3 Months	Grab
TSS	NL	NL	38.0	110	NA	1/3 Months	Comp
Oil and Grease	NL	NL	12.0	36.0	NA	1/3 Months	Grab
Production	NA	NL	NA	NA	NA	1/3 Months	Measure

NL = No Limitation, monitoring required

NA = Not applicable

Grab = Individual grab sample is to be taken in the middle of a composite sampling period.

Comp = Hourly grab samples taken over the duration of a processing cycle (including cleanup) combined to form one representative sample, not to exceed eight grab samples.

Samples shall be collected by March 31, June 30, September 30 and December 31 and reported by the 10th of the following month on the facility's Discharge Monitoring Report (DMR). All calculations shall be submitted with the DMR.

## PART I

### A. EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTS - NON-BREADED SHRIMP PROCESSING - ALL NEW SOURCES

7. During the period beginning with the permittee's coverage under this general permit and lasting until the permit's expiration date, the permittee is authorized to discharge wastewater from non-breaded shrimp processing, from outfall(s)

Such discharges shall be limited and monitored by the permittee as specified below:

EFFLUENT CHARACTERISTICS	MONITORING REQUIREMENTS kg/day		DISCHARGE LIMITATIONS kg/kkg			SAMPLE	SAMPLE
	Monthly Avg	Daily Max	Monthly Avg	Daily Max	Daily Min	Frequency	Type
Flow (MGD)	NA	NL	NA	NA	NA	1/3 Months	Estimate
pH (S.U.)	NA	NA	NA	9.0	6.0	1/3 Months	Grab
BOD <sub>5</sub>	NL	NL	25.0	63.0	NA	1/3 Months	Comp
TSS	NL	NL	10.0	25.0	NA	1/3 Months	Comp
Oil and Grease	NL	NL	1.6	4.0	NA	1/3 Months	Grab
Production	NA	NL	NA	NA	NA	1/3 Months	Measure

NL = No Limitation, monitoring required

NA = Not applicable

Grab = Individual grab sample is to be taken in the middle of a composite sampling period.

Comp = Hourly grab samples taken over the duration of a processing cycle (including cleanup) combined to form one representative sample, not to exceed eight grab samples.

Samples shall be collected by March 31, June 30, September 30 and December 31 and reported by the 10th of the following month on the facility's Discharge Monitoring Report (DMR). All calculations shall be submitted with the DMR.

# Proposed Regulations

## PART I

### A. EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTS - BREADED SHRIMP PROCESSING - EXISTING SOURCES PROCESSING MORE THAN 2,000 LBS OF RAW MATERIAL PER DAY ON ANY DAY

8. During the period beginning with the permittee's coverage under this general permit and lasting until the permit's expiration date, the permittee is authorized to discharge wastewater from breaded shrimp processing, from outfall(s)

Such discharges shall be limited and monitored by the permittee as specified below:

EFFLUENT CHARACTERISTICS	MONITORING REQUIREMENTS kg/day		DISCHARGE LIMITATIONS kg/kkg			SAMPLE	SAMPLE
	Monthly Avg	Daily Max	Monthly Avg	Daily Max	Daily Min	Frequency	Type
Flow (MGD)	NA	NL	NA	NA	NA	1/3 Months	Estimate
pH (S.U.)	NA	NA	NA	9.0	6.0	1/3 Months	Grab
TSS	NL	NL	93.0	280	NA	1/3 Months	Comp
Oil and Grease	NL	NL	12.0	36.0	NA	1/3 Months	Grab
Production	NA	NL	NA	NA	NA	1/3 Months	Measure

NL = No Limitation, monitoring required

NA = Not applicable

Grab = Individual grab sample is to be taken in the middle of a composite sampling period.

Comp = Hourly grab samples taken over the duration of a processing cycle (including cleanup) combined to form one representative sample, not to exceed eight grab samples.

Samples shall be collected by March 31, June 30, September 30 and December 31 and reported by the 10th of the following month on the facility's Discharge Monitoring Report (DMR). All calculations shall be submitted with the DMR.

## PART I

### A. EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTS - BREADED SHRIMP PROCESSING - ALL NEW SOURCES

9. During the period beginning with the permittee's coverage under this general permit and lasting until the permit's expiration date, the permittee is authorized to discharge wastewater from breaded shrimp processing, from outfall(s)

Such discharges shall be limited and monitored by the permittee as specified below:

EFFLUENT CHARACTERISTICS	MONITORING REQUIREMENTS kg/day		DISCHARGE LIMITATIONS kg/kkg			SAMPLE	SAMPLE
	Monthly Avg	Daily Max	Monthly Avg	Daily Max	Daily Min	Frequency	Type
Flow (MGD)	NA	NL	NA	NA	NA	1/3 Months	Estimate
pH (S.U.)	NA	NA	NA	9.0	6.0	1/3 Months	Grab
BOD <sub>5</sub>	NL	NL	40.0	100	NA	1/3 Months	Comp
TSS	NL	NL	22.0	55.0	NA	1/3 Months	Comp
Oil and Grease	NL	NL	1.5	3.8	NA	1/3 Months	Grab
Production	NA	NL	NA	NA	NA	1/3 Months	Measure

NL = No Limitation, monitoring required



# Proposed Regulations

NA = Not applicable

Grab = Individual grab sample is to be taken in the middle of a composite sampling period.

Comp = Hourly grab samples taken over the duration of a processing cycle (including cleanup) combined to form one representative sample, not to exceed eight grab samples.

Samples shall be collected by March 31, June 30, September 30 and December 31 and reported by the 10th of the following month on the facility's Discharge Monitoring Report (DMR). All calculations shall be submitted with the DMR.

## PART I

### A. EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTS - TUNA PROCESSING - ALL EXISTING SOURCES

10. During the period beginning with the permittee's coverage under this general permit and lasting until the permit's expiration date, the permittee is authorized to discharge wastewater from tuna processing, from outfall(s) \_\_\_\_\_.

Such discharges shall be limited and monitored by the permittee as specified below:

EFFLUENT CHARACTERISTICS	MONITORING REQUIREMENTS kg/day		DISCHARGE LIMITATIONS kg/kkg			SAMPLE Frequency	SAMPLE Type
	Monthly Avg	Daily Max	Monthly Avg	Daily Max	Daily Min		
Flow (MGD)	NA	NL	NA	NA	NA	1/3 Months	Estimate
pH (S.U.)	NA	NA	NA	9.0	6.0	1/3 Months	Grab
TSS	NL	NL	3.3	8.3	NA	1/3 Months	Comp
Oil and Grease	NL	NL	0.84	2.1	NA	1/3 Months	Grab
Production	NA	NL	NA	NA	NA	1/3 Months	Measure

NL = No Limitation, monitoring required

NA = Not applicable

Grab = Individual grab sample is to be taken in the middle of a composite sampling period.

Comp = Hourly grab samples taken over the duration of a processing cycle (including cleanup) combined to form one representative sample, not to exceed eight grab samples.

Samples shall be collected by March 31, June 30, September 30 and December 31 and reported by the 10th of the following month on the facility's Discharge Monitoring Report (DMR). All calculations shall be submitted with the DMR.

## PART I

### A. EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTS - TUNA PROCESSING - ALL NEW SOURCES

11. During the period beginning with the permittee's coverage under this general permit and lasting until the permit's expiration date, the permittee is authorized to discharge wastewater from tuna processing, from outfall(s) \_\_\_\_\_.

Such discharges shall be limited and monitored by the permittee as specified below:

EFFLUENT CHARACTERISTICS	MONITORING REQUIREMENTS kg/day		DISCHARGE LIMITATIONS kg/kkg			SAMPLE Frequency	SAMPLE Type
	Monthly Avg	Daily Max	Monthly Avg	Daily Max	Daily Min		
Flow (MGD)	NA	NL	NA	NA	NA	1/3 Months	Estimate
pH (S.U.)	NA	NA	NA	9.0	6.0	1/3 Months	Grab
BOD <sub>5</sub>	NL	NL	8.1	20.0	NA	1/3 Months	Comp
TSS	NL	NL	3.0	7.5	NA	1/3 Months	Comp

# Proposed Regulations

Oil and Grease	NL	NL	0.76	1.9	NA	1/3 Months	Grab
Production	NA	NL	NA	NA	NA	1/3 Months	Measure

NL = No Limitation, monitoring required

NA = Not applicable

Grab = Individual grab sample is to be taken in the middle of a composite sampling period.

Comp = Hourly grab samples taken over the duration of a processing cycle (including cleanup) combined to form one representative sample, not to exceed eight grab samples.

Samples shall be collected by March 31, June 30, September 30 and December 31 and reported by the 10th of the following month on the facility's Discharge Monitoring Report (DMR). All calculations shall be submitted with the DMR.

## PART I

### A. EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTS - CONVENTIONAL BOTTOM FISH PROCESSING - EXISTING SOURCES PROCESSING MORE THAN 4,000 LBS OF RAW MATERIAL PER DAY ON ANY DAY

12. During the period beginning with the permittee's coverage under this general permit and lasting until the permit's expiration date, the permittee is authorized to discharge wastewater from conventional bottom fish processing, from outfall(s) \_\_\_\_\_.

Such discharges shall be limited and monitored by the permittee as specified below:

EFFLUENT CHARACTERISTICS	MONITORING REQUIREMENTS kg/day		DISCHARGE LIMITATIONS kg/kg			SAMPLE	SAMPLE
	Monthly Avg	Daily Max	Monthly Avg	Daily Max	Daily Min	Frequency	Type
Flow (MGD)	NA	NL	NA	NA	NA	1/3 Months	Estimate
pH (S.U.)	NA	NA	NA	9.0	6.0	1/3 Months	Grab
TSS	NL	NL	2.0	3.6	NA	1/3 Months	Comp
Oil and Grease	NL	NL	0.55	1.0	NA	1/3 Months	Grab
Production	NA	NL	NA	NA	NA	1/3 Months	Measure

NL = No Limitation, monitoring required

NA = Not applicable

Grab = Individual grab sample is to be taken in the middle of a composite sampling period.

Comp = Hourly grab samples taken over the duration of a processing cycle (including cleanup) combined to form one representative sample, not to exceed eight grab samples.

Samples shall be collected by March 31, June 30, September 30 and December 31 and reported by the 10th of the following month on the facility's Discharge Monitoring Report (DMR). All calculations shall be submitted with the DMR.

## PART I

### A. EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTS - CONVENTIONAL BOTTOM FISH PROCESSING - ALL NEW SOURCES

13. During the period beginning with the permittee's coverage under this general permit and lasting until the permit's expiration date, the permittee is authorized to discharge wastewater from conventional bottom fish processing, from outfall(s) \_\_\_\_\_.

Such discharges shall be limited and monitored by the permittee as specified below:

# Proposed Regulations

EFFLUENT CHARACTERISTICS	MONITORING REQUIREMENTS kg/day		DISCHARGE LIMITATIONS kg/kkg			SAMPLE	SAMPLE
	Monthly Avg	Daily Max	Monthly Avg	Daily Max	Daily Min	Frequency	Type
Flow (MGD)	NA	NL	NA	NA	NA	1/3 Months	Estimate
pH (S.U.)	NA	NA	NA	9.0	6.0	1/3 Months	Grab
BOD <sub>5</sub>	NL	NL	0.71	1.2	NA	1/3 Months	Comp
TSS	NL	NL	0.73	1.5	NA	1/3 Months	Comp
Oil and Grease	NL	NL	0.042	0.077	NA	1/3 Months	Grab
Production	NA	NL	NA	NA	NA	1/3 Months	Measure

NL = No Limitation, monitoring required

NA = Not applicable

Grab = Individual grab sample is to be taken in the middle of a composite sampling period.

Comp = Hourly grab samples taken over the duration of a processing cycle (including cleanup) combined to form one representative sample, not to exceed eight grab samples.

Samples shall be collected by March 31, June 30, September 30 and December 31 and reported by the 10th of the following month on the facility's Discharge Monitoring Report (DMR). All calculations shall be submitted with the DMR.

## PART I

### A. EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTS - MECHANIZED BOTTOM FISH PROCESSING - ALL EXISTING SOURCES

14. During the period beginning with the permittee's coverage under this general permit and lasting until the permit's expiration date, the permittee is authorized to discharge wastewater from mechanized bottom fish processing, from outfall(s) \_\_\_\_\_.

Such discharges shall be limited and monitored by the permittee as specified below:

EFFLUENT CHARACTERISTICS	MONITORING REQUIREMENTS kg/day		DISCHARGE LIMITATIONS kg/kkg			SAMPLE	SAMPLE
	Monthly Avg	Daily Max	Monthly Avg	Daily Max	Daily Min	Frequency	Type
Flow (MGD)	NA	NL	NA	NA	NA	1/3 Months	Estimate
pH (S.U.)	NA	NA	NA	9.0	6.0	1/3 Months	Grab
TSS	NL	NL	12.0	22.0	NA	1/3 Months	Comp
Oil and Grease	NL	NL	3.9	9.9	NA	1/3 Months	Grab
Production	NA	NL	NA	NA	NA	1/3 Months	Measure

NL = No Limitation, monitoring required

NA = Not applicable

Grab = Individual grab sample is to be taken in the middle of a composite sampling period.

Comp = Hourly grab samples taken over the duration of a processing cycle (including cleanup) combined to form one representative sample, not to exceed eight grab samples.

Samples shall be collected by March 31, June 30, September 30 and December 31 and reported by the 10th of the following month on the facility's Discharge Monitoring Report (DMR). All calculations shall be submitted with the DMR.

# Proposed Regulations

## PART I

### A. EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTS - MECHANIZED BOTTOM FISH PROCESSING - ALL NEW SOURCES

15. During the period beginning with the permittee's coverage under this general permit and lasting until the permit's expiration date, the permittee is authorized to discharge wastewater from mechanized bottom fish processing, from outfall(s) \_\_\_\_\_.

Such discharges shall be limited and monitored by the permittee as specified below:

EFFLUENT CHARACTERISTICS	MONITORING REQUIREMENTS kg/day		DISCHARGE LIMITATIONS kg/kkg			SAMPLE Frequency	SAMPLE Type
	Monthly Avg	Daily Max	Monthly Avg	Daily Max	Daily Min		
Flow (MGD)	NA	NL	NA	NA	NA	1/3 Months	Estimate
pH (S.U.)	NA	NA	NA	9.0	6.0	1/3 Months	Grab
BOD <sub>5</sub>	NL	NL	7.5	13.0	NA	1/3 Months	Comp
TSS	NL	NL	2.9	5.3	NA	1/3 Months	Comp
Oil and Grease	NL	NL	0.47	1.2	NA	1/3 Months	Grab
Production	NA	NL	NA	NA	NA	1/3 Months	Measure

NL = No Limitation, monitoring required

NA = Not applicable

Grab = Individual grab sample is to be taken in the middle of a composite sampling period.

Comp = Hourly grab samples taken over the duration of a processing cycle (including cleanup) combined to form one representative sample, not to exceed eight grab samples.

Samples shall be collected by March 31, June 30, September 30 and December 31 and reported by the 10th of the following month on the facility's Discharge Monitoring Report (DMR). All calculations shall be submitted with the DMR.

## PART I

### A. EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTS - HAND-SHUCKED CLAM PROCESSING - EXISTING SOURCES WHICH PROCESS MORE THAN 4,000 LBS OF RAW MATERIAL PER DAY ON ANY DAY

16. During the period beginning with the permittee's coverage under this general permit and lasting until the permit's expiration date, the permittee is authorized to discharge wastewater from hand-shucked clam processing, from outfall(s) \_\_\_\_\_.

Such discharges shall be limited and monitored by the permittee as specified below:

EFFLUENT CHARACTERISTICS	MONITORING REQUIREMENTS kg/day		DISCHARGE LIMITATIONS kg/kkg			SAMPLE Frequency	SAMPLE Type
	Monthly Avg	Daily Max	Monthly Avg	Daily Max	Daily Min		
Flow (MGD)	NA	NL	NA	NA	NA	1/3 Months	Estimate
pH (S.U.)	NA	NA	NA	9.0	6.0	1/3 Months	Grab
TSS	NL	NL	18.0	59.0	NA	1/3 Months	Comp
Oil and Grease	NL	NL	0.23	0.60	NA	1/3 Months	Grab
Production	NA	NL	NA	NA	NA	1/3 Months	Measure

NL = No Limitation, monitoring required

# Proposed Regulations

NA = Not applicable

Grab = Individual grab sample is to be taken in the middle of a composite sampling period.

Comp = Hourly grab samples taken over the duration of a processing cycle (including cleanup) combined to form one representative sample, not to exceed eight grab samples.

Samples shall be collected by March 31, June 30, September 30 and December 31 and reported by the 10th of the following month on the facility's Discharge Monitoring Report (DMR). All calculations shall be submitted with the DMR.

## PART I

### A. EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTS - HAND-SHUCKED CLAM PROCESSING - ALL NEW SOURCES

17. During the period beginning with the permittee's coverage under this general permit and lasting until the permit's expiration date, the permittee is authorized to discharge wastewater from hand-shucked clam processing, from outfall(s)

Such discharges shall be limited and monitored by the permittee as specified below:

EFFLUENT CHARACTERISTICS	MONITORING REQUIREMENTS kg/day		DISCHARGE LIMITATIONS kg/kkg			SAMPLE Frequency	SAMPLE Type
	Monthly Avg	Daily Max	Monthly Avg	Daily Max	Daily Min		
Flow (MGD)	NA	NL	NA	NA	NA	1/3 Months	Estimate
pH (S.U.)	NA	NA	NA	9.0	6.0	1/3 Months	Grab
TSS	NL	NL	17.0	55.0	NA	1/3 Months	Comp
Oil and Grease	NL	NL	0.21	0.56	NA	1/3 Months	Grab
Production	NA	NL	NA	NA	NA	1/3 Months	Measure

NL = No Limitation, monitoring required

NA = Not applicable

Grab = Individual grab sample is to be taken in the middle of a composite sampling period.

Comp = Hourly grab samples taken over the duration of a processing cycle (including cleanup) combined to form one representative sample, not to exceed eight grab samples.

Samples shall be collected by March 31, June 30, September 30 and December 31 and reported by the 10th of the following month on the facility's Discharge Monitoring Report (DMR). All calculations shall be submitted with the DMR.

## PART I

### A. EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTS - MECHANIZED CLAM PROCESSING - ALL EXISTING SOURCES

18. During the period beginning with the permittee's coverage under this general permit and lasting until the permit's expiration date, the permittee is authorized to discharge wastewater from mechanized clam processing, from outfall(s)

Such discharges shall be limited and monitored by the permittee as specified below:

EFFLUENT CHARACTERISTICS	MONITORING REQUIREMENTS kg/day		DISCHARGE LIMITATIONS kg/kkg			SAMPLE Frequency	SAMPLE Type
	Monthly Avg	Daily Max	Monthly Avg	Daily Max	Daily Min		
Flow (MGD)	NA	NL	NA	NA	NA	1/3 Months	Estimate
pH (S.U.)	NA	NA	NA	9.0	6.0	1/3 Months	Grab

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TSS	NL	NL	15.0	90.0	NA	1/3 Months	Comp
Oil and Grease	NL	NL	0.97	4.2	NA	1/3 Months	Grab
Production	NA	NL	NA	NA	NA	1/3 Months	Measure

NL = No Limitation, monitoring required

NA = Not applicable

Grab = Individual grab sample is to be taken in the middle of a composite sampling period.

Comp = Hourly grab samples taken over the duration of a processing cycle (including cleanup) combined to form one representative sample, not to exceed eight grab samples.

Samples shall be collected by March 31, June 30, September 30 and December 31 and reported by the 10th of the following month on the facility's Discharge Monitoring Report (DMR). All calculations shall be submitted with the DMR.

### PART I

#### A. EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTS - MECHANIZED CLAM PROCESSING - ALL NEW SOURCES

19. During the period beginning with the permittee's coverage under this general permit and lasting until the permit's expiration date, the permittee is authorized to discharge wastewater from mechanized clam processing, from outfall(s)

Such discharges shall be limited and monitored by the permittee as specified below:

EFFLUENT CHARACTERISTICS	MONITORING REQUIREMENTS kg/day		DISCHARGE LIMITATIONS kg/kkg			SAMPLE Frequency	SAMPLE Type
	Monthly Avg	Daily Max	Monthly Avg	Daily Max	Daily Min		
Flow (MGD)	NA	NL	NA	NA	NA	1/3 Months	Estimate
pH (S.U.)	NA	NA	NA	9.0	6.0	1/3 Months	Grab
BOD <sub>5</sub>	NL	NL	5.7	15.0	NA	1/3 Months	Comp
TSS	NL	NL	4.4	26.0	NA	1/3 Months	Comp
Oil and Grease	NL	NL	0.092	0.40	NA	1/3 Months	Grab
Production	NA	NL	NA	NA	NA	1/3 Months	Measure

NL = No Limitation, monitoring required

NA = Not applicable

Grab = Individual grab sample is to be taken in the middle of a composite sampling period.

Comp = Hourly grab samples taken over the duration of a processing cycle (including cleanup) combined to form one representative sample, not to exceed eight grab samples.

Samples shall be collected by March 31, June 30, September 30 and December 31 and reported by the 10th of the following month on the facility's Discharge Monitoring Report (DMR). All calculations shall be submitted with the DMR.

### PART I

#### A. EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTS - HAND-SHUCKED OYSTER PROCESSING - EXISTING SOURCES WHICH PROCESS MORE THAN 1,000 LBS OF PRODUCT PER DAY ON ANY DAY

20. During the period beginning with the permittee's coverage under this general permit and lasting until the permit's expiration date, the permittee is authorized to discharge wastewater from hand-shucked oyster processing, from outfall(s)

Such discharges shall be limited and monitored by the permittee as specified below:

# Proposed Regulations

EFFLUENT CHARACTERISTICS	MONITORING REQUIREMENTS kg/day		DISCHARGE LIMITATIONS kg/kkg			SAMPLE Frequency	SAMPLE Type
	Monthly Avg	Daily Max	Monthly Avg	Daily Max	Daily Min		
Flow (MGD)	NA	NL	NA	NA	NA	1/3 Months	Estimate
pH (S.U.)	NA	NA	NA	9.0	6.0	1/3 Months	Grab
TSS	NL	NL	16.0	24.0	NA	1/3 Months	Comp
Oil and Grease	NL	NL	0.81	1.2	NA	1/3 Months	Grab
Production	NA	NL	NA	NA	NA	1/3 Months	Measure

NL = No Limitation, monitoring required

NA = Not applicable

Grab = Individual grab sample is to be taken in the middle of a composite sampling period.

Comp = Hourly grab samples taken over the duration of a processing cycle (including cleanup) combined to form one representative sample, not to exceed eight grab samples.

Samples shall be collected by March 31, June 30, September 30 and December 31 and reported by the 10th of the following month on the facility's Discharge Monitoring Report (DMR). All calculations shall be submitted with the DMR.

## PART I

### A. EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTS - HAND-SHUCKED OYSTER PROCESSING - ALL NEW SOURCES

21. During the period beginning with the permittee's coverage under this general permit and lasting until the permit's expiration date, the permittee is authorized to discharge wastewater from hand-shucked oyster processing, from outfall(s)

Such discharges shall be limited and monitored by the permittee as specified below:

EFFLUENT CHARACTERISTICS	MONITORING REQUIREMENTS kg/day		DISCHARGE LIMITATIONS kg/kkg			SAMPLE Frequency	SAMPLE Type
	Monthly Avg	Daily Max	Monthly Avg	Daily Max	Daily Min		
Flow (MGD)	NA	NL	NA	NA	NA	1/3 Months	Estimate
pH (S.U.)	NA	NA	NA	9.0	6.0	1/3 Months	Grab
TSS	NL	NL	16.0	23.0	NA	1/3 Months	Comp
Oil and Grease	NL	NL	0.77	1.1	NA	1/3 Months	Grab
Production	NA	NL	NA	NA	NA	1/3 Months	Measure

NL = No Limitation, monitoring required

NA = Not applicable

Grab = Individual grab sample is to be taken in the middle of a composite sampling period.

Comp = Hourly grab samples taken over the duration of a processing cycle (including cleanup) combined to form one representative sample, not to exceed eight grab samples.

Samples shall be collected by March 31, June 30, September 30 and December 31 and reported by the 10th of the following month on the facility's Discharge Monitoring Report (DMR). All calculations shall be submitted with the DMR.

# Proposed Regulations

## PART I

### A. EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTS - STEAMED AND CANNED OYSTER PROCESSING (Mechanized Shucking) - ALL EXISTING SOURCES

22. During the period beginning with the permittee's coverage under this general permit and lasting until the permit's expiration date, the permittee is authorized to discharge wastewater from mechanized oyster processing, from outfall(s)

Such discharges shall be limited and monitored by the permittee as specified below:

EFFLUENT CHARACTERISTICS	MONITORING REQUIREMENTS kg/day		DISCHARGE LIMITATIONS kg/kkg			SAMPLE	SAMPLE
	Monthly Avg	Daily Max	Monthly Avg	Daily Max	Daily Min	Frequency	Type
Flow (MGD)	NA	NL	NA	NA	NA	1/3 Months	Estimate
pH (S.U.)	NA	NA	NA	9.0	6.0	1/3 Months	Grab
TSS	NL	NL	190	270	NA	1/3 Months	Comp
Oil and Grease	NL	NL	1.7	2.3	NA	1/3 Months	Grab
Production	NA	NL	NA	NA	NA	1/3 Months	Measure

NL = No Limitation, monitoring required

NA = Not applicable

Grab = Individual grab sample is to be taken in the middle of a composite sampling period.

Comp = Hourly grab samples taken over the duration of a processing cycle (including cleanup) combined to form one representative sample, not to exceed eight grab samples.

Samples shall be collected by March 31, June 30, September 30 and December 31 and reported by the 10th of the following month on the facility's Discharge Monitoring Report (DMR). All calculations shall be submitted with the DMR.

## PART I

### A. EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTS - STEAMED AND CANNED OYSTER PROCESSING (Mechanized Shucking) - ALL NEW SOURCES

23. During the period beginning with the permittee's coverage under this general permit and lasting until the permit's expiration date, the permittee is authorized to discharge wastewater from mechanized oyster processing, from outfall(s)

Such discharges shall be limited and monitored by the permittee as specified below:

EFFLUENT CHARACTERISTICS	MONITORING REQUIREMENTS kg/day		DISCHARGE LIMITATIONS kg/kkg			SAMPLE	SAMPLE
	Monthly Avg	Daily Max	Monthly Avg	Daily Max	Daily Min	Frequency	Type
Flow (MGD)	NA	NL	NA	NA	NA	1/3 Months	Estimate
pH (S.U.)	NA	NA	NA	9.0	6.0	1/3 Months	Grab
BOD <sub>5</sub>	NL	NL	17.0	67.0	NA	1/3 Months	Comp
TSS	NL	NL	39.0	56.0	NA	1/3 Months	Comp
Oil and Grease	NL	NL	0.42	0.84	NA	1/3 Months	Grab
Production	NA	NL	NA	NA	NA	1/3 Months	Measure

NL = No Limitation, monitoring required



# Proposed Regulations

NA = Not applicable

Grab = Individual grab sample is to be taken in the middle of a composite sampling period.

Comp = Hourly grab samples taken over the duration of a processing cycle (including cleanup) combined to form one representative sample, not to exceed eight grab samples.

Samples shall be collected by March 31, June 30, September 30 and December 31 and reported by the 10th of the following month on the facility's Discharge Monitoring Report (DMR). All calculations shall be submitted with the DMR.

## PART I

### A. EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTS - SCALLOP PROCESSING - ALL EXISTING SOURCES

24. During the period beginning with the permittee's coverage under this general permit and lasting until the permit's expiration date, the permittee is authorized to discharge wastewater from scallop processing, from outfall(s) \_\_\_\_\_.

Such discharges shall be limited and monitored by the permittee as specified below:

EFFLUENT CHARACTERISTICS	MONITORING REQUIREMENTS kg/day		DISCHARGE LIMITATIONS kg/kkg			SAMPLE	SAMPLE
	Monthly Avg	Daily Max	Monthly Avg	Daily Max	Daily Min	Frequency	Type
Flow (MGD)	NA	NL	NA	NA	NA	1/3 Months	Estimate
pH (S.U.)	NA	NA	NA	9.0	6.0	1/3 Months	Grab
TSS	NL	NL	1.4	6.6	NA	1/3 Months	Comp
Oil and Grease	NL	NL	0.24	7.7	NA	1/3 Months	Grab
Production	NA	NL	NA	NA	NA	1/3 Months	Measure

NL = No Limitation, monitoring required

NA = Not applicable

Grab = Individual grab sample is to be taken in the middle of a composite sampling period.

Comp = Hourly grab samples taken over the duration of a processing cycle (including cleanup) combined to form one representative sample, not to exceed eight grab samples.

Samples shall be collected by March 31, June 30, September 30 and December 31 and reported by the 10th of the following month on the facility's Discharge Monitoring Report (DMR). All calculations shall be submitted with the DMR.

## PART I

### A. EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTS - SCALLOP PROCESSING - ALL NEW SOURCES

25. During the period beginning with the permittee's coverage under this general permit and lasting until the permit's expiration date, the permittee is authorized to discharge wastewater from scallop processing, from outfall(s) \_\_\_\_\_.

Such discharges shall be limited and monitored by the permittee as specified below:

EFFLUENT CHARACTERISTICS	MONITORING REQUIREMENTS kg/day		DISCHARGE LIMITATIONS kg/kkg			SAMPLE	SAMPLE
	Monthly Avg	Daily Max	Monthly Avg	Daily Max	Daily Min	Frequency	Type
Flow (MGD)	NA	NL	NA	NA	NA	1/3 Months	Estimate
pH (S.U.)	NA	NA	NA	9.0	6.0	1/3 Months	Grab
TSS	NL	NL	1.4	5.7	NA	1/3 Months	Comp
Oil and Grease	NL	NL	0.23	7.3	NA	1/3 Months	Grab

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Production                      NA                      NL                      NA                      NA                      NA                      1/3 Months                      Measure

NL = No Limitation, monitoring required

NA = Not applicable

Grab = Individual grab sample is to be taken in the middle of a composite sampling period.

Comp = Hourly grab samples taken over the duration of a processing cycle (including cleanup) combined to form one representative sample, not to exceed eight grab samples.

Samples shall be collected by March 31, June 30, September 30 and December 31 and reported by the 10th of the following month on the facility's Discharge Monitoring Report (DMR). All calculations shall be submitted with the DMR.

## PART I

### A. EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTS - FARM-RAISED CATFISH PROCESSING - EXISTING SOURCES WHICH PROCESS MORE THAN 3,000 LBS OF RAW MATERIAL PER DAY ON ANY DAY

26. During the period beginning with the permittee's coverage under this general permit and lasting until the permit's expiration date, the permittee is authorized to discharge wastewater from farm-raised catfish processing, from outfall(s)

Such discharges shall be limited and monitored by the permittee as specified below:

EFFLUENT CHARACTERISTICS	MONITORING REQUIREMENTS kg/day		DISCHARGE LIMITATIONS kg/kg			SAMPLE Frequency	SAMPLE Type
	Monthly Avg	Daily Max	Monthly Avg	Daily Max	Daily Min		
Flow (MGD)	NA	NL	NA	NA	NA	1/3 Months	Estimate
pH (S.U.)	NA	NA	NA	9.0	6.0	1/3 Months	Grab
TSS	NL	NL	9.2	28	NA	1/3 Months	Comp
Oil and Grease	NL	NL	3.4	10.0	NA	1/3 Months	Grab
Production	NA	NL	NA	NA	NA	1/3 Months	Measure

NL = No Limitation, monitoring required

NA = Not applicable

Grab = Individual grab sample is to be taken in the middle of a composite sampling period.

Comp = Hourly grab samples taken over the duration of a processing cycle (including cleanup) combined to form one representative sample, not to exceed eight grab samples.

Samples shall be collected by March 31, June 30, September 30 and December 31 and reported by the 10th of the following month on the facility's Discharge Monitoring Report (DMR). All calculations shall be submitted with the DMR.

## PART I

### A. EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTS - FARM-RAISED CATFISH PROCESSING - ALL NEW SOURCES

27. During the period beginning with the permittee's coverage under this general permit and lasting until the permit's expiration date, the permittee is authorized to discharge wastewater from farm-raised catfish processing, from outfall(s)

Such discharges shall be limited and monitored by the permittee as specified below:

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EFFLUENT CHARACTERISTICS	MONITORING REQUIREMENTS kg/day		DISCHARGE LIMITATIONS kg/kkg			SAMPLE	SAMPLE
	Monthly Avg	Daily Max	Monthly Avg	Daily Max	Daily Min	Frequency	Type
Flow (MGD)	NA	NL	NA	NA	NA	1/3 Months	Estimate
pH (S.U.)	NA	NA	NA	9.0	6.0	1/3 Months	Grab
BOD <sub>5</sub>	NL	NL	2.3	4.6	NA	1/3 Months	Comp
TSS	NL	NL	5.7	11.0	NA	1/3 Months	Comp
Oil and Grease	NL	NL	0.45	0.90	NA	1/3 Months	Grab
Production	NA	NL	NA	NA	NA	1/3 Months	Measure

NL = No Limitation, monitoring required

NA = Not applicable

Grab = Individual grab sample is to be taken in the middle of a composite sampling period.

Comp = Hourly grab samples taken over the duration of a processing cycle (including cleanup) combined to form one representative sample, not to exceed eight grab samples.

Samples shall be collected by March 31, June 30, September 30 and December 31 and reported by the 10th of the following month on the facility's Discharge Monitoring Report (DMR). All calculations shall be submitted with the DMR.

## PART I

### A. EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTS - HERRING PROCESSING - EXISTING SOURCES

28. During the period beginning with the permittee's coverage under this general permit and lasting until the permit's expiration date, the permittee is authorized to discharge wastewater from herring processing, from outfall(s) \_\_\_\_\_.

Such discharges shall be limited and monitored by the permittee as specified below:

EFFLUENT CHARACTERISTICS	MONITORING REQUIREMENTS kg/day		DISCHARGE LIMITATIONS kg/kkg			SAMPLE	SAMPLE
	Monthly Avg	Daily Max	Monthly Avg	Daily Max	Daily Min	Frequency	Type
Flow (MGD)	NA	NL	NA	NA	NA	1/3 Months	Estimate
pH (S.U.)	NA	NA	NA	9.0	6.0	1/3 Months	Grab
TSS	NL	NL	24	32	NA	1/3 Months	Comp
Oil and Grease	NL	NL	10	27	NA	1/3 Months	Grab
Production	NA	NL	NA	NA	NA	1/3 Months	Measure

NL = No Limitation, monitoring required

NA = Not applicable

Grab = Individual grab sample is to be taken in the middle of a composite sampling period.

Comp = Hourly grab samples taken over the duration of a processing cycle (including cleanup) combined to form one representative sample, not to exceed eight grab samples.

Samples shall be collected by March 31, June 30, September 30 and December 31 and reported by the 10th of the following month on the facility's Discharge Monitoring Report (DMR). All calculations shall be submitted with the DMR.

## PART I

### A. EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTS - HERRING PROCESSING - ALL NEW SOURCES

29. During the period beginning with the permittee's coverage under this general permit and lasting until the permit's expiration date, the permittee is authorized to discharge wastewater from herring processing, from outfall(s) \_\_\_\_\_.

Such discharges shall be limited and monitored by the permittee as specified below:

EFFLUENT CHARACTERISTICS	MONITORING REQUIREMENTS kg/day		DISCHARGE LIMITATIONS kg/kkg			SAMPLE	SAMPLE
	Monthly Avg	Daily Max	Monthly Avg	Daily Max	Daily Min	Frequency	Type
Flow (MGD)	NA	NL	NA	NA	NA	1/3 Months	Estimate
pH (S.U.)	NA	NA	NA	9.0	6.0	1/3 Months	Grab
BOD <sub>5</sub>	NL	NL	15	16	NA	1/3 Months	Comp
TSS	NL	NL	5.2	7.0	NA	1/3 Months	Comp
Oil and Grease	NL	NL	1.1	2.9	NA	1/3 Months	Grab
Production	NA	NL	NA	NA	NA	1/3 Months	Measure

NL = No Limitation, monitoring required

NA = Not applicable

Grab = Individual grab sample is to be taken in the middle of a composite sampling period.

Comp = Hourly grab samples taken over the duration of a processing cycle (including cleanup) combined to form one representative sample, not to exceed eight grab samples.

Samples shall be collected by March 31, June 30, September 30 and December 31 and reported by the 10th of the following month on the facility's Discharge Monitoring Report (DMR). All calculations shall be submitted with the DMR.

### B. Special Conditions

1. No sewage shall be discharged from a point source to surface waters at this facility except under the provisions of another VPDES permit specifically issued for that purpose.

2. There shall be no chemicals added to the water or waste which may be discharged, including sodium tripolyphosphate, other than those listed on the owner's accepted registration statement, unless prior approval of the chemical(s) is granted by the Regional Office Director.

3. Byproducts used in a value added process, such as seasonings or breading, may be included in the discharge in incidental quantities.

4. Wastewater should be reused or recycled whenever feasible.

5. The permittee shall comply with the following solids management plan:

a. There shall be no discharge of floating solids or visible foam in other than trace amounts.

b. All floors, machinery, conveyor belts, dock areas, etc. shall be dry swept or dry brushed prior to washdown.

c. All settling basins shall be cleaned frequently in order to achieve effective settling.

d. All solids resulting from the seafood processes covered under this general permit, other than oyster, clam or scallop shells, shall be handled, stored and disposed of so as to prevent a discharge to state waters of such solids or industrial wastes or other wastes from those solids.

e. The permittee shall install and properly maintain whatever wastewater treatment process is necessary in order to remove organic solids present in the wastewater that may settle and accumulate on the substrate of the receiving waters in other than trace amounts.

f. All employees shall receive training relative to preventive measures taken to control the release of solids from the facility into surface waters.

6. This permit shall be modified, or alternatively revoked and reissued, to comply with any applicable effluent standard, limitation or prohibition for a pollutant which is

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promulgated or approved under § 307 (a) (2) of the Clean Water Act, if the effluent standard, limitation or prohibition so promulgated or approved:

- a. Is more stringent than any effluent limitation on the pollutant already in the permit; or
- b. Controls any pollutant not limited in the permit.

### PART II.

#### STORM WATER POLLUTION PREVENTION PLANS.

A storm water pollution prevention plan shall be developed for each facility covered by this permit which falls under SIC 2091 or 2092. Storm water pollution prevention plans shall be prepared in accordance with good engineering practices. The plan shall identify potential sources of pollution which may reasonably be expected to affect the quality of storm water discharges associated with industrial activity from the facility. In addition, the plan shall describe and ensure the implementation of practices which are to be used to reduce the pollutants in storm water discharges associated with industrial activity at the facility and to assure compliance with the terms and conditions of this permit. Facilities must implement the provisions of the storm water pollution prevention plan required under this part as a condition of this permit.

#### A. Deadlines for plan preparation and compliance.

1. For a storm water discharge associated with industrial activity that is existing on or before the effective date of this permit, the storm water pollution prevention plan:

- a. Shall be prepared within 180 days after the dated coverage under this permit; and
- b. Shall provide for implementation and compliance with the terms of the plan within 365 days after the date of coverage under this permit.

2. The plan for any facility where industrial activity commences on or after the effective date of this permit, and except as provided elsewhere in this permit, shall be prepared and provide for compliance with the terms of the plan and this permit on or before the date of submission of a registration statement to be covered under this permit.

3. Upon a showing of good cause, the director may establish a later date in writing for preparing and compliance with a plan for a storm water discharge associated with industrial activity that submits a registration statement in accordance with the registration requirements.

#### B. Signature and plan review.

1. The plan shall be signed in accordance with Part III G (signatory requirements), and be retained on-site at the facility covered by this permit in accordance with Part III C (retention of records) of this permit.

2. The permittee shall make plans available to the department upon request.

3. The director may notify the permittee at any time that the plan does not meet one or more of the minimum requirements of this part. Such notification shall identify those provisions of the permit which are not being met by the plan, and identify which provisions of the plan require modifications in order to meet the minimum requirements of this part. Within 30 days of such notification from the director, or as otherwise provided by the director, the permittee shall make the required changes to the plan and shall submit to the department a written certification that the requested changes have been made.

C. Keeping plans current. The permittee shall amend the plan whenever there is a change in design, construction, operation, or maintenance, which has a significant effect on the potential for the discharge of pollutants to surface waters of the state or if the storm water pollution prevention plan proves to be ineffective in eliminating or significantly minimizing pollutants from sources identified under Part II D 2 (description of potential pollutant sources) of this permit, or in otherwise achieving the general objectives of controlling pollutants in storm water discharges associated with industrial activity.

D. Contents of plan. The plan shall include, at a minimum, the following items:

1. Pollution prevention team. Each plan shall identify a specific individual or individuals within the facility organization as members of a storm water pollution prevention team that are responsible for developing the storm water pollution prevention plan and assisting the facility or plant manager in its implementation, maintenance, and revision. The plan shall clearly identify the responsibilities of each team member. The activities and responsibilities of the team shall address all aspects of the facility's storm water pollution prevention plan.

2. Description of potential pollutant sources. Each plan shall provide a description of potential sources which may reasonably be expected to add significant amounts of pollutants to storm water discharges or which may result in the discharge of pollutants during dry weather from separate storm sewers draining the facility. Each plan shall identify all activities and significant materials which may potentially be significant pollutant sources. Each plan shall include, at a minimum:

#### a. Drainage.

(1) A site map indicating an outline of the portions of the drainage area of each storm water outfall that are within the facility boundaries, each existing structural control measure to reduce pollutants in storm water runoff, surface water bodies, locations where significant materials are exposed to precipitation, locations where major spills or leaks identified under Part II D 2 c (spills and leaks) of this permit have occurred, and the locations of the following activities: fueling stations, vehicle and equipment maintenance and/or cleaning areas, loading/unloading areas, locations used for the

treatment, storage or disposal of wastes, liquid storage tanks, processing areas and storage areas.

(2) For each area of the facility that generates storm water discharges associated with industrial activity with a reasonable potential for containing significant amounts of pollutants, a prediction of the direction of flow, and an identification of the types of pollutants which are likely to be present in storm water discharges associated with industrial activity. Factors to consider include the toxicity of the chemicals; quantity of chemicals used, produced or discharged; the likelihood of contact with storm water; and history of significant leaks or spills of toxic or hazardous pollutants. Flows with a significant potential for causing erosion shall be identified.

b. *Inventory of exposed materials.* An inventory of the types of materials handled at the site that potentially may be exposed to precipitation. Such inventory shall include a narrative description of significant materials that have been handled, treated, stored or disposed in a manner to allow exposure to storm water between the time of three years prior to the date of coverage under this general permit and the present; method and location of on-site storage or disposal; materials management practices employed to minimize contact of materials with storm water runoff between the time of three years prior to the date of coverage under this general permit and the present; the location and a description of existing structural and nonstructural control measures to reduce pollutants in storm water runoff; and a description of any treatment the storm water receives.

c. *Spills and leaks.* A list of significant spills and significant leaks of toxic or hazardous pollutants that occurred at areas that are exposed to precipitation or that otherwise drain to a storm water conveyance at the facility after the date of three years prior to the date of coverage under this general permit. Such list shall be updated as appropriate during the term of the permit.

d. *Sampling data.* A summary of existing discharge sampling data describing pollutants in storm water discharges from the facility, including a summary of sampling data collected during the term of this permit.

e. *Risk identification and summary of potential pollutant sources.* A narrative description of the potential pollutant sources from the following activities: loading and unloading operations; outdoor storage activities; outdoor manufacturing or processing activities; significant dust or particulate generating processes; and on-site waste disposal practices. The description shall specifically list any significant potential source of pollutants at the site and for each potential source, any pollutant or pollutant parameter (e.g., biochemical oxygen demand, etc.) of concern shall be identified.

3. *Measures and controls.* Each facility covered by this permit shall develop a description of storm water management controls appropriate for the facility, and implement such controls. The appropriateness and priorities of controls in a plan shall reflect identified potential sources of pollutants at the facility. The description of storm water management controls shall address the following minimum components, including a schedule for implementing such controls:

a. *Good housekeeping.* Good housekeeping requires the maintenance of areas which may contribute pollutants to storm waters discharges in a clean, orderly manner.

b. *Preventive maintenance.* A preventive maintenance program shall involve timely inspection and maintenance of storm water management devices (e.g., cleaning oil/water separators, catch basins) as well as inspecting and testing facility equipment and systems to uncover conditions that could cause breakdowns or failures resulting in discharges of pollutants to surface waters, and ensuring appropriate maintenance of such equipment and systems.

c. *Spill prevention and response procedures.* Areas where potential spills which can contribute pollutants to storm water discharges can occur, and their accompanying drainage points shall be identified clearly in the storm water pollution prevention plan. Where appropriate, specifying material handling procedures, storage requirements, and use of equipment such as diversion valves in the plan should be considered. Procedures for cleaning up spills shall be identified in the plan and made available to the appropriate personnel. The necessary equipment to implement a clean up should be available to personnel.

d. *Inspections.* In addition to or as part of the comprehensive site compliance evaluation required under Part II D 4 of this permit, qualified facility personnel shall be identified to inspect designated equipment and areas of the facility at appropriate intervals specified in the plan. A set of tracking or follow up procedures shall be used to ensure that appropriate actions are taken in response to the inspections. Records of inspections shall be maintained.

e. *Employee training.* Employee training programs shall inform personnel responsible for implementing activities identified in the storm water pollution prevention plan or otherwise responsible for storm water management at all levels of responsibility of the components and goals of the storm water pollution prevention plan. Training should address topics such as spill response, good housekeeping and material management practices. A pollution prevention plan shall identify periodic dates for such training.

f. *Record keeping and internal reporting procedures.* A description of incidents such as spills, or other discharges, along with other information describing the

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quality and quantity of storm water discharges shall be included in the plan required under this part. Inspections and maintenance activities shall be documented and records of such activities shall be incorporated into the plan.

g. *Sediment and erosion control.* The plan shall identify areas which, due to topography, activities, or other factors, have a high potential for significant soil erosion, and identify structural, vegetative, and/or stabilization measures to be used to limit erosion.

h. *Management of runoff.* The plan shall contain a narrative consideration of the appropriateness of traditional storm water management practices (practices other than those which control the generation or source(s) of pollutants) used to divert, infiltrate, reuse, or otherwise manage storm water runoff in a manner that reduces pollutants in storm water discharges from the site. The plan shall provide that measures that the permittee determines to be reasonable and appropriate shall be implemented and maintained. The potential of various sources at the facility to contribute pollutants to storm water discharges associated with industrial activity (see Part II D 2 (description of potential pollutant sources) of this permit) shall be considered when determining reasonable and appropriate measures. Appropriate measures may include: vegetative sales and practices, reuse of collected storm water (such as for a process or as an irrigation source), inlet controls (such as oil/water separators), snow management activities, infiltration devices, and wet detention/retention devices.

4. *Comprehensive site compliance evaluation.* Qualified personnel shall conduct site compliance evaluations at appropriate intervals specified in the plan, but, in no case less than once a year. Such evaluations shall provide:

a. *Areas contributing to a storm water discharge associated with industrial activity shall be visually inspected for evidence of, or the potential for, pollutants entering the drainage system. Measures to reduce pollutant loadings shall be evaluated to determine whether they are adequate and properly implemented in accordance with the terms of the permit or whether additional control measures are needed. Structural storm water management measures, sediment and erosion control measures, and other structural pollution prevention measures identified in the plan shall be observed to ensure that they are operating correctly. A visual inspection of equipment needed to implement the plan, such as spill response equipment, shall be made.*

b. *Based on the results of the inspection, the description of potential pollutant sources identified in the plan in accordance with Part II D 2 (description of potential pollutant sources) of this permit and pollution prevention measures and controls identified in the plan in accordance with Part II D 3 (measures and controls) of this permit shall be revised as appropriate within 14 days of such inspection and shall provide for*

*implementation of any changes to the plan in a timely manner, but in no case more than 90 days after the inspection.*

c. *A report summarizing the scope of the inspection, personnel making the inspection, the date(s) of the inspection, major observations relating to the implementation of the storm water pollution prevention plan, and actions taken in accordance with Part II D 4 b of this permit shall be made and retained as part of the storm water pollution prevention plan as required in Part III C. The report shall identify any incidents of noncompliance. Where a report does not identify any incidents of noncompliance, the report shall contain a certification that the facility is in compliance with the storm water pollution prevention plan and this permit. The report shall be signed in accordance with Part III G (signatory requirements) of this permit and retained as required in Part III C.*

5. *Consistency with other plans.* Storm water pollution prevention plans may reflect requirements for Spill Prevention Control and Countermeasure (SPCC) plans developed for the facility under § 311 of the Clean Water Act or Best Management Practices (BMP) Programs otherwise required by a VPDES permit for the facility as long as such requirement is incorporated into the storm water pollution prevention plan.

### PART III. MONITORING AND REPORTING.

#### A. Sampling and analysis methods.

1. *Unless otherwise specified in this permit all sample preservation methods, maximum holding times and analysis methods for pollutants shall comply with requirements set forth in Guidelines Establishing Test Procedures for the Analysis of Pollutants promulgated at 40 CFR 136 (1992).*

2. *The sampling and analysis program to demonstrate compliance with the permit shall at a minimum, conform to Part I of this permit.*

3. *The permittee shall periodically calibrate and perform maintenance procedures on all monitoring and analytical instrumentation at intervals that will insure accuracy of measurements.*

B. *Recording of results.* For each measurement or sample taken pursuant to the requirements of this permit, the permittee shall record the following information:

1. *The date, exact place and time of sampling or measurements;*

2. *The person(s) who performed the sampling or measurements;*

3. *The dates analyses were performed;*

4. *The person(s) who performed each analysis;*

5. *The analytical techniques or methods used;*

6. *The results of such analyses and measurements;*

C. **Records retention.** All records and information resulting from the monitoring activities required by this permit, including all records of analyses performed and calibration and maintenance of instrumentation and recording from continuous monitoring instrumentation, shall be retained for three years from the date of the sample, measurement or report or until at least one year after coverage under this general permit terminates, whichever is later. This period of retention shall be extended automatically during the course of any unresolved litigation regarding the regulated activity or regarding control standards applicable to the permittee, or as requested by the director.

D. **Additional monitoring by permittee.** If the permittee monitors any pollutant at the location(s) designated herein more frequently than required by this permit, using approved analytical methods as specified above, the results of such monitoring shall be included in the calculation and reporting of the values required in the monitoring report. Such increased frequency shall also be reported.

E. **Water quality monitoring.** The director may require every permittee to furnish such plans, specifications, or other pertinent information as may be necessary to determine the effect of the pollutant(s) on the water quality or to ensure pollution of state waters does not occur or such information as may be necessary to accomplish the purposes of the Virginia State Water Control Law, Clean Water Act or the board's regulations.

The permittee shall obtain and report such information if requested by the director. Such information shall be subject to inspection by authorized state and federal representatives and shall be submitted with such frequency and in such detail as requested by the director.

F. **Reporting requirements.**

1. The discharge monitoring reports (DMR) shall be submitted to the appropriate DEQ regional office by January 10, April 10, July 10 and October 10 of each year. Those facilities which require once per year monitoring shall submit the DMR for each monitoring year by the 10th of January of the following year. All laboratory results and calculations shall be submitted with the DMR.

2. If, for any reason, the permittee does not comply with one or more limitations, standards, monitoring or management requirements specified in this permit, the permittee shall submit to the department's regional office with the monitoring report at least the following information:

- a. A description and cause of noncompliance;
- b. The period of noncompliance, including exact dates and times and/or the anticipated time when the noncompliance will cease; and
- c. Actions taken or to be taken to reduce, eliminate, and prevent recurrence of the noncompliance.

Whenever such noncompliance may adversely affect state waters or may endanger public health, the permittee shall submit the above required information by

oral report within 24 hours from the time the permittee becomes aware of the circumstances and by written report within five days. The department's regional office director may waive the written report requirement on a case-by-case basis if the oral report has been received within 24 hours and no adverse impact on state waters has been reported.

3. The permittee shall report any unpermitted, unusual or extraordinary discharge which enters or could be expected to enter state waters. The permittee shall provide information specified in Part III F 2 a through c regarding each such discharge immediately, that is as quickly as possible upon discovery, however, in no case later than 24 hours. A written submission covering these points shall be provided within five days of the time the permittee becomes aware of the circumstances covered by this paragraph.

Unusual or extraordinary discharge would include but not be limited to (i) unplanned bypasses, (ii) upsets, (iii) spillage of materials resulting directly or indirectly from processing operations or pollutant management activities, (iv) breakdown of processing or accessory equipment, (v) failure of or taking out of service, sewage or industrial waste treatment facilities, auxiliary facilities or pollutant management activities, or (vi) flooding or other acts of nature.

If the regional office cannot be reached, the department maintains a 24-hour telephone service in Richmond (804-527-5200) to which the report required above is to be made.

G. **Signatory requirements.** Any registration statement, report, or certification required by this permit shall be signed as follows:

1. **Registration statement.**

a. For a corporation: by a responsible corporate official. For purposes of this section, a responsible corporate official means (i) a president, secretary, treasurer, or vice-president of the corporation in charge of a principal business function, or any other person who performs similar policy or decision-making functions for the corporation, or (ii) the manager of one or more manufacturing, production, or operating facilities employing more than 250 persons or having gross annual sales or expenditures exceeding \$25,000,000 (in second quarter 1980 dollars), if authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures.

b. For a municipality, state, federal or other public agency by either a principal executive officer or ranking elected official. (A principal executive officer of a federal, municipal, or state agency includes the chief executive officer of the agency or head executive officer having responsibility for the overall operation of a principal geographic unit of the agency.)

c. For a partnership or sole proprietorship, by a general partner or proprietor respectively.



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2. Reports. All reports required by permits and other information requested by the director shall be signed by:

- a. One of the persons described in subdivision G 1 a, b, or c of this part; or
- b. A duly authorized representative of that person. A person is a duly authorized representative only if:

(1) The authorization is made in writing by a person described in subdivision G 1 a, b, or c of this part; and

(2) The authorization specifies either an individual or a position having responsibility for the overall operation of the regulated facility or activity, such as the position of plant manager, operator of a well or a well field, superintendent, or position of equivalent responsibility. (A duly authorized representative may thus be either a named individual or any individual occupying a named position.)

(3) If an authorization is no longer accurate because a different individual or position has responsibility for the overall operation of the facility, a new authorization must be submitted to the department prior to or together with any separate information, or registration statement to be signed by an authorized representative.

3. Certification. Any person signing a document under subdivision G 1 or 2 of this part shall make the following certification: "I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system or those persons directly responsible for gathering the information, the information submitted is to the best of my knowledge and belief true, accurate, and complete. I am aware that there are significant penalties for submitting false information including the possibility of fine and imprisonment for knowing violations."

## PART IV.

### MANAGEMENT REQUIREMENTS.

#### A. Change in discharge of pollutants.

1. Any permittee proposing a new discharge shall submit a registration statement for a permit at least 30 days prior to the date planned for commencing erection, construction or expansion, or the addition of new processes which will result in a new discharge. There shall be no construction or operation of said facilities prior to the issuance of a permit.

2. The permittee shall submit a registration statement at least 30 days prior to any planned changes, including proposed facility alterations or additions, production increases, adding new processes or process modifications when:

- a. The planned change to a permitted facility may meet one of the criteria for determining whether a facility is a new source; or

- b. The planned change could significantly change the nature or increase the quantity of pollutants discharged. This notification applies to pollutants which are not subject to the notification level requirements in subdivision A 3 of Part IV; or

- c. The planned change may result in noncompliance with permit requirements.

3. The permittee shall promptly provide written notice of the following:

- a. Any new introduction of pollutant(s), into treatment works which represents a significant increase in the discharge which may interfere with, pass through, or otherwise be incompatible with such works, from an establishment, treatment works, or discharge(s), if such establishment, treatment works, or discharge(s) were discharging or has the potential to discharge pollutants to state waters; and

- b. Any substantial change, whether permanent or temporary, in the volume or character of pollutants being introduced into such treatment works by an establishment, treatment works, or discharge(s) that was introducing pollutants into such treatment works at the time of issuance of the permit.

Such notice shall include information on: (i) the characteristics and quantity of pollutants to be introduced into or from such treatment works; (ii) any anticipated impact of such change in the quantity and characteristics of the pollutants to be discharged from such treatment works; and (iii) any additional information that may be required by the director.

#### B. Treatment works operation and quality control.

1. Design and operation of facilities and/or treatment works and disposal of all wastes shall be in accordance with the registration statement filed with the department and in conformity with the conceptual design, or the plans, specifications, and/or other supporting data accepted by the director. The acceptance of the treatment works conceptual design or the plans and specifications does not relieve the permittee of the responsibility of designing and operating the facility in a reliable and consistent manner to meet the facility performance requirements in the permit. If facility deficiencies, design and/or operational, are identified in the future which could affect the facility performance or reliability, it is the responsibility of the permittee to correct such deficiencies.

2. All waste collection, control, treatment, and disposal facilities shall be operated in a manner consistent with the following:

- a. At all times, all facilities shall be operated in a prudent and workmanlike manner so as to minimize upsets and discharges of excessive pollutants to state waters.

- b. The permittee shall provide an adequate operating staff which is duly qualified to carry out the operation,

maintenance and testing functions required to insure compliance with the conditions of this permit.

c. Maintenance of treatment facilities shall be carried out in such a manner that the monitoring and limitation requirements are not violated.

d. Collected solids shall be stored and disposed of in such a manner as to prevent entry of those wastes (or runoff from the wastes) into state waters.

C. Adverse impact. The permittee shall take all feasible steps to minimize any adverse impact to state waters resulting from noncompliance with any limitation(s) or conditions specified in this permit, and shall perform and report such accelerated or additional monitoring as is necessary to determine the nature and impact of the noncomplying limitation(s) or conditions.

D. Duty to halt, reduce activity or to mitigate.

1. It shall not be a defense for a permittee in an enforcement action that it would have been necessary to halt or reduce the permitted activity in order to maintain compliance with the conditions of this permit.

2. The permittee shall take all reasonable steps to minimize, correct or prevent any discharge in violation of this permit which has a reasonable likelihood of adversely affecting human health or the environment.

E. Structural stability. The structural stability of any of the units or parts of the facilities herein permitted is the sole responsibility of the permittee and the failure of such structural units or parts shall not relieve the permittee of the responsibility of complying with all terms and conditions of this permit.

F. Bypassing. Any bypass ("bypass" means intentional diversion of waste streams from any portion of a treatment works) of the treatment works herein permitted is prohibited unless:

1. Anticipated bypass. If the permittee knows in advance of the need for a bypass, the permittee shall notify the department's regional office promptly at least 10 days prior to the bypass. After considering its adverse effects the regional office director may approve an anticipated bypass if:

a. The bypass is unavoidable to prevent a loss of life, personal injury, or severe property damage ("severe property damage" means substantial physical damage to property, damage to the treatment facilities which causes them to become inoperable, or substantial and permanent loss of natural resources which can reasonably be expected to occur in the absence of a bypass. Severe property damage does not mean economic loss caused by delays in production); and

b. There are no feasible alternatives to bypass, such as the use of auxiliary treatment facilities, retention of untreated waste, or maintenance during normal periods of equipment downtime. However, if a bypass occurs during normal periods of equipment downtime, or preventive maintenance and in the exercise of reasonable engineering judgment the permittee could

have installed adequate backup equipment to prevent such bypass, this exclusion shall not apply as a defense.

2. Unplanned bypass. If an unplanned bypass occurs, the permittee shall notify the department's regional office as soon as possible, but in no case later than 24 hours, and shall take steps to halt the bypass as early as possible. This notification will be a condition for defense to an enforcement action that an unplanned bypass met the conditions in subdivision IV F 1 of this part and in light of the information reasonably available to the permittee at the time of the bypass.

G. Conditions necessary to demonstrate an upset. A permittee may claim an upset as an affirmative defense to an action brought for noncompliance for only technology-based effluent limitations. In order to establish an affirmative defense of upset, the permittee shall present properly signed, contemporaneous operating logs or other relevant evidence that shows:

1. That an upset occurred and that the cause can be identified;

2. The facility permitted herein was at the time being operated efficiently and in compliance with proper operation and maintenance procedures;

3. The permittee submitted a notification of noncompliance as required by subsection F of Part III; and

4. The permittee took all reasonable steps to minimize or correct any adverse impact to state waters resulting from noncompliance with the permit.

H. Compliance with state and federal law. Compliance with this permit during its term constitutes compliance with the State Water Control Law and the Clean Water Act except for any toxic standard imposed under § 307(a) of the Clean Water Act.

Nothing in this permit shall be construed to preclude the institution of any legal action under, or relieve the permittee from any responsibilities, liabilities, or penalties established pursuant to any other state law or regulation or under authority preserved by § 510 of the Clean Water Act.

I. Property rights. The issuance of this permit does not convey any property rights in either real or personal property, or any exclusive privileges, nor does it authorize any injury to private property or any invasion of personal rights, nor any infringement of federal, state, or local laws or regulations.

J. Severability. The provisions of this permit are severable.

K. Duty to reregister. If the permittee wishes to continue to discharge under a general permit after the expiration date of this permit, the permittee must submit a new registration statement at least 120 days prior to the expiration date of this permit.

L. Right of entry. The permittee shall allow, or secure necessary authority to allow, authorized state and federal representatives, upon the presentation of credentials:

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1. To enter upon the permittee's premises on which the establishment, treatment works, is located or in which any records are required to be kept under the terms and conditions of this permit;
2. To have access to inspect and copy at reasonable times any records required to be kept under the terms and conditions of this permit;
3. To inspect at reasonable times any monitoring equipment or monitoring method required in this permit;
4. To sample at reasonable times any waste stream, discharge, process stream, raw material or byproduct; and
5. To inspect at reasonable times any collection, treatment or discharge facilities required under this permit.

For purposes of this part, the time for inspection shall be deemed reasonable during regular business hours, and whenever the facility is discharging. Nothing contained herein shall make an inspection time unreasonable during an emergency.

M. *Transferability of permits.* This permit may be transferred to another person by a permittee if:

1. The current owner notifies the department's regional office 30 days in advance of the proposed transfer of the title to the facility or property;
2. The notice to the department includes a written agreement between the existing and proposed new owner containing a specific date of transfer of permit responsibility, coverage and liability between them; and
3. The department does not within the 30-day time period notify the existing owner and the proposed owner of the board's intent to modify or revoke and reissue the permit.

Such a transferred permit shall, as of the date of the transfer, be as fully effective as if it had been issued directly to the new permittee.

N. *Public access to information.* Any secret formulae, secret processes, or secret methods other than effluent data submitted to the department may be claimed as confidential by the submitter pursuant to § 62.1-44.21 of the Code of Virginia. Any such claim must be asserted at the time of submission in the manner prescribed on the application form or instructions or, in the case of other submissions, by stamping the words "secret formulae, secret processes or secret methods" on each page containing such information. If no claim is made at the time of submission, the department may make the information available to the public without further notice. If a claim is asserted, the information will be treated in accordance with the procedures in the Virginia Freedom of Information Act (§ 2.1-340 et seq. of the Code of Virginia and § 62.1-44.21 of the Code of Virginia).

Claims of confidentiality for the following information will be denied:

1. The name and address of any permit applicant or permittee;
2. Registration statements, permits, and effluent data.

Information required by the registration statement may not be claimed confidential. This includes information submitted on the forms themselves and any attachments used to supply information required by the forms.

O. *Permit modification.* The permit may be modified when any of the following developments occur:

1. When a change is made in the promulgated standards or regulations on which the permit was based;
2. When an effluent standard or prohibition for a toxic pollutant must be incorporated in the permit in accordance with provisions of § 307(a) of the Clean Water Act (U.S.C. 33 1251 et seq.); or
3. When the level of discharge of a pollutant not limited in the permit exceeds applicable water quality standards or the level which can be achieved by technology-based treatment requirements appropriate to the permittee.

P. *Permit termination.* After public notice and opportunity for a hearing, the general permit may be terminated for cause.

Q. *When an individual permit may be required.* The director may require any permittee authorized to discharge under this permit to apply for and obtain an individual permit. Cases where an individual permit may be required include, but are not limited to, the following:

1. The discharger(s) is a significant contributor of pollution.
2. Conditions at the operating facility change altering the constituents or characteristics of the discharge such that the discharge no longer qualifies for a general permit.
3. The discharge violates the terms or conditions of this permit.
4. A change has occurred in the availability of demonstrated technology or practices for the control or abatement of pollutants applicable to the point source.
5. Effluent limitation guidelines are promulgated for the point sources covered by this permit.
6. A water quality management plan containing requirements applicable to such point sources is approved after the issuance of this permit.

This permit may be terminated as to an individual permittee for any of the reasons set forth above after appropriate notice and an opportunity for a hearing.

R. *When an individual permit may be requested.* Any owner operating under this permit may request to be excluded from the coverage of this permit by applying for an individual permit. When an individual permit is issued to an owner the applicability of this general permit to the individual owner is automatically terminated on the effective date of the individual permit. When a general permit is issued which applies to an owner already covered by an individual permit,

such owner may request exclusion from the provisions of the general permit and subsequent coverage under an individual permit.

S. *Civil and criminal liability.* Except as provided in permit conditions on "bypassing" (Part IV F), and "upset" (Part IV G) nothing in this permit shall be construed to relieve the permittee from civil and criminal penalties for noncompliance with the terms of this permit.

T. *Oil and hazardous substance liability.* Nothing in this permit shall be construed to preclude the institution of any legal action or relieve the permittee from any responsibilities, liabilities, or penalties to which the permittee is or may be subject under § 311 of the Clean Water Act or §§ 62.1-44.34:14 through 62.1-44.34:23 of the Code of Virginia.

U. *Unauthorized discharge of pollutants.* Except in compliance with this permit, it shall be unlawful for any permittee to:

1. *Discharge into state waters sewage, industrial wastes, other wastes or any noxious or deleterious substances; or*
2. *Otherwise alter the physical, chemical or biological properties of such state waters and make them detrimental to the public health, or to animal or aquatic life, or to the uses of such waters for domestic or industrial consumption, or for recreation, or for other uses.*

VA.R. Doc. No. R96-96; Filed November 8, 1995, 11:31 a.m.

# FINAL REGULATIONS

For information concerning Final Regulations, see Information Page.

## Symbol Key

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

## DEPARTMENT OF MEDICAL ASSISTANCE SERVICES

**REGISTRAR'S NOTICE:** The following regulatory action is exempt from the Administrative Process Act in accordance with § 9-6.14:4.1 C 4 (b) of the Code of Virginia, which excludes regulations that are required by order of any state or federal court of competent jurisdiction where no agency discretion is involved. The Department of Medical Assistance Services will receive, consider and respond to petitions by any interested person at any time with respect to reconsideration or revision.

**Title of Regulation:** State Plan for Medical Assistance Relating to Direct Reimbursement for PT and Related Services and Payment of Full Medicare Rate for Dual/GMB Eligibles.

12 VAC 30-50-200 [VR 460-03-3.1100]. Narrative for the Amount, Duration and Scope of Services.

VR 460-02-4.1920 [12 VAC 30-80-10 et seq.]. Methods and Standards Used for Establishing Payment Rates -- Other Types of Care.

VR 460-03-4.1922 [12 VAC 30-80-170]. Payment of Title XVIII Medicare Part A and Part B Deductible/Coinsurance.

VR 460-03-4.1943 [12 VAC 30-90-290]. Cost Reimbursement Limitations.

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

**Effective Date:** December 27, 1995.

### Summary:

*The purpose of this action is to amend the State Plan for Medical Assistance to provide for direct payment for physical therapy and related services when such services are rendered to nursing facility recipients by enrolled rehabilitation agencies and to make coinsurance payments for qualified medicare beneficiaries at the Medicare maximum rate. This action is in response to the order of the Fourth Circuit Court of Appeals.*

*The sections of the State Plan affected by this action are the Narrative for the Amount, Duration, and Scope of Services (Supplement 1 to Attachment 3.1 A & B) (12 VAC 30-50-200 [VR 460-03-3.1100]) and Methods and Standards for Establishing Payment Rates-Other Types of Care and Payment of Title XVIII Part A and Part B Deductible/Coinsurance (Attachment 4.19-B and Supplement 2) (VR 460-02-4.1920 [12 VAC 30-80-10 et seq.] and VR 460-03-4.1922 [12 VAC 30-80-170]) and the Nursing Home Payment System Appendix III (Supplement to Attachment 4.19-D) (VR 460-03-4.1943 [12 VAC 30-90-290]).*

*The advantage to rehabilitation providers is that they will now be able to bill Medicaid directly for physical therapy and related services instead of having to rely for*

*payment solely on the nursing facilities which they serve. Also, these rehabilitation providers will receive the full coinsurance amount, up to the Medicare maximum payment, when services are rendered to dual eligible qualified medicare beneficiaries. The effect of these changes to Medicaid recipients will be transparent as they should experience no difference in the services they receive. The primary disadvantage to the citizens of the Commonwealth is that with these additional expenditures for services which are already covered, there will be fewer General Fund dollars to expend on other perhaps more critical services for other recipients.*

**Agency Contact:** Copies of the regulation may be obtained from Victoria P. Simmons or Roberta J. Jonas, Regulatory Coordinators, Department of Medical Assistance Services, 600 East Broad Street, Suite 1300, Richmond, VA 23219, telephone (804) 371-8850.

12 VAC 30-50-200 [VR 460-03-3.1100, § 11]. Physical therapy and related services.

12 VAC 30-50-200. Physical therapy and related services.

A. Physical therapy and related services shall be defined as physical therapy, occupational therapy, and speech-language pathology services. These services shall be prescribed by a physician and be part of a written physician's order/plan of care. Any one of these services may be offered as the sole service and shall not be contingent upon the provision of another service. All practitioners and providers of services shall be required to meet state and federal licensing and/or certification requirements. Services shall be provided according to guidelines found in the Virginia Medicaid Rehabilitation Manual.

### B. Physical therapy.

1. Services for individuals requiring physical therapy are provided only as an element of hospital inpatient or outpatient service, nursing facility service, home health service, services provided by a local school division employing qualified therapists, or when otherwise included as an authorized service by a cost provider who provides rehabilitation services. A local school division may only provide these services to children entitled to services under Public Law 94-142.

2. ~~Effective July 1, 1988, the Program will not provide direct reimbursement to enrolled providers for physical therapy service rendered to patients residing in long term care facilities. Reimbursement for these services is and continues to be included as a component of the nursing facilities' operating cost. Effective with dates of service on and after October 24, 1995, DMAS will provide for the direct reimbursement to enrolled rehabilitation providers for physical therapy services when such services are rendered to patients residing in nursing facilities (NFs). Such reimbursement shall not be provided for any sums~~

that the rehabilitation provider collects, or is entitled to collect, from the NF or any other available source, and provided further, that this amendment shall in no way diminish any obligation of the NF to DMAS to provide its residents such services, as set forth in any applicable provider agreement.

## C. Occupational therapy.

1. Services for individuals requiring occupational therapy are provided only as an element of hospital inpatient or outpatient service, nursing facility service, home health service, services provided by a local school division employing qualified therapists, or when otherwise included as an authorized service by a cost provider who provides rehabilitation services. A local school division may only provide these services to children entitled to services under Public Law 94-142.

~~2. Effective September 1, 1990, Virginia Medicaid will not make direct reimbursement to providers for occupational therapy services for Medicaid recipients residing in long-term care facilities. Reimbursement for these services is and continues to be included as a component of the nursing facilities' operating cost. Effective with dates of service on and after October 24, 1995, DMAS will provide for the direct reimbursement to enrolled rehabilitation providers for occupational therapy services when such services are rendered to patients residing in nursing facilities (NFs). Such reimbursement shall not be provided for any sums that the rehabilitation provider collects, or is entitled to collect, from the NF or any other available source, and provided further, that this amendment shall in no way diminish any obligation of the NF to DMAS to provide its residents such services, as set forth in any applicable provider agreement.~~

D. Services for individuals with speech, hearing, and language disorders (provided by or under the supervision of a speech pathologist or audiologist).

1. These services are provided by or under the supervision of a speech pathologist or an audiologist only as an element of hospital inpatient or outpatient service, nursing facility service, home health service, services provided by a local school division employing qualified therapists, or when otherwise included as an authorized service by a cost provider who provides rehabilitation services. A local school division may only provide these services to children entitled to services under Public Law 94-142.

~~2. Effective September 1, 1990, Virginia Medicaid will not make direct reimbursement to providers for speech-language pathology services for Medicaid recipients residing in long-term care facilities. Reimbursement for these services is and continues to be included as a component of the nursing facilities' operating cost. Effective with dates of service on and after October 24, 1995, DMAS will provide for the direct reimbursement to enrolled rehabilitation providers for speech/language therapy services when such services are rendered to patients residing in nursing facilities (NFs). Such reimbursement shall not be provided for any sums that the rehabilitation provider collects, or is entitled to~~

collect, from the NF or any other available source, and provided further, that this amendment shall in no way diminish any obligation of the NF to DMAS to provide its residents such services, as set forth in any applicable provider agreement.

## E. Authorization for outpatient rehabilitation services.

1. Physical therapy, occupational therapy, and speech-language pathology services provided in outpatient settings of acute and rehabilitation hospitals, rehabilitation agencies, school divisions, or home health agencies shall include authorization for up to 24 visits by each ordered rehabilitative service annually. The provider shall maintain documentation to justify the need for services.

2. The provider shall request from DMAS authorization for treatments deemed necessary by a physician beyond the number authorized. Documentation for medical justification must include physician orders/plans of care signed and dated by a physician. Authorization for extended services shall be based on individual need. Payment shall not be made for additional service unless the extended provision of services has been authorized by DMAS.

3. Covered outpatient rehabilitative services for acute conditions shall include physical therapy, occupational therapy, and speech-language pathology services. "Acute conditions" shall be defined as conditions which are expected to be of brief duration (less than 12 months) and in which progress toward established goals is likely to occur frequently.

4. Covered outpatient rehabilitation services for long-term, nonacute conditions shall include physical therapy, occupational therapy, and speech-language pathology services. "Nonacute conditions" shall be defined as those conditions which are of long duration (greater than 12 months) and in which progress toward established goals is likely to occur slowly.

5. Payment shall not be made for reimbursement requests submitted more than 12 months after the termination of services.

F. Service limitations. The following general conditions shall apply to reimbursable physical therapy, occupational therapy, and speech-language pathology:

1. Patient must be under the care of a physician who is legally authorized to practice and who is acting within the scope of his license.

2. The physician orders for therapy services shall include the specific procedures and modalities to be used, identify the specific discipline to carry out the physician's order/plan of care, and indicate the frequency and duration for services. Physician orders/plans of care must be personally signed and dated prior to the initiation of rehabilitative services. The certifying physician may use a signature stamp, in lieu of writing his full name, but the stamp must, at minimum, be initialed and dated at the time of the initialing within 21 days of the order.

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3. Services shall be furnished under a written plan of treatment and must be established, signed and dated (as specified in this section), and periodically reviewed by a physician. The requested services or items must be necessary to carry out the plan of treatment and must be related to the patient's condition.

4. A physician recertification shall be required periodically and must be signed and dated (as specified in this section) by the physician who reviews the plan of treatment. The physician recertification statement must indicate the continuing need for services and should estimate how long rehabilitative services will be needed. Certification and recertification must be signed and dated (as specified in this section) prior to the beginning of rehabilitation services.

5. Utilization review shall be performed to determine if services are appropriately provided and to ensure that the services provided to Medicaid recipients are medically necessary and appropriate. Services not specifically documented in the patient's medical record as having been rendered shall be deemed not to have been rendered and no coverage shall be provided.

6. Physical therapy, occupational therapy and speech-language services are to be considered for termination regardless of the preauthorized visits or services when any of the following conditions are met:

- a. No further potential for improvement is demonstrated. The patient has reached his maximum progress and a safe and effective maintenance program has been developed.
- b. There is limited motivation on the part of the individual or caregiver.
- c. The individual has an unstable condition that affects his ability to participate in a rehabilitative plan.
- d. Progress toward an established goal or goals cannot be achieved within a reasonable period of time.
- e. The established goal serves no purpose to increase meaningful functional or cognitive capabilities.
- f. The service can be provided by someone other than a skilled rehabilitation professional.

## **VR 460-02-4.1920 [12 VAC 30-80-10 et seq.] Methods and Standards Used for Establishing Payment Rates -- Other Types of Care.**

### **§ 4. 12 VAC 30-80-10. General.**

The policy and the method to be used in establishing payment rates for each type of care or service (other than inpatient hospitalization, skilled nursing and intermediate care facilities) listed in § 1905(a) of the Social Security Act and included in this State Plan for Medical Assistance are described in the following paragraphs:

1. Reimbursement and payment criteria will be established which are designed to enlist participation of a sufficient number of providers of services in the program so that eligible persons can receive the medical care and

services included in the Plan at least to the extent these are available to the general population.

2. Participation in the program will be limited to providers of services who accept, as payment in full, the state's payment plus any copayment required under the State Plan.

3. Payment for care or service will not exceed the amounts indicated to be reimbursed in accord with the policy and methods described in this Plan and payments will not be made in excess of the upper limits described in 42 CFR 447.304(a). The state agency has continuing access to data identifying the maximum charges allowed: such data will be made available to the Secretary, HHS, upon request.

**§-2. 12 VAC 30-80-20. Services which are reimbursed on a cost basis.**

A. Payments for services listed below shall be on the basis of reasonable cost following the standards and principles applicable to the Title XVIII Program. The upper limit for reimbursement shall be no higher than payments for Medicare patients on a facility by facility basis in accordance with 42 CFR 447.321 and 42 CFR 447.325. In no instance, however, shall charges for beneficiaries of the program be in excess of charges for private patients receiving services from the provider. The professional component for emergency room physicians shall continue to be uncovered as a component of the payment to the facility.

B. Reasonable costs will be determined from the filing of a uniform cost report by participating providers. The cost reports are due not later than 90 days after the provider's fiscal year end. If a complete cost report is not received within 90 days after the end of the provider's fiscal year, the Program shall take action in accordance with its policies to assure that an overpayment is not being made. The cost report will be judged complete when DMAS has all of the following:

1. Completed cost reporting form(s) provided by DMAS, with signed certification(s);
2. The provider's trial balance showing adjusting journal entries;
3. The provider's financial statements including, but not limited to, a balance sheet, a statement of income and expenses, a statement of retained earnings (or fund balance), and a statement of changes in financial position;
4. Schedules which reconcile financial statements and trial balance to expenses claimed in the cost report;
5. Depreciation schedule or summary;
6. Home office cost report, if applicable; and
7. Such other analytical information or supporting documents requested by DMAS when the cost reporting forms are sent to the provider.

C. Item 398 D of the 1987 Appropriation Act (as amended), effective April 8, 1987, eliminated reimbursement of return on equity capital to proprietary providers.

D. The services that are cost reimbursed are:

1. Inpatient hospital services to persons over 65 years of age in tuberculosis and mental disease hospitals.

2. Outpatient hospital services excluding laboratory.

a. Definitions. The following words and terms, when used in this regulation, shall have the following meanings when applied to emergency services unless the context clearly indicates otherwise:

"All-inclusive" means all emergency department and ancillary service charges claimed in association with the emergency room visit, with the exception of laboratory services.

"DMAS" means the Department of Medical Assistance Services consistent with Chapter 10 (§ 32.1-323 et seq.) of Title 32.1 of the Code of Virginia.

"Emergency hospital services" means services that are necessary to prevent the death or serious impairment of the health of the recipient. The threat to the life or health of the recipient necessitates the use of the most accessible hospital available that is equipped to furnish the services.

"Recent injury" means an injury which has occurred less than 72 hours prior to the emergency department visit.

b. Scope. DMAS shall differentiate, as determined by the attending physician's diagnosis, the kinds of care routinely rendered in emergency departments and reimburse for nonemergency care rendered in emergency departments at a reduced rate.

(1) With the exception of laboratory services, DMAS shall reimburse at a reduced and all-inclusive reimbursement rate for all services, including those obstetric and pediatric procedures contained in Supplement 1 to Attachment 4.19 B, rendered in emergency departments which DMAS determines were nonemergency care.

(2) Services determined by the attending physician to be emergencies shall be reimbursed under the existing methodologies and at the existing rates.

(3) Services performed by the attending physician which may be emergencies shall be manually reviewed. If such services meet certain criteria, they shall be paid under the methodology for (2) above. Services not meeting certain criteria shall be paid under the methodology of (1) above. Such criteria shall include, but not be limited to:

(a) The initial treatment following a recent obvious injury.

(b) Treatment related to an injury sustained more than 72 hours prior to the visit with the deterioration of the symptoms to the point of requiring medical treatment for stabilization.

(c) The initial treatment for medical emergencies including indications of severe chest pain,

dyspnea, gastrointestinal hemorrhage, spontaneous abortion, loss of consciousness, status epilepticus, or other conditions considered life threatening.

(d) A visit in which the recipient's condition requires immediate hospital admission or the transfer to another facility for further treatment or a visit in which the recipient dies.

(e) Services provided for acute vital sign changes as specified in the provider manual.

(f) Services provided for severe pain when combined with one or more of the other guidelines.

(4) Payment shall be determined based on ICD-9-CM diagnosis codes and necessary supporting documentation.

(5) DMAS shall review on an ongoing basis the effectiveness of this program in achieving its objectives and for its effect on recipients, physicians, and hospitals. Program components may be revised subject to achieving program intent, the accuracy and effectiveness of the ICD-9-CM code designations, and the impact on recipients and providers.

3. Rural health clinic services provided by rural health clinics or other federally qualified health centers defined as eligible to receive grants under the Public Health Services Act §§ 329, 330, and 340.

4. Rehabilitation agencies. *Reimbursement for physical therapy, occupational therapy, and speech-language therapy services shall not be provided for any sums that the rehabilitation provider collects, or is entitled to collect, from the NF or any other available source, and provided further, that this amendment shall in no way diminish any obligation of the NF to DMAS to provide its residents such services, as set forth in any applicable provider agreement.*

5. Comprehensive outpatient rehabilitation facilities.

6. Rehabilitation hospital outpatient services.

§ 3-12 VAC 30-80-30. Fee-for-service providers.

A. Payment for the following services, except for physician services, shall be the lower of the state agency fee schedule (Supplement 4 12 VAC 30-80-190 has information about the state agency fee schedule) or actual charge (charge to the general public):

1. Physicians' services (Supplement 4 12 VAC 30-80-160 has obstetric/pediatric fees). Payment for physician services shall be the lower of the state agency fee schedule or actual charge (charge to the general public), except that reimbursement rates for designated physician services when performed in hospital outpatient settings shall be 50% of the reimbursement rate established for those services when performed in a physician's office. The following limitations shall apply to emergency physician services.



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a. Definitions. The following words and terms, when used in this regulation, shall have the following meanings when applied to emergency services unless the context clearly indicates otherwise:

"All-inclusive" means all emergency service and ancillary service charges claimed in association with the emergency department visit, with the exception of laboratory services.

"DMAS" means the Department of Medical Assistance Services consistent with Chapter 10 (§ 32.1-323 et seq.) of Title 32.1 of the Code of Virginia.

"Emergency physician services" means services that are necessary to prevent the death or serious impairment of the health of the recipient. The threat to the life or health of the recipient necessitates the use of the most accessible hospital available that is equipped to furnish the services.

"Recent injury" means an injury which has occurred less than 72 hours prior to the emergency department visit.

b. Scope. DMAS shall differentiate, as determined by the attending physician's diagnosis, the kinds of care routinely rendered in emergency departments and reimburse physicians for nonemergency care rendered in emergency departments at a reduced rate.

(1) DMAS shall reimburse at a reduced and all-inclusive reimbursement rate for all physician services, including those obstetric and pediatric procedures contained in Supplement 1 to Attachment 4.19-B 12 VAC 30-80-160, rendered in emergency departments which DMAS determines are nonemergency care.

(2) Services determined by the attending physician to be emergencies shall be reimbursed under the existing methodologies and at the existing rates.

(3) Services determined by the attending physician which may be emergencies shall be manually reviewed. If such services meet certain criteria, they shall be paid under the methodology for (2) above. Services not meeting certain criteria shall be paid under the methodology of (1) above. Such criteria shall include, but not be limited to:

(a) The initial treatment following a recent obvious injury.

(b) Treatment related to an injury sustained more than 72 hours prior to the visit with the deterioration of the symptoms to the point of requiring medical treatment for stabilization.

(c) The initial treatment for medical emergencies including indications of severe chest pain, dyspnea, gastrointestinal hemorrhage, spontaneous abortion, loss of consciousness, status epilepticus, or other conditions considered life threatening.

(d) A visit in which the recipient's condition requires immediate hospital admission or the

transfer to another facility for further treatment or a visit in which the recipient dies.

(e) Services provided for acute vital sign changes as specified in the provider manual.

(f) Services provided for severe pain when combined with one or more of the other guidelines.

(4) Payment shall be determined based on ICD-9-CM diagnosis codes and necessary supporting documentation.

(5) DMAS shall review on an ongoing basis the effectiveness of this program in achieving its objectives and for its effect on recipients, physicians, and hospitals. Program components may be revised subject to achieving program intent objectives, the accuracy and effectiveness of the ICD-9-CM code designations, and the impact on recipients and providers.

## 2. Dentists' services

### 3. Mental health services including:

Community mental health services

Services of a licensed clinical psychologist

Mental health services provided by a physician

## 4. Podiatry

## 5. Nurse-midwife services

## 6. Durable medical equipment

## 7. Local health services

## 8. Laboratory services (Other than inpatient hospital)

9. Payments to physicians who handle laboratory specimens, but do not perform laboratory analysis (limited to payment for handling)

## 10. X-Ray services

## 11. Optometry services

## 12. Medical supplies and equipment.

13. Home health services. Effective June 30, 1991, cost reimbursement for home health services is eliminated. A rate per visit by discipline shall be established as set forth by Supplement-3 12 VAC 30-80-180.

14. Physical therapy; occupational therapy; and speech, hearing, language disorders services when rendered to noninstitutionalized recipients.

B. Hospice services payments must be no lower than the amounts using the same methodology used under Part A of Title XVIII, and adjusted to disregard offsets attributable to Medicare coinsurance amounts.

### G. 12 VAC 30-80-40. Fee-for-service providers; Pharmacy.

Payment for pharmacy services shall be the lowest of items 1 through 5 (except that items 1 and 2 will not apply when prescriptions are certified as brand necessary by the

prescribing physician in accordance with the procedures set forth in 42 CFR 447.331 (c) if the brand cost is greater than the HCFA upper limit of VMAC cost) subject to the conditions, where applicable, set forth in items 6 and 7 below:

1. The upper limit established by the Health Care Financing Administration (HCFA) for multiple source drugs pursuant to 42 CFR §§ 447.331 and 447.332, as determined by the HCFA Upper Limit List plus a dispensing fee. If the agency provides payment for any drugs on the HCFA Upper Limit List, the payment shall be subject to the aggregate upper limit payment test.
2. The Virginia Maximum Allowable Cost (VMAC) established by the agency plus a dispensing fee, if a legend drug, for multiple source drugs listed on the VVF.
3. The Estimated Acquisition Cost (EAC) which shall be based on the published Average Wholesale Price (AWP) minus a percentage discount established by the methodology set out in a through c below. (Pursuant to OBRA 90 § 4401, from January 1, 1991, through December 31, 1994, no changes in reimbursement limits or dispensing fees shall be made which reduce such limits or fees for covered outpatient drugs).
  - a. Percentage discount shall be determined by a statewide survey of providers' acquisition cost.
  - b. The survey shall reflect statistical analysis of actual provider purchase invoices.
  - c. The agency will conduct surveys at intervals deemed necessary by DMAS, but no less frequently than triennially.
4. A mark-up allowance (150%) of the Estimated Acquisition Cost (EAC) for covered nonlegend drugs and oral contraceptives.
5. The provider's usual and customary charge to the public, as identified by the claim charge.
6. Payment for pharmacy services will be as described above; however, payment for legend drugs will include the allowed cost of the drug plus only one dispensing fee per month for each specific drug. However, oral contraceptives shall not be subject to the one month dispensing rule. Exceptions to the monthly dispensing fees shall be allowed for drugs determined by the department to have unique dispensing requirements.
7. The Program recognizes the unit dose delivery system of dispensing drugs only for patients residing in nursing facilities. Reimbursements are based on the allowed payments described above plus the unit dose add-on fee and an allowance for the cost of unit dose packaging established by the state agency. The maximum allowed drug cost for specific multiple source drugs will be the lesser of: either the VMAC based on the 60th percentile cost level identified by the state agency or HCFA's upper limits. All other drugs will be reimbursed at drug costs not to exceed the estimated acquisition cost determined by the state agency.
8. Determination of EAC was the result of an analysis of FY'89 paid claims data of ingredient cost used to develop

a matrix of cost using 0 to 10% reductions from AWP as well as discussions with pharmacy providers. As a result of this analysis, AWP minus 9.0% was determined to represent prices currently paid by providers effective October 1, 1990.

The same methodology used to determine AWP minus 9.0% was utilized to determine a dispensing fee of \$4.40 per prescription as of October 1, 1990. A periodic review of dispensing fee using Employment Cost Index - wages and salaries, professional and technical workers will be done with changes made in dispensing fee when appropriate. As of July 1, 1995, the Estimated Acquisition Cost will be AWP minus 9.0% and dispensing fee will be \$4.25.

**D. 12 VAC 30-80-50. Third party liability.**

All reasonable measures will be taken to ascertain the legal liability of third parties to pay for authorized care and services provided to eligible recipients including those measures specified under 42 USC 1396(a)(25).

**E. 12 VAC 30-80-60. Reimbursement audit.**

The single state agency will take whatever measures are necessary to assure appropriate audit of records whenever reimbursement is based on costs of providing care and services, or on a fee-for-service plus cost of materials.

**F. 12 VAC 30-80-70. Fee-for-service providers: transportation.**

Payment for transportation services shall be according to the following table:

TYPE OF SERVICE	PAYMENT METHODOLOGY
Taxi services	Rate set by the single state agency
Wheelchair van	Rate set by the single state agency
Nonemergency ambulance	Rate set by the single state agency
Emergency ambulance	Rate set by the single state agency
Volunteer drivers	Rate set by the single state agency
Air ambulance	Rate set by the single state agency
Mass transit	Rate charged to the public
Transportation agreements	Rate set by the single state agency
Special emergency transportation	Rate set by the single state agency

**G. 12 VAC 30-80-80. Fee-for-service: Medicare coinsurance and deductibles.**

Payments for Medicare coinsurance and deductibles for noninstitutional services shall not exceed the allowed charges determined by Medicare in accordance with 42 CFR 447.304(b) less the portion paid by Medicare, other third party payors, and recipient copayment requirements of this Plan. See Supplement 2 of this methodology.

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## H. 12 VAC 30-80-90. *Fee-for-service: Eyeglasses.*

Payment for eyeglasses shall be the actual cost of the frames and lenses not to exceed limits set by the single state agency, plus a dispensing fee not to exceed limits set by the single state agency.

## I. 12 VAC 30-80-100. *Fee-for-service: Expanded Prenatal Care.*

Expanded prenatal care services to include patient education, homemaker, and nutritional services shall be reimbursed at the lowest of: state agency fee schedule, actual charge, or Medicare (Title XVIII) allowances.

## J. 12 VAC 30-80-110. *Fee-for-service: Case Management.*

Targeted case management for high-risk pregnant women and infants up to age two and for community mental health and mental retardation services shall be reimbursed at the lowest of: state agency fee schedule, actual charge, or Medicare (Title XVIII) allowances.

## §-4. 12 VAC 30-80-120. Reimbursement for all other nonenrolled institutional and noninstitutional providers.

A. All other nonenrolled providers shall be reimbursed the lesser of the charges submitted, the DMAS cost to charge ratio, or the Medicare limits for the services provided.

B. Outpatient hospitals that are not enrolled as providers with the Department of Medical Assistance Services (DMAS) which submit claims shall be paid based on the DMAS average reimbursable outpatient cost-to-charge ratio, updated annually, for enrolled outpatient hospitals less 5.0%. The 5.0% is for the cost of the additional manual processing of the claims. Outpatient hospitals that are nonenrolled shall submit claims on DMAS invoices.

C. Nonenrolled providers of noninstitutional services shall be paid on the same basis as enrolled in-state providers of noninstitutional services. Nonenrolled providers of physician, dental, podiatry, optometry, and clinical psychology services, etc., shall be reimbursed the lesser of the charges submitted, or the DMAS rates for the services.

D. All nonenrolled noninstitutional providers shall be reviewed every two years for the number of Medicaid recipients they have served. Those providers who have had no claims submitted in the past 12 months shall be declared inactive.

E. Nothing in this regulation is intended to preclude DMAS from reimbursing for special services, such as rehabilitation, ventilator, and transplantation, on an exception basis and reimbursing for these services on an individually, negotiated rate basis.

## §-5. 12 VAC 30-80-130. Refund of overpayments.

A. Providers reimbursed on the basis of a fee plus cost of materials.

1. When DMAS determines an overpayment has been made to a provider, DMAS shall promptly send the first demand letter requesting a lump sum refund. Recovery shall be undertaken even though the provider disputes in

whole or in part DMAS's determination of the overpayment.

2. If the provider cannot refund the total amount of the overpayment within 30 days after receiving the DMAS demand letter, the provider shall promptly request an extended repayment schedule.

3. DMAS may establish a repayment schedule of up to 12 months to recover all or part of an overpayment or, if a provider demonstrates that repayment within a 12-month period would create severe financial hardship, the Director of the Department of Medical Assistance Services (the "director") may approve a repayment schedule of up to 36 months.

4. A provider shall have no more than one extended repayment schedule in place at one time. If an audit later uncovers an additional overpayment, the full amount shall be repaid within 30 days unless the provider submits further documentation supporting a modification to the existing extended repayment schedule to include the additional amount.

5. If, during the time an extended repayment schedule is in effect, the provider withdraws from the Program, the outstanding balance shall become immediately due and payable.

6. When a repayment schedule is used to recover only part of an overpayment, the remaining amount shall be recovered by the reduction of interim payments to the provider or by lump sum payments.

7. In the request for an extended repayment schedule, the provider shall document the need for an extended (beyond 30 days) repayment and submit a written proposal scheduling the dates and amounts of repayments. If DMAS approves the schedule, DMAS shall send the provider written notification of the approved repayment schedule, which shall be effective retroactive to the date the provider submitted the proposal.

8. Once an initial determination of overpayment has been made, DMAS shall undertake full recovery of such overpayment whether the provider disputes, in whole or in part, the initial determination of overpayment. If an appeal follows, interest shall be waived during the period of administrative appeal of an initial determination of overpayment.

9. Interest charges on the unpaid balance of any overpayment shall accrue pursuant to § 32.1-313 of the Code of Virginia from the date the director's determination becomes final.

10. The director's determination shall be deemed to be final on (i) the issue date of any notice of overpayment, issued by DMAS, if the provider does not file an appeal, or (ii) the issue date factfinding conference, if the provider does not file an appeal, or (iii) the issue date of any administrative decision signed by the director, regardless of whether a judicial appeal follows. In any event, interest shall be waived if the overpayment is completely liquidated within 30 days of the date of the

final determination. In cases in which a determination of overpayment has been judicially reversed, the provider shall be reimbursed that portion of the payment to which it is entitled, plus any applicable interest which the provider paid to DMAS.

**B. Providers reimbursed on the basis of reasonable costs.**

1. When the provider files a cost report indicating that an overpayment has occurred, full refund shall be remitted with the cost report. In cases where DMAS discovers an overpayment during desk review, field audit, or final settlement, DMAS shall promptly send the first demand letter requesting a lump sum refund. Recovery shall be undertaken even though the provider disputed in whole or in part DMAS's determination of the overpayment.
2. If the provider has been overpaid for a particular fiscal year and has been underpaid for another fiscal year, the underpayment shall be offset against the overpayment. So long as the provider has an overpayment balance, an underpayment discovered by subsequent review or audit shall also be used to reduce the remaining amount of the overpayment.
3. If the provider cannot refund the total amount of the overpayment (i) at the time it files a cost report indicating that an overpayment has occurred, the provider shall request an extended repayment schedule at the time of filing, or (ii) within 30 days after receiving the DMAS demand letter, the provider shall promptly request an extended repayment schedule.
4. DMAS may establish a repayment schedule of up to 12 months to recover all or part of an overpayment, or, if a provider demonstrates that repayment within a 12-month period would create severe financial hardship, the Director of the Department of Medical Assistance Services (the "director") may approve a repayment schedule of up to 36 months.
5. A provider shall have no more than one extended repayment schedule in place at one time. If an audit later uncovers an additional overpayment, the full amount shall be repaid within 30 days unless the provider submits further documentation supporting a modification to the existing extended repayment schedule to include the additional amount.
6. If during the time an extended repayment schedule is in effect, the provider withdraws from the program or fails to file a cost report in a timely manner, the outstanding balance shall become immediately due and payable.
7. When a repayment schedule is used to recover only part of an overpayment, the remaining amount shall be recovered by the reduction of interim payments to the provider or by lump sum payments.
8. In the request for an extended repayment schedule, the provider shall document the need for an extended (beyond 30 days) repayment and submit a written proposal scheduling the dates and amounts of repayments. If DMAS approves the schedule, DMAS shall send the provider written notification of the

approved repayment schedule, which shall be effective retroactive to the date the provider submitted the proposal.

9. Once an initial determination of overpayment has been made, DMAS shall undertake full recovery of such overpayment whether or not the provider disputes, in whole or in part, the initial determination of overpayment. If an appeal follows, interest shall be waived during the period of administrative appeal of an initial determination of overpayment.

10. Interest charges on the unpaid balance of any overpayment shall accrue pursuant to § 32.1-313 of the Code of Virginia from the date the director's determination becomes final.

11. The director's determination shall be deemed to be final on (i) the due date of any cost report filed by the provider indicating that an overpayment has occurred, or (ii) the issue date of any notice of overpayment, issued by DMAS, if the provider does not file an appeal, or (iii) the issue date of any administrative decision issued by DMAS after an informal fact finding conference, if the provider does not file an appeal, or (iv) the issue date of any administrative decision signed by the director, regardless of whether a judicial appeal follows. In any event, interest shall be waived if the overpayment is completely liquidated within 30 days of the date of the final determination. In cases in which a determination of overpayment has been judicially reversed, the provider shall be reimbursed that portion of the payment to which it is entitled, plus any applicable interest which the provider paid to DMAS.

~~§ 6-~~ 12 VAC 30-80-140. EPSDT.

A. Consistent with the Omnibus Budget Reconciliation Act of 1989 § 6403, reimbursement shall be provided for services resulting from early and periodic screening, diagnostic, and treatment services. Reimbursement shall be provided for such other measures described in Social Security Act § 1905(a) required to correct or ameliorate defects and physical and mental illnesses and conditions discovered by the screening services, whether or not such services are covered under the State Plan.

B. Payments to fee-for-service providers shall be in accordance with ~~§ 3 of Attachment 4-19-B~~ 12 VAC 30-80-30 the lower of (i) state agency fee schedule or (ii) actual charge (charge to the general public).

C. Payments to outpatient cost-based providers shall be in accordance with ~~§ 2 of 4-19-B~~ 12 VAC 30-80-20.

D. Psychiatric services delivered in a psychiatric hospital for individuals under age 21 shall be reimbursed at a uniform all-inclusive per diem fee and shall apply to all service providers. The fee shall be all-inclusive to include physician and pharmacy services. The methodology to be used to determine the per diem fee shall be as follows. The base period uniform per diem fee for psychiatric services resulting from an EPSDT screening shall be the median (weighted by children's admissions in state-operated psychiatric hospitals) variable per day cost of state-operated psychiatric hospitals in the fiscal year ending June 30, 1990. The base period per

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diem fee shall be updated each year using the hospital market basket factor utilized in the reimbursement of acute care hospitals in the Commonwealth.

§-7. 12 VAC 30-80-150. Dispute resolution for state-operated providers.

## A. Definitions.

"DMAS" means the Department of Medical Assistance Services.

"Division director" means the director of a division of DMAS.

"State-operated provider" means a provider of Medicaid services which is enrolled in the Medicaid program and operated by the Commonwealth of Virginia.

B. Right to request reconsideration. A state-operated provider shall have the right to request a reconsideration for any issue which would be otherwise administratively appealable under the State Plan by a nonstate operated provider. This shall be the sole procedure available to state-operated providers.

The appropriate DMAS division must receive the reconsideration request within 30 calendar days after the provider receives its Notice of Amount of Program Reimbursement, notice of proposed action, findings letter, or other DMAS notice giving rise to a dispute.

C. Informal review. The state-operated provider shall submit to the appropriate DMAS division written information specifying the nature of the dispute and the relief sought. If a reimbursement adjustment is sought, the written information must include the nature of the adjustment sought, the amount of the adjustment sought, and the reasons for seeking the adjustment. The division director or his designee shall review this information, requesting additional information as necessary. If either party so requests, they may meet to discuss a resolution. Any designee shall then recommend to the division director whether relief is appropriate in accordance with applicable law and regulations.

D. Division director action. The division director shall consider any recommendation of his designee and shall render a decision.

E. DMAS director review. A state-operated provider may, within 30 days after receiving the informal review decision of the division director, request that the DMAS director or his designee review the decision of the division director. The DMAS director shall have the authority to take whatever measures he deems appropriate to resolve the dispute.

F. Secretarial review. If the preceding steps do not resolve the dispute to the satisfaction of the state-operated provider, within 30 days after the receipt of the decision of the DMAS director, the provider may request the DMAS director to refer the matter to the Secretary of Health and Human Resources and any other Cabinet Secretary as appropriate. Any determination by such Secretary or Secretaries shall be final.

VR 460-03-4.1922 [12 VAC 30-80-170]. Payment of Title XVIII Medicare Part A and Part B Deductible Coinsurance.

Except for a nominal recipient copayment, if applicable, the Medicaid agency uses the following method:

	Medicare-Medicaid	Medicare-Medicaid/QMB	Medicare-QMB
Part A Deductible	<input type="checkbox"/> limited to State plan rates*	<input type="checkbox"/> limited to State plan rates*	<input type="checkbox"/> limited to State plan rates*
	<input checked="" type="checkbox"/> full amount	<input checked="" type="checkbox"/> full amount	<input checked="" type="checkbox"/> full amount
Part A** Coinsurance	<input checked="" type="checkbox"/> limited to State plan rates*	<input checked="" type="checkbox"/> limited to State plan rates*	<input checked="" type="checkbox"/> limited to State plan rates*
	<input type="checkbox"/> full amount	<input type="checkbox"/> full amount	<input type="checkbox"/> full amount

\*\* This payment rate applies only to SNF patients only for XVIII Part A coinsurance.

Part B Deductible	<input type="checkbox"/> limited to State plan rates*	<input type="checkbox"/> limited to State plan rates*	<input type="checkbox"/> limited to State plan rates*
	<input checked="" type="checkbox"/> full amount	<input checked="" type="checkbox"/> full amount	<input checked="" type="checkbox"/> full amount
Part B Coinsurance	<input checked="" type="checkbox"/> limited to State plan rates*	<input checked="" type="checkbox"/> limited to State plan rates*	<input checked="" type="checkbox"/> limited to State plan rates*
	<input type="checkbox"/> full amount	<input type="checkbox"/> full amount	<input type="checkbox"/> full amount

\*For those Title XVIII services not otherwise covered by the Title XIX state plan, the Medicaid agency has established reimbursement methodologies that are described in Attachment 4.19 B, Item(s) j 12 VAC 30-80-80, as may be excepted for certain rehabilitation agencies as ordered by the court.

VR 460-03-4.1943 [12 VAC 30-90-290]. Cost Reimbursement Limitations.

## §-1. A. Foreword.

A. The attached information outlines operating, NATCEPs and plant cost limitations that are not referenced in previous sections of these regulations.

B. All of the operating cost limitations are further subject to the applicable operating ceilings.

## §-2. Fees.

### A. B. Directors' fees.

1. Although Medicaid does not require a board of directors (Medicare requires only an annual stockholders' meeting), the Program will recognize reasonable costs for directors' meetings related to patient care.

2. It is not the intent of DMAS to reimburse a facility for the conduct of business related to owner's investments, nor is it the intent of the Program to recognize such costs in a closely held corporation where one person owns all stock, maintains all control, and approves all decisions.

3. To receive reimbursement for directors' meetings, the written minutes must reflect the name of the facility for which the meeting is called, the content and purpose of the meeting, members in attendance, the time the

meeting began and ended, and the date. If multiple facilities are discussed during a meeting, total allowable director fees, as limited herein, shall be prorated between such facilities.

4. Bona fide directors may be paid an hourly rate of \$125 up to a maximum of four hours per month. These fees include reimbursement for time, travel, and services performed.

5. Compensation to owner/administrators who also serve as directors, shall include any and director's fees paid, subject to the above-referenced limit set forth in these regulations.

## B- C. Membership fees.

1. These allowable costs will be restricted to membership in health care organizations and appropriate professional societies which promote objectives in the provider's field of health care activities.

2. Membership fees in health care organizations and appropriate professional societies will be allowed for the administrator, owner, and home office personnel.

3. Comparisons will be made with other providers to determine reasonableness of the number of organizations to which the provider will be reimbursed for such membership and the claimed costs, if deemed necessary.

## C- D. Management fees.

1. External management services shall only be reimbursed if they are necessary, cost effective, and nonduplicative of existing NF internal management services.

2. Costs to the provider, based upon a percentage of net or gross revenues or other variations thereof, shall not be an acceptable basis for reimbursement. If allowed, management fees must be reasonable and based upon rates related to services provided.

3. Management fees paid to a related party may be recognized by the Program as the owner's compensation subject to administrator compensation guidelines.

4. A management fees service agreements exists when the contractor provides nonduplicative personnel, equipment, services, and supervision.

5. A consulting service agreement exists when the contractor provides nonduplicative supervisory or management services only.

6. Limits will be based upon comparisons with other similar size facilities or other DMAS guidelines and information.

Effective for all providers' cost reporting periods ending on or after October 1, 1990, a per patient day ceiling for all full service management service costs shall be established. The ceiling limitation for cost reporting periods ending on or after October 1, 1990, through December 31, 1990, shall be the median per patient day cost as determined from information contained in the

most recent cost reports for all providers with fiscal years ending through December 31, 1989. These limits will be adjusted annually by a Consumer Price Index effective January 1 of each calendar year to be effective for all providers' cost reporting periods ending on or after that date. The limits will be published and distributed to providers annually.

D- E. Pharmacy consultants fees. Costs will be allowed to the extent they are reasonable and necessary.

E- F. Physical therapy fees (for outside services). Limits are based upon current PRM-15-guidelines.

F- G. Inhalation therapy fees (for outside services). Limits are based upon current PRM-15 guidelines.

G- H. Medical directors' fees. Costs will be allowed up to the established limit per year to the extent that such fees are determined to be reasonable and proper. This limit will be escalated annually by the CPI-U effective January 1 of each calendar year to be effective for all providers' cost reporting periods ending on or after that date. The limits will be published and distributed to providers annually. The following limitations apply to the time periods as indicated:

*1. Reimbursement for physical therapy, occupational therapy, and speech-language therapy services shall not be provided for any sums that the rehabilitation provider collects, or is entitled to collect, from the NF or any other available source, and provided further, that this amendment shall in no way diminish any obligation of the NF to DMAS to provide its residents such services, as set forth in any applicable provider agreement.*

Jan. 1, 1988 - Dec. 31, 1988 - \$6,204

Jan. 1, 1989 - Dec. 31, 1989 - \$6,625

## §-3. J. Personal automobile.

A- 1. Use of personal automobiles when related to patient care will be reimbursed at the maximum of the allowable IRS mileage rate when travel is documented.

B- 2. Flat rates for use of personal automobiles will not be reimbursed.

## §-4. K. Seminar expenses.

These expenses will be treated as allowable costs, if the following criteria are met:

1. Seminar must be related to patient care activities, rather than promoting the interest of the owner or organization.

2. Expenses must be supported by:

a. Seminar brochure,

b. Receipts for room, board, travel, registration, and educational material.

3. Only the cost of two persons per facility will be accepted as an allowable cost for seminars which involve room, board, and travel.

## §-5. L. Legal retainer fees.

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# Final Regulations

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DMAS will recognize legal retainer fees if such fees do not exceed the following:

BED SIZE	LIMITATIONS
0 - 50	\$100 per month
51 - 100	\$150 per month
101 - 200	\$200 per month
201 - 300	\$300 per month
301 - 400	\$400 per month

The expense to be allowed by DMAS shall be supported by an invoice and evidence of payment.

§-6. M. Architect fees. Architect fees will be limited to the amounts and standards as published by the Virginia Department of General Services.

§-7. N. Administrator/owner compensation.

## DMAS ADMINISTRATOR/OWNER COMPENSATION SCHEDULE

JANUARY 1, 1989 - DECEMBER 31, 1989

BED SIZE	NORMAL	
	ALLOWABLE FOR ONE ADMINISTRATOR	MAXIMUM FOR 2 OR MORE ADMINISTRATORS
1 - 75	32,708	49,063
76 - 100	35,470	53,201
101 - 125	40,788	61,181
126 - 150	46,107	69,160
151 - 175	51,623	77,436
176 - 200	56,946	85,415
201 - 225	60,936	91,399
226 - 250	64,924	97,388
251 - 275	68,915	103,370
276 - 300	72,906	108,375
301 - 325	76,894	115,344
326 - 350	80,885	121,330
351 - 375	84,929	127,394
376 & over	89,175	133,763

These limits will be escalated annually by the CPI-U effective January 1 of each calendar year to be effective for all provider's cost reporting periods ending on or after that date. The limits will be published and distributed to providers annually.

VA.R. Doc. No. R96-95; Filed November 8, 1995, 11:23 a.m.

# MARINE RESOURCES COMMISSION

## MARINE RESOURCES COMMISSION

**NOTICE:** The Marine Resources Commission is exempted from the Administrative Process Act (§ 9-6.14:4.1 of the Code of Virginia); however, it is required by § 9-6.14:22 B to publish all final regulations.

**Title of Regulation:** VR 450-01-0095. Restrictions on Oyster Harvest in Virginia.

**Statutory Authority:** §§ 28.2-201 and 28.2-507 of the Code of Virginia.

**Effective Date:** October 27, 1995.

### Preamble:

*This regulation sets times of closure and other restrictions on the harvest of oysters from all oyster grounds in the Chesapeake Bay and its tributaries and on the Seaside of Eastern Shore. This regulation is promulgated pursuant to authority contained in §§ 28.2-201 and 28.2-507 of the Code of Virginia. This regulation amends VR 450-01-0095, that was effective on October 1, 1995. The effective date of this regulation is October 27, 1995.*

**Agency Contact:** Copies of this regulation may be obtained from Katherine V. Leonard, Marine Resources Commission, P.O. Box 756, Newport News, VA 23607-0756, telephone (804) 247-2120.

VR 450-01-0095. Restrictions on Oyster Harvest in Virginia.

### § 1. Purpose.

The purpose of this regulation is to protect and conserve Virginia's oyster resource and promote the preservation of oyster broodstock, which has been depleted by disease, harvesting, and natural disasters.

### § 2. Definitions.

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

*"Public oyster ground"* means all those grounds defined in § 28.2-551 of the Code of Virginia, all ground set aside as public oyster ground by court order, and all ground set aside as public oyster ground by order of the Marine Resources Commission.

*"Unassigned ground"* means all grounds other than public oyster ground as defined by this regulation and which have not been set aside or assigned by lease, permit, or easement by the Marine Resources Commission.

### § 3. Standing stock criteria.

Any public oyster ground or unassigned ground may be closed to harvest by the Commissioner of Marine Resources when it is determined by the Oyster Replenishment Office that the standing stock of oysters has been depleted by 50% or more. The initial estimate of standing stock for each area shall be the volume of oysters as of October 1 of each year as determined by the Oyster Replenishment Officer.

### § 4. Open season and areas.

The lawful seasons and areas for the harvest of oysters from the public oyster grounds and unassigned grounds are as follows:

1. James River Seed Area: October 1, 1995, through April 30, 1996.
2. James River Jail Island and Point of Shoals Clean Cull Areas: October 1, 1995, through April 30, 1996.
3. Seaside of Eastern Shore: for clean cull oysters only, October 1, 1995, through December 31, 1995.
4. That area of the Rappahannock River between the power line, which begins between Wares Wharf and Tuscarora Creek and crosses the Rappahannock River to Accaceek Point, and the Route 3 Bridge: November 1, 1995, through December 31, 1995.

### § 5. Closed harvest season and areas.

It shall be unlawful for any person to harvest oysters from the following areas during the specified periods:

1. All public oyster grounds and unassigned grounds in the Chesapeake Bay and its tributaries, including the tributaries of the Potomac River, except that area of the Rappahannock River between the power line, which begins between Wares Wharf and Tuscarora Creek and crosses the Rappahannock River to Accaceek Point, and the Route 3 Bridge, the James River Seed Area and the James River Jail Island and Point of Shoals Clean Cull Areas: October 1, 1995, through September 30, 1996.
2. James River Seed Area and James River Jail Island and Point of Shoals Clean Cull Areas: May 1, 1996, through September 30, 1996.
3. All public oyster grounds and unassigned grounds on the Seaside of Eastern Shore: for clean cull oysters, January 1, 1996, through September 30, 1996; and for seed oysters, all year. Oyster harvest from leased oyster ground and fee simple oyster ground shall require a permit from the Marine Resources Commission as set forth in § 9.
4. That area of the Rappahannock River between the power line, which begins between Wares Wharf and Tuscarora Creek and crosses the Rappahannock River to Accaceek Point, and the Route 3 Bridge: October 1, 1995, through October 31, 1995, and January 1, 1996, through September 30, 1996.

### § 6. Day and time limit.

A. It shall be unlawful to take, catch or harvest oysters on Saturday from the public oyster grounds or unassigned grounds in the waters of the Commonwealth of Virginia, except that this provision shall not apply to any person harvesting no more than one bushel per day by hand for household use only during the season when the public oyster grounds or unassigned grounds are legally open for harvest. The presence of any gear normally associated with the harvesting of oysters on board the boat or other vehicle used



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# Marine Resources Commission

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during any harvesting under this exception shall be prima facie evidence of violation of this regulation.

B. Harvest on the public oyster grounds in the James River Seed Area and the James River Jail Island and Point of Shoals Clean Cull Areas shall be from sunrise to noon, daily, except during the months of January and February when it shall be from sunrise to 2 p.m., daily. *Harvest on the public oyster grounds in that area of the Rappahannock River between the power line, which begins between Wares Wharf and Tuscarora Creek and crosses the Rappahannock River to Accaceek Point, and the Route 3 Bridge shall be from sunrise to noon, daily.* It shall be unlawful for any person to harvest oysters from the public grounds in the James River Seed Area or the James River Jail Island and Point of Shoals Clean Cull Areas prior to sunrise or after noon, daily, or after 2 p.m., daily, during the months of January and February. *It shall be unlawful for any person to harvest oysters from the public grounds in that area of the Rappahannock River between the power lines, which begins between Wares Wharf and Tuscarora Creek and crosses the Rappahannock River to Accaceek Point, and the Route 3 Bridge prior to sunrise or after noon, daily.*

C. The Commissioner of Marine Resources is hereby authorized to issue permits to applicants to dredge for oysters where permitted by the Code of Virginia and Marine Resources Commission regulation or order, provided the applicant is eligible under all applicable laws and regulations, and further provided that such permit shall be granted only upon the condition that the boat not leave the dock until one-half hour before sunrise and be back at dock before sunset.

## § 7. Gear restrictions.

It shall be unlawful for any person to harvest oysters from public oyster grounds or unassigned grounds with shaft tongs longer than 18 feet in total overall length, except that shaft tongs not to exceed 22 feet in total overall length may be used only on Morattico Bar.

## § 8. Quotas and catch limits.

A. In the James River Seed Areas there shall be an oyster harvest quota of 80,000 bushels of seed oysters. It shall be unlawful for any person to harvest seed oysters from the James River Seed Area after the 80,000 bushel quota has been reached.

B. It shall be unlawful for any person to take or harvest more than 10 bushels per day from that area of the Rappahannock River between the power line, which begins between Wares Wharf and Tuscarora Creek and crosses the Rappahannock River to Accaceek Point, and the Route 3 Bridge.

## § 9. Harvest permit required, Seaside of Eastern Shore.

A. It shall be unlawful for any person to harvest, or attempt to harvest, oysters from leased oyster ground or fee simple ground on the Seaside of Eastern Shore without first obtaining a permit from the Marine Resources Commission.

B. Applicants for the permit shall have paid all rent fees and shall specify the location of the lease or fee simple ground to be harvested and shall verify that the ground is properly marked as specified by VR 450-01-0038.

C. No person shall hold more than four permits at any time.

## § 10. Seed oyster planting procedures.

A. The marine patrol officer at the point of seed harvest may require that an officer be present during the seed planting. When this is required, it will be specified on the seed transfer permit. If an officer is required to be present at planting, the planter shall notify the law-enforcement officer in the area prior to planting. It shall be unlawful for the permittee or planter to plant the oysters without a marine patrol officer being present.

B. The planting of seed oysters shall consist of spreading the oysters loosely on the bottom of the planting area. It shall be unlawful to plant seed oysters in any manner except by planting the oysters loosely on the bottom.

## § 11. Penalty.

A. As set forth in § 28.2-903 of the Code of Virginia, any person violating any provision of this regulation shall be guilty of a Class 3 misdemeanor and a second or subsequent violation of any provision of the regulation committed by the same person within 12 months of a prior violation is a Class 1 misdemeanor.

B. In addition to the penalty prescribed by § 28.2-903 of the Code of Virginia, any person violating the provisions of this regulation shall return all oysters in possession to the water, shall cease harvesting on that day, and all harvesting apparatus shall be subject to seizure.

/s/ Robert D. Craft  
Chief

Administration and Finance Division

VA.R. Doc. No. R96-80; Filed October 30, 1995, 2:06 p.m.

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# GOVERNOR

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## GOVERNOR'S COMMENTS ON PROPOSED REGULATIONS

(Required by § 9-6.12:9.1 of the Code of Virginia)

### STATE AIR POLLUTION CONTROL BOARD

Title of Regulation: VR 120-99-05. Regulation for the  
Control of Emissions from Fleet Vehicles.

Governor's Comment:

I have reviewed this proposed regulation on a preliminary basis. It is needed to comply with federal and state mandates. While I reserve the right to take action authorized by the Administrative Process Act during the final adoption period, I have no objection to the proposed regulation based on the information and public comment currently available.

/s/ George Allen  
Governor

Date: September 5, 1995

VA.R. Doc. No. R96-77; Filed October 30, 1995, 2:05 p.m.

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# GENERAL NOTICES/ERRATA

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## Symbol Key

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

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### COMMISSION FOR THE ARTS

#### † Notice of Revision to Guidelines

The Virginia Commission for the Arts is revising its guidelines for funding for 1996-98. These guidelines cover eligibility for funding, application and review procedures, and projected grant amounts.

The board of the commission will adopt the final version of the guidelines on December 6, 1995. Anyone who wishes to review and comment on the guidelines should contact the commission office to receive a copy of the draft guidelines. Comments can be made in writing, by email, or by telephoning any member of the commission staff.

Virginia Commission for the Arts  
Lewis House - Second Floor  
223 Governor Street  
Richmond, VA 23219-2010  
(804) 225-3132 (voice/TDD)  
(804) 225-4327 (FAX)  
email: vacomm@artswire.org

### DEPARTMENT OF ENVIRONMENTAL QUALITY

#### † Notice of New Telephone Numbers

Effective December 1, 1995, the prefix for the department's headquarters at 629 East Main Street in Richmond will change. The new prefix is 698. The remaining four numbers will remain the same.

### VIRGINIA CODE COMMISSION

#### Notice to State Agencies

**Mailing Address:** Our mailing address is: Virginia Code Commission, 910 Capitol Street, General Assembly Building, 2nd Floor, Richmond, VA 23219. You may FAX in your notice; however, we ask that you FAX two copies and do not follow up with a mailed copy. Our FAX number is: (804) 692-0625.

#### 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: Virginia Code Commission, 910 Capitol Street, General Assembly Building, 2nd Floor, Richmond, VA 23219, telephone (804) 786-3591.

#### FORMS:

NOTICE of INTENDED REGULATORY ACTION - RR01  
NOTICE of COMMENT PERIOD - RR02  
PROPOSED (Transmittal Sheet) - RR03  
FINAL (Transmittal Sheet) - RR04  
EMERGENCY (Transmittal Sheet) - RR05  
NOTICE of MEETING - RR06  
AGENCY RESPONSE TO LEGISLATIVE OBJECTIONS - RR08

## ERRATA

### VIRGINIA HEALTH SERVICES COST REVIEW COUNCIL

Title of Regulation: VR 370-01-001. Rules and Regulations of the Virginia Health Services Cost Review Council.

Publication Date: 11:26 VA.R. 4219-4223 September 18, 1995.

#### Correction to Emergency Regulation:

- Page 4222, column 1, § 4.6 i, change "quality" to "equity"
- Page 4222, column 2, § 4.7, line 4, after "submit" add ", if"
- Page 4222, column 2, § 4.7, line 5, change "as" to "is"

### DEPARTMENT OF HEALTH (STATE BOARD OF)

Title of Regulation: 12 VAC 5-590-10 et seq. Waterworks Regulations (amendments to 12 VAC 5-590-10, 12 VAC 5-590-50, 12 VAC 5-590-340, 12 VAC 5-590-370, 12 VAC 5-590-410, 12 VAC 5-590-420, 12 VAC 5-590-530, 12 VAC 5-590-540, 12 VAC 5-590-550, and Appendices B, F and M relating to lead and copper).

Publication Date: 12:2 VA.R. 201-248 October 16, 1995.

#### Change to Final Regulation:

- Page 203, column 2, definition of "medium-size waterworks," line 2, change "23" to "12"
- Page 204, column 1, definition of "optimal corrosion control treatment," line 5, change "waterworks regulations" to "section of this chapter"
- Page 215, column 1, c (1) (a), line 4, after "B 6" add "a"
- Page 215, column 1, c (1) (a), line 4, after "of this section" delete "a"
- Page 223, column 1, subdivision d, line 7, after "12 VAC 5-590-370 B 6 a" insert "and b"
- Page 223, column 1, subdivision d (2), line 4, after "commissioner" insert "(12 VAC 5-590-200)"

Page 223, column 2, subdivision e (3), line 6, after "commissioner" insert "(12 VAC 5-590-200)"

Page 228, column 2, subdivision c, line 2, after "b (1)" insert ","

Page 230, column 2, D 1 a (4), line 5, after "12 VAC 5-590-410 E 3" add ")"

Page 243, column 1, subdivision 9, line 2, after "5" insert ")"

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**Title of Regulation:** 12 VAC 5-590-10 et seq. Waterworks Regulations (amendments to 12 VAC 5-590-10, 12 VAC 5-590-370, 12 VAC 5-590-390, 12 VAC 5-590-400, 12 VAC 5-590-410, 12 VAC 5-590-420, 12 VAC 5-590-440, 12 VAC 5-590-970, and Appendices B, F and N relating to Phases II, IIB, and V).

**Publication Date:** 12:2 VA.R. 249-292 October 16, 1995.

**Correction to Final Regulation:**

Page 263, column 1, subdivision 4, line 1, change "(Ucs)" to "(UCs)"

Page 268, column 1, subdivision C 1 b (1), line 12, after "average." insert "(Note: Refer to detection definition at 12 VAC 5-590-370 B 2 h.)"

Page 268, column 2, after subsection D, add "[E. Reserved for lead.]"

Page 268, column 2, subsection E, change to "[ E. E. ]"

Page 268, column 2, subsection F, change to "[ F.G. ]"

Page 271, Table 2.2, should read as follows:

Table 2.2  
INORGANIC CHEMICALS

Substance	Primary Maximum Contaminant Level (mg/L)
Antimony	0.006
Arsenic (As)	0.05
Asbestos	7 Million Fibers/liter (longer than 10 µm)
Barium (Ba)	2
Beryllium	0.004
Cadmium (Cd)	0.005
Chromium (Cr)	0.1
Cyanide (as free Cyanide)	0.2
Fluoride (F)	4.0 #
Mercury (Hg)	0.002
Nickel	0.1
Nitrate (as N)	10 **
Nitrite (as N)	1
Total Nitrate and Nitrite (as N)	10
Selenium (Se)	0.05
Thallium	0.002

Substance	Secondary Maximum Contaminant Level (mg/L)
Chloride (Cl)	250.0
Corrosivity	Noncorrosive, See Appendix B
Fluoride	2.0
Foaming Agents	0.5*
Iron (Fe)	0.3
Manganese (Mn)	0.05
Sodium (Na)	No Limits Designated, See Appendix B
Sulfate (SO <sub>4</sub> )	250.0
Zinc (Zn)	5.0

Substance	Action Level (mg/L)
Lead (Pb)	0.015
Copper (Cu)	1.3

# Note. For artificially fluoridated waterworks the minimum concentration of fluoride should be 0.8 mg/L and the maximum should be 1.0 mg/L. The optimum control limit is 0.9 mg/L. (See Appendix B.)

\* Note. Concentration reported in terms of Methylene Blue Active Substances.

\*\*Note. See Appendix B for Exception Regarding Noncommunity Waterworks.

Page 273, Table 2.9, column 1, line 6, after "SOCs," add ")"

Page 289, column 1, Number 58, lines 1, 3, 6, 11, and 15, change "benzoapyrene" to "benzo(a)pyrene"

Page 292, column 1, Table II, line 39, change "Benzoapyrene" to "Benzo(a)pyrene"

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# CALENDAR OF EVENTS

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## Symbol Key

- † Indicates entries since last publication of the *Virginia Register*
- ♿ Location accessible to handicapped
- ☎ Telecommunications Device for Deaf (TDD)/Voice Designation

## NOTICE

Only those meetings which are filed with the Registrar of Regulations by the filing deadline noted at the beginning of this publication are listed. Since some meetings are called on short notice, please be aware that this listing of meetings may be incomplete. Also, all meetings are subject to cancellation and the *Virginia Register* deadline may preclude a notice of such cancellation.

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.

VIRGINIA CODE COMMISSION

## EXECUTIVE

### BOARD FOR ACCOUNTANCY

**December 4, 1995** -- Public comments may be submitted until this date.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Board for Accountancy intends to amend regulations entitled: **VR 105-01-2. Board for Accountancy Regulations**. Current fees will be adjusted resulting in a decrease in renewal, application and late filing fees. Further, the proposal will eliminate specific examination fees, including language which will place a cap on examination fees, while permitting the Department of Professional and Occupational Regulation to adjust the fees in accordance with examination vendor contract changes.

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

**Contact:** Nancy Taylor Feldman, Assistant Director, Board for Accountancy, 3600 W. Broad St., Richmond, VA 23230-4917, telephone (804) 367-8590.

**December 19, 1995 - 11 a.m.** -- Open Meeting  
Department of Professional and Occupational Regulation, 3600 West Broad Street, 4th Floor, Richmond, Virginia.♿

A specially called meeting to adopt final regulations for fee decrease and to review proposed regulations. A public comment period will be held at the beginning of the meeting. Persons desiring to participate in the meeting and requiring special accommodations or interpreter services should contact the board at least 10 days prior to the meeting so that suitable arrangements can be made. The department fully complies with the Americans with Disabilities Act.

**Contact:** Nancy Taylor Feldman, Assistant Director, Board for Accountancy, 3600 W. Broad St., Richmond, VA 23230-4917, telephone (804) 367-8590, FAX (804) 367-2474 or (804) 367-9753/TDD ☎

## DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES

### Virginia State Apple Board

† **December 6, 1995 - 10 a.m.** -- Open Meeting  
Harrisonburg Regional Laboratory, Reservoir Street, Harrisonburg, Virginia.♿

The board will review its finances and 1994-95 tax collections. Routine board business will be addressed during the meeting. The board will entertain public comment at the conclusion of all other business for a period not to exceed 30 minutes. Any person who needs any accommodations in order to participate at the meeting should contact Nancy Israel at least five days before the meeting date so that suitable arrangements can be made.

**Contact:** Nancy Israel, Program Director, Virginia State Apple Board, 1100 Bank St., Suite 1008, Richmond, VA 23219, telephone (804) 371-6104.

### Virginia Corn Board

**December 12, 1995 - 9:30 a.m.** -- Open Meeting  
Williamsburg Marriott, 50 Kingsmill Road, Williamsburg, Virginia.♿

The board will meet in regular session to discuss issues related to the Virginia Corn Industry. The board will entertain public comment at the conclusion of all other business for a period not to exceed 30 minutes. Any person who needs any accommodations in order to participate at the meeting should contact David Robishaw at least five days before the meeting date so that suitable arrangements can be made.

**Contact:** David Robishaw, Program Director, Virginia Corn Board, 116 Reservoir St., Harrisonburg, VA 22801, telephone (540) 434-2699.

**Virginia Horse Industry Board**

**December 14, 1995 - 10 a.m.** -- Open Meeting  
Virginia Cooperative Extension, Charlottesville-Albemarle Unit, 168 Spotnap Road, Lower Level Meeting Room, Charlottesville, Virginia. ☎

**January 19, 1996 - 1 p.m.** -- Open Meeting  
Embassy Suites Hotel, 2925 Emerywood Parkway, 1st Floor, Richmond, Virginia. ☎

The board will entertain public comment at the conclusion of all other business for a period not to exceed 30 minutes. Any person who needs any accommodations in order to participate at the meeting should contact Andrea S. Heid at least five days before the meeting date so that suitable arrangements can be made.

**Contact:** Andrea S. Heid, Equine Marketing Specialist, Department of Agriculture and Consumer Services, 1100 Bank St., Room 906, Richmond, VA 23219, telephone (804) 786-5842 or (804) 371-6344/TDD ☎

**STATE AIR POLLUTION CONTROL BOARD**

**December 1, 1995** -- Written comments may be submitted until the close of business on this date.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the State Air Pollution Control Board intends to adopt regulations entitled: **VR 120-99-05. Regulations for the Control of Emissions from Fleet Vehicles.** The proposed regulation requires that owners or operators of fleets with 10 or more vehicles make a percentage of annual vehicle purchases clean-fuel fleet (CCF) vehicles and applies to fleets which operate in the following localities in the program areas: (i) the Northern Virginia area: Arlington County, Fairfax County, Fauquier County, Loudoun County, Prince William County, Stafford County, the City of Alexandria, the City of Fairfax, the City of Falls Church, the City of Manassas, and the City of Manassas Park; (ii) the Richmond area: Caroline County, Charles City County, Chesterfield County, Hanover County, Henrico County, the City of Colonial Heights, the City of Hopewell, and the City of Richmond; and (iii) the Hampton Roads area: James City County, York County, the City of Chesapeake, the City of Hampton, the City of Newport News, the City of Norfolk, the City of Poquoson, the City of Portsmouth, the City of Suffolk, the City of Virginia Beach, and the City of Williamsburg.

**Request for Comments:** The purpose of this notice is to provide the public with the opportunity to comment on the proposed regulation and the costs and benefits of the proposal.

**Localities Affected:** The localities affected by the proposed regulation are as follows:

1. The Northern Virginia Region: Arlington County, Fairfax County, Fauquier County, Loudoun County, Prince William County, Stafford County, the City of Alexandria, the City of Fairfax, the City of Falls Church, the City of Manassas, and the City of Manassas Park.

2. The Richmond Region: Caroline County, Charles City County, Chesterfield County, Hanover County, Henrico County, the City of Colonial Heights, the City of Hopewell, and the City of Richmond.

3. The Hampton Roads Region: James City County, York County, the City of Chesapeake, the City of Hampton, the City of Newport News, the City of Norfolk, the City of Poquoson, the City of Portsmouth, the City of Suffolk, the City of Virginia Beach, and the City of Williamsburg.

**Additional Issues for Public Comment:** In addition to comments on the proposal, the department is particularly interested in any comments on the following:

1. Whether the regulation should provide that a credit generated by the purchase of an extra CFF vehicle stay with the vehicle or be traded and sold freely.

2. Whether the reporting requirements in this regulation are adequate, although they require less extensive documentation than the requirements detailed in the federal regulations.

3. Whether the regulation should provide for trading of credits between program areas, although the federal regulations prohibit the trading of credits generated in one nonattainment area with another nonattainment area except in the case of an interstate nonattainment area.

4. Whether the regulation should provide that (i) credits not depreciate over time, although it would be in conflict with provisions of most emissions and trading programs provided for in the Clean Air Act and under consideration by many other states and (ii) credits may be traded between mobile and stationary sources.

5. Whether the Commonwealth should change its vehicle registration process in order to be able to determine where fleet vehicles are primarily operated.

**Location of Proposal:** The proposal, an analysis conducted by the department (including a statement of purpose, a statement of estimated impact of the proposed regulation, an explanation of need for the proposed regulation, an estimate of the impact of the proposed regulation upon small businesses, and a discussion of alternative approaches) and any other supporting documents may be examined at the Department's Office of Air Program Development (Eighth Floor), 629 East Main Street, Richmond, Virginia, and at the department's regional offices (listed below) between 8:30 a.m. and 4:30 p.m. of each business day until the close of the public comment period.

Fredericksburg Satellite Office  
Department of Environmental Quality  
300 Central Road, Suite B  
Fredericksburg, Virginia  
Ph: (540) 899-4600

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## Calendar of Events

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Piedmont Regional Office  
Department of Environmental Quality  
4900 Cox Road  
Innsbrook Corporate Center  
Glen Allen, Virginia  
Ph: (804) 527-5300

Tidewater Regional Office  
Department of Environmental Quality  
Old Greenbrier Village, Suite A  
2010 Old Greenbrier Road  
Chesapeake, Virginia  
Ph: (804) 424-6707

Northern Virginia Satellite Office  
Department of Environmental Quality  
Springfield Corporate Center, Suite 310  
6225 Brandon Avenue  
Springfield, Virginia  
Ph: (703) 644-0311

Statutory Authority: § 46.2-1179.1 of the Code of Virginia.

Written comments may be submitted until the close of business on December 1, 1995, to the Director, Office of Air Program Development, Department of Environmental Quality, P.O. Box 10009, Richmond, Virginia, 23240. The purpose of this notice is to provide the public the opportunity to comment on the proposed regulation and the costs and benefits of the proposal.

**Contact:** Mary E. Major, Senior Policy Analyst, Air Programs Section, Department of Environmental Quality, P.O. Box 10009, Richmond, VA 23240, telephone (804) 762-4423.

### BOARD FOR ARCHITECTS, PROFESSIONAL ENGINEERS, LAND SURVEYORS AND LANDSCAPE ARCHITECTS

#### Board for Architects

† **December 15, 1995 - 9 a.m.** -- Open Meeting  
Department of Professional and Occupational Regulation,  
3600 West Broad Street, Richmond, Virginia. ♿

A meeting to conduct board business. Persons desiring to participate in the meeting and requiring special accommodations or interpreter services should contact the department at least 10 days prior to the meeting so that suitable arrangements can be made. The department fully complies with the Americans with Disabilities Act.

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

#### Board for Interior Designers

† **December 7, 1995 - 9 a.m.** -- Open Meeting  
Department of Professional and Occupational Regulation,  
3600 West Broad Street, Richmond, Virginia. ♿

A meeting to conduct board business. Persons desiring to participate in the meeting and requiring special accommodations or interpreter services should contact the department at least 10 days prior to the meeting so that suitable arrangements can be made. The department fully complies with the Americans with Disabilities Act.

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

#### Board for Landscape Architects

**November 30, 1995 - 9 a.m.** -- Open Meeting  
Department of Professional and Occupational Regulation,  
3600 West Broad Street, Richmond, Virginia. ♿

A meeting to conduct board business. Persons desiring to participate in the meeting and requiring special accommodations or interpreter services should contact the department at least 10 days prior to the meeting so that suitable arrangements can be made. The department fully complies with the Americans with Disabilities Act.

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

#### Board for Land Surveyors

† **December 6, 1995 - 9 a.m.** -- Open Meeting  
Department of Professional and Occupational Regulation,  
3600 West Broad Street, Richmond, Virginia. ♿

A meeting to conduct board business. Persons desiring to participate in the meeting and requiring special accommodations or interpreter services should contact the department at least 10 days prior to the meeting so that suitable arrangements can be made. The department fully complies with the Americans with Disabilities Act.

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

## VIRGINIA AVIATION BOARD

**December 5, 1995 - 10 a.m.** -- Open Meeting  
**December 6, 1995 - 9 a.m.** -- Open Meeting  
Donaldson Brown Hotel and Conference Center, Virginia Tech, Blacksburg, Virginia. ☎

A board retreat. No formal actions will be taken.

**Contact:** Cindy Waddell, Department of Aviation, 5702 Gulfstream Road, Sandston, VA 23150, telephone (804) 236-3625 or (804) 236-3624/TDD ☎

**December 19, 1995 - 3 p.m.** -- Open Meeting  
Department of Aviation, 5702 Gulfstream Road, Sandston, Virginia. ☎ (Interpreter for the deaf provided upon request)

A workshop for the board. No formal actions will be taken.

**Contact:** Cindy Waddell, Department of Aviation, 5702 Gulfstream Road, Sandston, VA 23150, telephone (804) 236-3625 or (804) 236-3624/TDD ☎

**December 20, 1995 - 9 a.m.** -- Open Meeting  
Department of Motor Vehicles, 2300 West Broad Street, Richmond, Virginia. ☎ (Interpreter for the deaf provided upon request)

A regular bi-monthly meeting of the board. Applications for state funding will be presented to the board and other matters of interest to the Virginia aviation community will be discussed. Individuals with disabilities should contact Cindy Waddell 10 days prior to the meeting if assistance is needed.

**Contact:** Cindy Waddell, Department of Aviation, 5702 Gulfstream Road, Sandston, VA 23150, telephone (804) 236-3625 or (804) 236-3624/TDD ☎

## BOARD FOR BARBERS

**December 4, 1995 - 9 a.m.** -- Open Meeting  
Department of Professional and Occupational Regulation, 3600 West Broad Street, Richmond, Virginia. ☎

A general business meeting. Persons desiring to participate in the meeting and requiring special accommodations or interpreter services should contact the department at least 10 days prior to the meeting so that suitable arrangements can be made. The department fully complies with the Americans with Disabilities Act.

**Contact:** Karen W. O'Neal, Assistant Director, Department of Professional and Occupational Regulation, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-0500, FAX (804) 367-2475 or (804) 367-9753/TDD ☎

## BOARD FOR BRANCH PILOTS

† **December 12, 1995 - 9:30 a.m.** -- Open Meeting  
Virginia Port Authority, 600 World Trade Center, Norfolk, Virginia. ☎

A meeting to conduct board business. Persons desiring to participate in the meeting and requiring special accommodations or interpreter services should contact the department at least 10 days prior to the meeting so that suitable arrangements can be made. The department fully complies with the Americans with Disabilities Act.

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

## CHESAPEAKE BAY LOCAL ASSISTANCE BOARD

† **December 12, 1995 - 10 a.m.** -- Open Meeting  
Department of Social Services, 730 East Broad Street, Conference Room 3, Lower Level, Richmond, Virginia. ☎ (Interpreter for the deaf provided upon request)

A meeting to conduct general board business, including review of local Chesapeake Bay Preservation Area programs. Public comment will be taken early in the meeting. A tentative agenda will be available by November 30, 1995, from the Chesapeake Bay Local Assistance Department.

**Contact:** Florence E. Jackson, Program Support Technician, Chesapeake Bay Local Assistance Department, 805 E. Broad St., Suite 701, Richmond, VA 23219, telephone (804) 225-3440, FAX (804) 225-3447 or toll-free 1-800-243-7229/TDD ☎

## Central Area Review Committee

**December 7, 1995 - 2 p.m.** -- Open Meeting  
Chesapeake Bay Local Assistance Department, 805 East Broad Street, Suite 701, Richmond, Virginia. ☎ (Interpreter for the deaf provided upon request)

A meeting to review Chesapeake Bay Preservation Area programs for the Central Area. Persons interested in observing should call the Chesapeake Bay Local Assistance Department to verify meeting time, location and schedule. No comments from the public will be entertained at the committee meeting; however, written comments are welcome.

**Contact:** Florence E. Jackson, Program Support Technician, Chesapeake Bay Local Assistance Department, 805 E. Broad St., Suite 701, Richmond, VA 23219, telephone (804) 225-3440, FAX (804) 225-3447 or toll-free 1-800-243-7229/TDD ☎



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# Calendar of Events

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## Northern Area Review Committee

**December 6, 1995 - 10 a.m.** -- Open Meeting  
Chesapeake Bay Local Assistance Department, 805 East Broad Street, Suite 701, Richmond, Virginia. (Interpreter for the deaf provided upon request)

A meeting to review Chesapeake Bay Preservation Area programs for the Northern Area. Persons interested in observing should call the Chesapeake Bay Local Assistance Department to verify meeting time, location and schedule. No comments from the public will be entertained at the committee meeting; however, written comments are welcome.

**Contact:** Florence E. Jackson, Program Support Technician, Chesapeake Bay Local Assistance Department, 805 E. Broad St., Suite 701, Richmond, VA 23219, telephone (804) 225-3440, FAX (804) 225-3447 or toll-free 1-800-243-7229/TDD

## Southern Area Review Committee

**December 7, 1995 - 10 a.m.** -- Open Meeting  
Chesapeake Bay Local Assistance Department, 805 East Broad Street, Suite 701, Richmond, Virginia. (Interpreter for the deaf provided upon request)

A meeting to review Chesapeake Bay Preservation Area programs for the Southern Area. Persons interested in observing should call the Chesapeake Bay Local Assistance Department to verify meeting time, location and schedule. No comments from the public will be entertained at the committee meeting; however, written comments are welcome.

**Contact:** Florence E. Jackson, Program Support Technician, Chesapeake Bay Local Assistance Department, 805 E. Broad St., Suite 701, Richmond, VA 23219, telephone (804) 225-3440, FAX (804) 225-3447 or toll-free 1-800-243-7229/TDD

## DEPARTMENT OF CONSERVATION AND RECREATION

### Falls of the James Scenic River Advisory Board

**December 7, 1995 - Noon** -- Open Meeting  
City Hall, Planning Commission Conference Room, 5th Floor, Richmond, Virginia.

A meeting to discuss river issues and programs.

**Contact:** Richard G. Gibbons, Environmental Program Manager, Department of Conservation and Recreation, Division of Planning and Recreation Resources, 203 Governor St., Richmond, VA 23219, telephone (804) 786-4132, FAX (804) 371-7899, or (804) 786-2121/TDD

## BOARD FOR CONTRACTORS

**† December 13, 1995 - 9 a.m.** -- Open Meeting  
Department of Professional and Occupational Regulation, 3600 West Broad Street, Richmond, Virginia.

A meeting to review board member reports and summaries from informal fact-finding conferences held pursuant to the Administrative Process Act and Code of Virginia, and to review consent order offers in lieu of further disciplinary proceedings. Persons desiring to participate in the meeting and requiring special accommodations or interpreter services should contact the department. The department fully complies with the Americans with Disabilities Act. Please notify the department of your request at least two weeks in advance.

**Contact:** Debbie A. Amaker, Legal Assistant, Board for Contractors, 3600 W. Broad St., Richmond, VA 23219, telephone (804) 367-8582.

## Applications Review Committee

**† December 12, 1995 - 9 a.m.** -- Open Meeting  
Department of Professional and Occupational Regulation, 3600 West Broad Street, Richmond, Virginia.

A regularly scheduled meeting to review applications with convictions and complaints for Class A, B, and C contractor licenses. Persons desiring to participate in the meeting and requiring special accommodations or interpreter services should contact Gerald Morgan. The department fully complies with the Americans with Disabilities Act. Please notify the department of your request at least two weeks in advance.

**Contact:** Gerald W. Morgan, Senior Administrator, Board for Contractors, 3600 W. Broad St., Richmond, VA 23230-4917, telephone (804) 367-2785.

## Recovery Fund Committee

**December 19, 1995 - 9 a.m.** -- Open Meeting  
Department of Professional and Occupational Regulation, 3600 West Broad Street, Richmond, Virginia.

A meeting to consider claims filed against the Virginia Contractor Transaction Recovery Fund. This meeting will be open to the public; however, a portion of the discussion may be conducted in Executive Session. Persons desiring to participate in the meeting and requiring special accommodations or interpreter services should contact Holly Erickson. The department fully complies with the Americans with Disabilities Act. Please notify the department of your request at least two weeks in advance.

**Contact:** Holly Erickson, Assistant Administrator, Board for Contractors, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-8561.

## Tradesman Certification Committee

† **December 12, 1995 - 1 p.m.** -- Open Meeting  
Department of Professional and Occupational Regulation,  
3600 West Broad Street, Richmond, Virginia. ☎

A meeting to discuss matters which require attention and to begin the process of reviewing emergency regulations. Persons desiring to participate in the meeting and requiring special accommodations or interpreter services should contact Elizabeth Kirksey. The department fully complies with the Americans with Disabilities Act. Please notify the department of your request at least two weeks in advance.

**Contact:** Elizabeth Y. Kirksey, Board Administrator, Tradesman Certification, Board for Contractors, 3600 W. Broad St., Richmond, VA 23230-4917, telephone (804) 367-6166.

## BOARD FOR COSMETOLOGY

**December 11, 1995 - 10 a.m.** -- Open Meeting  
† **January 15, 1996 - 10 a.m.** -- Open Meeting  
Department of Professional and Occupational Regulation,  
3600 West Broad Street, Richmond, Virginia. ☎

A general business meeting. Persons desiring to participate in the meeting and requiring special accommodations or interpreter services should contact Karen W. O'Neal. The department fully complies with the Americans with Disabilities Act. Please notify the department of your request at least two weeks in advance.

**Contact:** Karen W. O'Neal, Assistant Director, Department of Professional and Occupational Regulation, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-0500, FAX (804) 367-2475 or (804) 367-9753/TDD ☎

## BOARD OF DENTISTRY

† **November 30, 1995 - 9 a.m.** -- Open Meeting  
† **December 8, 1995 - 9 a.m.** -- Open Meeting  
† **December 15, 1995 - 9 a.m.** -- Open Meeting  
Department of Health Professions, 6606 West Broad Street,  
5th Floor, Conference Room 4, Richmond, Virginia. ☎  
(Interpreter for the deaf provided upon request)

A meeting to conduct informal conferences. No public comment will be taken.

**Contact:** Marcia J. Miller, Executive Director, 6606 W. Broad St., 4th Floor, Richmond, VA 23230-1717, telephone (804) 662-9906 or (804) 662-7197/TDD ☎

## Continuing Education Committee

† **January 17, 1996 - 4 p.m.** -- Open Meeting  
Department of Health Professions, 6606 West Broad Street,  
5th Floor, Conference Room 2, Richmond, Virginia. ☎  
(Interpreter for the deaf provided upon request)

A regular meeting. A 20-minute public comment period will be held beginning at 4 p.m.

**Contact:** Marcia J. Miller, Executive Director, 6606 W. Broad St., 4th Floor, Richmond, VA 23230-1717, telephone (804) 662-9906 or (804) 662-7197/TDD ☎

## Endorsement Committee

† **January 18, 1996 - 9 a.m.** -- Open Meeting  
Department of Health Professions, 6606 West Broad Street,  
5th Floor, Conference Room 4, Richmond, Virginia. ☎  
(Interpreter for the deaf provided upon request)

A meeting to conduct formal hearings. This is a public meeting; however, no public comment will be taken.

**Contact:** Marcia J. Miller, Executive Director, 6606 W. Broad St., 4th Floor, Richmond, VA 23230-1717, telephone (804) 662-9906 or (804) 662-7197/TDD ☎

† **January 19, 1996 - 9 a.m.** -- Open Meeting  
Department of Health Professions, 6606 West Broad Street,  
5th Floor, Conference Room 4, Richmond, Virginia. ☎  
(Interpreter for the deaf provided upon request)

A full board meeting to conduct regular board business and to review reports from the following committees: legislative/regulatory, continuing education, examination, advertising and budget. This is a public meeting and public comment will be taken.

**Contact:** Marcia J. Miller, Executive Director, 6606 W. Broad St., 4th Floor, Richmond, VA 23230-1717, telephone (804) 662-9906 or (804) 662-7197/TDD ☎

## DISABILITY SERVICES COUNCIL

**December 6, 1995 - 1 p.m.** -- Open Meeting  
Department of Rehabilitative Services, 8004 Franklin Farms  
Drive, Richmond, Virginia.

A meeting to review grants submitted for remaining uncommitted resources of the Rehabilitative Services Incentive Fund.

**Contact:** Martha Adams, Staff, Disability Services Council, 8004 Franklin Farms Dr., Richmond, VA 23230, telephone (804) 662-7077, toll-free 1-800-552-5019/TDD and Voice or (804) 662-9040/TDD ☎

## STATE BOARD OF ELECTIONS

**November 27, 1995 - 10 a.m.** -- Open Meeting  
State Capitol, Capitol Square, House Room One, Richmond,  
Virginia. ☎

A meeting to ascertain and certify the results of the November 7, 1995, general election.

**Contact:** M. Bruce Meadows, Secretary, State Board of Elections, 200 N. 9th St., Room 101, Richmond, VA 23219, telephone (804) 786-6551, FAX (804) 371-0194, toll-free 1-800-552-9745 or (804) 260-3466/TDD ☎

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## Calendar of Events

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### LOCAL EMERGENCY PLANNING COMMITTEE - CITY OF ALEXANDRIA

**December 13, 1995 - 6 p.m.** -- Open Meeting  
Alexandria Sanitation Authority, 835 South Payne Street,  
Alexandria, Virginia.☎ (Interpreter for the deaf provided upon  
request)

An open meeting with committee members and facility  
emergency coordinators to conduct business in  
accordance with SARA Title III, Emergency Planning and  
Community Right-to-Know Act of 1986.

**Contact:** Charles McRorie, Emergency Preparedness  
Coordinator, City of Alexandria, 900 Second St., Alexandria,  
VA 22314, telephone (703) 838-3825 or (703) 838-5056/TDD ☎

### LOCAL EMERGENCY PLANNING COMMITTEE - CHESTERFIELD COUNTY

**December 7, 1995 - 5:30 p.m.** -- Open Meeting  
6610 Public Safety Way, Chesterfield, Virginia.

A regular meeting.

**Contact:** Lynda G. Furr, Assistant Emergency Services  
Coordinator, Chesterfield Fire Department, P.O. Box 40,  
Chesterfield, VA 23832, telephone (804) 748-1236.

### LOCAL EMERGENCY PLANNING COMMITTEE - MONTGOMERY COUNTY/BLACKSBURG

† **December 12, 1995 - 3 p.m.** -- Open Meeting  
Montgomery County Courthouse, Board of Supervisors'  
Room, 3rd Floor, Christiansburg, Virginia.☎

A meeting to review and vote on amendments to the  
constitution and by-laws for the purpose of electing  
officers for a designated period of time. This will include  
chair, vice chair, public information, and hazardous  
materials officers. The committee will also consider  
forming a subcommittee for the purpose of assisting and  
reviewing each industry within the region for compliance  
to applicable regulations and laws governing chemicals.  
These site visits will be conducted on an invitation basis  
only, and are not established as intrusionary. The  
subcommittee, if established by the committee, will be a  
panel of members with expertise of applicable laws and  
regulations governing chemical use, storage, and  
transfer.

**Contact:** Vincent D. Stover, Secretary, 1612 Wadsworth St.,  
Radford, VA 24143, telephone (540) 639-9313.

### LOCAL EMERGENCY PLANNING COMMITTEE - WINCHESTER

† **December 6, 1995 - 3 p.m.** -- Open Meeting  
Shawnee Fire Company, 2333 Roosevelt Boulevard,  
Winchester, Virginia.

A regular meeting.

**Contact:** L. A. Miller, Fire Chief, Winchester Fire and  
Rescue Department, 126 N. Cameron St., Winchester, VA  
22601, telephone (540) 662-2298 or (540) 665-5645/TDD ☎

### DEPARTMENT OF ENVIRONMENTAL QUALITY

† **December 6, 1995 - 7:30 p.m.** -- Public Hearing  
Gordon Building, 112 West Main Street, Board Meeting  
Room, Orange, Virginia.

A hearing to receive comments regarding  
Transcontinental Gas Pipe Line Corporations' Station  
180 permit application and draft permit. Station 180 is  
located in Unionville in Orange County. The proposed  
state operating permit is being considered pursuant to §  
120-08-04 [9 VAC 5-80-40] of the Regulations for the  
Control and Abatement of Air Pollution.

**Contact:** Jim LaBratta, Department of Environmental  
Quality, Northern Regional Office, 300 Central Rd., Suite B,  
Fredericksburg, VA 22401, telephone (540) 899-4600.

† **December 7, 1995 - 7:30 p.m.** -- Public Hearing  
Bull Run Regional Library, 8051 Ashton Avenue, Prince  
William County, Manassas, Virginia.

A hearing to receive comments on a proposed revision to  
the State Implementation Plan. The revision consists of  
a determination as to reasonably available control  
technology (RACT) for the control of emissions of  
nitrogen oxides to the atmosphere from the  
Transcontinental Gas Pipe Line Corporation Station 185  
natural gas compressor station located in Manassas,  
Virginia.

**Contact:** Al Laubscher, Department of Environmental  
Quality, Northern Regional Office, Springfield Corporate  
Center, 6225 Brandon Ave., Suite 130, Springfield, VA,  
telephone (540) 644-0311.

### Technical Advisory Committee for Solid Waste Management Regulations

† **December 15, 1995 - 10 a.m.** -- Open Meeting  
† **January 12, 1996 - 10 a.m.** -- Open Meeting  
† **February 2, 1996 - 10 a.m.** -- Open Meeting  
† **February 23, 1996 - 10 a.m.** -- Open Meeting  
Department of Environmental Quality, 629 East Main Street,  
First Floor Training Room, Richmond, Virginia.☎ (Interpreter  
for the deaf provided upon request)

A meeting to discuss desirable amendments to the  
current Virginia Solid Waste Management Regulations  
(VR 672-20-10) [ 9 VAC 20-80-10 et seq. ]

**Contact:** Dr. Wladimir Gulevich, Office of Technical  
Assistance, Department of Environmental Quality, P.O. Box  
10009, Richmond, VA 23240-0009, telephone (804) 762-  
4218, FAX (804) 762-4327 or (804) 762-4021/TDD ☎

## BOARD OF FUNERAL DIRECTORS AND EMBALMERS

**December 11, 1995 - 9 a.m.** -- Open Meeting  
**December 12, 1995 - 9 a.m.** -- Open Meeting  
Department of Health Professions, 6606 West Broad Street, Richmond, Virginia. ☎

Informal conferences will be conducted.

**Contact:** Lisa Russell Hahn, Executive Director, Board of Funeral Directors and Embalmers, 6606 W. Broad St., 4th Floor, Richmond, VA 23230-1717, telephone (804) 662-9907 or (804) 662-7197/TDD ☎

## BOARD OF GAME AND INLAND FISHERIES

† **January 9, 1996 - 10 a.m.** -- Open Meeting  
Department of Game and Inland Fisheries, 4010 West Broad Street, Richmond, Virginia. ☎ (Interpreter for the deaf provided upon request)

The board will meet and review a study on management of the agency's fish hatcheries. In addition, general and administrative matters may be discussed. The board may hold an executive session.

**Contact:** Phil Smith, Policy Analyst Senior, Department of Game and Inland Fisheries, 4010 W. Broad St., Richmond, VA 23230, telephone (804) 367-8341 or FAX (804) 367-2427.

### Finance Committee

**December 7, 1995 - 10 a.m.** -- Open Meeting  
Department of Game and Inland Fisheries, 4010 West Broad Street, Richmond, Virginia. ☎ (Interpreter for the deaf provided upon request)

A meeting to conduct an interim review of the Department of Game and Inland Fisheries 1995-96 operating budget. If necessary, programmatic adjustments may be made.

**Contact:** Phil Smith, Policy Analyst, Department of Game and Inland Fisheries, 4010 W. Broad St., Richmond, VA 23230, telephone (804) 367-8341 or FAX (804) 367-2427.

## BOARD OF HEALTH PROFESSIONS

### Administration and Budget Committee

† **December 15, 1995 - 10 a.m.** -- Open Meeting  
Department of Health Professions, 6606 West Broad Street, 5th Floor, Conference Room 1, Richmond, Virginia.

The committee will consider and propose comment on the budget of the Department of Health Professions for the 1996-1998 biennium. Brief public comment will be received at the beginning of the meeting.

**Contact:** Robert A. Nebiker, Executive Director, Department of Health Professions, 6606 W. Broad St., Richmond, VA 23230-1717, telephone (804) 662-9919 or (804) 662-7197/TDD ☎

## VIRGINIA HEALTH SERVICES COST REVIEW COUNCIL

**November 28, 1995 - 9:30 a.m.** -- Open Meeting  
Trigon Blue Cross/Blue Shield, 2015 Staples Mill Road, Richmond, Virginia. ☎

† **December 12, 1995 - 9:30 a.m.** -- Open Meeting  
Trigon Blue Cross/Blue Shield, 2015 Staples Mill Road, Richmond, Virginia. ☎

A monthly meeting of the council.

**Contact:** Richard L. Walker, Director of Administration, Virginia Health Services Cost Review Council, 805 E. Broad St., 6th Floor, Richmond, VA 23219, telephone (804) 786-6371.

## BOARD FOR HEARING AID SPECIALISTS

**January 8, 1996 - 9 a.m.** -- Open Meeting  
Department of Professional and Occupational Regulation, 3600 West Broad Street, Richmond, Virginia. ☎

A general business meeting. Persons desiring to participate in the meeting and requiring special accommodations or interpreter services should contact the department at least 10 days prior to the meeting so that suitable arrangements can be made. The department fully complies with the Americans with Disabilities Act.

**Contact:** Karen W. O'Neal, Assistant Director, Department of Professional and Occupational Regulation, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-0500, FAX (804) 367-2475 or (804) 367-9753/TDD ☎

## VIRGINIA HIGHER EDUCATION TUITION TRUST FUND

† **December 11, 1995 - 11 a.m.** -- Open Meeting  
James Monroe Building, 101 North 14th Street, 3rd Floor, Richmond, Virginia.

A regular meeting.

**Contact:** Gloria J. Hatchel, Administrative Assistant, Department of the Treasury, James Monroe Building, 101 N. 14th St., 3rd Floor, Richmond, VA 23219, telephone (804) 746-7184.

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# Calendar of Events

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## DEPARTMENT OF HISTORIC RESOURCES

### Board of Historic Resources and State Review Board

† **December 8, 1995 - 10 a.m.** -- Open Meeting  
Virginia Historical Society, 428 North Boulevard, Richmond, Virginia. (Interpreter for the deaf provided upon request)

A general business meeting and consideration of the following properties for the Virginia Landmarks Register and nomination to the National Register of Historic Places:

1. Cool Spring Battlefield, Clarke County
2. Aaron Hilton Site, Charles City County
3. Immanuel Church, Hanover County
4. St. Stephen's Episcopal Church, Town of Culpeper, Culpeper County
5. Vineyard Hill, Rockbridge County
6. John Marshall Warwick House, Lynchburg
7. Charlottesville and Albemarle County Courthouse Historic District (additional documentation), Charlottesville
8. William Gooch Tomb and York Village Archaeological Site (boundary clarification), York County

**Contact:** Margaret Peters, Preservation Program Manager, 221 Governor St., Richmond, VA 23219, telephone (804) 786-3143, FAX (804) 225-4261 or (804) 786-1934/TDD

## HOPEWELL INDUSTRIAL SAFETY COUNCIL

**December 5, 1995 - 9 a.m.** -- Open Meeting  
**January 2, 1996 - 9 a.m.** -- Open Meeting  
Hopewell Community Center, Second and City Point Road, Hopewell, Virginia. (Interpreter for the deaf provided upon request)

Local Emergency Preparedness Committee Meeting on emergency preparedness as required by SARA Title III.

**Contact:** Robert Brown, Emergency Services Coordinator, 300 N. Main St., Hopewell, VA 23860, telephone (804) 541-2298.

## DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT (BOARD OF)

**November 28, 1995 - 3 p.m.** -- Open Meeting  
Holiday Inn Hotel and Conference Center, 1815 West Mercury Boulevard, Hampton, Virginia. (Interpreter for the deaf provided upon request)

A regular monthly business meeting of the board. Public comment will be received.

**Contact:** Stephen W. Calhoun, CPA, Program Manager, 501 N. 2nd St., Richmond, VA 23219, telephone (804) 371-7150, FAX (804) 371-7092 or (804) 371-7089/TDD

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**December 29, 1995** -- Public comments may be submitted until this date.

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: **VR 394-01-21. Virginia Uniform Statewide Building Code, Volume 1 - New Construction Code/1993.** The purpose of the proposed action is to (i) amend the "Notice of Violation" section to comport with the Code of Virginia; (ii) amend the requirements for the spacing of intermediate supports for guardrails; (iii) amend the sections that establish "Wind Zones" in Virginia to comply with those required by new federal regulation; (iv) delete vague and subjective text in the regulation regarding ice damming on roofs for one and two family dwellings; (v) raise the size and occupancy threshold regarding when permits are required for tents; and (vi) amend the "Existing Building" section for clarity and remove vague and subjective language which may be barriers to revitalization of existing buildings.

Statutory Authority: § 36-98 of the Code of Virginia.

**Contact:** Norman R. Crumpton, Program Manager, Department of Housing and Community Development, 501 N. 2nd St., Richmond, VA 23219-1321, telephone (804) 371-7170.

## STATEWIDE INDEPENDENT LIVING COUNCIL

† **December 6, 1995 - 10 a.m.** -- Open Meeting  
Department of Rehabilitative Services, 8004 Franklin Farms Drive, Richmond, Virginia. (Interpreter for the deaf provided upon request)

A regular business meeting of the council.

**Contact:** Maureen Hollowell, chairperson, or Kathy Hayfield, Staff, Department of Rehabilitative Services, 8004 Franklin Farms Drive, Richmond, VA 23288, telephone (804) 662-7134 (Hayfield), (804) 461-8007 (Hollowell), FAX (804) 662-9040 or 1-800-552-5019/TDD

## VIRGINIA INTERAGENCY COORDINATING COUNCIL

**December 6, 1995 - 9:30 a.m.** -- Open Meeting  
Henrico Area Mental Health, Mental Retardation Services, 10299 Woodman Road, Richmond, Virginia. (Interpreter for the deaf provided upon request)

A quarterly meeting to discuss ongoing issues pertaining to the implementation of Part H (Early Intervention for Infants and Toddlers with Disabilities) in Virginia.

**Contact:** Richard B. Corbett, Program Support, Department of Mental Health, Mental Retardation and Substance Abuse Services, P.O. Box 1797, Richmond, VA 23214, telephone (804) 786-3710 or FAX (804) 371-7959.

## VIRGINIA INTERCOMMUNITY TRANSITION COUNCIL

† **December 7, 1995 - 8:30 a.m.** -- Open Meeting  
Holiday Inn Monticello, 1200 Fifth Street, Charlottesville, Virginia. (Interpreter for the deaf provided upon request)

State and local representatives from 13 state agencies, the Social Security Administration and representatives of the business and consumer community form the Virginia Intercommunity Transition Council, which meets quarterly to focus on strategic targets to move Virginia forward in the development of statewide and systematic transition services for all youth with disabilities. Eleven-thirty to 12:30 p.m. of every meeting is designated for public comment to enable persons or groups who are not standing members of the council to express opinions and recommendations to the council regarding transition issues.

**Contact:** Kathy Trossi, Education Services Manager, Department of Rehabilitative Services, 8004 Franklin Farms Drive, Richmond, VA 23288, telephone (804) 662-7606 or toll-free 1-800-552-5019, or Sharon deFur, Associate Specialist/Transition, Department of Education, P.O. Box 2120, Monroe Bldg., 20th Floor, Richmond, VA 23216, telephone (804) 225-2702 or (804) 662-9040 or 1-800-422-1098/TDD

## DEPARTMENT OF LABOR AND INDUSTRY

### Virginia Apprenticeship Council

† **December 14, 1995 - 10 a.m.** -- Open Meeting  
Richmond Technical Center, 2020 Westwood Avenue, Room 201, Richmond, Virginia. (Interpreter for the deaf provided upon request)

A regular meeting of the council.

**Contact:** Fred T. Yontz, Apprenticeship Program Manager, Department of Labor and Industry, Powers-Taylor Bldg., 13 S. 13th St., Richmond, VA 23219, telephone (804) 786-2382, FAX (804) 786-9877 or (804) 786-2376/TDD

### Migrant and Seasonal Farmworkers Board

† **December 6, 1995 - 10 a.m.** -- Open Meeting  
State Capitol, House Room 1, Richmond, Virginia. (Interpreter for the deaf provided upon request)

A regular meeting of the board.

**Contact:** Patti C. Bell, Staff Coordinator, Department of Labor and Industry, Powers-Taylor Bldg., 13 S. 13th St.,

Richmond, VA 23219, telephone (804) 225-3083, FAX (804) 371-6524 or (804) 786-2376/TDD

## Safety and Health Codes Board

**December 11, 1995 - 10 a.m.** -- Open Meeting  
General Assembly Building, 910 Capitol Square, House Room C, Richmond, Virginia.

The tentative agenda items for consideration by the board include:

1. Asbestos Standard, Extension of Start-up Dates and Subsequent Amendments: General Industry, § 1910.1001, VR 425-02-09; Shipyard Employment, § 1915.1001, VR 425-02-178; and Construction, § 1926.1101, VR 425-02-10.
2. Fall Protection, Construction Industry, Correcting Amendment, VR 425-02-177.
3. Logging Operations, General Industry, Corrections and Technical Amendments, § 1910.266, VR 425-02-52.

**Contact:** John J. Crisanti, Policy Analyst, Department of Labor and Industry, Powers-Taylor Bldg., 13 S. 13th St., Richmond, VA 23219, telephone (804) 786-2384, FAX (804) 786-8418 or (804) 786-2376/TDD

## STATE COUNCIL ON LOCAL DEBT

**December 20, 1995 - 11 a.m.** -- Open Meeting  
James Monroe Building, 101 North 14th Street, Treasury Board Conference Room, Richmond, Virginia.

A regular meeting subject to cancellation unless there are action items requiring the council's consideration. Persons interested in attending should call one week prior to the meeting to ascertain whether or not the meeting is to be held as scheduled.

**Contact:** Gary Ometter, Debt Manager, Department of the Treasury, P.O. Box 1879, Richmond, VA 23215, telephone (804) 225-4928.

## COMMISSION ON LOCAL GOVERNMENT

**January 8, 1996 - 10:30 a.m.** -- Open Meeting  
Town of Round Hill; site to be determined.

Oral presentations regarding the Town of Round Hill - County of Loudoun Agreement Defining Annexation Rights. Persons desiring to participate in the meeting and requiring special accommodations or interpreter services should contact the commission.

**Contact:** Barbara Bingham, Administrative Assistant, Commission on Local Government, 702 8th Street Office Bldg., Richmond, VA 23219-1924, telephone (804) 786-6508 or (804) 786-1860/TDD

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## Calendar of Events

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**January 8, 1996 - 7 p.m.** -- Public Hearing  
Town of Round Hill; site to be determined.

A public hearing regarding the Town of Round Hill - County of Loudoun Agreement Defining Annexation Rights. Persons desiring to participate in the meeting and requiring special accommodations or interpreter services should contact the commission.

**Contact:** Barbara Bingham, Administrative Assistant, Commission on Local Government, 702 8th Street Office Bldg., Richmond, VA 23219-1924, telephone (804) 786-6508 or (804) 786-1860/TDD ☎

**January 9, 1996 - 9 a.m.** -- Open Meeting  
Leesburg area; site to be determined.

A regular meeting of the commission to consider such matters as may be presented. Persons desiring to participate in the meeting and requiring special accommodations or interpreter services should contact the commission.

**Contact:** Barbara Bingham, Administrative Assistant, Commission on Local Government, 702 8th Street Office Bldg., Richmond, VA 23219-1924, telephone (804) 786-6508 or (804) 786-1860/TDD ☎

### MARINE RESOURCES COMMISSION

**November 28, 1995 - 9:30 am.** -- Open Meeting  
Marine Resources Commission, 2600 Washington Avenue, 4th Floor, Room 403, Newport News, Virginia. ♿ (Interpreter for the deaf provided upon request)

The commission will hear and decide marine environmental matters at 9:30 a.m.; permit applications for projects in wetlands, bottom lands, coastal primary sand dunes and beaches; appeals of local wetland board decisions; policy and regulatory issues. The commission will hear and decide fishery management items at approximately noon. Items to be heard are as follows: regulatory proposals, fishery management plans; fishery conservation issues; licensing; shellfish leasing. Meetings are open to the public. Testimony will be taken under oath from parties addressing agenda items on permits and licensing. Public comments will be taken on resource matters, regulatory issues and items scheduled for public hearing. The commission is empowered to promulgate regulations in the areas of marine environmental management and marine fishery management.

**Contact:** Sandra S. Schmidt, Secretary to the Commission, Marine Resources Commission, P.O. Box 756, Newport News, VA 23607-0756, telephone (804) 247-8088, toll-free 1-800-541-4646 or (804) 247-2292/TDD ☎

### MATERNAL AND CHILD HEALTH COUNCIL

† **December 7, 1995 - 2 p.m.** -- Open Meeting  
Ninth Street Office Building, 202 North Ninth Street, Room 625, Richmond, Virginia. ♿ (Interpreter for the deaf provided upon request)

The meeting will focus on improving the health of the Commonwealth's mothers and children by promoting and improving programs and service delivery systems related to maternal and child health, including prenatal care, school health, and teenage pregnancy.

**Contact:** Patricia Avery, Executive Secretary Senior, Department of Health, Office of Family Health Services, 1500 E. Main St., Rm. 104-B, Richmond, VA 23219, telephone (804) 371-0478.

### BOARD OF MEDICINE

#### Credentials Committee

**December 9, 1995 - 8 a.m.** -- Open Meeting  
Department of Health Professions, 6606 West Broad Street, 5th Floor, Board Rooms 3 and 4, Richmond, Virginia. ♿

The committee will meet in open and closed session to conduct general business, interview and review medical credentials of applicants applying for licensure in Virginia, and to discuss any other items which may come before the board. The committee will receive public comments of those persons appearing on behalf of candidates.

**Contact:** Warren W. Koontz, M.D., Executive Director, Department of Health Professions, 6606 W. Broad St., Richmond, VA 23230-1717, telephone (804) 662-9908, FAX (804) 662-9943 or (804) 662-7197/TDD ☎

#### Executive Committee

**December 8, 1995 - 9 a.m.** -- Open Meeting  
Department of Health Professions, 6606 West Broad Street, 5th Floor, Board Rooms 2 and 3, Richmond, Virginia. ♿

The committee will meet in open and closed session to: (i) review disciplinary files requiring administrative action; (ii) adopt amendments for approval of promulgation of regulations as presented; and (iii) act on other issues that come before the board. The chairman will entertain public comments on agenda items for 10 minutes following adoption of the agenda.

**Contact:** Warren W. Koontz, M.D., Executive Director, Department of Health Professions, 6606 W. Broad St., Richmond, VA 23230-1717, telephone (804) 662-9960, FAX (804) 662-9943 or (804) 662-7197/TDD ☎

## Informal Conference Committee

**November 30, 1995 - 9 a.m.** -- Open Meeting  
Department of Health Professions, 6606 West Broad Street,  
5th Floor, Conference Room 1, Richmond, Virginia.

† **December 6, 1995 - 10:30 a.m.** -- Open Meeting  
The Hotel Roanoke, 106 Shenandoah Avenue, Roanoke,  
Virginia.

† **December 8, 1995 - 1:30 p.m.** -- Open Meeting  
Department of Health Professions, 6606 West Broad Street,  
5th Floor, Richmond, Virginia.

† **December 13, 1995 - 9:30 a.m.** -- Open Meeting  
The Sheraton Inn Fredericksburg, 2801 Plank Road,  
Fredericksburg, Virginia.

† **December 15, 1995 - 9:30 a.m.** -- Open Meeting  
Fort Magruder Inn and Conference Center, Route 60,  
Williamsburg, Virginia.

The Informal Conference Committee, composed of three members of the board, will inquire into allegations that certain practitioners may have violated laws and regulations governing the practice of medicine and other healing arts in Virginia. The committee will meet in open and closed sessions pursuant to § 2.1-344 A 7 and A 15 of the Code of Virginia. Public comment will not be received.

**Contact:** Karen W. Perrine, Deputy Executive Director, Department of Health Professions, 6606 W. Broad St., Richmond, VA 23230-1717, telephone (804) 662-7693, FAX (804) 662-9943 or (804) 662-7197/TDD ☎

## BOARDS OF MEDICINE AND PSYCHOLOGY

### Task Force on the Unified Regulation of Psychologists

† **December 12, 1995 - 9 a.m.** -- Open Meeting  
Department of Health Professions, Southern States Building,  
6606 West Broad Street, Conference Room 6 North,  
Richmond, Virginia. ☎

A joint meeting of the Boards of Medicine and Psychology to discuss draft legislation to allow for regulation of all licensed psychologists by a single regulatory board.

**Contact:** Janet Delorme, Deputy Executive Director, Board of Medicine, 6606 W. Broad St., 4th floor, Richmond, VA 23230-1717, telephone (804) 662-9575.

## DEPARTMENT OF MINES, MINERALS AND ENERGY

### Board of Mineral Mining Examiners

**December 1, 1995** -- Public comments may be submitted until this date.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Board of Mineral Mining Examiners intends to adopt regulations entitled: **VR 480-04-3. Certification Requirements for Mineral Miners.** The purpose of the proposed regulation is to establish a separate regulation setting requirements for the certification of mineral miners.

Statutory Authority: § 45.1-161.46 of the Code of Virginia.

**Contact:** Conrad T. Spangler, Chairman, Board of Mineral Mining Examiners, Division of Mineral Mining, P.O. Box 3727, Fontaine Research Park, 900 Natural Resources Dr., Charlottesville, VA 22903-0727, telephone (804) 961-5000.

† **December 4, 1995 - 10 a.m.** -- Open Meeting  
Division of Mineral Mining, Fontaine Research Park, 900 Natural Resources Drive, Charlottesville, Virginia. ☎ (Interpreter for the deaf provided upon request)

Board meeting to review public comments received on the draft certification requirements for mineral miners and to prepare a final draft.

**Contact:** Randy E. Devaul, Technical Instruction Supervisor, Division of Mineral Mining, Fontaine Research Park, 900 Natural Resources Dr., Charlottesville, VA 22903-0727, telephone (804) 961-5000, FAX (804) 979-8544 or 1-800-828-1120 VA Relay Service/TDD ☎

## MOTOR VEHICLE DEALER BOARD

† **December 19, 1995 - 9 a.m.** -- Open Meeting  
Department of Motor Vehicles Headquarters, 2300 West Broad Street, Richmond, Virginia. ☎ (Interpreter for the deaf provided upon request)

A meeting to conduct general board business. Persons desiring to participate in the meeting and requiring special accommodations or interpreter services should contact the Department of Motor Vehicles (DMV) at (804) 367-6606 at least 10 days prior to the meeting so that suitable arrangements can be made. DMV and the board fully comply with the Americans with Disabilities Act. A tentative agenda will be provided upon request by contacting the Department of Motor Vehicles. A public comment period will be provided at the beginning of the meeting. Public comment will be subject to the board's guidelines for public comment.

**Contact:** W. Gail Morykon, Chief, Investigative Services, Department of Motor Vehicles, P.O. Box 27412, Room 625A, Richmond, VA 23269-0001, telephone (804) 367-6002, FAX (804) 367-2936 or (804) 272-9278/TDD ☎

## VIRGINIA MUSEUM OF FINE ARTS

**December 5, 1995 - 8 a.m.** -- Open Meeting

**January 2, 1996 - 8 a.m.** -- Open Meeting

Virginia Museum of Fine Arts, 2800 Grove Avenue, Director's Office, Richmond, Virginia. ☎



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## Calendar of Events

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A briefing for museum officers of current and upcoming museum activities. Public comment will not be received at the meeting.

**Contact:** Emily C. Robertson, Secretary of the Museum, Virginia Museum of Fine Arts, 2800 Grove Ave., Richmond, VA 23221, telephone (804) 367-0553.

### Collections Committee

**December 13, 1995 - 11 a.m.** -- Open Meeting  
Virginia Museum of Fine Arts, 2800 Grove Avenue, Auditorium, Richmond, Virginia. ☎

A meeting to consider gift offers, purchases, and loans. This is a regularly scheduled meeting. Public comment will not be received at the meeting.

**Contact:** Emily C. Robertson, Secretary of the Museum, Virginia Museum of Fine Arts, 2800 Grove Ave., Richmond, VA 23221, telephone (804) 367-0553.

### Executive Committee

**December 13, 1995 - 1 p.m.** -- Open Meeting  
Virginia Museum of Fine Arts, 2800 Grove Avenue, Auditorium, Richmond, Virginia. ☎

A meeting to approve committee and staff reports. Public comment will not be received at the meeting.

**Contact:** Emily C. Robertson, Secretary of the Museum, Virginia Museum of Fine Arts, 2800 Grove Ave., Richmond, VA 23221, telephone (804) 367-0553.

### BOARD OF NURSING

**November 27, 1995 - 9 a.m.** -- Open Meeting  
Department of Health Professions, 6606 West Broad Street, 5th Floor, Richmond, Virginia. ☎ (Interpreter for the deaf provided upon request)

Two special conference committees will conduct informal conferences in the morning. A panel of the board will conduct formal hearings in the afternoon. Public comment will not be received.

**Contact:** Corinne F. Dorsey, R.N., Executive Director, Board of Nursing, 6606 W. Broad St., 4th Floor, Richmond, VA 23230-1717, telephone (804) 662-9909, FAX (804) 662-9943 or (804) 662-7197/TDD ☎

**November 28, 1995 - 9 a.m.** -- Open Meeting

**November 29, 1995 - 9 a.m.** -- Open Meeting  
Department of Health Professions, 6606 West Broad Street, 5th Floor, Richmond, Virginia. ☎ (Interpreter for the deaf provided upon request)

A regular meeting of the board to consider matters relating to education programs, discipline of licensees, licensure by examination and other matters under the jurisdiction of the board. Public comment will be received during an open forum beginning at 11 a.m.,

November 28, 1995. On November 29, 1995, the board will conduct formal hearings.

**Contact:** Corinne F. Dorsey, R.N., Executive Director, Board of Nursing, 6606 W. Broad St., 4th Floor, Richmond, VA 23230-1717, telephone (804) 662-9909, FAX (804) 662-9943 or (804) 662-7197/TDD ☎

**November 30, 1995 - 9 a.m.** -- Open Meeting  
Department of Health Professions, 6606 West Broad Street, 5th Floor, Richmond, Virginia. ☎ (Interpreter for the deaf provided upon request)

A meeting to conduct formal hearings with licensees and certificate holders. Public comment will not be received.

**Contact:** Corinne F. Dorsey, R.N., Executive Director, Board of Nursing, 6606 W. Broad St., 4th Floor, Richmond, VA 23230-1717, telephone (804) 662-9909, FAX (804) 662-9943 or (804) 662-7197/TDD ☎

### BOARD OF NURSING HOME ADMINISTRATORS

#### NOTE: CHANGE IN MEETING TIME

**November 29, 1995 - 9 a.m.** -- Open Meeting  
Department of Health Professions, 6606 West Broad Street, Richmond, Virginia. ☎

A general board meeting to discuss board business. Public comments will be received at the beginning of the meeting for 15 minutes. Formal hearings will take place after the board meeting at 1 p.m.

**Contact:** Lisa Russell Hahn, Executive Director, Board of Nursing Home Administrators, 6606 W. Broad St., 4th Floor, Richmond, VA 23230-1717, telephone (804) 662-9907 or (804) 662-7197/TDD ☎

### POLYGRAPH EXAMINERS ADVISORY BOARD

**November 28, 1995 - 10 a.m.** -- Open Meeting  
Department of Professional and Occupational Regulation, 3600 West Broad Street, 4th Floor, Richmond, Virginia. ☎ (Interpreter for the deaf provided upon request)

The board will meet to review new enforcement procedures, administer the polygraph examiners licensing examination to eligible polygraph examiner interns and to consider other matters which may require board action. A public comment period will be scheduled at the beginning of the meeting. Persons desiring to participate in the meeting and requiring special accommodations or interpreter services should contact the board at least 10 days prior to the meeting. The department fully complies with the Americans with Disabilities Act.

**Contact:** Nancy Taylor Feldman, Assistant Director, Department of Professional and Occupational Regulation, 3600 W. Broad St., Richmond, VA 23230-4917, telephone (804) 367-8590, FAX (804) 367-2474 or (804) 367-9753/TDD ☎

## BOARD OF PROFESSIONAL COUNSELORS AND MARRIAGE AND FAMILY THERAPISTS

† **December 4, 1995 - 9 a.m.** -- Public Hearing  
Department of Health Professions, 6606 West Broad Street,  
5th Floor, Conference Room 1, Richmond, Virginia. ☎

A public hearing on existing VR 560-01-02 [18 VAC 115-20-10 et seq.], Regulations Governing the Practice of Professional Counselors.

**Contact:** Janet Delorme, Deputy Executive Director, Board of Professional Counselors and Marriage and Family Therapists, 6606 W. Broad St., 4th Floor, Richmond, VA 23230, telephone (804) 662-9575.

† **December 4, 1995 - 10 a.m.** -- Open Meeting  
† **December 5, 1995 - 10 a.m.** -- Open Meeting  
Department of Health Professions, 6606 West Broad Street,  
4th Floor, Richmond, Virginia. ☎

An informal conference will be held pursuant to § 9-6.14:11 of the Code of Virginia. Public comment will not be heard.

**Contact:** Evelyn B. Brown, Executive Director, Board of Professional Counselors and Marriage and Family Therapists, 6606 W. Broad St., 4th Floor, Richmond, VA 23230, telephone (804) 662-9967.

## BOARD OF PSYCHOLOGY

† **December 8, 1995 - 1 p.m.** -- Public Hearing  
Department of Health Professions, Southern States Building,  
6606 West Broad Street, 3rd Floor, Conference Room 3  
North, Richmond, Virginia. ☎

A public hearing on existing VR 565-01-2 [18 VAC 125-20-10 et seq.], Regulations Governing the Practice of Psychology.

**Contact:** Janet Delorme, Deputy Executive Director, Board of Psychology, Department of Health Professions, 6606 W. Broad Street, 4th Floor, Richmond, VA 23230, telephone (804) 662-9575, FAX (804) 662-9943 or (804) 662-7197/TDD ☎

† **December 12, 1995 - 11 a.m.** -- Open Meeting  
Department of Health Professions, 6606 West Broad Street,  
4th Floor, Richmond, Virginia. ☎

An informal conference will be held pursuant to § 9-6.14:11 of the Code of Virginia. Public comment will not be heard.

**Contact:** Evelyn B. Brown, Executive Director, Board of Psychology, 6606 W. Broad Street, 4th Floor, Richmond, VA 23230, telephone (804) 662-9967.

## REAL ESTATE BOARD

† **December 14, 1995 - 8:30 a.m.** -- Open Meeting  
† **December 15, 1995 - 8:30 a.m.** -- Open Meeting  
Department of Professional and Occupational Regulation,  
3600 West Broad Street, Richmond, Virginia. ☎

A regular business meeting of the board to include review of investigative matters, consideration of applications, various requests to the board for information, work session on regulations, and other business.

**Contact:** Emily O. Wingfield, Acting Assistant Director, Department of Professional and Occupational Regulation, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-8552 or (804) 367-9753/TDD ☎

## Continuing Education Committee

† **December 14, 1995 - 7:30 a.m.** -- Open Meeting  
Department of Professional and Occupational Regulation,  
3600 West Broad Street, Richmond, Virginia. ☎

The committee will meet to approve continuing education courses.

**Contact:** William H. Ferguson II, Education Administrator, Department of Professional and Occupational Regulation, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-8526 or (804) 367-9753/TDD ☎

## BOARD OF REHABILITATIVE SERVICES

**November 30, 1995 - 10 a.m.** -- Open Meeting  
Department of Rehabilitative Services, 8004 Franklin Farms  
Drive, Richmond, Virginia. ☎ (Interpreter for the deaf provided upon request)

A quarterly business meeting.

**Contact:** Dr. Ronald C. Gordon, Commissioner, Department of Rehabilitative Services, 8004 Franklin Farms Dr., Richmond, VA 23230, telephone (804) 662-7010, toll-free 1-800-552-5019/TDD and Voice or (804) 662-9040/TDD ☎

## VIRGINIA RESOURCES AUTHORITY

† **December 12, 1995 - 9:30 a.m.** -- Open Meeting  
† **January 9, 1996 - 9:30 a.m.** -- Open Meeting  
† **February 13, 1996 - 9:30 a.m.** -- Open Meeting  
The Mutual Building, 909 East Main Street, Suite 607, Board Room, Richmond, Virginia.

The board will meet to approve minutes of the meeting of the prior month; to review the authority's operations for the prior months; and to consider other matters and take other actions as it 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.

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## Calendar of Events

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Public comments will be received at the beginning of the meeting.

**Contact:** Shockley D. Gardner, Jr., Virginia Resources Authority, 909 E. Main St., Suite 607, Mutual Building, Richmond, VA 23219, telephone (804) 644-3100 or FAX (804) 644-3109.

### RICHMOND HOSPITAL AUTHORITY

#### Board of Commissioners

**December 7, 1995 - 4 p.m.** -- Open Meeting  
Richmond Nursing Home, 1900 Cool Lane, 2nd Floor, Classroom, Richmond, Virginia.☎

A monthly meeting of the board to discuss nursing home operations and related matters.

**Contact:** Marilyn H. West, Chairman, Richmond Hospital Authority, P.O. Box 548, Richmond, VA 23204-0548, telephone (804) 782-1938.

### BOARD OF SOCIAL WORK

† **December 8, 1995 - 9 a.m.** -- Public Hearing  
Southern States Building, 6606 West Broad Street, 2nd Floor, Conference Room 2 South, Richmond, Virginia.☎

A public hearing on existing 18 VAC 140-20-10 et seq., Regulations Governing the Practice of Social Work.

**Contact:** Evelyn Brown, Executive Director, Board of Social Work, Department of Health Professions, 6606 W. Broad Street, 4th Floor, Richmond, VA 23230, telephone (804) 662-9914, FAX (804) 662-9943 or (804) 662-7197/TDD ☎

### DEPARTMENT OF TAXATION

† **March 22, 1996 - 10 a.m.** -- Public Hearing  
Department of Taxation, 2220 West Broad Street, Richmond, Virginia.

† **March 31, 1996** -- Public comments may be submitted until this date.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Department of Taxation intends to adopt regulations entitled: **VR 630-3-439 [ 23 VAC 10-120-291 through 23 VAC 10-120-299 ] . Major Business Facility Job Tax Credit.** The regulation provides guidance for qualification, computation and recapture of the major business facility job tax credit.

Statutory Authority: § 58.1-439 of the Code of Virginia.

**Contact:** David M. Vistica, Tax Policy Analyst, Office of Tax Policy, Department of Taxation, P.O. Box 1880, Richmond, VA 23282-1880, telephone (804) 367-0167 or FAX (804) 367-6020.

### TREASURY BOARD

**December 20, 1995 - 9 a.m.** -- Open Meeting  
James Monroe Building, 101 North 14th Street, Treasury Board Conference Room, 3rd Floor, Richmond, Virginia.☎

A regular meeting.

**Contact:** Gloria J. Hatchel, Administrative Assistant, Department of the Treasury, Monroe Bldg., 101 N. 14th St., Richmond, VA 23219, telephone (804) 371-6011.

### BOARD OF VETERINARY MEDICINE

**December 15, 1995** -- Public comments may be submitted until this date.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Board of Veterinary Medicine intends to amend regulations entitled: **VR 645-01-1 [ 18 VAC 150-20-10 et seq. ] Regulations Governing Veterinary Medicine.** The board proposes a one-time, two-year reduction in fees for licensure and renewals and a permanent reduction in the state jurisprudence exam fee.

Statutory Authority: §§ 54.1-113 and 54.1-2400 of the Code of Virginia.

**Contact:** Elizabeth Carter, Executive Director, Board of Veterinary Medicine, 6606 W. Broad St., Richmond, VA 23230, telephone (804) 662-9915.

† **December 19, 1995 - 9 a.m.** -- Open Meeting  
Department of Health Professions, 6606 West Broad Street, 5th Floor, Conference Room 4, Richmond, Virginia.☎ (Interpreter for the deaf provided upon request)

Board meeting, formal hearing, regulatory review to include adoption of proposed fee reductions as final regulations and to consider action as needed to comply with the legislative mandate to promulgate continuing education regulations. Brief public comment will be received at the beginning of the meeting.

**Contact:** Terri H. Behr, Administrative Assistant, Board of Veterinary Medicine, 6606 W. Broad St., Richmond, VA 23230-1717, telephone (804) 662-9915, FAX (804) 662-9919 or (804) 662-7197/TDD ☎

### DEPARTMENT FOR THE VISUALLY HANDICAPPED

#### Vocational Rehabilitation Council

**December 9, 1995 - 10 a.m.** -- Open Meeting  
Department for the Visually Handicapped, Administrative Headquarters, 397 Azalea Avenue, Richmond, Virginia.☎ (Interpreter for the deaf provided upon request)

A quarterly meeting to advise the Department for the Visually Handicapped on matters related to vocational rehabilitation services for the blind and visually impaired citizens of the Commonwealth. Requests for interpreter

services must be received no later than November 24, 1995.

**Contact:** James G. Taylor, Vocational Rehabilitation Program Specialist, Department for the Visually Handicapped, 397 Azalea Ave., Richmond, VA 23227, telephone (804) 371-3140/TDD or toll-free 1-800-622-2155.

## Advisory Committee on Services

**February 3, 1996 - 11 a.m.** -- Open Meeting  
Department for the Visually Handicapped, Administrative Headquarters, 397 Azalea Avenue, Richmond, Virginia. (Interpreter for the deaf provided upon request)

The committee meets quarterly to advise the Board for the Visually Handicapped on matters related to services for blind and visually handicapped citizens of the Commonwealth.

**Contact:** Barbara G. Tyson, Executive Secretary Senior, Department for the Visually Handicapped, 397 Azalea Ave., Richmond, VA 23227, telephone (804) 371-3140 or toll-free 1-800-622-2155.

## VIRGINIA VOLUNTARY FORMULARY BOARD

**November 30, 1995 - 10:30 a.m.** -- Open Meeting  
Washington Building, 1100 Bank Street, 2nd Floor Board Room, Richmond, Virginia.

A meeting to consider public hearing comments and review new product data for products being considered for inclusion in the Virginia Voluntary Formulary.

**Contact:** James K. Thomson, Director, Bureau of Pharmacy Services, 109 Governor St., Room B1-9, Richmond, VA 23219, telephone (804) 786-4326.

## STATE WATER CONTROL BOARD

**† December 6, 1995 - 10 a.m.** -- Open Meeting  
City of Richmond, Department of Public Utilities Operation Center, Conference Room 2, Richmond, Virginia.

The Department of Environmental Quality is scheduling a meeting of the James River Surface Water Management Area Advisory Group. The Advisory Group assists in determining appropriateness of a designation, the boundary of the SWMA area and the minimum instream flow level that will activate the surface water withdrawal permits/certificates, and reviews any local agreements among water withdrawers in the James River in the Richmond area.

**Contact:** Curtis J. Linderman, Planning Manager, Department of Environmental Quality, Piedmont Regional Office, 4900 Cox Rd., P.O. Box 6030, Richmond, VA 23058, telephone (804) 527-5038 or FAX (804) 527-5106.

**† January 8, 1996 - 7 p.m.** -- Open Meeting  
Virginia War Memorial Auditorium, 621 South Belvidere Street, Richmond, Virginia.

**† January 10, 1996 - 7 p.m.** -- Open Meeting  
Roanoke County Administration Center, 5204 Bernard Drive, Roanoke, Virginia.

A meeting to receive comments from the public on the Notices of Intended Regulatory Action on the regulations governing aboveground storage tanks and tank vessels.

**Contact:** David Ormes, Department of Environmental Quality, P.O. Box 10009, Richmond, VA 23240, telephone (804) 762-4263.

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**† January 18, 1996 - 7 p.m.** -- Public Hearing  
James City County Board of Supervisors Room, 101C Mounts Bay Road, Building C, Williamsburg, Virginia.

**† January 29, 1996** -- Public comments may be submitted until 4 p.m. on this date.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the State Water Control Board intends to adopt regulations entitled: **VR 680-14-10 [ 9 VAC 25-115-10 et seq. ] General Virginia Pollutant Discharge Elimination System (VPDES) Permit for Seafood Processing Facilities.** The purpose of the proposed regulation is to establish limits for the discharge of wastewater and storm water associated with industrial activity from seafood processing facilities.

**Question and answer period:** A question and answer period will be held one half hour prior to the public hearing at the same location. Interested citizens will have an opportunity to ask questions pertaining to the proposal at that time.

**Accessibility to persons with disabilities:** The public hearing will be held at facilities believed to be accessible to persons with disabilities. Any person with questions should contact Mr. Michael B. Gregory at the address below. Persons needing interpreter services for the deaf should notify Mr. Gregory no later than Monday, January 8, 1996, TDD (804) 762-4021.

**Request for comments:** The board is seeking written comments from interested persons on both the proposed regulatory action and the draft permit. Also, comments regarding the benefits of the stated alternative or any other alternatives are welcome. Comments shall include the name, address, and telephone number of the writer, and shall contain a complete, concise statement of the factual basis for comments. Only those comments received by January 29, 1996, will be considered by the board.

**Other information:** The department has conducted analyses on the proposed regulation related to the basis, purpose, substance, issues and estimated impacts. These are available upon request from Mr. Gregory at the address below.

Statutory Authority: § 62.1-44.15(10) of the Code of Virginia.

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## Calendar of Events

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**Contact:** Michael B. Gregory, Department of Environmental Quality, P.O. Box 10009, Richmond, VA 23240, telephone (804) 762-4065 or (804) 762-4021/TDD.

### BOARD FOR WATERWORKS AND WASTEWATER WORKS OPERATORS

**December 8, 1995 - 8:30 a.m. -- CANCELLED**

**December 14, 1995 - 8:30 a.m. -- CANCELLED**

Department of Professional and Occupational Regulation, 3600 West Broad Street, 4th Floor, Richmond, Virginia. (Interpreter for the deaf provided upon request)

A meeting to review regulations under Executive Order 15(94) has been cancelled.

**Contact:** Nancy Taylor Feldman, Assistant Director, Department of Professional and Occupational Regulation, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-8590, FAX (804) 367-2474 or (804) 367-9753/TDD

## INDEPENDENT

### STATE LOTTERY BOARD

**November 29, 1995 - 9:30 a.m. -- Open Meeting**  
State Lottery Department, 900 East Main Street, 8th Floor, Conference Room, Richmond, Virginia. (Interpreter for the deaf provided upon request)

A regular meeting of the board. Business will be conducted according to items listed on the agenda which has not yet been determined. One period for public comment is scheduled.

**Contact:** Barbara L. Robertson, Legislative, Regulatory and Board Administrator, State Lottery Department, 900 E. Main St., Richmond, VA 23219, telephone (804) 692-7774 or FAX (804) 692-7775.

## LEGISLATIVE

### VIRGINIA CODE COMMISSION

**† December 20, 1995 - 10 a.m. -- Open Meeting**  
General Assembly Building, Speaker's Conference Room, 6th Floor, 910 Capitol Square, Richmond, Virginia.

A regularly scheduled meeting.

**Contact:** E.M. Miller, Jr. Director, or Jane Chaffin, Assistant Registrar, Division of Legislative Services, General Assembly Bldg., 910 Capitol St., Richmond, VA 23219, telephone (804) 786-3591.

### COMMISSION ON YOUTH

**December 13, 1995 - 10 a.m. -- Open Meeting**  
General Assembly Building, 910 Capitol Square, House Room D, Richmond, Virginia. (Interpreter for the deaf provided upon request)

A meeting of the Juvenile Justice System Study Task Force to discuss Task Force approval of legislation and final report. HJR 604.

**Contact:** Joyce Huey, General Assembly Bldg., 910 Capitol St., Suite 517B, Richmond, VA 23219-0406, telephone (804) 371-2481.

## CHRONOLOGICAL LIST

### OPEN MEETINGS

#### November 27

Elections, State Board of  
Nursing, Board of

#### November 28

Health Services Cost Review Council, Virginia  
Housing and Community Development, Board of  
Marine Resources Commission  
Nursing, Board of  
Polygraph Examiners Advisory Board

#### November 29

Lottery Board, State  
Nursing, Board of  
Nursing Home Administrators, Board of

#### November 30

Architects, Professional Engineers, Land Surveyors and  
Landscape Architects, Board for  
- Board for Landscape Architects  
† Dentistry, Board of  
Medicine, Board of  
Nursing, Board of  
Rehabilitative Services, Board of  
Voluntary Formulary Board, Virginia

#### December 4

Barbers, Board for  
† Mines, Minerals and Energy, Department of  
- Board of Mineral Mining Examiners  
† Professional Counselors and Marriage and Family  
Therapists, Board for

#### December 5

Aviation Board, Virginia  
Hopewell Industrial Safety Council  
Museum of Fine Arts, Virginia  
† Professional Counselors and Marriage and Family  
Therapists, Board of

#### December 6

† Agriculture and Consumer Services, Department of  
- Virginia State Apple Board

## Calendar of Events

† Architects, Professional Engineers, Land Surveyors and Landscape Architects, Board for  
- Board for Land Surveyors  
Aviation Board, Virginia  
Chesapeake Bay Local Assistance Board  
- Northern Area Review Committee  
Disability Services Council  
† Emergency Planning Committee, Local - Winchester  
† Independent Living Council, Statewide  
Interagency Coordinating Council, Virginia  
† Labor and Industry, Department of  
- Migrant and Seasonal Farmworkers Board  
† Medicine, Board of  
† Water Control Board, State

### December 7

† Architects, Professional Engineers, Land Surveyors and Landscape Architects, Board for  
- Board for Interior Designers  
Chesapeake Bay Local Assistance Board  
- Central Area Review Committee  
- Southern Area Review Committee  
Conservation and Recreation, Department of  
- Falls of the James Scenic River Advisory Board  
Emergency Planning Committee, Local - Chesterfield County  
Game and Inland Fisheries, Board of  
- Finance Committee  
† Intercommunity Transition Council, Virginia  
† Maternal and Child Health Council  
Richmond Hospital Authority  
- Board of Commissioners

### December 8

† Dentistry, Board of  
† Historic Resources, Board of/State Review Board  
† Medicine, Board of  
- Executive Committee  
- Informal Conference Committee

### December 9

Medicine, Board of  
- Credentials Committee  
Visually Handicapped, Department for the  
- Vocational Rehabilitation Advisory Council

### December 11

Cosmetology, Board for  
Funeral Directors and Embalmers, Board of  
† Higher Education Tuition Trust Fund, Virginia  
Labor and Industry, Department of  
- Safety and Health Codes Board

### December 12

Agriculture and Consumer Services, Department of  
- Virginia Corn Board  
† Branch Pilots, Board for  
† Chesapeake Bay Local Assistance Board  
† Contractors, Board for  
- Applications Review Committee  
- Tradesman Certification Committee  
† Emergency Planning Committee, Local - Montgomery County/Blacksburg  
Funeral Directors and Embalmers, Board of

† Health Services Cost Review Council, Virginia  
† Medicine, Board of/Board of Psychology  
- Task Force on the Unified Regulation of Psychologists  
† Psychology, Board of  
† Resources Authority, Virginia

### December 13

† Contractors, Board for  
Emergency Planning Committee - Local, City of Alexandria  
† Medicine, Board of  
- Informal Conference Committee  
Museum of Fine Arts, Board of  
- Collections Committee  
- Executive Committee  
Youth, Commission on

### December 14

Agriculture and Consumer Services, Department of  
- Virginia Horse Industry Board  
† Labor and Industry, Department of  
- Virginia Apprenticeship Council  
† Real Estate Board  
- Continuing Education Committee

### December 15

† Architects, Professional Engineers, Land Surveyors and Landscape Architects, Board for  
† Dentistry, Board of  
† Environmental Quality, Department of  
- Technical Advisory Committee for Solid Waste Management Regulations  
† Health Professions, Board of  
† Medicine, Board of  
† Real Estate Board

### December 19

Accountancy, Board for  
Aviation Board, Virginia  
Contractors, Board for  
† Motor Vehicle Dealer Board  
† Veterinary Medicine, Board of

### December 20

Aviation Board, Virginia  
Local Debt, State Council on  
Treasury Board

### January 2, 1996

Hopewell Industrial Safety Council  
Museum of Fine Arts, Virginia  
- Board of Trustees

### January 8

Hearing Aid Specialists, Board for  
Local Government, Commission on  
† Water Control Board, State

### January 9

† Game and Inland Fisheries, Board of  
Local Government, Commission on  
† Resources Authority, Virginia

### January 10

† Water Control Board, State

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## Calendar of Events

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### January 12

- † Environmental Quality, Department of
  - Technical Advisory Committee for Solid Waste Management Regulations

### January 15

- † Cosmetology, Board for

### January 17

- † Dentistry, Board of

### January 18

- † Dentistry, Board of
  - Endorsement Committee

### January 19

- Agriculture and Consumer Services, Department of
  - Virginia Horse Industry Board
- † Dentistry, Board of
  - Endorsement Committee

### February 2

- † Environmental Quality, Department of
  - Technical Advisory Committee for Solid Waste Management Regulations

### February 3

- Visually Handicapped, Department for the
  - Advisory Committee on Services

### February 13

- † Resources Authority, Virginia

### February 23

- † Environmental Quality, Department of
  - Technical Advisory Committee for Solid Waste Management Regulations

## PUBLIC HEARINGS

### December 4

- † Professional Counselors and Marriage and Family Therapists, Board of

### December 6

- † Environmental Quality, Department of

### December 7

- † Environmental Quality, Department of

### December 8

- † Psychology, Board of
- † Social Work, Board of

### January 18, 1996

- † Water Control Board, State

### March 22

- † Taxation, Department of