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The table printed below lists regulation sections, by Virginia Administrative Code (VAC) title, that have been amended, added or repealed in the *Virginia Register* since the regulations were originally published or last supplemented in VAC (the Spring 2001 VAC Supplement includes final regulations published through *Virginia Register* Volume 17, Issue 11, dated February 12, 2001). Emergency regulations, if any, are listed, followed by the designation "emer," and errata pertaining to final regulations are listed. Proposed regulations are not listed here. The table lists the sections in numerical order and shows action taken, the volume, issue and page number where the section appeared, and the effective date of the section.

SECTION NUMBER	ACTION	CITE	EFFECTIVE DATE
Title 1. Administration			
1 VAC 17-20-10	Amended	17:24 VA.R. 3556	9/12/01
1 VAC 17-20-40	Amended	17:24 VA.R. 3557	9/12/01
1 VAC 17-20-70	Amended	17:24 VA.R. 3557	9/12/01
1 VAC 17-20-110	Amended	17:24 VA.R. 3557	9/12/01
1 VAC 17-20-180	Amended	17:24 VA.R. 3557	9/12/01
1 VAC 17-20-210	Amended	17:24 VA.R. 3557	9/12/01
1 VAC 17-20-250	Amended	17:24 VA.R. 3558	9/12/01
1 VAC 17-20-270	Amended	17:24 VA.R. 3558	9/12/01
1 VAC 17-20-280	Amended	17:24 VA.R. 3558	9/12/01
1 VAC 17-20-310	Amended	17:24 VA.R. 3558	9/12/01
1 VAC 30-60-10 et seq.	Repealed	17:19 VA.R. 2731	7/4/01
1 VAC 30-70-10 et seq.	Repealed	17:19 VA.R. 2731	7/4/01
Title 2. Agriculture			
2 VAC 15-20-81	Amended	17:14 VA.R. 2179	3/1/01
Title 4. Conservation and Natural Resources			
4 VAC 15-20-80	Amended	17:19 VA.R. 2729	7/4/01
4 VAC 15-20-160	Amended	17:19 VA.R. 2729	7/4/01
4 VAC 15-40-20	Amended	17:19 VA.R. 2729	7/4/01
4 VAC 15-40-150	Repealed	17:19 VA.R. 2729	7/4/01
4 VAC 15-40-280	Amended	17:19 VA.R. 2729	7/4/01
4 VAC 15-50-90	Amended	17:19 VA.R. 2729	7/4/01
4 VAC 15-90-20	Amended	17:19 VA.R. 2729	7/4/01
4 VAC 15-90-21	Added	17:19 VA.R. 2729	7/4/01
4 VAC 15-90-70	Amended	17:19 VA.R. 2729	7/4/01
4 VAC 15-90-80	Amended	17:19 VA.R. 2730	7/4/01
4 VAC 15-90-85	Added	17:19 VA.R. 2730	7/4/01
4 VAC 15-90-100	Amended	17:19 VA.R. 2730	7/4/01
4 VAC 15-90-110	Amended	17:19 VA.R. 2730	7/4/01
4 VAC 15-90-141	Amended	17:19 VA.R. 2730	7/4/01
4 VAC 15-90-160	Amended	17:19 VA.R. 2730	7/4/01
4 VAC 15-90-170	Amended	17:19 VA.R. 2730	7/4/01
4 VAC 15-90-190	Amended	17:19 VA.R. 2730	7/4/01
4 VAC 15-90-195	Amended	17:19 VA.R. 2730	7/4/01
4 VAC 15-90-200	Amended	17:19 VA.R. 2730	7/4/01
4 VAC 15-90-210	Amended	17:19 VA.R. 2730	7/4/01
4 VAC 15-90-220	Amended	17:19 VA.R. 2730	7/4/01
4 VAC 15-90-240	Amended	17:19 VA.R. 2730	7/4/01
4 VAC 15-110-75	Amended	17:19 VA.R. 2730	7/4/01
4 VAC 15-190-60	Added	17:19 VA.R. 2729	7/4/01
4 VAC 15-240-20	Amended	17:19 VA.R. 2730	7/4/01
4 VAC 15-240-31	Amended	17:19 VA.R. 2730	7/4/01
4 VAC 15-240-90	Amended	17:19 VA.R. 2730	7/4/01
4 VAC 15-270-20	Amended	17:19 VA.R. 2729	7/4/01
4 VAC 15-290-140	Amended	17:19 VA.R. 2729	7/4/01

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4 VAC 15-320-100	Amended	17:19 VA.R. 2729	7/4/01
4 VAC 20-40-20	Amended	17:18 VA.R. 2576	5/1/01
4 VAC 20-252-70	Amended	17:12 VA.R. 2024	1/26/01
4 VAC 20-252-90	Amended	17:12 VA.R. 2024	1/26/01
4 VAC 20-252-100	Amended	17:12 VA.R. 2024	1/26/01
4 VAC 20-252-110	Amended	17:12 VA.R. 2025	1/26/01
4 VAC 20-252-140	Amended	17:12 VA.R. 2025	1/26/01
4 VAC 20-270-40	Amended	17:14 VA.R. 2179	3/1/01
4 VAC 20-270-40	Amended	17:18 VA.R. 2576	5/1/01
4 VAC 20-380-20	Amended	17:23 VA.R. 3455	7/1/01
4 VAC 20-380-50	Amended	17:23 VA.R. 3455	7/1/01
4 VAC 20-450-30	Amended	17:18 VA.R. 2576	5/1/01
4 VAC 20-561-10 through 4 VAC 20-561-50	Added	17:16 VA.R. 2332	8/16/01
4 VAC 20-610-30	Amended	17:23 VA.R. 3456	7/1/01
4 VAC 20-620-30	Amended	17:14 VA.R. 2180	3/1/01
4 VAC 20-620-50	Amended	17:14 VA.R. 2180	3/1/01
4 VAC 20-620-70	Amended	17:14 VA.R. 2180	3/1/01
4 VAC 20-620-70	Amended	17:20 VA.R. 2880	6/1/01
4 VAC 20-670-20	Amended	18:1 VA.R. 31	9/15/01
4 VAC 20-670-25	Added	17:18 VA.R. 2577	5/1/01
4 VAC 20-670-30	Amended	18:1 VA.R. 31	9/15/01
4 VAC 20-670-40	Amended	18:1 VA.R. 31	9/15/01
4 VAC 20-751-10	Amended	17:16 VA.R. 2333	4/1/01
4 VAC 20-751-20	Amended	17:16 VA.R. 2333	4/1/01
4 VAC 20-890-10 emer	Amended	17:20 VA.R. 2932	5/25/01-6/24/01
4 VAC 20-890-20 emer	Amended	17:20 VA.R. 2932	5/25/01-6/24/01
4 VAC 20-890-25 emer	Amended	17:20 VA.R. 2932	5/25/01-6/24/01
4 VAC 20-890-25	Amended	17:23 VA.R. 3457	7/1/01
4 VAC 20-890-30	Amended	17:16 VA.R. 2333	4/1/01
4 VAC 20-890-40 emer	Amended	17:20 VA.R. 2933	5/25/01-6/24/01
4 VAC 20-910-30	Amended	17:14 VA.R. 2181	3/1/01
4 VAC 20-910-45	Amended	17:18 VA.R. 2577	5/1/01
4 VAC 20-950-30	Amended	17:14 VA.R. 2181	3/1/01
4 VAC 20-950-45	Amended	17:14 VA.R. 2181	3/1/01
4 VAC 20-950-45	Amended	17:16 VA.R. 2334	4/1/01
4 VAC 20-950-45 emer	Amended	17:18 VA.R. 2673	4/24/01-5/23/01
4 VAC 20-950-45	Amended	17:20 VA.R. 2880	5/25/01
4 VAC 20-995-20	Amended	17:12 VA.R. 2025	1/26/01
4 VAC 20-995-20	Amended	17:14 VA.R. 2182	3/1/01
4 VAC 20-1040-20	Amended	17:20 VA.R. 2881	5/26/01
4 VAC 25-90-10 through 4 VAC 25-90-100	Amended	17:20 VA.R. 2882-2885	7/18/01
4 VAC 25-90-120	Repealed	17:20 VA.R. 2885	7/18/01
4 VAC 25-90-270	Repealed	17:20 VA.R. 2885	7/18/01
4 VAC 25-90-300	Repealed	17:20 VA.R. 2885	7/18/01
4 VAC 25-90-340	Repealed	17:20 VA.R. 2885	7/18/01
4 VAC 25-90-360	Repealed	17:20 VA.R. 2885	7/18/01
4 VAC 25-90 (Forms)	Added	17:21 VA.R. 3119	--
4 VAC 25-100-10 et seq.	Repealed	17:20 VA.R. 2885	7/18/01
4 VAC 25-101-10 through 4 VAC 25-101-220	Added	17:20 VA.R. 2886	7/18/01
4 VAC 25-101 (Forms)	Added	17:21 VA.R. 3119	--
4 VAC 25-130 (Forms)	Amended	17:23 VA.R. 3473	--
Title 5. Corporations			
5 VAC 5-10-10 et seq.	Repealed	17:18 VA.R. 2577	6/1/01
5 VAC 5-20-10 through 5 VAC 5-20-280	Amended	17:18 VA.R. 2581-2587	6/1/01
5 VAC 5-30-10 through 5 VAC 5-30-70	Added	17:22 VA.R. 3312-3315	7/1/01

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Title 6. Criminal Justice and Corrections			
6 VAC 20-200-10 through 6 VAC 20-200-180	Amended	17:19 VA.R. 2731-2735	7/4/01
Title 8. Education			
8 VAC 20-110-10	Amended	17:12 VA.R. 2026	3/28/01
8 VAC 20-110-20	Repealed	17:12 VA.R. 2026	3/28/01
8 VAC 20-110-40	Amended	17:12 VA.R. 2026	3/28/01
8 VAC 20-110-50	Amended	17:12 VA.R. 2026	3/28/01
8 VAC 20-110-60	Repealed	17:12 VA.R. 2026	3/28/01
8 VAC 20-110-70	Repealed	17:12 VA.R. 2026	3/28/01
8 VAC 20-110-140	Repealed	17:12 VA.R. 2026	3/28/01
8 VAC 20-540-10 et seq.	Repealed	17:16 VA.R. 2334	5/23/01
8 VAC 20-541-10 through 8 VAC 20-541-60	Added	17:16 VA.R. 2335-2342	5/23/01
8 VAC 20-650-10 through 8 VAC 20-650-20 emer	Added	17:14 VA.R. 2202	3/7/01-3/6/02
Title 9. Environment			
9 VAC 5-50-400	Amended	17:15 VA.R. 2248	6/1/01
9 VAC 5-60-60	Amended	17:15 VA.R. 2248	6/1/01
9 VAC 5-60-90	Amended	17:15 VA.R. 2248	6/1/01
9 VAC 5-60-100	Amended	17:15 VA.R. 2249	6/1/01
9 VAC 5-80-310 through 9 VAC 5-80-350	Amended	17:20 VA.R. 2887-2890	7/18/01
9 VAC 5-80-355	Repealed	17:20 VA.R. 2891	7/18/01
9 VAC 5-210-10 through 9 VAC 5-210-160	Added	17:16 VA.R. 2342-2344	7/1/01
9 VAC 15-30-20	Amended	17:21 VA.R. 3029	8/1/01
9 VAC 15-30-40 through 9 VAC 15-30-110	Amended	17:21 VA.R. 3030-3031	8/1/01
9 VAC 15-30-130	Amended	17:21 VA.R. 3031	8/1/01
9 VAC 15-30-150	Repealed	17:21 VA.R. 3031	8/1/01
9 VAC 15-30-160	Amended	17:21 VA.R. 3031	8/1/01
9 VAC 15-30-170	Amended	17:21 VA.R. 3031	8/1/01
9 VAC 20-15-10 through 9 VAC 20-15-160	Added	17:16 VA.R. 2344-2346	7/1/01
9 VAC 20-80-10	Amended	17:16 VA.R. 2349	5/23/01
9 VAC 20-80-40	Amended	17:16 VA.R. 2349	5/23/01
9 VAC 20-80-60	Amended	17:16 VA.R. 2349	5/23/01
9 VAC 20-80-80	Amended	17:16 VA.R. 2349	5/23/01
9 VAC 20-80-100	Amended	17:16 VA.R. 2349	5/23/01
9 VAC 20-80-110	Amended	17:16 VA.R. 2349	5/23/01
9 VAC 20-80-113	Added	17:16 VA.R. 2349	5/23/01
9 VAC 20-80-115	Added	17:16 VA.R. 2349	5/23/01
9 VAC 20-80-120	Amended	17:16 VA.R. 2349	5/23/01
9 VAC 20-80-140 through 9 VAC 20-80-290	Amended	17:16 VA.R. 2349	5/23/01
9 VAC 20-80-310 through 9 VAC 20-80-340	Amended	17:16 VA.R. 2349	5/23/01
9 VAC 20-80-360 through 9 VAC 20-80-380	Amended	17:16 VA.R. 2349	5/23/01
9 VAC 20-80-400	Amended	17:16 VA.R. 2349	5/23/01
9 VAC 20-80-450	Added	17:16 VA.R. 2349	5/23/01
9 VAC 20-80-460	Added	17:16 VA.R. 2349	5/23/01
9 VAC 20-80-470	Amended	17:16 VA.R. 2349	5/23/01
9 VAC 20-80-480	Amended	17:16 VA.R. 2349	5/23/01
9 VAC 20-80-485	Added	17:16 VA.R. 2349	5/23/01
9 VAC 20-80-500 through 9 VAC 20-80-560	Amended	17:16 VA.R. 2349	5/23/01
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9 VAC 20-80-730	Amended	17:16 VA.R. 2349	5/23/01
9 VAC 20-80-750 through 9 VAC 20-80-790	Amended	17:16 VA.R. 2349	5/23/01
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Appendix 4.1	Repealed	17:16 VA.R. 2349	5/23/01
Appendix 5.1	Amended	17:16 VA.R. 2349	5/23/01
Appendices 5.2 and 5.3	Repealed	17:16 VA.R. 2349	5/23/01

Cumulative Table of VAC Sections Adopted, Amended, or Repealed

SECTION NUMBER	ACTION	CITE	EFFECTIVE DATE
Appendix 5.5	Amended	17:16 VA.R. 2349	5/23/01
Appendix 5.6	Added	17:16 VA.R. 2349	5/23/01
Appendices 7.4 and 9.1	Amended	17:16 VA.R. 2349	5/23/01
9 VAC 20-130-10 through 9 VAC 20-130-70	Amended	17:21 VA.R. 3033-3037	8/1/01
9 VAC 20-130-80	Repealed	17:21 VA.R. 3037	8/1/01
9 VAC 20-130-90	Amended	17:21 VA.R. 3037	8/1/01
9 VAC 20-130-110 through 9 VAC 20-130-150	Amended	17:21 VA.R. 3037-3040	8/1/01
9 VAC 20-130-160	Repealed	17:21 VA.R. 3040	8/1/01
9 VAC 20-130-165	Added	17:21 VA.R. 3040	8/1/01
9 VAC 20-130-170	Repealed	17:21 VA.R. 3040	8/1/01
9 VAC 20-130-175	Added	17:21 VA.R. 3040	8/1/01
9 VAC 20-130-180	Amended	17:21 VA.R. 3041	8/1/01
9 VAC 20-130-190	Amended	17:21 VA.R. 3041	8/1/01
9 VAC 20-130-220	Amended	17:21 VA.R. 3041	8/1/01
9 VAC 20-130-230	Amended	17:21 VA.R. 3041	8/1/01
9 VAC 20-130-240	Repealed	17:21 VA.R. 3041	8/1/01
9 VAC 20-130 (Forms)	Added	17:26 VA.R. 3758-3759	--
9 VAC 25-15-10 through 9 VAC 25-15-160	Added	17:16 VA.R. 2347-2349	7/1/01
9 VAC 25-31-10	Amended	17:13 VA.R. 2076	4/11/01
9 VAC 25-31-30	Amended	17:13 VA.R. 2076	4/11/01
9 VAC 25-31-50	Amended	17:13 VA.R. 2076	4/11/01
9 VAC 25-31-100	Amended	17:13 VA.R. 2076	4/11/01
9 VAC 25-31-110	Amended	17:13 VA.R. 2076	4/11/01
9 VAC 25-31-120	Amended	17:13 VA.R. 2076	4/11/01
9 VAC 25-31-170	Amended	17:13 VA.R. 2076	4/11/01
9 VAC 25-31-220	Amended	17:13 VA.R. 2076	4/11/01
9 VAC 25-31-280	Amended	17:13 VA.R. 2076	4/11/01
9 VAC 25-31-370	Amended	17:13 VA.R. 2076	4/11/01
9 VAC 25-31-390	Amended	17:13 VA.R. 2076	4/11/01
9 VAC 25-31-410	Amended	17:13 VA.R. 2076	4/11/01
9 VAC 25-110-10	Amended	17:16 VA.R. 2350	8/1/01
9 VAC 25-110-20	Amended	17:16 VA.R. 2351	8/1/01
9 VAC 25-110-40	Repealed	17:16 VA.R. 2351	8/1/01
9 VAC 25-110-50	Repealed	17:16 VA.R. 2351	8/1/01
9 VAC 25-110-60	Amended	17:16 VA.R. 2351	8/1/01
9 VAC 25-110-70	Amended	17:16 VA.R. 2351	8/1/01
9 VAC 25-110-70	Amended	17:21 VA.R. 3044	8/1/01
9 VAC 25-110-80	Amended	17:16 VA.R. 2353	8/1/01
9 VAC 25-115-10 through 9 VAC 25-115-50	Amended	17:16 VA.R. 2367-2380	7/24/01
9 VAC 25-192-50	Amended	17:21 VA.R. 3044	8/1/01
9 VAC 25-192-60	Amended	17:21 VA.R. 3045	8/1/01
9 VAC 25-210-10	Amended	17:21 VA.R. 3049	8/1/01
9 VAC 25-210-20	Repealed	17:21 VA.R. 3052	8/1/01
9 VAC 25-210-30	Repealed	17:21 VA.R. 3052	8/1/01
9 VAC 25-210-40	Repealed	17:21 VA.R. 3052	8/1/01
9 VAC 25-210-45	Added	17:21 VA.R. 3052	8/1/01
9 VAC 25-210-50 through 9 VAC 25-210-110	Amended	17:21 VA.R. 3052-3063	8/1/01
9 VAC 25-210-80	Erratum	17:24 VA.R. 3604	--
9 VAC 25-210-115	Added	17:21 VA.R. 3063	8/1/01
9 VAC 25-210-120 through 9 VAC 25-210-180	Amended	17:21 VA.R. 3064-3067	8/1/01
9 VAC 25-210-185	Added	17:21 VA.R. 3067	8/1/01
9 VAC 25-210-190 through 9 VAC 25-210-260	Amended	17:21 VA.R. 3067-3069	8/1/01
9 VAC 25-260-50	Amended	17:16 VA.R. 2381	*

* 30 days after notice in *Virginia Register* of EPA approval

Cumulative Table of VAC Sections Adopted, Amended, or Repealed

SECTION NUMBER	ACTION	CITE	EFFECTIVE DATE
9 VAC 25-260-55	Added	17:16 VA.R. 2381	*
9 VAC 25-430-20	Amended	17:25 VA.R. 3657	9/26/01
9 VAC 25-430-30	Amended	17:25 VA.R. 3657	9/26/01
9 VAC 25-430-60	Amended	17:25 VA.R. 3657	9/26/01
9 VAC 25-660-10 through 9 VAC 25-660-100	Added	17:22 VA.R. 3316-3327	10/1/01
9 VAC 25-670-10 through 9 VAC 25-670-100	Added	17:22 VA.R. 3328-3344	10/1/01
9 VAC 25-680-10 through 9 VAC 25-680-100	Added	17:21 VA.R. 3070-3087	8/1/01
9 VAC 25-680-30	Erratum	17:24 VA.R. 3604	--
9 VAC 25-680-50	Erratum	17:24 VA.R. 3604	--
9 VAC 25-680-100	Erratum	17:24 VA.R. 3604	--
9 VAC 25-690-10 through 9 VAC 25-690-100	Added	17:21 VA.R. 3088-3107	8/1/01
9 VAC 25-690-30	Erratum	17:24 VA.R. 3604	--
9 VAC 25-690-40	Erratum	17:24 VA.R. 3604	--
Title 10. Finance and Financial Institutions			
10 VAC 5-10-10	Amended	17:22 VA.R. 3345	7/1/01
10 VAC 5-20-30	Amended	17:22 VA.R. 3346	6/27/01
Title 11. Gaming			
11 VAC 10-60 (Forms)	Amended	17:15 VA.R. 2259	--
11 VAC 10-130-10	Amended	17:19 VA.R. 2736	5/7/01
11 VAC 10-130-60	Amended	17:19 VA.R. 2736	5/7/01
11 VAC 10-130-70	Amended	17:19 VA.R. 2737	5/7/01
Title 12. Health			
12 VAC 30-10-20	Amended	17:19 VA.R. 2737	8/1/01
12 VAC 30-10-160	Amended	17:13 VA.R. 2077	4/11/01
12 VAC 30-10-1000	Added	17:19 VA.R. 2741	7/4/01
12 VAC 30-20-80	Amended	17:13 VA.R. 2077	4/11/01
12 VAC 30-20-290 through 12 VAC 30-20-490	Added	17:19 VA.R. 2741	7/4/01
12 VAC 30-20-500 through 12 VAC 30-20-560	Added	17:19 VA.R. 2741	7/4/01
12 VAC 30-30-10	Amended	17:13 VA.R. 2077	4/11/01
12 VAC 30-30-10	Amended	17:19 VA.R. 2737	8/1/01
12 VAC 30-30-20	Amended	17:13 VA.R. 2081	4/11/01
12 VAC 30-30-20	Amended	17:18 VA.R. 2588	7/1/01
12 VAC 30-30-20	Amended	17:18 VA.R. 2589	7/1/01
12 VAC 30-30-40	Amended	17:13 VA.R. 2082	4/11/01
12 VAC 30-30-50	Amended	17:13 VA.R. 2082	4/11/01
12 VAC 30-40-80	Amended	17:13 VA.R. 2087	4/11/01
12 VAC 30-40-100	Amended	17:13 VA.R. 2083	4/11/01
12 VAC 30-40-220	Amended	17:18 VA.R. 2590	7/1/01
12 VAC 30-40-220	Amended	17:18 VA.R. 2593	7/1/01
12 VAC 30-40-220	Erratum	17:21 VA.R. 3124	--
12 VAC 30-40-240	Amended	17:13 VA.R. 2083	4/11/01
12 VAC 30-40-250	Amended	17:13 VA.R. 2085	4/11/01
12 VAC 30-40-280	Amended	17:13 VA.R. 2085	4/11/01
12 VAC 30-40-290	Amended	17:13 VA.R. 2085	4/11/01
12 VAC 30-40-350	Amended	17:13 VA.R. 2087	4/11/01
12 VAC 30-50-300	Amended	17:12 VA.R. 2026	6/1/01**
12 VAC 30-50-490	Added	17:18 VA.R. 2595	7/1/01
12 VAC 30-50-530	Amended	17:12 VA.R. 2026	6/1/01**
12 VAC 30-70-140	Repealed	17:19 VA.R. 2741	7/4/01
12 VAC 30-70-141	Repealed	17:19 VA.R. 2741	7/4/01
12 VAC 30-70-142	Repealed	17:19 VA.R. 2741	7/4/01
12 VAC 30-70-143	Repealed	17:19 VA.R. 2741	7/4/01
12 VAC 30-70-144	Repealed	17:19 VA.R. 2741	7/4/01

** Effective date changed in 17:17 VA.R. 2443.

Cumulative Table of VAC Sections Adopted, Amended, or Repealed

SECTION NUMBER	ACTION	CITE	EFFECTIVE DATE
12 VAC 30-70-145	Repealed	17:19 VA.R. 2741	7/4/01
12 VAC 30-80-110	Amended	17:18 VA.R. 2597	7/1/01
12 VAC 30-90-19	Added	17:18 VA.R. 2623	7/1/01
12 VAC 30-90-20	Amended	17:18 VA.R. 2624	7/1/01
12 VAC 30-90-29	Added	17:18 VA.R. 2624	7/1/01
12 VAC 30-90-30	Amended	17:18 VA.R. 2625	7/1/01
12 VAC 30-90-31	Amended	17:18 VA.R. 2626	7/1/01
12 VAC 30-90-33	Amended	17:18 VA.R. 2626	7/1/01
12 VAC 30-90-34	Amended	17:18 VA.R. 2628	7/1/01
12 VAC 30-90-35	Amended	17:18 VA.R. 2630	7/1/01
12 VAC 30-90-36	Amended	17:18 VA.R. 2630	7/1/01
12 VAC 30-90-37	Amended	17:18 VA.R. 2632	7/1/01
12 VAC 30-90-38	Amended	17:18 VA.R. 2632	7/1/01
12 VAC 30-90-39	Amended	17:18 VA.R. 2633	7/1/01
12 VAC 30-90-40	Amended	17:18 VA.R. 2633	7/1/01
12 VAC 30-90-41	Amended	17:18 VA.R. 2633	7/1/01
12 VAC 30-90-42	Repealed	17:18 VA.R. 2635	7/1/01
12 VAC 30-90-43	Repealed	17:18 VA.R. 2636	7/1/01
12 VAC 30-90-50	Amended	17:18 VA.R. 2636	7/1/01
12 VAC 30-90-51	Amended	17:18 VA.R. 2636	7/1/01
12 VAC 30-90-55	Amended	17:18 VA.R. 2637	7/1/01
12 VAC 30-90-60	Amended	17:18 VA.R. 2638	7/1/01
12 VAC 30-90-65	Amended	17:18 VA.R. 2638	7/1/01
12 VAC 30-90-70	Amended	17:18 VA.R. 2638	7/1/01
12 VAC 30-90-80	Amended	17:18 VA.R. 2639	7/1/01
12 VAC 30-90-110	Amended	17:18 VA.R. 2639	7/1/01
12 VAC 30-90-120	Amended	17:18 VA.R. 2639	7/1/01
12 VAC 30-90-123	Amended	17:18 VA.R. 2640	7/1/01
12 VAC 30-90-130	Repealed	17:18 VA.R. 2640	7/1/01
12 VAC 30-90-130	Repealed	17:19 VA.R. 2741	7/4/01
12 VAC 30-90-131	Repealed	17:18 VA.R. 2640	7/1/01
12 VAC 30-90-131	Repealed	17:19 VA.R. 2741	7/4/01
12 VAC 30-90-132	Repealed	17:18 VA.R. 2640	7/1/01
12 VAC 30-90-132	Repealed	17:19 VA.R. 2741	7/4/01
12 VAC 30-90-133	Repealed	17:18 VA.R. 2641	7/1/01
12 VAC 30-90-133	Repealed	17:19 VA.R. 2741	7/4/01
12 VAC 30-90-135	Repealed	17:18 VA.R. 2641	7/1/01
12 VAC 30-90-135	Repealed	17:19 VA.R. 2741	7/4/01
12 VAC 30-90-136	Added	17:18 VA.R. 2641	7/1/01
12 VAC 30-90-160	Amended	17:18 VA.R. 2641	7/1/01
12 VAC 30-90-165	Added	17:18 VA.R. 2641	7/1/01
12 VAC 30-90-170	Amended	17:18 VA.R. 2642	7/1/01
12 VAC 30-90-221	Amended	17:18 VA.R. 2642	7/1/01
12 VAC 30-90-240	Amended	17:18 VA.R. 2642	7/1/01
12 VAC 30-90-250	Amended	17:18 VA.R. 2643	7/1/01
12 VAC 30-90-253	Amended	17:18 VA.R. 2643	7/1/01
12 VAC 30-90-260	Repealed	17:18 VA.R. 2643	7/1/01
12 VAC 30-90-264	Amended	17:18 VA.R. 2643	7/1/01
12 VAC 30-90-266	Amended	17:18 VA.R. 2646	7/1/01
12 VAC 30-90-270	Amended	17:18 VA.R. 2646	7/1/01
12 VAC 30-90-272	Amended	17:18 VA.R. 2646	7/1/01
12 VAC 30-90-280	Amended	17:18 VA.R. 2648	7/1/01
12 VAC 30-110-630	Amended	17:13 VA.R. 2096	4/11/01
12 VAC 30-110-650	Amended	17:13 VA.R. 2096	4/11/01
12 VAC 30-110-660	Amended	17:13 VA.R. 2096	4/11/01
12 VAC 30-110-670	Amended	17:13 VA.R. 2096	4/11/01

Cumulative Table of VAC Sections Adopted, Amended, or Repealed

SECTION NUMBER	ACTION	CITE	EFFECTIVE DATE
12 VAC 30-110-700	Amended	17:13 VA.R. 2097	4/11/01
12 VAC 30-110-710	Amended	17:13 VA.R. 2097	4/11/01
12 VAC 30-110-720	Amended	17:13 VA.R. 2088	4/11/01
12 VAC 30-110-730	Amended	17:13 VA.R. 2090	4/11/01
12 VAC 30-110-740	Repealed	17:13 VA.R. 2091	4/11/01
12 VAC 30-110-741	Added	17:13 VA.R. 2091	4/11/01
12 VAC 30-110-744	Added	17:13 VA.R. 2091	4/11/01
12 VAC 30-110-747	Added	17:13 VA.R. 2091	4/11/01
12 VAC 30-110-751	Added	17:13 VA.R. 2091	4/11/01
12 VAC 30-110-760	Amended	17:13 VA.R. 2091	4/11/01
12 VAC 30-110-780	Amended	17:13 VA.R. 2091	4/11/01
12 VAC 30-110-790	Amended	17:13 VA.R. 2091	4/11/01
12 VAC 30-110-800	Amended	17:13 VA.R. 2091	4/11/01
12 VAC 30-110-810	Amended	17:13 VA.R. 2091	4/11/01
12 VAC 30-110-813	Added	17:13 VA.R. 2092	4/11/01
12 VAC 30-110-815	Added	17:13 VA.R. 2092	4/11/01
12 VAC 30-110-820	Repealed	17:13 VA.R. 2092	4/11/01
12 VAC 30-110-830	Amended	17:13 VA.R. 2092	4/11/01
12 VAC 30-110-840	Amended	17:13 VA.R. 2092	4/11/01
12 VAC 30-110-850	Amended	17:13 VA.R. 2092	4/11/01
12 VAC 30-110-853	Added	17:13 VA.R. 2092	4/11/01
12 VAC 30-110-856	Added	17:13 VA.R. 2093	4/11/01
12 VAC 30-110-860	Amended	17:13 VA.R. 2093	4/11/01
12 VAC 30-110-870	Amended	17:13 VA.R. 2093	4/11/01
12 VAC 30-110-880	Amended	17:13 VA.R. 2093	4/11/01
12 VAC 30-110-890	Repealed	17:13 VA.R. 2093	4/11/01
12 VAC 30-110-900	Amended	17:13 VA.R. 2093	4/11/01
12 VAC 30-110-910	Amended	17:13 VA.R. 2094	4/11/01
12 VAC 30-110-920	Amended	17:13 VA.R. 2094	4/11/01
12 VAC 30-110-921	Added	17:13 VA.R. 2094	4/11/01
12 VAC 30-110-930	Amended	17:13 VA.R. 2094	4/11/01
12 VAC 30-110-940	Amended	17:13 VA.R. 2094	4/11/01
12 VAC 30-110-950	Amended	17:13 VA.R. 2094	4/11/01
12 VAC 30-110-960	Amended	17:13 VA.R. 2095	4/11/01
12 VAC 30-110-970	Amended	17:13 VA.R. 2095	4/11/01
12 VAC 30-110-980	Amended	17:13 VA.R. 2095	4/11/01
12 VAC 30-110-990	Amended	17:13 VA.R. 2095	4/11/01
12 VAC 30-110-1010	Amended	17:13 VA.R. 2095	4/11/01
12 VAC 30-110-1011	Added	17:13 VA.R. 2095	4/11/01
12 VAC 30-120-700 through 12 VAC 30-120-790	Added	17:18 VA.R. 2597-2622	7/1/01
12 VAC 30-120-770	Erratum	17:21 VA.R. 3124	--
12 VAC 35-110-10 et seq.	Repealed	17:20 VA.R. 2891	***
12 VAC 35-115-10 through 12 VAC 35-115-250	Added	17:20 VA.R. 2892-2920	***
12 VAC 35-115-50	Erratum	17:22 VA.R. 3371	--
12 VAC 35-115-70	Erratum	17:22 VA.R. 3371	--
12 VAC 35-120-10 et seq.	Repealed	17:20 VA.R. 2920	***
12 VAC 35-130-10 et seq.	Repealed	17:20 VA.R. 2920	***
12 VAC 30-141-10 et seq. emer	Added	17:25 VA.R. 3660-3670	8/1/01-7/31/02
12 VAC 30-141-100 emer	Amended	17:26 VA.R. 3757	8/22/01-7/31/02
Title 13. Housing			
13 VAC 10-40-30	Amended	17:22 VA.R. 3347	6/20/01
13 VAC 10-40-110	Amended	17:22 VA.R. 3347	6/20/01
13 VAC 10-40-130	Amended	17:22 VA.R. 3347	6/20/01

*** Effective date suspended in 17:23 VA.R. 3457.

Cumulative Table of VAC Sections Adopted, Amended, or Repealed

SECTION NUMBER	ACTION	CITE	EFFECTIVE DATE
13 VAC 10-40-190	Amended	17:22 VA.R. 3347	6/20/01
13 VAC 10-40-230	Amended	17:22 VA.R. 3347	6/20/01
13 VAC 10-180-10	Amended	17:17 VA.R. 2444	4/9/01
13 VAC 10-180-40	Amended	17:17 VA.R. 2444	4/9/01
13 VAC 10-180-60	Amended	17:17 VA.R. 2444	4/9/01
13 VAC 10-180-70	Amended	17:17 VA.R. 2452	4/9/01
13 VAC 10-180-90	Amended	17:17 VA.R. 2452	4/9/01
13 VAC 10-180-100	Amended	17:17 VA.R. 2452	4/9/01
Title 14. Insurance			
14 VAC 5-170-20	Amended	17:24 VA.R. 3559	9/1/01
14 VAC 5-170-30	Amended	17:24 VA.R. 3559	9/1/01
14 VAC 5-170-70	Amended	17:24 VA.R. 3559	9/1/01
14 VAC 5-170-90	Amended	17:24 VA.R. 3559	9/1/01
14 VAC 5-170-105	Amended	17:24 VA.R. 3562	9/1/01
14 VAC 5-170-120	Amended	17:24 VA.R. 3563	9/1/01
14 VAC 5-170-130	Amended	17:24 VA.R. 3565	9/1/01
14 VAC 5-170-150	Amended	17:24 VA.R. 3566	9/1/01
14 VAC 5-170-180	Amended	17:24 VA.R. 3566	9/1/01
Appendix D	Added	17:24 VA.R. 3566	9/1/01
14 VAC 5-215 (Forms)	Amended	17:19 VA.R. 2753-2758	7/4/01
14 VAC 5-300-90	Amended	17:22 VA.R. 3347	8/1/01
14 VAC 5-300-130	Amended	17:16 VA.R. 2382	5/1/01
Title 16. Labor and Employment			
16 VAC 25-90-1910.1043	Amended	17:23 VA.R. 3458	9/15/01
16 VAC 25-90-1910.1030	Amended	17:23 VA.R. 3459	9/15/01
Title 17. Libraries and Cultural Resources			
17 VAC 15-20-20 through 17 VAC 15-20-50	Amended	17:14 VA.R. 2183	5/1/01
17 VAC 15-20-70 through 17 VAC 15-20-120	Amended	17:14 VA.R. 2183	5/1/01
17 VAC 15-20-150 through 17 VAC 15-20-170	Amended	17:14 VA.R. 2183	5/1/01
17 VAC 15-30-10 et seq.	Repealed	17:14 VA.R. 2183	5/1/01
17 VAC 15-40-10 et seq.	Repealed	17:14 VA.R. 2183	5/1/01
17 VAC 15-50-20 through 17 VAC 15-50-50	Amended	17:14 VA.R. 2184	5/1/01
17 VAC 15-50-70	Amended	17:14 VA.R. 2184	5/1/01
17 VAC 15-50-90 through 17 VAC 15-50-110	Amended	17:14 VA.R. 2184	5/1/01
17 VAC 15-50-130	Amended	17:14 VA.R. 2184	5/1/01
17 VAC 15-50-140	Repealed	17:14 VA.R. 2184	5/1/01
17 VAC 15-50-150	Amended	17:14 VA.R. 2184	5/1/01
17 VAC 15-50-160	Amended	17:14 VA.R. 2184	5/1/01
Title 18. Professional and Occupational Licensing			
18 VAC 5-20-10 et seq.	Repealed	17:14 VA.R. 2184	4/25/01
18 VAC 5-21-10 through 18 VAC 5-21-170	Amended	17:14 VA.R. 2184-2198	4/25/01
18 VAC 30-10-10	Amended	17:20 VA.R. 2921	7/18/01
18 VAC 30-10-20	Amended	17:20 VA.R. 2921	7/18/01
18 VAC 30-10-30	Amended	17:20 VA.R. 2921	7/18/01
18 VAC 30-10-40	Amended	17:20 VA.R. 2921	7/18/01
18 VAC 30-10-60	Amended	17:20 VA.R. 2921	7/18/01
18 VAC 30-10-70	Amended	17:20 VA.R. 2921	7/18/01
18 VAC 30-10-80	Amended	17:20 VA.R. 2921	7/18/01
18 VAC 30-10-100	Amended	17:20 VA.R. 2921	7/18/01
18 VAC 30-20-10	Amended	17:16 VA.R. 2383	5/23/01
18 VAC 30-20-80	Amended	17:16 VA.R. 2383	5/23/01
18 VAC 30-20-160	Amended	17:16 VA.R. 2383	5/23/01
18 VAC 30-20-300	Added	17:16 VA.R. 2384	5/23/01
18 VAC 30-20-310	Added	17:16 VA.R. 2384	5/23/01
18 VAC 30-20-320	Added	17:16 VA.R. 2384	5/23/01
18 VAC 50-22-10 through 18 VAC 50-22-60	Amended	17:21 VA.R. 3108-3113	9/1/01

Cumulative Table of VAC Sections Adopted, Amended, or Repealed

SECTION NUMBER	ACTION	CITE	EFFECTIVE DATE
18 VAC 50-22-80	Amended	17:21 VA.R. 3113	9/1/01
18 VAC 50-22-100 through 18 VAC 50-22-270	Amended	17:21 VA.R. 3113-3115	9/1/01
18 VAC 50-30-10	Amended	17:26 VA.R. 3756	11/1/01
18 VAC 50-30-20	Amended	17:26 VA.R. 3756	11/1/01
18 VAC 50-30-40	Amended	17:26 VA.R. 3756	11/1/01
18 VAC 50-30-50	Amended	17:26 VA.R. 3756	11/1/01
18 VAC 50-30-90	Amended	17:26 VA.R. 3756	11/1/01
18 VAC 50-30-200	Amended	17:26 VA.R. 3756	11/1/01
18 VAC 60-10-10 through 18 VAC 60-10-40	Amended	17:24 VA.R. 3566	9/12/01
18 VAC 60-10-60	Amended	17:24 VA.R. 3566	9/12/01
18 VAC 60-10-70	Amended	17:24 VA.R. 3566	9/12/01
18 VAC 60-10-80	Amended	17:24 VA.R. 3566	9/12/01
18 VAC 60-10-100	Amended	17:24 VA.R. 3566	9/12/01
18 VAC 65-10-10	Amended	17:21 VA.R. 3116	8/1/01
18 VAC 65-10-20	Amended	17:21 VA.R. 3116	8/1/01
18 VAC 65-10-30	Amended	17:21 VA.R. 3116	8/1/01
18 VAC 65-10-40	Amended	17:21 VA.R. 3116	8/1/01
18 VAC 65-10-60	Amended	17:21 VA.R. 3116	8/1/01
18 VAC 65-10-70	Amended	17:21 VA.R. 3116	8/1/01
18 VAC 65-10-80	Amended	17:21 VA.R. 3116	8/1/01
18 VAC 65-10-100	Amended	17:21 VA.R. 3116	8/1/01
18 VAC 75-10-10	Amended	17:26 VA.R. 3756	10/10/01
18 VAC 75-10-20	Amended	17:26 VA.R. 3756	10/10/01
18 VAC 75-10-30	Amended	17:26 VA.R. 3756	10/10/01
18 VAC 75-10-40	Amended	17:26 VA.R. 3756	10/10/01
18 VAC 75-10-60	Amended	17:26 VA.R. 3756	10/10/01
18 VAC 75-10-70	Amended	17:26 VA.R. 3756	10/10/01
18 VAC 75-10-80	Amended	17:26 VA.R. 3756	10/10/01
18 VAC 75-10-100	Amended	17:26 VA.R. 3756	10/10/01
18 VAC 85-10-10	Amended	17:21 VA.R. 3116	8/1/01
18 VAC 85-10-20	Amended	17:21 VA.R. 3116	8/1/01
18 VAC 85-10-30	Amended	17:21 VA.R. 3116	8/1/01
18 VAC 85-10-40	Amended	17:21 VA.R. 3116	8/1/01
18 VAC 85-10-60	Amended	17:21 VA.R. 3116	8/1/01
18 VAC 85-10-70	Amended	17:21 VA.R. 3116	8/1/01
18 VAC 85-10-80	Amended	17:21 VA.R. 3116	8/1/01
18 VAC 85-10-100	Amended	17:21 VA.R. 3116	8/1/01
18 VAC 85-40-61	Added	17:13 VA.R. 2097	4/11/01
18 VAC 85-50-10	Amended	17:21 VA.R. 3116	8/1/01
18 VAC 85-50-58	Added	17:13 VA.R. 2098	4/11/01
18 VAC 85-50-101	Amended	17:21 VA.R. 3117	8/1/01
18 VAC 85-50-130	Amended	17:21 VA.R. 3117	8/1/01
18 VAC 85-50-140	Amended	17:21 VA.R. 3117	8/1/01
18 VAC 85-50-150	Amended	17:21 VA.R. 3117	8/1/01
18 VAC 85-80-10	Amended	17:17 VA.R. 2452	6/6/01
18 VAC 85-80-70	Amended	17:17 VA.R. 2452	6/6/01
18 VAC 85-80-71	Added	17:17 VA.R. 2452	6/6/01
18 VAC 85-80-72	Added	17:17 VA.R. 2452	6/6/01
18 VAC 85-80-80	Amended	17:17 VA.R. 2452	6/6/01
18 VAC 85-101-150	Amended	17:17 VA.R. 2452	6/6/01
18 VAC 85-101-151	Added	17:17 VA.R. 2452	6/6/01
18 VAC 85-101-152	Added	17:17 VA.R. 2452	6/6/01
18 VAC 85-110-150	Amended	17:17 VA.R. 2452	6/6/01
18 VAC 85-110-155	Added	17:17 VA.R. 2452	6/6/01
18 VAC 85-110-160	Amended	17:17 VA.R. 2452	6/6/01
18 VAC 85-120-10 et seq.	Added	17:17 VA.R. 2453	6/6/01

Cumulative Table of VAC Sections Adopted, Amended, or Repealed

SECTION NUMBER	ACTION	CITE	EFFECTIVE DATE
18 VAC 90-10-10	Amended	17:20 VA.R. 2921	7/18/01
18 VAC 90-10-20	Amended	17:20 VA.R. 2921	7/18/01
18 VAC 90-10-30	Amended	17:20 VA.R. 2921	7/18/01
18 VAC 90-10-40	Amended	17:20 VA.R. 2921	7/18/01
18 VAC 90-10-60	Amended	17:20 VA.R. 2921	7/18/01
18 VAC 90-10-70	Amended	17:20 VA.R. 2921	7/18/01
18 VAC 90-10-80	Amended	17:20 VA.R. 2921	7/18/01
18 VAC 90-10-100	Amended	17:20 VA.R. 2921	7/18/01
18 VAC 90-20-210	Amended	17:20 VA.R. 2921	7/18/01
18 VAC 90-30-50	Amended	17:13 VA.R. 2098	4/11/01
18 VAC 90-30-110	Amended	17:13 VA.R. 2098	4/11/01
18 VAC 90-40-60	Amended	17:13 VA.R. 2098	4/11/01
18 VAC 90-40-70	Amended	17:13 VA.R. 2098	4/11/01
18 VAC 95-10-10 through 18 VAC 95-10-40	Amended	17:24 VA.R. 3566	9/12/01
18 VAC 95-10-60	Amended	17:24 VA.R. 3566	9/12/01
18 VAC 95-10-70	Amended	17:24 VA.R. 3566	9/12/01
18 VAC 95-10-80	Amended	17:24 VA.R. 3566	9/12/01
18 VAC 95-10-100	Amended	17:24 VA.R. 3566	9/12/01
18 VAC 105-10-10 through 18 VAC 105-10-40	Amended	17:24 VA.R. 3566	9/12/01
18 VAC 105-10-60	Amended	17:24 VA.R. 3566	9/12/01
18 VAC 105-10-70	Amended	17:24 VA.R. 3566	9/12/01
18 VAC 105-10-80	Amended	17:24 VA.R. 3566	9/12/01
18 VAC 105-10-100	Amended	17:24 VA.R. 3566	9/12/01
18 VAC 105-20-60	Amended	17:17 VA.R. 2453	6/6/01
18 VAC 110-10-10	Amended	17:21 VA.R. 3118	8/1/01
18 VAC 110-10-20	Amended	17:21 VA.R. 3118	8/1/01
18 VAC 110-10-30	Amended	17:21 VA.R. 3118	8/1/01
18 VAC 110-10-40	Amended	17:21 VA.R. 3118	8/1/01
18 VAC 110-10-60	Amended	17:21 VA.R. 3118	8/1/01
18 VAC 110-10-70	Amended	17:21 VA.R. 3118	8/1/01
18 VAC 110-10-80	Amended	17:21 VA.R. 3118	8/1/01
18 VAC 110-10-100	Amended	17:21 VA.R. 3118	8/1/01
18 VAC 112-20-10	Amended	17:25 VA.R. 3657	9/12/01
18 VAC 112-20-90	Amended	17:25 VA.R. 3658	9/12/01
18 VAC 115-10-10	Amended	18:1 VA.R. 32	10/24/01
18 VAC 115-10-20	Amended	18:1 VA.R. 32	10/24/01
18 VAC 115-10-30	Amended	18:1 VA.R. 32	10/24/01
18 VAC 115-10-40	Amended	18:1 VA.R. 32	10/24/01
18 VAC 115-10-60	Amended	18:1 VA.R. 32	10/24/01
18 VAC 115-10-70	Amended	18:1 VA.R. 32	10/24/01
18 VAC 115-10-80	Amended	18:1 VA.R. 32	10/24/01
18 VAC 115-10-100	Amended	18:1 VA.R. 32	10/24/01
18 VAC 115-60-20	Amended	17:18 VA.R. 2651	6/20/01
18 VAC 115-60-40	Amended	17:18 VA.R. 2651	6/20/01
18 VAC 115-60-50	Amended	17:18 VA.R. 2651	6/20/01
18 VAC 115-60-120	Amended	17:18 VA.R. 2651	6/20/01
18 VAC 115-60-150	Amended	17:18 VA.R. 2651	6/20/01
18 VAC 125-20-10	Amended	17:12 VA.R. 2026	3/28/01
18 VAC 125-20-30	Amended	17:12 VA.R. 2027	3/28/01
18 VAC 125-20-30	Amended	17:18 VA.R. 2652	6/20/01
18 VAC 125-20-43	Added	17:12 VA.R. 2027	3/28/01
18 VAC 125-20-120	Amended	17:18 VA.R. 2652	6/20/01
18 VAC 125-20-121	Added	17:18 VA.R. 2653	6/20/01
18 VAC 125-20-122	Added	17:18 VA.R. 2653	6/20/01
18 VAC 125-20-123	Added	17:18 VA.R. 2653	6/20/01
18 VAC 125-20-130	Amended	17:18 VA.R. 2654	6/20/01

Cumulative Table of VAC Sections Adopted, Amended, or Repealed

SECTION NUMBER	ACTION	CITE	EFFECTIVE DATE
18 VAC 125-20-160	Amended	17:18 VA.R. 2654	6/20/01
18 VAC 140-10-10	Amended	17:21 VA.R. 3118	8/1/01
18 VAC 140-10-20	Amended	17:21 VA.R. 3118	8/1/01
18 VAC 140-10-30	Amended	17:21 VA.R. 3118	8/1/01
18 VAC 140-10-40	Amended	17:21 VA.R. 3118	8/1/01
18 VAC 140-10-60	Amended	17:21 VA.R. 3118	8/1/01
18 VAC 140-10-70	Amended	17:21 VA.R. 3118	8/1/01
18 VAC 140-10-80	Amended	17:21 VA.R. 3118	8/1/01
18 VAC 140-10-100	Amended	17:21 VA.R. 3118	8/1/01
18 VAC 140-20-100	Amended	17:14 VA.R. 2198	4/25/01
18 VAC 140-20-105	Added	17:14 VA.R. 2198	4/25/01
18 VAC 140-20-106	Added	17:14 VA.R. 2199	4/25/01
18 VAC 140-20-110	Amended	17:14 VA.R. 2199	4/25/01
18 VAC 140-20-160	Amended	17:14 VA.R. 2199	4/25/01
18 VAC 150-10-10 through 18 VAC 150-10-40	Amended	17:24 VA.R. 3567	9/12/01
18 VAC 150-10-60	Amended	17:24 VA.R. 3567	9/12/01
18 VAC 150-10-70	Amended	17:24 VA.R. 3567	9/12/01
18 VAC 150-10-80	Amended	17:24 VA.R. 3567	9/12/01
18 VAC 150-10-100	Amended	17:24 VA.R. 3567	9/12/01
Title 19. Public Safety			
19 VAC 30-40-30	Amended	17:15 VA.R. 2252	5/9/01
19 VAC 30-70-160	Amended	17:15 VA.R. 2252	5/9/01
19 VAC 30-70-530	Amended	17:15 VA.R. 2255	5/9/01
19 VAC 30-150-5	Added	17:15 VA.R. 2257	5/9/01
19 VAC 30-150-10	Amended	17:15 VA.R. 2257	5/9/01
19 VAC 30-150-20	Repealed	17:15 VA.R. 2257	5/9/01
19 VAC 30-150-30	Amended	17:15 VA.R. 2257	5/9/01
19 VAC 30-150-50	Amended	17:15 VA.R. 2257	5/9/01
19 VAC 30-160-5	Added	17:15 VA.R. 2257	5/9/01
19 VAC 30-160-20	Repealed	17:15 VA.R. 2257	5/9/01
19 VAC 30-160-30	Amended	17:15 VA.R. 2257	5/9/01
19 VAC 30-160-40	Amended	17:15 VA.R. 2257	5/9/01
19 VAC 30-160-45	Added	17:15 VA.R. 2257	5/9/01
19 VAC 30-165-10 et seq.	Amended	17:15 VA.R. 2258	5/9/01
Title 20. Public Utilities and Telecommunications			
20 VAC 5-309-10	Amended	17:18 VA.R. 2657	7/1/01
20 VAC 5-309-15	Added	17:18 VA.R. 2657	7/1/01
20 VAC 5-309-20	Amended	17:18 VA.R. 2657	7/1/01
20 VAC 5-309-30	Amended	17:18 VA.R. 2657	7/1/01
20 VAC 5-309-40	Amended	17:18 VA.R. 2657	7/1/01
20 VAC 5-309-50	Amended	17:18 VA.R. 2658	7/1/01
20 VAC 5-309-70	Amended	17:18 VA.R. 2658	7/1/01
20 VAC 5-309-90 through 20 VAC 5-309-180	Added	17:18 VA.R. 2658-2660	7/1/01
20 VAC 5-312-10 through 20 VAC 5-312-110	Added	17:22 VA.R. 3351-3364	8/1/01
20 VAC 5-325-10 through 20 VAC 5-325-110	Added	17:23 VA.R. 3464-3466	7/1/01
Title 21. Securities and Retail Franchising			
21 VAC 5-10 (Forms)	Amended	17:20 VA.R. 2925	7/1/01
21 VAC 5-20-10	Amended	17:20 VA.R. 2925	7/1/01
21 VAC 5-20-30	Amended	17:20 VA.R. 2925	7/1/01
21 VAC 5-20-40	Amended	17:20 VA.R. 2925	7/1/01
21 VAC 5-20-60 through 21 VAC 5-20-80	Amended	17:20 VA.R. 2925	7/1/01
21 VAC 5-20-85	Added	17:20 VA.R. 2925	7/1/01
21 VAC 5-20-90	Amended	17:20 VA.R. 2926	7/1/01
21 VAC 5-20-120	Amended	17:20 VA.R. 2926	7/1/01
21 VAC 5-20-130	Amended	17:20 VA.R. 2926	7/1/01
21 VAC 5-20-155	Added	17:20 VA.R. 2926	7/1/01

Cumulative Table of VAC Sections Adopted, Amended, or Repealed

SECTION NUMBER	ACTION	CITE	EFFECTIVE DATE
21 VAC 5-20-220	Amended	17:20 VA.R. 2926	7/1/01
21 VAC 5-20-240	Amended	17:20 VA.R. 2926	7/1/01
21 VAC 5-20-280	Amended	17:20 VA.R. 2926	7/1/01
21 VAC 5-20-290	Amended	17:20 VA.R. 2931	7/1/01
21 VAC 5-30-30	Repealed	17:20 VA.R. 2931	7/1/01
21 VAC 5-30-60	Repealed	17:20 VA.R. 2931	7/1/01
21 VAC 5-30-80	Amended	17:20 VA.R. 2931	7/1/01
21 VAC 5-30-90	Amended	17:20 VA.R. 2931	7/1/01
21 VAC 5-80-10	Amended	17:20 VA.R. 2931	7/1/01
21 VAC 5-80-30 through 21 VAC 5-80-70	Amended	17:20 VA.R. 2931	7/1/01
21 VAC 5-80-90 through 21 VAC 5-80-110	Amended	17:20 VA.R. 2931	7/1/01
21 VAC 5-80-160	Amended	17:20 VA.R. 2931	7/1/01
21 VAC 5-80-200	Amended	17:20 VA.R. 2931	7/1/01
21 VAC 5-80-210	Amended	17:20 VA.R. 2931	7/1/01
Title 22. Social Services			
22 VAC 20-30-10 through 22 VAC 20-30-60	Amended	17:23 VA.R. 3466-3468	****
22 VAC 20-30-70	Repealed	17:23 VA.R. 3468	****
22 VAC 20-30-80 through 22 VAC 20-30-140	Amended	17:23 VA.R. 3468-3469	****
22 VAC 20-30-150	Added	17:23 VA.R. 3469	****
22 VAC 40-71-10 emer	Amended	17:24 VA.R. 3568	10/9/01-10/8/02
22 VAC 40-71-20 emer	Amended	17:24 VA.R. 3571	10/9/01-10/8/02
22 VAC 40-71-30 emer	Amended	17:24 VA.R. 3572	10/9/01-10/8/02
22 VAC 40-71-50 emer	Amended	17:24 VA.R. 3572	10/9/01-10/8/02
22 VAC 40-71-60 emer	Amended	17:24 VA.R. 3572	10/9/01-10/8/02
22 VAC 40-71-80 emer	Amended	17:24 VA.R. 3573	10/9/01-10/8/02
22 VAC 40-71-90 emer	Amended	17:24 VA.R. 3573	10/9/01-10/8/02
22 VAC 40-71-110 emer	Amended	17:24 VA.R. 3573	10/9/01-10/8/02
22 VAC 40-71-130 emer	Amended	17:24 VA.R. 3574	10/9/01-10/8/02
22 VAC 40-71-150 through 22 VAC 40-71-180 emer	Amended	17:24 VA.R. 3574-3579	10/9/01-10/8/02
22 VAC 40-71-210 emer	Amended	17:24 VA.R. 3579	10/9/01-10/8/02
22 VAC 40-71-270 emer	Amended	17:24 VA.R. 3579	10/9/01-10/8/02
22 VAC 40-71-275 emer	Added	17:24 VA.R. 3580	10/9/01-10/8/02
22 VAC 40-71-280 emer	Amended	17:24 VA.R. 3580	10/9/01-10/8/02
22 VAC 40-71-290 emer	Amended	17:24 VA.R. 3580	10/9/01-10/8/02
22 VAC 40-71-310 emer	Amended	17:24 VA.R. 3580	10/9/01-10/8/02
22 VAC 40-71-330 emer	Amended	17:24 VA.R. 3580	10/9/01-10/8/02
22 VAC 40-71-360 emer	Amended	17:24 VA.R. 3580	10/9/01-10/8/02
22 VAC 40-71-410 emer	Amended	17:24 VA.R. 3580	10/9/01-10/8/02
22 VAC 40-71-440 emer	Amended	17:24 VA.R. 3580	10/9/01-10/8/02
22 VAC 40-71-450 emer	Amended	17:24 VA.R. 3580	10/9/01-10/8/02
22 VAC 40-71-460 emer	Amended	17:24 VA.R. 3581	10/9/01-10/8/02
22 VAC 40-71-480 emer	Amended	17:24 VA.R. 3581	10/9/01-10/8/02
22 VAC 40-71-490 emer	Amended	17:24 VA.R. 3581	10/9/01-10/8/02
22 VAC 40-71-530 through 22 VAC 40-71-600 emer	Amended	17:24 VA.R. 3582-3584	10/9/01-10/8/02
22 VAC 40-71-630 through 22 VAC 40-71-700 emer	Amended	17:24 VA.R. 3584-3589	10/9/01-10/8/02
22 VAC 40-130-10 et seq.	Withdrawn	17:17 VA.R. 2456	--
22 VAC 40-230-10 et seq.	Repealed	17:18 VA.R. 2660	6/20/01
22 VAC 40-480-10 et seq.	Repealed	17:18 VA.R. 2661	6/20/01
22 VAC 40-690-10	Amended	17:18 VA.R. 2661	9/1/01
22 VAC 40-690-15	Added	17:18 VA.R. 2662	9/1/01
22 VAC 40-690-20	Amended	17:18 VA.R. 2662	9/1/01
22 VAC 40-690-30	Amended	17:18 VA.R. 2662	9/1/01
22 VAC 40-690-35	Added	17:18 VA.R. 2663	9/1/01

**** Effective date suspended in 18:1 VA.R. 32.

Cumulative Table of VAC Sections Adopted, Amended, or Repealed

SECTION NUMBER	ACTION	CITE	EFFECTIVE DATE
22 VAC 40-690-40	Amended	17:18 VA.R. 2663	9/1/01
22 VAC 40-690-50	Repealed	17:18 VA.R. 2664	9/1/01
22 VAC 40-690-55	Added	17:18 VA.R. 2664	9/1/01
22 VAC 40-690-55	Erratum	17:21 VA.R. 3124	--
22 VAC 40-690-60	Amended	17:18 VA.R. 2664	9/1/01
22 VAC 40-690-65	Added	17:18 VA.R. 2664	9/1/01
22 VAC 40-690-70	Repealed	17:18 VA.R. 2664	9/1/01
22 VAC 40-730-10 emer	Amended	17:13 VA.R. 2103	4/1/01-3/31/02
22 VAC 40-730-10	Erratum	17:25 VA.R. 3679	--
22 VAC 40-730-40 through 22 VAC 40-730-100 emer	Amended	17:13 VA.R. 2103-2104	4/1/01-3/31/02
22 VAC 40-900-10 et seq.	Repealed	17:18 VA.R. 2671	6/20/01
22 VAC 40-901-10 through 22 VAC 40-901-30	Added	17:18 VA.R. 2671	6/20/01
Title 24. Transportation and Motor Vehicles			
24 VAC 30-61-20	Amended	17:17 VA.R. 2456	6/6/01
24 VAC 30-61-40	Amended	17:17 VA.R. 2456	6/6/01
24 VAC 30-240-10	Amended	17:18 VA.R. 2671	5/1/01
24 VAC 30-260-10 et seq.	Repealed	17:25 VA.R. 3658	7/26/01
24 VAC 30-280-10	Amended	17:13 VA.R. 2099	2/15/01
24 VAC 30-280-20 through 24 VAC 30-280-70	Added	17:13 VA.R. 2099-2102	2/15/01
24 VAC 30-370-10 et seq.	Repealed	17:24 VA.R. 3567	9/12/01
24 VAC 30-440-10 et seq.	Repealed	17:14 VA.R. 2200	3/6/01
24 VAC 30-450-10 et seq.	Amended	17:14 VA.R. 2200	3/6/01
24 VAC 30-460-10	Repealed	17:14 VA.R. 2201	3/6/01
24 VAC 30-520-10	Amended	17:25 VA.R. 3658	7/26/01
24 VAC 30-520-20	Amended	17:25 VA.R. 3658	7/26/01
24 VAC 30-540-10	Added	17:23 VA.R. 3472	6/29/01
24 VAC 30-540-20	Added	17:23 VA.R. 3472	6/29/01
24 VAC 30-540-30	Added	17:23 VA.R. 3472	6/29/01
24 VAC 30-540-40	Added	17:23 VA.R. 3472	6/29/01
24 VAC 30-561-10	Amended	17:18 VA.R. 2672	5/2/01

NOTICES OF INTENDED REGULATORY ACTION

Symbol Key

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

TITLE 6. CRIMINAL JUSTICE AND CORRECTIONS

CRIMINAL JUSTICE SERVICES BOARD

Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 2.2-4007 of the Code of Virginia that the Criminal Justice Services Board intends to consider amending regulations entitled: **6 VAC 20-20-10 et seq. Rules Relating to Compulsory Minimum Training Standards for Law-Enforcement Officers.** The purpose of the proposed action is to amend the regulation to include physical training standards (Category 9) as part of entry-level training for law-enforcement officers. The agency intends to hold a public hearing on the proposed regulation after publication.

Statutory Authority: § 9.1-102 of the Code of Virginia.

Public comments may be submitted until October 26, 2001.

Contact: Judith Kirkendall, Job Task Analysis Administrator, Department of Criminal Justice Services, 805 E. Broad St., Richmond, VA 23219, telephone (804) 786-8003 or FAX (804) 786-0410.

VA.R. Doc. No. R02-1; Filed August 27, 2001, 12:05 p.m.

Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 2.2-4007 of the Code of Virginia that the Criminal Justice Services Board intends to consider amending regulations entitled: **6 VAC 20-30-10 et seq. Rules Relating to Compulsory In-Service Training Standards for Law-Enforcement Officers.** This regulation sets forth minimum training standards for continuing education and training of personnel in the positions noted in the title. In 1998, the Joint Legislative Audit and Review Committee (JLARC) conducted a study that resulted in several recommendations for improvement of in-service training standards. The areas affected are legal training, job-related training, and career development training. Current standards are being amended to reflect these recommendations. The agency intends to hold a public hearing on the proposed regulation after publication.

Statutory Authority: § 9.1-102 of the Code of Virginia.

Public comments may be submitted until October 26, 2001.

Contact: Judith Kirkendall, Job Task Analysis Administrator, Department of Criminal Justice Services, 805 E. Broad St., Richmond, VA 23219, telephone (804) 786-8003 or FAX (804) 786-0410.

VA.R. Doc. No. R02-2; Filed August 27, 2001, 12:05 p.m.

STATE BOARD OF JUVENILE JUSTICE

Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 2.2-4007 of the Code of Virginia that the State Board of Juvenile Justice intends to consider amending regulations entitled: **6 VAC 35-60-10 et seq. Minimum Standards for Virginia Delinquency Prevention and Youth Development Act Grant Programs.** The purpose of the proposed action is to emphasize the coordinating role of Offices on Youth in youth development and delinquency prevention programs. Following changes to the Delinquency Prevention and Youth Development Act (§ 66-26 et seq. of the Code of Virginia), the amendment emphasizes the Office on Youth's responsibility in planning for and evaluation of community youth development and delinquency prevention programs. Although delivery of direct services by offices on youth is de-emphasized, the amendments place additional quality control requirements on those programs that are directly delivered by offices on youth. Those requirements closely follow minimum standards already in effect for other nonresidential programs regulated by the Board of Juvenile Justice. The agency does not intend to hold a public hearing on the proposed regulation after publication.

Statutory Authority: §§ 66-10, 66-27 and 66-28 of the Code of Virginia.

Public comments may be submitted until October 10, 2001.

Contact: Donald Carignan, Regulatory Coordinator, Department of Juvenile Justice, 700 Centre, 700 E. Franklin St., 4th Floor, Richmond, VA 23219, telephone (804) 371-0743 or FAX (804) 371-0773.

VA.R. Doc. No. R01-270; Filed August 20, 2001, 11:56 a.m.

Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 2.2-4007 of the Code of Virginia that the State Board of Juvenile Justice intends to consider amending regulations entitled: **6 VAC 35-150-10 et seq. Standards for Nonresidential Services Available to Juvenile and Domestic Relations District Courts.** As a result of the periodic review of this regulation mandated by Executive Order 25 (98), the department has determined that the regulation should be amended to ensure that court services are as uniform as practicable throughout the Commonwealth. The purpose of the proposed action is to tighten a wide range of procedural practices by court services units, with the goal of ensuring uniform statewide services that meet minimum established services levels. The department has introduced a statewide manual of standard operating procedures for court services units, and the amendments formalize many of the procedural instructions included in that manual. In addition, certain existing standards will be made more flexible to allow court services units to take into account the circumstances of a particular case based, for

Notices of Intended Regulatory Action

example, on a juvenile's risk of re-offending, and taking into account the length of time a committed juvenile will serve in a juvenile correctional setting before returning to the community on parole. The agency intends to hold a public hearing on the proposed regulation after publication.

Statutory Authority: §§ 16.1-233, 16.1-309.9 and 66-10 of the Code of Virginia.

Public comments may be submitted until October 10, 2001.

Contact: Donald Carignan, Regulatory Coordinator, Department of Juvenile Justice, 700 Centre, 700 E. Franklin St., 4th Floor, Richmond, VA 23219, telephone (804) 371-0743 or FAX (804) 371-0773.

VA.R. Doc. No. R01-271; Filed August 20, 2001, 11:56 a.m.

TITLE 9. ENVIRONMENT

STATE WATER CONTROL BOARD

Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 2.2-4007 of the Code of Virginia that the State Water Control Board intends to consider amending regulations entitled: **9 VAC 25-195-10 et seq. General Virginia Pollutant Discharge Elimination System (VPDES) Permit for Concentrated Aquatic Animal Production Facilities.** The purpose of the proposed action is to reissue the existing general permit which expires on March 5, 2003. The general permit will establish limitations and monitoring requirements for point source discharges from fish farms or other aquatic animal production facilities. (More detailed information on this regulatory action may be found in 17:26 VA.R. 3721-3722 September 10, 2001.)

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

Public comment may be submitted until October 12, 2001.

Contact: Michael Gregory, Department of Environmental Quality, P.O. Box 10009, Richmond, VA 23240, telephone (804) 698-4065 or FAX (804) 698-4032.

VA.R. Doc. No. R01-272; Filed August 21, 2001, 4:39 p.m.

Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 2.2-4007 of the Code of Virginia that the State Water Control Board intends to consider amending regulations entitled: **9 VAC 25-196-10 et seq. General Virginia Pollutant Discharge Elimination System (VPDES) Permit for Cooling Water Discharges.** The purpose of the proposed action is to reissue the existing general permit which expires on March 1, 2003. The general permit will establish limitations and monitoring requirements for point source discharges of noncontact cooling water. (More detailed information on this regulatory action may be found in 17:26 VA.R. 3722-3723 September 10, 2001.)

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

Public comment may be submitted until October 12, 2001.

Contact: Richard W. Ayers, Department of Environmental Quality, P.O. Box 10009, Richmond, VA 23240, telephone (804) 698-4075 or FAX (804) 698-4032.

VA.R. Doc. No. R01-273; Filed August 21, 2001, 4:39 p.m.

TITLE 12. HEALTH

STATE BOARD OF HEALTH

Notice of Intended Regulatory Action

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

12 VAC 5-230-10 et seq. State Medical Facilities Plan.
12 VAC 5-240-10 et seq. General Acute Care Services.
12 VAC 5-250-10 et seq. Perinatal Services.
12 VAC 5-260-10 et seq. Cardiac Services.
12 VAC 5-270-10 et seq. General Surgical Services.
12 VAC 5-280-10 et seq. Organ Transplantation Services.
12 VAC 5-290-10 et seq. Psychiatric and Substance Abuse Treatment Services.
12 VAC 5-300-10 et seq. Mental Retardation Services.
12 VAC 5-310-30 et seq. Medical Rehabilitation Services.
12 VAC 5-320-10 et seq. Diagnostic Imaging Services.
12 VAC 5-340-10 et seq. Radiation Therapy Services.
12 VAC 5-360-10 et seq. Nursing Home Services.

The purpose of the proposed action is to amend the Certificate of Public Need (COPN) Rules and Regulations (12 VAC 5-220-10 et seq.) and the State Medical Facilities Plan (12 VAC 5-230 through 12 VAC 5-320, 12 VAC 5-340 and 12 VAC 5-360) in order to make the regulations comport with the Code of Virginia with respect to the timing of COPN requests and review and consideration of projects in rural areas or with institutional-specific effect. Due to a clerical oversight, a Notice of Intended Regulatory Action published in 17:1 VA.R. September 25, 2000 of the Virginia Register announced the intent to amend the COPN regulations but failed to denote affirmatively the intent to amend the State Medical Facilities Plan (SMFP), despite the necessity of amending the SMFP in order to accomplish the stated purpose. Both aspects of the intended action are necessary to accomplish the task of satisfying the law. The agency does not intend to hold a public hearing on the proposed regulations after publication.

Statutory Authority: § 32.1-102.2 of the Code of Virginia.

Public comments may be submitted until October 24, 2001.

Contact: Douglas R. Harris, Adjudication Officer, Department of Health, 1500 E. Main St., Richmond, VA 23219, telephone (804) 786-3554 or FAX (804) 786-6776.

VA.R. Doc. No. R01-1; Filed August 31, 2001, 2:59 p.m.

Notices of Intended Regulatory Action

TITLE 18. PROFESSIONAL AND OCCUPATIONAL LICENSING

BOARD FOR ARCHITECTS, PROFESSIONAL ENGINEERS, LAND SURVEYORS, CERTIFIED INTERIOR DESIGNERS AND LANDSCAPE ARCHITECTS

† Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 2.2-4007 of the Code of Virginia that the Board for Architects, Professional Engineers, Land Surveyors, Certified Interior Designers and Landscape Architects intends to consider amending regulations entitled: **18 VAC 10-10-10 et seq. Public Participation Guidelines.** The purpose of the proposed action is to amend the regulations to allow the board to accept requests to be placed on a notification list, and to notify list members via electronic means. Amendments will make necessary grammatical changes. Other changes that may be necessary will be considered. The agency intends to hold a public hearing on the proposed regulation after publication.

Statutory Authority: §§ 2.2-4007 and 54.1-404 of the Code of Virginia.

Public comments may be submitted until November 8, 2001.

Contact: Mark N. Courtney, Assistant Director, Department of Professional and Occupational Regulation, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-8514, FAX (804) 367-2475 or (804) 367-9753/TTY ☎

VA.R. Doc. No. R02-6; Filed September 19, 2001, 9:23 a.m.

BOARD OF MEDICINE

† Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 2.2-4007 of the Code of Virginia that the Board of Medicine intends to consider amending regulations entitled: **18 VAC 85-101-10 et seq. Regulations Governing the Practice of Radiologic Technology.** The purpose of the proposed action is to amend the regulation to accept another credential or professional certification specifically for a radiologic technologist-limited license for bone densitometry. 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 November 7, 2001, to Elaine J. Yeatts, Department of Health Professions, 6606 West Broad Street, 4th Floor, Richmond, VA 23230-1717.

Contact: William L. Harp, M.D., Executive Director, Board of Medicine, 6606 W. Broad St., 4th Floor, Richmond, VA 23230-1717, telephone (804) 662-9909 or FAX (804) 662-9943.

VA.R. Doc. No. R02-10; Filed September 18, 2001, 8:39 a.m.

BOARD OF NURSING HOME ADMINISTRATORS

† Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 2.2-4007 of the Code of Virginia that the Board of Nursing Home Administrators intends to consider amending regulations entitled: **18 VAC 95-20-10 et seq. Regulations Governing the Practice of Nursing Home Administrators.** The purpose of the proposed action is to amend the regulation for clarification and for adaptability to computerized testing. The board will consider amendments to enable a trainee to work in a practicum or administrator-in-training program outside of Virginia in a licensed nursing care facility under the supervision of a nursing home administrator licensed in that jurisdiction. 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 November 7, 2001.

Contact: Sandra Reen, Executive Director, Board of Nursing Home Administrators, 6606 W. Broad St., 4th Floor, Richmond, VA 23230-1717, telephone (804) 662-7457 or FAX (804) 662-9943.

VA.R. Doc. No. R02-8; Filed September 18, 2001, 8:39 a.m.

BOARD OF PHARMACY

† Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 2.2-4007 of the Code of Virginia that the Board of Pharmacy intends to consider amending regulations entitled: **18 VAC 110-20-10 et seq. Regulations Governing the Practice of Pharmacy.** The purpose of the proposed action is to establish the criteria of training and examination necessary for registration and the requirements for evidence of continued competency as a condition of renewal as required by § 54.1-3321 of the Code of Virginia. Pursuant to § 54.1-2400 of the Code of Virginia, the board will establish fees to support the regulatory and disciplinary activities related to registration of pharmacy technicians and any other qualifications necessary to ensure competency and integrity. The agency intends to hold a public hearing on the proposed regulation after publication.

Statutory Authority: §§ 54.1-2400 and 54.1-3321 of the Code of Virginia.

Public comments may be submitted until November 7, 2001.

Contact: Elizabeth Scott Russell, Executive Director, Board of Pharmacy, 6606 W. Broad St., 4th Floor, Richmond, VA 23230-1717, telephone (804) 662-9938 or FAX (804) 662-9943.

VA.R. Doc. No. R02-7; Filed September 18, 2001, 8:39 a.m.

BOARD OF COUNSELING

Extension of Public Comment Period

Notice is hereby given that the Board of Counseling is extending the public comment period for regulations entitled: **18 VAC 115-60-10 et seq. Regulations Governing the Licensure of Substance Abuse Treatment Professionals**, which were published in 17:4 VA.R. November 6, 2000. The purpose of the proposed action is to comply with a legislative mandate to develop a provision for licensure of individuals who meet requirements that are "substantially equivalent" to those in regulation. The board is considering three time-limited options for individuals with various combinations of substance abuse education and experience. The agency intends to hold a public hearing on the proposed regulation after publication.

Statutory Authority: § 54.1-2400 and Chapter 35 (§ 54.1-3500 et seq.) of Title 54.1 of the Code of Virginia.

Public comments may be submitted until October 24, 2001, to Ben Foster, Department of Health Professions, 6606 West Broad Street, 4th Floor, Richmond, VA 23230-1717.

Contact: Evelyn B. Brown, Executive Director, Board of Counseling, 6606 W. Broad St., 4th Floor, Richmond, VA 23230-1717, telephone (804) 662-9912 or FAX (804) 662-9943.

VA.R. Doc. No. R01-34; Filed August 27, 2001, 12:07 p.m.

REAL ESTATE BOARD

† Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 2.2-4007 of the Code of Virginia that the Real Estate Board intends to consider promulgating regulations entitled: **18 VAC 135-60-10 et seq. Common Interest Community Management Information Fund**. The purpose of the proposed action is to promulgate regulations for the administration of Chapter 29 (§ 55-528 et seq.) of Title 55 of the Code of Virginia, which creates the Common Interest Community Management Information Fund and provides for the collection of moneys from common interest communities to supply the fund. The agency intends to hold a public hearing on the proposed regulation after publication.

Statutory Authority: § 55-530 of the Code of Virginia,

Public comments may be submitted until November 7, 2001.

Contact: Eric Olson, Regulatory Boards Administrator, Department of Professional and Occupational Regulation, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-8548, FAX (804) 367-2475 or (804) 367-9753/TTY ☎

VA.R. Doc. No. R02-9; Filed September 14, 2001, 1:25 p.m.



TITLE 22. SOCIAL SERVICES

STATE BOARD OF SOCIAL SERVICES

† Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 2.2-4007 of the Code of Virginia that the State Board of Social Services intends to consider amending regulations entitled: **22 VAC 40-680-10 et seq. Virginia Energy Assistance Program**. The purpose of this action is to (i) provide the program with flexibility to respond to federal funding fluctuations by adjusting the maximum income limit, not to exceed the maximum allowed by federal law; and (ii) assist households with summer energy needs by establishing an optional cooling assistance component in the Virginia Energy Assistance Program. A cooling component will serve the needs of those households with high-energy bills and those in need of cooling equipment to alleviate extreme temperatures inside homes of young children and the elderly. The agency does not intend to hold a public hearing on the proposed regulation after publication.

Statutory Authority: § 63.1-25 of the Code of Virginia.

Public comments may be submitted until November 7, 2001.

Contact: Charlene H. Chapman, Human Services Program Manager, Department of Social Services, 730 E. Broad St., Richmond, VA 23219, telephone (804) 692-1751 or FAX (804) 225-2196.

VA.R. Doc. No. R02-3; Filed September 6, 2001, 7:38 a.m.



PROPOSED REGULATIONS

For information concerning Proposed Regulations, see Information Page.

Symbol Key

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

TITLE 8. EDUCATION

STATE BOARD OF EDUCATION

Title of Regulation: **8 VAC 20-21-10 et seq. Licensure Regulations for School Personnel (amending 8 VAC 20-21-10, 8 VAC 20-21-40, 8 VAC 20-21-50, 8 VAC 20-21-90, 8 VAC 20-21-100, 8 VAC 20-21-120, 8 VAC 20-21-170, 8 VAC 20-21-590, 8 VAC 20-21-660, 8 VAC 20-21-680).**

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

Public Hearing Date: October 22, 2001 - 10:30 a.m.

Public comments may be submitted until December 7, 2001.

(See Calendar of Events section for additional information)

Agency Contact: Dr. Thomas Elliott, Assistant Superintendent, Division of Teacher Education and Licensure, Department of Education, P.O. Box 2120, Richmond, VA 23218-2120, telephone (804) 371-2522 or FAX (804) 7225-2524.

Basis: Article VIII, Section 4 of the Constitution of Virginia provides the Board of Education with the authority and responsibility for the "general supervision of the public school system."

Section 22.1-298 of the Code of Virginia provides that the Board of Education shall, by regulation, prescribe the requirements for the licensure of teachers.

Section 22.1-299 of the Code of Virginia provides that no teacher shall be regularly employed by a school board or paid from public funds unless such teacher holds a license issued by the Board of Education.

Section 22.1-305.2 of the Code of Virginia provides that the Advisory Board on Teacher Education and Licensure shall advise the Board of Education and submit recommendations on policies applicable to teacher education and licensure.

Purpose: The Code of Virginia requires that the Board of Education prescribe the requirements for licensure of teachers by regulation. In 1998, the Board of Education adopted new Licensure Regulations for School Personnel aligned with the Standards of Learning. Since the adoption of these regulations, several revisions have been proposed, including amendments and reenactments to the Code of Virginia that require specific changes to the licensure regulations.

The primary purpose for licensing teachers and other school personnel is to maintain a level of statewide, consistent standards for entry and maintenance of professional competence in K-12 education. The regulations also address requirements for the revocation, cancellation, suspension,

and reinstatement of licenses for the purpose of protecting children.

Substance: Amendments are proposed in the following areas:

1. Add a new license, the local eligibility license, and a definition of the license as established in the Code of Virginia;
2. Add under conditions for licensure a statement requiring that individuals seeking licensure who graduate from Virginia institutions of higher education only be licensed if the endorsement areas offered at such institutions have been assessed by a national accrediting agency or by a state approval process, with final accreditation by the Board of Education (required by the Code of Virginia)
3. Add a statement to recognize national certification from the National Board for Professional Teaching Standards for comparable endorsements on a license (required by the Code of Virginia).
4. Add requirements for license renewal and initial licensure (demonstration of proficiency in educational technology and training to promote academic progress and preparation for the Standards of Learning);
5. Add a fourth option to the division superintendent license; and
6. Add a statement that acts related to secure mandatory tests, as specified in the Code of Virginia, may be reasons for revocation or suspension of a teaching license.

Issues: Most of the revisions are to align the Licensure Regulations for School Personnel with statutory revisions. The addition of the fourth option to the requirements for the division superintendent license will provide school boards an option of employing individuals who have demonstrated leadership skills but who may not have acquired requirements set forth in options one through three.

The primary advantage of the licensure regulations is to maintain standards of professional competence of the instructional work force in Virginia educating the children. The regulations must be amended to ensure that the Board of Education regulations are aligned with the requirements of the Virginia General Assembly. Aligning the requirements to ensure consistency of requirements is an advantage for the agency and the Commonwealth. There are no known disadvantages to establishing the amendments to the Licensure Regulations for School Personnel.

Department of Planning and Budget's Economic Impact Analysis: The Department of Planning and Budget (DPB) has analyzed the economic impact of this proposed regulation in accordance with § 2.2-4007 G of the Administrative Process Act and Executive Order Number 25 (98). Section 2.2-4007 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, the projected costs to affected businesses or entities to implement or comply with the regulation, and the impact on the use and value of private property. The analysis presented below represents DPB's best estimate of these economic impacts.

Summary of the proposed regulation. Pursuant to changes in the Code of Virginia (§§ 22.1-292.1, 22.1-298, 22.1-299, 22.1-299.3, and 22.1-303), the Board of Education (board) proposes to make several amendments to these regulations, including adding the Local Eligibility License. All of these provisions are already in effect pursuant to the Code of Virginia. In addition, the board proposes to add a fourth qualification option for the division superintendent license.

Estimated economic impact.

Local Eligibility License. The Local Eligibility License, which is specifically established in the Code of Virginia, is similar to the Provisional License. A person can obtain either a Provisional License or a Local Eligibility License to teach if he possesses a bachelor's degree, has completed the subject-specific coursework necessary for endorsement in a content area, and gains employment with a Virginia school division. The Provisional License is granted by the Department of Education (department) upon demonstration that these conditions have been met. A local school board issues the Local Eligibility License. Both licenses last three years and are nonrenewable. In order for a teacher with either a Provisional License or Local Eligibility License to obtain a renewable Collegiate Professional License, the individual must obtain state-specified passing scores on the PRAXIS I and II examinations and complete a specified number of professional studies credits. PRAXIS I (basic skills: reading, writing, and mathematics) and PRAXIS II (subject area) are national standardized qualifying exams for teachers.

Pursuant to the Code of Virginia amendments, the Local Eligibility License has been available since July 1, 2000. In practice, the introduction of the Local Eligibility License has enabled individuals to become working licensed teachers for six years without passing the PRAXIS exams, which test both basic skills and knowledge specifically related to their teaching area, and without completing the professional studies credits required for a Collegiate Professional License. Prior to the introduction of the Local Eligibility License, individuals could only teach for three years without these qualifications. According to a report presented to the board by the department,¹ of the 234 Local Eligibility Licenses issued for the 2000-2001 school year, 153 were issued to individuals who had previously held a three-year Provisional License. Thus, the majority of individuals who have obtained the Local Eligibility License appear to have obtained it because they failed to pass the Praxis exams or failed to complete the professional studies credits within the three years they held a Provisional License.

The impact on the quality of teaching of having obtained all the required professional studies credits required for a Collegiate Professional License is not clear. The 1996 National Commission on Teaching and America's Future report, "What Matters Most: Teaching for America's Future," emphasizes the importance of pedagogy training. However, research exists that indicates that students with teachers who have not had the additional hours of professional studies perform no worse than students who have traditionally certified teachers.² Since PRAXIS scores are not generally available in data sets for research, there are no known studies associating the performance of students with the PRAXIS scores of their teachers. But it seems likely that students would be better off with teachers who had knowledge at or beyond a minimum standard. Plus, there is research that shows that students with teachers who are certified to teach in their subject area have a statistically positive impact on student test scores relative to teachers not certified in their subject area.³ Thus, it may be preferable to limit individuals to three years of teaching without passing the qualifying (PRAXIS) examinations, rather than six years.

Division Superintendent Licensure. Currently, an individual can obtain a division superintendent license by meeting the requirements of at least one of three options. The requirements of option one include an earned doctorate degree in educational administration or educational leadership, and five years of educational experience in a public or accredited nonpublic school. The educational experience must include at least two years of teaching experience at the preK-12 level and at least two years of administration/supervision at the preK-12 level.

The requirements of option two include an earned master's degree plus 30 hours beyond the master degree, five years of educational experience in a public or accredited nonpublic school, and completion of the requirements for administration and supervision preK-12 endorsement. Similar to option one, the educational experience must include at least two years of teaching experience at the preK-12 level and at least two years of administration/supervision at the preK-12 level. The requirements for the administration and supervision preK-12 endorsement include demonstrated knowledge and understanding of: 1) student growth and development, 2) systems and organizations, 3) theories, models, and principles of organizational development, 4) values and ethics of leadership, 5) the purpose of education and its role in modern society, and 6) principles of representative governance that undergird the system of American schools. Each of the six areas listed above include several subcategories.

The requirements of option three include an earned master's degree, five years of educational experience in a public or accredited nonpublic school, and a current and valid out-of-state license with an endorsement as a division/district superintendent. Similar to options one and two, the educational experience must include at least two years of

¹ "A Report on the Use of the Local Eligibility License for 2000-01 School Year," presented to the Virginia Board of Education by the Virginia Department of Education on November 30, 2000.

² For example, see Barnes, Salmon, and Wale (1989), Goebel, Romacher, and Sanchez (1989), and Miller, McKenna, and McKenna (1996).

³ For example, see Goldhaber and Brewer (2000).

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teaching experience at the preK-12 level and at least two years of administration/supervision at the preK-12 level.

The board proposes to introduce a fourth option for obtaining a division superintendent license. The requirements under option four include a master's degree, "a senior leadership position such as Chief Executive Officer or senior military officer," and a recommendation from a school board interested in employing the individual as superintendent. With the introduction of option four, the pool of potential candidates that local school divisions can consider for their superintendent positions widens considerably. The role of superintendent, particularly at larger school divisions, consists primarily of overall leadership and management. Individuals such as highly successful managers in the private sector likely possess skills that could serve well in the capacity of superintendent. By expanding the pool of potential candidates, school divisions would be permitted to hire individuals who may have substantially superior management ability and experience than would otherwise be available without option four. If local school boards determine that their needs for a superintendent require elements of or all of the education and experience requirements contained within options one, two, or three, the school boards will remain free to only consider candidates with those attributes.

Businesses and entities affected. The proposed changes to the regulation will affect the 132 school divisions, as well as individuals considering obtaining a superintendent license.

Localities particularly affected. The proposed changes to the regulation affect localities throughout the Commonwealth.

Projected impact on employment. The proposed additional option for superintendent licensure will likely have some impact upon whom is hired as superintendent for some school divisions but will not affect the number of such positions.

Effects on the use and value of private property. The proposed changes to the regulation will not likely significantly affect the use and value of private property.

References:

Barnes, Susan, James Salmon, and William Wale (1989), "Alternative Teacher Certification in Texas," Presented at the annual meeting of the American Educational Research Association, March. ERIC Document No. 307316.

Goebel, Stephen D., Karl Romacher, and Kathryn S. Sanchez (1989), *An Evaluation of HISD's Alternative Certification Program of the Academic Year: 1988-1989*. Houston: Houston Independent School District Department of Research and Evaluation. ERIC Document No. 322103.

Goldhaber, Dan D. and Dominic J. Brewer (2000), "Does Teacher Certification Matter? High School Teacher Certification Status and Student Achievement," *Educational Evaluation and Policy Analysis*, 22(2): 129-145.

Miller, John W., Michael C. McKenna, and Beverly A. McKenna (1996), "A Comparison of Alternately and Traditionally Prepared Teachers," *Journal of Teacher Education*, 49(3): 165-176.

National Commission on Teaching and America's Future

(1996), *What Matters Most: Teaching for America's Future*. New York: Author.

"A Report on the Use of the Local Eligibility License for 2000-01 School Year," presented to the Virginia Board of Education by the Virginia Department of Education on November 30, 2000.

Agency's Response to the Department of Planning and Budget's Economic Impact Analysis: The agency has reviewed the economic impact analysis issued by the Department of Planning and Budget. The agency will continue its review during the public comment period.

Summary:

The proposed amendments conform the regulations to statute by (i) providing for a three-year, nonrenewable Local Eligibility License; (ii) requiring that individuals seeking licensure who graduate from Virginia institutions of higher education only be licensed if the endorsement areas offered at such institutions have been assessed by a national accrediting agency or by a state approval process, with final accreditation by the Board of Education; (iii) recognizing national certification from the National Board for Professional Teaching Standards or a nationally recognized certification program approved by the Board of Education for comparable endorsements on a license; and (iv) providing that acts related to secure mandatory tests as specified in the Code of Virginia may be reasons for revocation or suspension of a teaching license.

In addition, the proposed amendments expand provisions for license renewal and initial licensure by requiring demonstration of proficiency in educational technology and training to promote academic progress and preparation for the Standards of Learning and modifying certain professional studies requirements regarding identification of gifted students, improved school/family communication and increased family involvement. The proposed regulations also add a fourth option for obtaining a division superintendent license.

8 VAC 20-21-10. Definitions.

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

"Accredited institution" means an institution of higher education accredited by a regional accrediting agency recognized by the United States Department of Education.

"Alternative route to licensure" means one route to licensure available to individuals employed by a Virginia educational agency who meet the guidelines specified in 8 VAC 20-21-80.

"Approved program" means a professional education program recognized as meeting state standards for the content and operation of such programs so graduates of the program will be eligible for state licensure. The Board of Education has the authority to approve programs in Virginia.

"Cancellation" means the annulment, voiding, or invalidation of a teaching license following voluntary surrender of the license by the license holder.

"Collegiate Professional License" means a five-year, renewable license available to an individual who has satisfied all requirements for licensure, including the professional teacher's assessment prescribed by the Board of Education.

"Competency" means a capability or skill that a person possesses and can demonstrate, given the appropriate resources and conditions. As used in this chapter, a competency refers to a behavior that a licensure candidate should be able to demonstrate prior to being issued a teaching license. In most cases, entry level proficiency relative to the competency is specified rather than desired mastery level proficiency.

"Content area course work" means courses at the undergraduate level (i.e., two-year or four-year institution) or at the graduate level that will not duplicate previous courses taken in the humanities, history and social science, the sciences, mathematics, health and physical education, and the fine arts. These courses are usually available through the college or department of arts or sciences.

"Denial" means the refusal to grant a teaching license to a new applicant or to an applicant who is reapplying after the expiration of a license.

"Division Superintendent License" means a five-year, renewable license available to an individual who has completed an earned master's degree from an accredited institution of higher education and meets the requirements specified in 8 VAC 20-21-590. The individual's name must be listed on the Board of Education's list of eligible division superintendents.

"Eligibility License" means a one-year license dated July 1-June 30. The Eligibility License is issued upon successful completion of Level I of the career switcher program. This license requires a bachelor's degree from a regionally accredited institution; the completion of teaching area requirements for an endorsement in a content area as set forth in this chapter, or the equivalent through verifiable experience or academic study; and Virginia qualifying scores on Praxis I (Reading, Writing, and Mathematics) and Praxis II (subject area assessments). If the Eligibility License expires prior to the individual receiving employment in Virginia, the license holder must reapply for the second Eligibility License. The intensive program (Level I) must be repeated if the individual has not gained employment prior to the expiration of the second Eligibility License.

"Local Eligibility License" means a license established by the Virginia General Assembly issued to an individual by a local school board based on specified criteria set forth in § 22.1-299.3 of the Code of Virginia. The license is valid for three years and is not transferable to another school division. The Local Eligibility License is a nonrenewable credential and is not reciprocal with other states.

"Postgraduate Professional License" means a five-year, renewable license available to an individual who has qualified for the Collegiate Professional License and who holds an appropriate earned graduate degree from an accredited institution.

"Provisional License" means a nonrenewable license issued

for a period of three years to individuals who have been employed by a Virginia educational agency and meet the requirements specified in 8 VAC 20-21-50 A 4.

"Pupil Personnel Services License" means a five-year, renewable license available to an individual who has earned an appropriate graduate degree from an accredited institution with an endorsement for guidance counselor, school psychologist, school social worker, or visiting teacher. This license does not require teaching experience.

"Reciprocity" means an agreement between two or more states that will recognize and accept one another's regulations and laws for privileges for mutual benefit. See 8 VAC 20-21-90 for conditions for teacher licensure by reciprocity.

"Revocation" means the annulment by recalling, repealing, or rescinding a teaching license.

"Special Education Conditional License" means a three-year, nonrenewable teaching license issued to an individual employed as a special education teacher in a public school or a nonpublic special education school in Virginia who does not hold the appropriate special education endorsement but meets the criteria specified in 8 VAC 20-21-50 A 5. This conditional license is not applicable to individuals employed as speech pathologists.

"Suspension" means the temporary withdrawal of a teaching license.

"Technical Professional License" means a five-year, renewable license available to a person who has graduated from an accredited high school (or possesses a General Education Development Certificate); has exhibited academic proficiency, technical competency, and occupational experience; and meets the requirements specified in 8 VAC 20-21-50 A 3.

8 VAC 20-21-40. Conditions for licensure.

A. Applicants for licensure must:

1. Be at least 18 years of age;
2. Pay the appropriate fees as determined by the Board of Education and complete the application process;
3. Have earned a baccalaureate degree (with the exception of the Technical Professional License) from an accredited institution of higher education with a Board of Education approved teacher education program. *Persons seeking initial licensure who graduate from Virginia institutions of higher education shall, on or after July 1, 2002, only be licensed as instructional personnel by the Board of Education if the endorsement areas offered at such institutions have been assessed by a national accrediting agency or by a state approval process, with final accreditation by the Board of Education; and*
4. Possess good moral character (free of conditions outlined in Part VII (8 VAC 20-21-660 et seq.) of this chapter).

B. All candidates who hold at least a bachelor's degree and who seek an initial Virginia teaching license must obtain

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passing scores on a professional teacher's assessment prescribed by the Board of Education. Candidates seeking a Technical Professional License or the Pupil Personnel Services License are not required to take the professional teacher's assessment. Individuals who have completed a minimum of two years of full-time, successful teaching experience in an accredited public or nonpublic school (kindergarten through grade 12) in a state other than Virginia are exempted from the assessment requirement.

8 VAC 20-21-50. Types of licenses; dating of licenses.

A. The following types of licenses are available:

1. **Collegiate Professional License.** The Collegiate Professional License is a five-year, renewable license available to an individual who has satisfied all requirements for licensure, including the professional teacher's assessment prescribed by the Board of Education.

2. **Postgraduate Professional License.** The Postgraduate Professional License is a five-year, renewable license available to an individual who has qualified for the Collegiate Professional License and who holds an appropriate earned graduate degree from an accredited institution.

3. **Technical Professional License.** The Technical Professional License is a five-year, renewable license available to a person who has graduated from an accredited high school (or possesses a General Education Development Certificate); has exhibited academic proficiency, technical competency, and occupational experience; and has completed nine semester hours of specialized professional studies credit from an accredited college or university. The nine semester hours of professional studies course work must include human growth and development (three semester hours), curriculum and instructional procedures (three semester hours), and applications of instructional technology or foundations of education (three semester hours). The Technical Professional License is issued at the recommendation of an employing educational agency in the areas of vocational education, educational technology, and military science. In addition to demonstrating competency in the endorsement area sought, the individual must:

- a. Hold a license issued by the appropriate Virginia board for those program areas requiring a license and a minimum of two years of satisfactory experience at the journeyman level or an equivalent;
- b. Have completed a registered apprenticeship program and two years of satisfactory experience at the journeyman level or an equivalent level in the trade; or
- c. Have four years of work experience at the management or supervisory level or equivalent or have a combination of four years of training and work experience at the management or supervisory level or equivalent.

Individuals holding the Technical Professional License who seek the Collegiate Professional or Postgraduate Professional License must meet the professional teacher's assessment requirement.

4. **Provisional License.** The Provisional License is a three-year, nonrenewable license available to individuals who are employed by a Virginia educational agency and are:

- a. Entering the teaching field through the alternative route to licensure upon recommendation of the employing educational agency;
- b. Failing to meet an allowable portion of general, professional, or specific endorsement requirements;
- c. Seeking the Technical Professional License; or
- d. Eligible for licensure but need to complete successfully the professional teacher's assessment prescribed by the Board of Education.

5. **Special Education Conditional License.** A Special Education Conditional License is a three-year, nonrenewable teaching license issued to an individual employed as a special education teacher in a public school or a nonpublic special education school in Virginia who does not hold the appropriate special education endorsement. The conditional license is not applicable to individuals employed as speech pathologists. To be issued the Special Education Conditional License an individual must:

- a. Be employed by a Virginia public or nonpublic school and have the recommendation of the employing educational agency;
- b. Hold a baccalaureate degree from an accredited college or university;
- c. Have an assigned mentor endorsed in special education; and
- d. Have a planned program of study in the assigned endorsement area and have completed a minimum of six semester hours in the core competencies of characteristics of students with disabilities and legal aspects associated with students with disabilities.

During the three years the Special Education Conditional License is valid, the individual must complete all requirements for the special education endorsement area, complete professional studies requirements, and meet Virginia's professional teacher's assessment requirement prescribed by the Board of Education.

6. **Pupil Personnel Services License.** The Pupil Personnel Services License is a five-year, renewable license available to an individual who has earned an appropriate graduate degree from an accredited institution with an endorsement for guidance counselor, school psychologist, school social worker, or visiting teacher. This license does not require teaching experience.

7. **Division Superintendent License.** The Division Superintendent License is a five-year, renewable license available to an individual who has completed an earned master's degree from an accredited institution of higher education and meets the requirements specified in 8 VAC 20-21-590. The individual's name must be listed on the

Board of Education's list of eligible division superintendents.

8. *Eligibility License.* Eligibility License means a one-year license dated July 1-June 30. The Eligibility License is issued upon successful completion of Level I of the career switcher program. This license requires a bachelor's degree from a regionally accredited institution; the completion of teaching area requirements for an endorsement in a content area as set forth in this chapter, or the equivalent through verifiable experience or academic study; and Virginia qualifying scores on Praxis I (Reading, Writing, and Mathematics) and Praxis II (subject area assessments). If the Eligibility License expires prior to the individual receiving employment in Virginia, the license holder must reapply for the second Eligibility License. The intensive program (Level I) must be repeated if the individual has not gained employment prior to the expiration of the second Eligibility License.

9. *Local Eligibility License.* *The Local Eligibility License, established by the Virginia General Assembly, is a valid, three-year nonrenewable license issued by a local school board to an individual who has met specified criteria set forth in § 22.1-299.3 of the Code of Virginia. The license is not transferable to another division. The Local Eligibility License is a nonrenewable credential and is not reciprocal with other states.*

B. All licenses will be effective from July 1 in the school year in which the application is made.

8 VAC 20-21-90. Conditions for licensure by reciprocity.

A. An individual coming into Virginia from any state may qualify for a Virginia teaching license with comparable endorsement areas if the individual has completed a state-approved teacher training program through a regionally accredited four-year college or university, or if the individual holds a valid out-of-state teaching license which must be in force at the time the application for a Virginia license is made. An individual seeking licensure must establish a file in the Department of Education by submitting a complete application packet, which includes official student transcripts. A professional teacher's assessment prescribed by the Board of Education must be satisfied.

B. An individual coming into Virginia will qualify for a Virginia teaching license with comparable endorsement areas if the individual holds national certification from the National Board for Professional Teaching Standards (NBPTS) or a nationally recognized certification program approved by the Board of Education.

8 VAC 20-21-100. Requirements for renewing a license.

A. The Division Superintendent, Postgraduate Professional, Collegiate Professional, Technical Professional, and Pupil Personnel Services Licenses may be renewed upon the completion of 180 professional development points within a five-year validity period based on an individualized professional development plan. Professional development points can be accrued by the completion of activities from one or more of the following options: college credit, professional conference, peer observation, educational travel, curriculum

development, publication of article, publication of book, mentorship/supervision, educational project, and employing educational agency professional development activity.

B. A minimum of 90 points (three semester hours in a content area) in the license holder's endorsement area or areas shall be required of license holders without a master's degree and may be satisfied at the undergraduate (two-year or four-year institution) or graduate level. Special education course work designed to assist classroom teachers and other school personnel in working with students with disabilities, a course in gifted education, a course in educational technology, or a course in English as a second language may be completed to satisfy the content course requirement for one cycle of the renewal process. Professional development activities designed to support the Virginia Standards of Learning, Standards of Accreditation, and Assessments may be accepted in lieu of the content course for one renewal cycle. The substance of the activities must clearly support these initiatives and address one or more of the following areas: (i) new content knowledge to implement the Virginia Standards of Learning; (ii) curriculum development initiative designed to translate the standards from standards to classroom objectives; (iii) teaching beginning reading skills including phonemic awareness and the structure of language (phonics); (iv) staff development activities in assessment to assist classroom teachers in the utilization of test results to improve classroom instruction; and (v) professional development designed to implement the technology standards in the schools. Technical Professional License holders without baccalaureate degrees may satisfy the requirement through vocational education workshops, vocational education institutes, or through undergraduate course work at two-year or four-year institutions.

C. Content area courses are courses at the undergraduate level (two-year or four-year institution) or at the graduate level that will not duplicate previous courses taken in the humanities, history and social science, the sciences, mathematics, health and physical education, and the fine arts. These courses are usually available through the college or department of arts and sciences. License holders with elementary education, middle education, special education, or reading endorsements must satisfy the 90-point requirement through content course work in one of the areas listed above. Courses available through the college's or institution's department of education may be used to satisfy the content requirement for those license holders with endorsements in health and physical education, vocational education, and library science education.

D. With prior approval of the division superintendent, the 90 points in a content area also may be satisfied through course work taken to obtain a new teaching endorsement or course work taken because of a particular need of a particular teacher.

E. The remaining 90 points may be accrued by activities drawn from one or more of the 10 options described in The Virginia Renewal Manual. Renewal work is designed to provide licensed personnel with opportunities for professional development relative to the grade levels or teaching fields to which they are assigned or for which they seek an added

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endorsement. Such professional development encompasses (i) responsible remediation of any area of an individual's knowledge or skills that fails to meet the standards of competency and (ii) responsible efforts to increase the individual's knowledge of new developments in his field and to respond to new curricular demands within the person's area of professional competence.

F. The proposed work toward renewal in certain options must be approved in advance by the chief executive officer or designee of the employing educational agency. Persons who are not employed by an educational agency may renew or reinstate their license by submitting to the Office of Professional Licensure, Department of Education, their individualized renewal record and verification of points, including official student transcripts of course work taken at an accredited two-year or four-year college or university.

G. Accrual of professional development points shall be determined by criteria set forth by the Virginia Department of Education.

H. On and after July 1, 2003, persons seeking license renewal as teachers must demonstrate proficiency in the use of educational technology for instruction.

H. I. Virginia school divisions and nonpublic schools will recommend renewal of licenses using the renewal point system. On or after July 1, 2003, the renewal recommendation must include verification of demonstrated proficiency in the use of educational technology for instruction.

J. Training in instructional methods tailored to promote academic progress and effective preparation for the Standards of Learning tests and end-of-grade assessments is required for licensure renewal on and after July 1, 2004.

8 VAC 20-21-120. Professional studies requirements.

Professional studies requirements for early/primary education, elementary education, and middle education: 18 semester hours.

1. Human growth and development (birth through adolescence): 3 semester hours. Skills in this area shall contribute to an understanding of the physical, social, emotional, and intellectual development of children and the ability to use this understanding in guiding learning experiences. The interaction of children with individual differences—economic, social, racial, ethnic, religious, physical, and mental—should be incorporated to include skills contributing to an understanding of developmental disabilities and developmental issues related to but not limited to attention deficit disorders, *gifted education including the use of multiple criteria to identify gifted students*, substance abuse, child abuse, and family disruptions.

2. Curriculum and instructional procedures: 6 semester hours.

a. Early/primary education preK-3 or elementary education preK-6 curriculum and instructional procedures. Skills in this area shall contribute to an understanding of the principles of learning; the

application of skills in discipline-specific methodology; communication processes; classroom management; selection and use of materials, including media and computers; and evaluation of pupil performance. The teaching methods, including for gifted and talented students and those students with disabling conditions, must be appropriate for the level of endorsement (preK-3 or preK-6) *and be tailored to promote student academic progress and effective preparation for the Standards of Learning assessments. Study in methods of improving communication between schools and families, ways of increasing family involvement in student learning at home and in school, and the Standards of Learning shall be included. On and after July 1, 2003, demonstrated proficiency in the use of educational technology for instruction shall be included.* Pre-student teaching experiences (field experiences) should be evident within these skills.

b. Middle education 6-8 curriculum and instructional procedures. Skills in this area shall contribute to an understanding of the principles of learning; the application of skills in discipline-specific methodology; communication processes, classroom management; selection and use of materials, including media and computers; and evaluation of pupil performance. The teaching methods, including for gifted and talented students and students with disabling conditions, must be appropriate for the middle education endorsement *and be tailored to promote student academic progress and effective preparation for the Standards of Learning assessments. Study in methods of improving communication between schools and families, ways of increasing family involvement in student learning at home and in school, and the Standards of Learning shall be included. On and after July 1, 2003, demonstrated proficiency in the use of educational technology for instruction shall be included.* Pre-student teaching experiences (field experiences) should be evident within these skills.

3. Foundations of education: 3 semester hours. Skills in this area shall be designed to develop an understanding of the historical, philosophical, and sociological foundations underlying the role, development and organization of public education in the United States. Attention should be given to the legal status of teachers and students, including federal and state laws and regulations, school as an organization/culture, and contemporary issues in education.

4. Reading: 6 semester hours.

a. Early/primary preK-3 and elementary education preK-6—language acquisition and reading: 6 semester hours. Skills in this area shall be designed to impart a thorough understanding of the complex nature of language acquisition and reading, to include: phonemic awareness, an understanding of sound/symbol relationships, explicit phonics instruction, syllables, phonemes, morphemes, decoding skills, word attack skills, and a knowledge of how phonics, syntax, and semantics interact. Additional skills shall include proficiency in a wide variety of comprehension strategies,

as well as the ability to foster appreciation of a variety of literature and independent reading.

b. Middle education—language acquisition: 3 semester hours and reading in the content areas: 3 semester hours. Skills in this area shall be designed to impart an understanding of comprehension skills in all content areas, including a repertoire of questioning strategies, summarizing and retelling skills, and strategies in literal, interpretive, critical, and evaluative comprehension, as well as the ability to foster appreciation of a variety of literature and independent reading.

5. Supervised classroom experience. The student teaching experience should provide for the prospective teacher to be in classrooms full time for a minimum of 300 clock hours with at least half of that time spent supervised in direct teaching activities (providing direct instruction) at the level of endorsement. One year of successful full-time teaching experience in the endorsement area in any accredited public or nonpublic school may be accepted in lieu of the supervised teaching experience. A fully licensed, experienced teacher must be available in the school building to assist a beginning teacher employed through the alternative route.

8 VAC 20-21-170. Professional studies requirements.

Professional studies requirements for adult education, preK-12 endorsements, special education, and secondary grades 6-12 endorsements: 15 semester hours.

1. Human growth and development (birth through adolescence): 3 semester hours. Skills in this area shall contribute to an understanding of the physical, social, emotional, and intellectual development of children and the ability to use this understanding in guiding learning experiences. The interaction of children with individual differences—economic, social, racial, ethnic, religious, physical, and mental—should be incorporated to include skills contributing to an understanding of developmental disabilities and developmental issues related to but not limited to attention deficit disorders, *gifted education including the use of multiple criteria to identify gifted students*, substance abuse, child abuse, and family disruptions.

2. Curriculum and instructional procedures: 6 semester hours. Skills in this area shall contribute to an understanding of the principles of learning; the application of skills in discipline-specific methodology; communication processes; classroom management; selection and use of materials, including media and computers; and evaluation of pupil performance. Teaching methods appropriate for exceptional students, including gifted and talented and those with disabling conditions, and appropriate for the level of endorsement sought shall be included. *Teaching methods shall be tailored to promote student academic progress and effective preparation for the Standards of Learning assessments. Methods of improving communication between schools and families and ways of increasing family involvement in student learning at home and in school and the Standards of Learning shall be included. On and after July 1, 2003, demonstrated*

proficiency in the use of educational technology for instruction shall be included. Curriculum and instructional procedures for secondary grades 6-12 endorsements must include middle and secondary education. Pre-student teaching experiences (field experiences) should be evident within these skills. For preK-12, field experiences must be at the elementary, middle, and secondary levels.

3. Foundations of education: 3 semester hours. Skills in this area shall be designed to develop an understanding of the historical, philosophical, and sociological foundations underlying the role, development and organization of public education in the United States. Attention should be given to the legal status of teachers and students, including federal and state laws and regulations, school as an organization/culture, and contemporary issues in education.

4. Reading.

a. Adult education, preK-12, and secondary grades 6-12—reading in the content area: 3 semester hours. Skills in this area shall be designed to impart an understanding of comprehension skills in all content areas, including a repertoire of questioning strategies, summarizing and retelling skills, and strategies in literal, interpretive, critical, and evaluative comprehension, as well as the ability to foster appreciation of a variety of literature and independent reading.

b. Special education—language acquisition and reading: 6 semester hours. Skills in this area shall be designed to impart a thorough understanding of the complex nature of language acquisition and reading to include: phonemic awareness, an understanding of sound/symbol relationships, explicit phonics instruction, syllables, phonemes, morphemes, decoding skills, word attack skills, and a knowledge of how phonics, syntax, and semantics interact. Additional skills shall include proficiency in a wide variety of comprehension strategies, as well as the ability to foster appreciation of a variety of literature and independent reading.

5. Supervised classroom experience. The student teaching experience should provide for the prospective teacher to be in classrooms full time for a minimum of 300 clock hours with at least half of that time spent supervised in direct teaching activities (providing direct instruction) in the endorsement area sought. If a preK-12 endorsement is sought, teaching activities must be at the elementary and middle or secondary levels. Individuals seeking the endorsement in library media must complete the supervised experience in a school library media setting. Individuals seeking an endorsement in an area of special education must complete the supervised classroom experience requirement in the area of special education for which the endorsement is sought. One year of successful full-time teaching experience in the endorsement area in any accredited public or nonpublic school may be accepted in lieu of the supervised teaching experience. A fully licensed, experienced teacher must be available in the school building to assist a beginning teacher employed through the alternative route.

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8 VAC 20-21-590. Division Superintendent License.

An individual may be a candidate for the list of eligible division superintendents and the renewable Division Superintendent License through the completion of the requirements in one of the following three options:

1. Option one. The individual must:

- a. Hold an earned doctorate degree in educational administration or educational leadership from an accredited institution; and
- b. Have completed five years of educational experience in a public and/or accredited nonpublic school, two of which must be teaching experience at the preK-12 level and two of which must be in administration/supervision at the preK-12 level.

2. Option two. The individual must:

- a. Hold an earned master's degree from an accredited institution plus 30 completed hours beyond the master's degree;
- b. Have completed requirements for administration and supervision preK-12 endorsement which includes the demonstration of competencies in the following areas:

(1) Knowledge and understanding of student growth and development, including:

- (a) Applied learning and motivational theories;
- (b) Curriculum design, implementation, evaluation and refinement;
- (c) Principles of effective instruction, measurement, evaluation and assessment strategies;
- (d) Diversity and its meaning for educational programs; and
- (e) The role of technology in promoting student learning.

(2) Knowledge and understanding of systems and organizations, including:

- (a) Systems theory and the change process of systems, organizations and individuals;
- (b) The principles of developing and implementing strategic plans;
- (c) Information sources and processing, including data collection and data analysis strategies;
- (d) Learning goals in a pluralistic society; and
- (e) Effective communication, including consensus building and negotiation skills.

(3) Knowledge and understanding of theories, models, and principles of organizational development, including:

- (a) Operational procedures at the school and division/district level;

(b) Principles and issues of school safety and security;

(c) Human resources management and development, including adult learning and professional development models;

(d) Principles and issues related to fiscal operations of school management;

(e) Principles and issues related to school facilities and use of space;

(f) Legal issues impacting school operations and management; and

(g) Technologies that support management functions.

(4) Knowledge and understanding of the values and ethics of leadership, including:

- (a) The role of leadership in modern society;
- (b) Emerging issues and trends that impact the school community;
- (c) Community resources and partnerships of school, family, business, government and higher education institutions;
- (d) Community relations and marketing strategies and processes; and
- (e) Conditions and dynamics of the diverse school community.

(5) Knowledge and understanding of the purpose of education and its role in a modern society, including:

- (a) The philosophy and history of education; and
- (b) Various ethical frameworks and professional ethics.

(6) Knowledge and understanding of principles of representative governance that undergird the system of American schools, including:

- (a) The role of public education in developing and renewing a democratic society and an economically productive nation;
- (b) The law as related to education and schooling;
- (c) The political, social, cultural and economic systems and processes that impact schools;
- (d) Models and strategies of change and conflict resolution as applied to the larger political, social, cultural and economic contexts of schooling;
- (e) Global issues and forces affecting teaching and learning; and
- (f) The importance of diversity and equity in a democratic society.

c. Have completed five years of educational experience in a public and/or accredited nonpublic school, two of which must be teaching experience at the preK-12 level

and two of which must be in administration/supervision at the preK-12 level.

3. Option three. The individual must:

- a. Hold an earned master's degree from an accredited institution;
- b. Hold a current, valid out-of-state license with an endorsement as a division/district superintendent; and
- c. Have completed five years of educational experience in a public and/or accredited nonpublic school, two of which must be teaching experience at the preK-12 level and two of which must be in administration/supervision.

4. Option four. The individual must:

- a. Hold a master's degree, or its equivalent, from an accredited institution;
- b. Have held a senior leadership position such as Chief Executive Officer or senior military officer; and
- c. Be recommended by a school board interested in employing the individual as superintendent.

8 VAC 20-21-660. Revocation.

A. A license issued by the Board of Education may be revoked for the following reasons:

- 1. Obtaining or attempting to obtain such license by fraudulent means or through misrepresentation of material facts;
- 2. Falsification of school records, documents, statistics, or reports;
- 3. Conviction of any felony;
- 4. Conviction of any misdemeanor involving moral turpitude;
- 5. Conduct, such as immorality, or personal condition detrimental to the health, welfare, discipline, or morale of students or to the best interest of the public schools of the Commonwealth of Virginia;
- 6. Misapplication of or failure to account for school funds or other school properties with which the licensee has been entrusted; or
- 7. Acts related to secure mandatory tests as specified in § 22.1-292.1 of the Code of Virginia; or
- ~~7- 8.~~ Other good and just cause of a similar nature.

B. Procedures.

- 1. Submission of complaints. A complaint may be filed by anyone, but it shall be the duty of a division superintendent, principal or other responsible school employee to file a complaint in any case in which he has knowledge that a holder of a license is guilty of any offense set forth in subsection A of this section. The person making the complaint shall submit it in writing to the appropriate division superintendent.
- 2. Action by division superintendent; investigation. Upon receipt of the complaint against the holder of a license, a

division superintendent or his duly authorized representative shall investigate the charge. If, on the basis of such investigation, the division superintendent finds the complaint to be without merit, he shall so notify the complaining party or parties in writing and then close his file on the matter. This action shall be final unless the local school board, on its own motion, votes to proceed to a hearing on the complaint or unless circumstances are present making subsection A of this section applicable.

C. Petition for revocation. Should the division superintendent or local school board conclude that there is reasonable cause to believe that a complaint against the holder of a license is well founded, the teacher shall be notified of the complaint by a written petition for revocation of a license signed by the division superintendent. A copy of such petition shall be sent by registered mail, return receipt requested, to the teacher's last known address. If not otherwise known, the last known address shall be the address shown in the records of the Department of Education.

D. Form of petition. The petition for the revocation of a license shall set forth:

- 1. The name and last known address of the person against whom the petition is being filed;
- 2. The social security number of and the type of license held by the person against whom the petition is being filed;
- 3. The offenses alleged and the specific actions which comprise the alleged offenses;
- 4. The name and address of the party filing the original complaint against the license holder;
- 5. A copy of the regulations containing a statement of the rights of the person charged under this chapter; and
- 6. Any other pertinent information.

E. Filing of petition. The original petition shall be entered in the files of the local school board where the license holder is employed.

F. Response to petition. The license holder shall present his written answer to the petition, if any, within 14 days after the date of service of the petition as certified by the United States Postal Service.

- 1. If the teacher responding to the petition states that he does not wish to contest the charges, he may voluntarily return the license to the division superintendent with a written, signed statement requesting cancellation. The Superintendent of Public Instruction is authorized, upon receipt of the license holder's written, signed request from the division superintendent, to cancel the license.
- 2. If the license holder files a written answer admitting the charges, or refuses to accept the copy of the petition from the postal authorities, or fails to file a written answer within 14 days after service of the petition or has failed to provide postal authorities with a forwarding address so that the petition can be delivered, the local school board shall proceed to a hearing as described in subdivisions 3 and 4 of this subsection.

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3. If the license holder files his written answer denying the charges in the petition, the local school board shall provide a hearing at the time and place of its regular meeting or at such other reasonable time and place it may specify. The license holder or his representative, if any, shall be given at least 14 days notice of the hearing.

4. Following the hearing, the local school board shall receive the recommendation of the division superintendent and then either dismiss the charges or make such recommendations as it deems appropriate relative to revocation of a license. A decision to dismiss the charges shall be final, except as specified in subsection G of this section, and the investigative file on the charges shall be closed and destroyed or maintained as a separate sealed file under provision of the Code of Virginia. Any record or material relating to the charges in any other file shall be removed or destroyed. Should the local school board recommend the revocation or suspension of a license, this recommendation, along with the investigative file, shall promptly be forwarded by the division superintendent to the Superintendent of Public Instruction.

G. Revocation on motion of the Board of Education. The Board of Education reserves the right, in situations not covered by this chapter, to act directly in revoking a license. No such revocation will be ordered without the involved license holder being given the opportunity for the hearing specified in 8 VAC 20-21-710 B.

H. Reinstatement of license. A license that has been revoked may be reinstated by the Board of Education after five years if the board is satisfied that reinstatement is in the best interest of the former license holder and the public schools of the Commonwealth of Virginia. The individual must apply to the board for reinstatement. Notification to all appropriate parties will be communicated in writing by the state agency.

8 VAC 20-21-680. Suspension.

A. A license may be suspended for the following reasons:

1. Physical, mental, or emotional incapacity as shown by a competent medical authority;
2. Incompetence or neglect of duty;
3. Failure or refusal to comply with school laws and regulations, including willful violation of contractual obligations; ~~or~~
4. *Acts related to secure mandatory tests as specified in § 22.1-292.1 of the Code of Virginia; or*
- ~~4.~~ 5. Other good and just cause of a similar nature.

B. Procedures.

1. Submission of complaints. A complaint may be filed by anyone, but it shall be the duty of a division superintendent, principal, or other responsible school employee to file a complaint in any case in which he has knowledge that a holder of a license is guilty of any offense set forth in subsection A of this section. The person making the complaint shall submit it in writing to the appropriate division superintendent.

2. Action by division superintendent; investigation. Upon receipt of the complaint against the holder of a license, a division superintendent or his duly authorized representative shall investigate the charge. If, on the basis of such investigation, the division superintendent finds the complaint to be without merit, he shall so notify the complaining party or parties in writing and then close his file on the matter. This action shall be final unless the local school board on its own motion votes to proceed to a hearing on the complaint or unless circumstances are present making ~~subdivision~~ subsection C of this section applicable.

C. Petition for suspension. Should the division superintendent or local school board conclude that there is reasonable cause to believe that a complaint against the holder of a license is well founded, the teacher shall be notified of the complaint by a written petition for suspension of a license signed by the division superintendent. A copy of such petition shall be sent by registered mail, return receipt requested, to the teacher's last known address. If not otherwise known, the last known address shall be the address shown in the records of the Department of Education.

D. Form of petition. The petition for the suspension of a license shall set forth:

1. The name and last known address of the person against whom the petition is being filed;
2. The social security number and the type of license held by the person against whom the petition is being filed;
3. The offenses alleged and the specific actions that comprise the alleged offenses;
4. The name and address of the party filing the original complaint against the license holder;
5. A statement of the rights of the person charged under this chapter; and,
6. Any other pertinent information.

E. Filing of petition. The original petition shall be entered in the files of the local school board where the license holder is employed.

F. Response to petition. The license holder shall present his written answer to the petition, if any, within 14 days after the date of service of the petition as certified by the United States Postal Service.

1. If the teacher responding to the petition states that he does not wish to contest the charges, he may voluntarily return his license to the division superintendent with a written and signed statement requesting suspension. The Superintendent of Public Instruction is authorized, upon receipt of the license holder's written, signed request from the division superintendent, to cancel the license.

2. If the license holder files a written answer admitting the charges, or refuses to accept the copy of the petition from the postal authorities, or fails to file a written answer within 14 days after service of the petition, or has failed to provide postal authorities with a forwarding address so that the petition can be delivered, the local school board shall

proceed to a hearing as described in subdivisions 3 and 4 of this subsection.

3. If the license holder files his written answer denying the charges in the petition, the local school board shall provide a hearing at the time and place of its regular meeting or at such other reasonable time and place it may specify. The license holder or his representative, if any, shall be given at least 14 days notice of the hearing.

4. Following its hearing, the local school board shall receive the recommendation of the division superintendent and then either dismiss the charges or make such recommendations relative to suspension of a license as it deems appropriate. A decision to dismiss the charges shall be final, except as specified in subsection G of this section, and the file on the charges shall be closed and all materials expunged. Should the local school board recommend the suspension of a license, this recommendation, along with supporting evidence, shall promptly be forwarded by the division superintendent to the Superintendent of Public Instruction.

G. Suspension on motion of Board of Education. The Board of Education reserves the right, in situations not covered by this chapter, to act directly in suspending a license. No such suspension will be ordered without the involved license holder being given the opportunity for the hearing as specified in 8 VAC 20-21-710 B.

H. Reinstatement of license. A license may be suspended for a period of time not to exceed five years. The license may be reinstated by the Department of Education, upon request, with verification that all requirements for license renewal have been satisfied. The individual must apply to the board for reinstatement. Notification to all appropriate parties will be communicated in writing by the Department of Education.

VA.R. Doc. No. R01-135; Filed September 18, 2001, 12:30 p.m.



TITLE 9. ENVIRONMENT

STATE AIR POLLUTION CONTROL BOARD

Title of Regulation: **9 VAC 5-91-10 et seq. Regulations for the Control of Motor Vehicle Emissions in the Northern Virginia Area (amending 9 VAC 5-91-20, 9 VAC 5-91-30, 9 VAC 5-91-50, 9 VAC 5-91-70, 9 VAC 5-91-120, 9 VAC 5-91-160 through 9 VAC 5-91-230, 9 VAC 5-91-260, 9 VAC 5-91-270, 9 VAC 5-91-290 through 9 VAC 5-91-340, 9 VAC 5-91-370, 9 VAC 5-91-380, 9 VAC 5-91-410 through 9 VAC 5-91-450, 9 VAC 5-91-480 through 9 VAC 5-91-580, 9 VAC 5-91-600 through 9 VAC 5-91-620, 9 VAC 5-91-650, 9 VAC 5-91-680, 9 VAC 5-91-700, 9 VAC 5-91-710, 9 VAC 5-91-720, 9 VAC 5-91-740, 9 VAC 5-91-790, and 9 VAC 5-91-800; repealing 9 VAC 5-91-41, 9 VAC 5-91-460, 9 VAC 5-91-470, 9 VAC 5-91-770, and 9 VAC 5-91-780) (Rev. MG).**

Statutory Authority: § 46.2-1180 of the Code of Virginia.

Public Hearing Date: November 13, 2001 - 10 a.m.

Public comments may be submitted until 4:30 p.m., January 7, 2002.

(See Calendar of Events section for additional information)

Agency Contact: Mary E. Major, Environmental Program Manager, Office of Air Regulatory Development, Department of Environmental Quality, P.O. Box 10009, Richmond, VA 23240, telephone (804) 698-4423, FAX (804) 698-4510, toll free 1-800-592-5482 or (804) 698-4021/TTY.

Basis: Sections 46.2-1176 through 46.2-1187.3 of the Virginia Air Pollution Control Law authorize the State Air Pollution Control Board to promulgate regulations for the control of motor vehicle emissions and for the testing process.

Purpose: The purpose of the regulation is to require that motor vehicles undergo periodic emissions inspection and be maintained in compliance with emission standards for (i) the protection of public health and welfare and (ii) the attainment and maintenance of the air quality standards. The proposed amendments are being made to conform to state law and federal Clean Air Act requirements for the testing of emissions from motor vehicles located or primarily operated in Northern Virginia.

Substance:

1. Modify definition of "motor vehicle " to reflect statutory changes.
2. Add definition of "authorized personnel" to provide more flexibility to station owners.
3. Add definitions related to EPA requirement for on-board diagnostic testing, including "OBD system," "OBD test," and "OBD vehicle."
4. Modify exhaust emission standards for two-speed idle (TSI) emissions test (9 VAC-5-91-160).
5. Modify exhaust emission standards for ASM emissions test (9 VAC-5-91-170).
6. Modify exhaust emission standards for remote sensing emissions test (9 VAC-5-91-180).
7. Repeal requirements for evaporative system purge test (9 VAC-5-91-200 and 9 VAC-5-91-460).
8. Add provisions for visible emissions standards (9 VAC-5-91-210).
9. Modify reporting requirements for fleet inspection stations according to EPA requirements (9 VAC 5-91-370).
10. Add provisions for conducting OBD tests for 1996 and newer gasoline and diesel powered vehicles equipped with OBD systems (9 VAC 5-91-420).
11. Eliminate provisions setting waiver phase-in amounts for dates that have already passed (9 VAC 5-91-420).
12. Add provisions that provide more flexibility in ASM test procedure (9 VAC 5-91-430).
13. Modify regulatory language to more closely reflect software specifications for test procedures (9 VAC 5-91-440).

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14. Repeal requirements for warranty eligibility (9 VAC 5-91-470).

15. Modify table of major violations to reflect additional flexibility incorporated in the regulation language for test procedures (9 VAC 5-91-620).

16. Repeal provisions addressing federal facilities to comply with EPA requirements (Part XIII).

Issues:

1. Public: The primary advantage to the general public is that air quality will improve due to the technical changes to program operation. The change to the definition of motor vehicle, for example, will result in a more effective program with the need to inspect fewer vehicles. Changes in testing procedures will result in faster yet more thorough inspections which translates into shorter lines at the testing facilities. Changes in certification requirements will mean repairs to vehicles that fail the test will be more effective.

Changes have been made to tighten the two-speed idle (TSI) test standards. This will impact a small number of vehicle owners whose vehicles would fail the new standards, but would pass the existing standards. According to current test data, this change will affect fewer than 1.0% of the 1990 and newer vehicles that receive the TSI test. As these vehicles age, the fail rate is expected to increase somewhat. Although it is a disadvantage that there will be expenses for repairs, there are also advantages to the vehicle owners in that needed repairs will increase vehicle fuel efficiency and enhance vehicle life, not to mention the improvement in air quality. Currently, vehicles with known faults can pass the existing standards and that is unacceptable for proper program operation.

Changes have been made to allow DEQ to set less stringent ASM test standards than those currently recommended by EPA. DEQ believes the EPA final standards may be too strict for some vehicle classes and will result in these vehicles being difficult or impossible to repair to the standards. The current regulation requires that the EPA enhanced I/M performance standards be met and that the EPA final standards be implemented.

Changes have been made with respect to the testing of federal fleet vehicles. As currently written, there is a separate section for federal fleets. The regulation has been amended to treat federal fleets the same as private fleets as required by law. As a result of this requirement, some additional reporting requirements for non-federal fleets are necessary; however, DEQ believes this reporting will be minimal. Non-federal fleet vehicle test information is on the DEQ electronic data base and can be accessed directly by DEQ. Thus, the additional reporting requirements would affect only fleets of vehicles not registered with DMV.

Changes have been made regarding OBD testing. As currently written, OBD testing was to be added as a requirement for passing the I/M test beginning January 3, 2000. The proposed amendments postpone this until such time as the department deems appropriate. This will allow the department time to conduct a pilot test to evaluate OBD testing in conjunction with ASM testing. EPA anticipates that,

once the fleet turns over and most vehicles are equipped with the correct equipment, OBD tests will eliminate the need for tail-pipe or ASM testing. Since the OBD test only takes a few minutes while the ASM test takes about 15 minutes, this will be a considerable advantage to both the vehicle owner and the inspection station.

OBD systems identify faults that are not necessarily detected with an ASM or TSI test. This may be perceived as a disadvantage by the public as there may be a cost for a vehicle repair that otherwise would go undetected. The associated advantage is that the vehicle owner will be alerted to these emission component faults before they could cause extensive collateral damage. For example, an expensive catalytic converter can be quickly damaged by an excess rich mixture condition even though the converter may still be operating well enough to pass a tailpipe test. In addition, with each vehicle repair less pollution is emitted.

Similar advantages and disadvantages will occur to owners of light duty diesel vehicles which will also be subject to OBD testing. Diesel vehicles have not been tested in the I/M program in the past because such testing requires completely different testing equipment. However, beginning with model year 1997, all light duty diesel vehicles certified for sale in the US are required to be equipped with OBD systems similar to that of gasoline fueled vehicles. The testing of both OBD systems is the same.

Due to OBD testing, equipment will need to be upgraded at all inspections stations, i.e. approximately 400 testing stations. The cost of this upgrade will range from \$1,500 to \$3,000 per unit depending on the existing equipment currently installed in the test facility. This additional cost is expected to be offset by the time savings of OBD testing; the OBD test is expected to reduce the time to complete a full inspection sequence by at least 10 minutes.

2. Department: Most of the issues affecting the department are a result of either technical changes in program operation or federal requirements. Amendments due to technical changes in program operation include: (i) changes in the wording of some definitions, (ii) changes in the order and some elements of the testing procedure, (iii) changes in the timing and flexibility of some test standards and (iv) changes in some permitting and licensing procedures. Amendments due to federal requirements include: (i) deletion of special treatment of federally owned or controlled vehicles and (ii) changes in some enforcement procedures to reduce redundancy and overlap.

Few disadvantages are associated with these regulatory changes. There will be additional data management as a result of the information generated by OBD testing; however, the current computer capabilities are more than adequate to address this issue.

The overwhelming advantage from OBD testing is the increased emission reductions and cleaner air for Virginia citizens and continued EPA approval of the Commonwealth's I/M program. Tightening the TSI and ASM standards will have a similar advantageous effect.

Localities Particularly Affected: The geographic coverage of the program consists of the counties of Arlington, Fairfax,

Loudoun, Prince William, and Stafford; and the cities of Alexandria, Fairfax, Falls Church, Manassas, and Manassas Park.

Public Participation: The department is seeking comment on the proposed regulation and the costs and benefits of the proposal. The department is also seeking comment on the impacts of the proposed regulation on farm and forest lands.

Department of Planning and Budget's Economic Impact Analysis: The Department of Planning and Budget (DPB) has analyzed the economic impact of this proposed regulation in accordance with § 2.2-4007 G of the Administrative Process Act and Executive Order Number 25 (98). Section 2.2-4007 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, the projected costs to affected businesses or entities to implement or comply with the regulation, and the impact on the use and value of private property. The analysis presented below represents DPB's best estimate of these economic impacts.

Summary of the proposed regulation. The Air Pollution Control Board proposes over 140 amendments to the current regulations for motor vehicle emissions in northern Virginia. The most significant changes are the following:

1. Exemption from emissions testing will be changed from 1968 and older model year vehicles to 25-year-old and older vehicles.
2. On-board diagnostic system test will replace the other emissions tests and diesel vehicles will be subject to the emissions inspection.
3. Two-speed-idle emissions test standards will be tightened.
4. Acceleration-simulation emissions test standards will be relaxed, and procedural requirements for the testing will be removed.
5. Remote sensing emissions test standards will be relaxed, and the agency will be provided more flexibility in using various pollutants as test criteria.

Estimated economic impact. Vehicle owners in northern Virginia, as well as regular commuters into the area are subject to the emissions inspection/maintenance (I/M) program. Vehicle emissions contain pollutants that contribute to the formation of ozone such as hydrocarbons (HC) and nitrogen oxides (NO_x), and other pollutants such as carbon monoxide (CO). The emissions originate from the exhaust when the car is running, and from the fuel system when the fuel evaporates due to high temperatures during the day or vapor escapes during refueling. Four general approaches to reduce emissions from motor vehicles include improvements in motor vehicle technology, improvements in fuels, transportation controls, and I/M programs. (Calvert et al., 1993) These regulations describe the procedures and set standards for the Virginia I/M program.

The effectiveness of the current I/M programs has been subject to debate. Early evidence indicates that the large number of vehicles, varying emission characteristics of vehicles, the behavior of drivers who have an incentive to avoid regulations, and the costs of the program limited its effectiveness in reducing actual emissions. (Harrington et al., 1999:1, Hubbard, 1997, Anderson, 1992, McConnel, 1990) However, there is a general agreement that the effectiveness of the I/M programs can be improved significantly by new technology such as on-board diagnostic systems and remote sensing.

Vehicles are a significant source of emissions. (Anderson, 1990, Rueff, 1992) Most of the nearly 1.2 million affected vehicles in northern Virginia have emissions control equipment. Newer vehicles are typically much cleaner than the old ones. The total amount of vehicle emissions in northern Virginia is decreasing very slightly.¹ This is because the increase in the number of vehicle miles traveled on highways offsets much of the technological progress in vehicle emissions control over the same two decades.

The emissions inspection program helps ensure that vehicles operate as cleanly as possible. The program identifies vehicles that have high emissions as a result of one or more malfunctions and requires repairs. Minor malfunctions in the emissions control system can increase emissions significantly. The average car can emit three to four times the carbon monoxide and hydrocarbons, and NO_x allowed by the new standards if emission control systems are malfunctioning. It is usually not obvious which vehicles have malfunctions as the emissions themselves may not be noticeable and emission control malfunctions do not necessarily affect vehicle drivability. The program provides a way to check whether the emission control systems on a vehicle are working correctly. The program is designed to ensure that vehicles stay clean during actual use. This, in turn, can substantially reduce the amount of pollutants emitted to the air, thereby reducing the formation of ozone and contributing toward attainment of the ambient air quality standards.

The Virginia program covers 24-year-old or newer gasoline-powered cars and trucks, with up to 10,000 pounds gross vehicle weight rating. Exempt vehicles from the inspection include diesels, motorcycles, registered antique vehicles, and fire and rescue equipment. An emissions inspection is required every two years at a permitted inspection station. The station may charge up to \$20. In addition, the Department of Motor Vehicles (DMV) collects a \$2 per year administrative fee at the time of registration. This fee is used to cover the administrative costs of the program including program staff salaries, computer equipment and support, emissions inspector and technician training, program evaluation studies, and pilot projects. Thus, the inspection cost to the vehicle owners associated with the test is approximately \$24 every two years. Most inspections take at least 13 minutes, which does not include the time spent waiting in line or traveling to and from the inspection station. The inspector issues a vehicle inspection report after the appropriate tests are performed. If the vehicle does not pass

¹ Source: The agency

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the inspection, necessary repairs are required. After the repairs, the vehicle must be re-inspected. Re-inspection is free if performed within 14 days at the facility that performed the initial inspection. The owner of a vehicle that does not pass the re-inspection may obtain a waiver if a specified amount (i.e., currently \$460) has been spent on emissions-related repairs for the vehicle.

Currently, two types of tests are used to measure emissions. The acceleration simulation mode (ASM) test is required from most 1981 and newer vehicles with a gross vehicle weight rating up to 8,500 pounds. ASM test is performed on the majority of vehicles subject to the emissions inspection program. This test is performed on a dynamometer or a treadmill, which allows the inspector to run the vehicle at 15 mph and 25 mph. Some vehicles may not be able to receive the ASM test due to mechanical features such as all-wheel drive, full-time four-wheel drive, or traction control that cannot be turned off. These vehicles are tested using the two-speed idle (TSI) test. TSI test is required for 1980 and older model year vehicles, and all vehicles with a manufacturer's designated gross vehicle weight rating of 8,501 to 10,000 pounds. This test measures emissions when the vehicle is idle and at 2,500 rpm.

Most vehicles receive an emissions control component inspection and a visible smoke check as a part of each inspection. The inspector checks for emissions control systems that were originally installed on the vehicle by the manufacturer and visible smoke. Also, most vehicles receive a gas cap pressure test to detect excessive vapor leakage. In addition, random testing of vehicles will be accomplished in near future using either roadside pullovers or a remote sensing device next to the roadway.

The proposed amendments make a number of revisions to conform to changes in Virginia law and federal regulations, as well as to conform to current testing procedures and to enhance program enforcement.

Change in the Model Year Coverage: One of the main changes affecting the vehicle owner is a change in the model year coverage: from the testing of model year 1968 and newer to a rolling exemption for vehicles 25 years and older. This change actually has been in effect since July 1, 2000 in accordance with the changes in the Virginia statute. The impact of this change has been and will be a decrease in the number of cars required to have an emission inspection. The Department of Environmental Quality (the agency) estimates that about 12,042 vehicles in 2000 would not have required testing had the exemption been in effect throughout the whole year, and about 15,725 vehicles in 2002 and 19,408 vehicles in 2004 will no longer be required to be inspected. Estimates are not available for the years beyond 2004. The agency expects this number to increase because each year another model year will be added to the exempted vehicles. Since the inspection costs about \$24 biennially, it is indicated in Table 1 that the owners will experience approximately \$1,132,200 until 2004 in emissions test cost savings and are likely to continue to realize similar savings beyond 2004.²

² Figures in Table 1 are not discounted.

Table 1: Expected Benefits

Benefit Category	2000	2002	2004	Total
Savings in Test Fees	\$298,008	\$377,400	\$465,792	\$1,132,200
Savings in Travel Time	\$75,865	\$99,067	\$122,270	\$297,202
Savings in Vehicle Operating Costs	\$31,670	\$41,357	\$51,043	\$124,070
Savings in Waiting Time at the Station	\$75,865	\$99,067	\$122,270	\$297,202
Savings in Repair Costs	\$370,832	\$968,660	\$1,195,502	\$2,534,994
Total Quantified Savings	\$843,240	\$1,585,551	\$1,956,877	\$4,385,668
Savings in Travel Time for Repairs and Retest	na	na	na	na
Savings in Vehicle Operating Costs for Repairs and Retest	na	na	na	na
Savings in Waiting Time at the Repair Facility and the Station for Retest	na	na	na	na

The affected vehicle owners will no longer be required to travel to and from the inspection station, and to wait for the inspection. Based on the reports in Harrington et al., 1999:2, it is assumed that round trip travel to the station is about 9 miles, and completed in 27 minutes.³ Motorist's travel time can be valued by the average wage rate in Virginia manufacturing sector, which was \$14 in December of 2000.⁴ Thus, as Table 1 indicates, about \$297,202 is likely to be saved by affected vehicle owners by 2004, and similar savings are expected to be realized beyond that. Based on the same report, vehicle-operating cost is assumed 29 cents per mile, or \$2.63 in current dollars per round trip.⁵ It is expected that the vehicle owners will realize about \$124,070 by 2004 and will keep realizing similar vehicle operating cost savings beyond 2004. The affected vehicle owners will also not wait for the inspection, which include the time waited in line and the time it takes to complete the test. It is reported that the average total waiting time at the station is about 27 minutes. (Harrington et al., 1999:2) These savings in waiting time may represent an additional \$297,202 cost savings to the vehicle owners by 2004.

Older vehicles are more likely to fail the emission test and repair costs are likely to be higher relative to newer vehicles. (Ando et al., 1999) Of the newly exempt vehicles about 2,408 have failed the test since July 2000 and the agency expects

³ These estimates may vary slightly for northern Virginia due to geographic differences.

⁴ Source: Virginia Economic Indicators, Fourth Quarter 2000 Data.

⁵ Reported 25 cents in Harrington et al., 1999:2 is adjusted for Consumer Price Index.

that 40 percent will fail the test and incur additional repair costs.⁶ This means 2,408 vehicles in 2000 avoided repair costs, and about 6,290 vehicles in 2002, and 7,763 vehicles in 2004 will not require additional repair costs.⁷ Thereafter, some vehicles will continue to avoid repair costs, but an estimate is not available. The agency expects the fail rate for exempt vehicles to remain the same. The Virginia data indicate that the fail rate remains constant for vehicles over 20 years old. According to Ando et al., 1999, average cost of repairs for failing 14-year-old vehicles is \$154 in current dollars.^{8, 9} Thus, with the proposed changes, the owners of these vehicles will realize about \$2,534,994 from 2000 to 2004 in repair cost savings and are likely to continue similar savings beyond 2004.¹⁰ In addition, the owners of vehicles failing the test are expected to save in travel time, vehicle operating costs, and waiting time associated with repairs and retests. Expected cost savings for these items are not available at this time. However, it is reported that the costs associated with retests are approximately 8.0% of the total smog check costs in California. (Schwartz, 2000)

There may be additional benefits to the local governments in northern Virginia and additional costs to adjacent localities from this exemption. The research indicates that dirty vehicles move outside the I/M region to avoid costs associated with inspection and repairs. (Stedman et al., 1998) The proposed exemption is expected to eliminate the incentive to move vehicles to adjacent counties outside the northern Virginia nonattainment area. The motor vehicle property taxes are collected by the locality where the vehicle is registered. Thus, the property taxes collected in northern Virginia may increase while a corresponding reduction may take place in adjacent localities if these taxes remain in place.

Also, very small savings are expected in the agency's administrative costs due to handling less data.

The increased number of exempted vehicles will result in increased emissions from those vehicles. The emissions from exempted vehicles are likely to contribute to lower air quality because vehicles will not be required to meet emission standards. The agency estimates that HC emissions will increase by approximately 0.55 tons per day in 2002, or approximately 201 tons of HC emissions annually from exempting vehicles 25 years and older. This is approximately 3.5% of the total HC emission reductions expected from the program. The potential impact on CO emissions cannot be

calculated because the northern Virginia region is in attainment for CO emissions and the necessary information on CO inventory does not exist. However, CO emissions will also increase and that represents additional costs. No loss in reductions is calculated for NO_x emissions because the TSI inspection performed on all vehicles 1980 and older does not test NO_x emissions. However, beginning in 2005 vehicles subject to the ASM test will become exempt and there will be a loss in expected NO_x reductions as well. The agency expects emissions to slightly increase because of the vehicles exempted each year.

Other costs of the proposed changes will accrue directly to the vehicle owners. The improvements in fuel economy resulting from emission repairs are expected to be forgone. It is reported that improvements in fuel economy average about 3.5% compared to pre-repair levels. (Harrington et al., 1999:2) Estimated dollar effect of fuel improvement is about \$40.95 in current dollars per vehicle repaired over two years.¹¹ Thus, the vehicle owners are expected to forgo \$98,608 between 2000 and 2002, \$257,576 between 2002 and 2004, and \$317,895 between 2004 and 2006 in fuel economy savings.¹² Similar losses are expected beyond 2006. Moreover, the repairs are likely to extend vehicle life, improve the overall performance of the vehicle, and provide some satisfaction to the owner. These forgone improvements in performance and vehicle life span should be counted as costs to the vehicle owners, but no reliable estimate of the economic value of these forgone improvements is available at this time.

On-Board Diagnostic Systems: Another major change is related to the implementation of on-board diagnostic systems (OBD) testing. OBD devices are made of sensors, computer diagnostics, and warning lights to alert the driver and the inspection personnel for emission problems. An OBD check consists of a visual check of the dashboard indicators and an electronic examination of the OBD computer itself. The requirement for OBD testing is not new. As currently written, OBD testing was to be started as an additional test along with the other two emissions tests beginning January 3, 2000. Failing an OBD test will result in mandatory repairs even if the other tests are passed. EPA now recommends doing only the OBD test in lieu of the ASM or TSI tests.

According to EPA, the OBD test is more effective in achieving emission reductions. The effectiveness of OBD testing is generally accepted. Due to the technical problems, OBD testing has not started yet. In accordance with changes in federal regulations, proposed amendments will require OBD testing for vehicles of model year 1996 and newer beginning January 1, 2002. However, the agency may not be able to implement this testing by the specified date because of the availability of the equipment. The proposed amendments postpone the implementation until the agency deems appropriate. This will allow the agency time to conduct a pilot test to evaluate OBD testing in conjunction with ASM testing. According to the agency, EPA anticipates that once the fleet

⁶ The probability that a vehicle will fail the test monotonically increases with the age. Ando et al., 1999 report that failure rate for 14-year-old vehicles were 45.4% in Arizona. Since the proposed amendments provide an exemption for vehicles between the ages 25 and 32, the failure rate is expected to be even higher. Thus, there is a chance that 40 percent expected failure rate may be biased downward and may underestimate expected cost savings.

⁷ Some of the owners may repair their vehicles even if it is not required. The estimates provided here do not account for these cases.

⁸ The estimated \$132 in 1995 dollars is adjusted for Consumer Price Index to convert into current dollars. No adjustments are made for potential cost of repair differences between Arizona and Virginia.

⁹ Repair costs are generally higher for older vehicles. Using the estimates for 14-year-old vehicles for 25 to 32 year old vehicles may underestimate expected costs.

¹⁰ Some repairs may be covered by manufacturers warranty.

¹¹ Reported \$35 in 1995 dollars is adjusted for Consumer Price Index.

¹² The vehicle owner may always choose to repair the car even if it is not required. These estimates do not account for these cases.

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turns over and most vehicles are equipped with the correct equipment, OBD tests will eliminate the need for TSI or ASM testing. The proposed changes will substitute OBD test for ASM or TSI emission tests when the agency completes transition.

Substitution of OBD test for other tests is likely to have significant economic consequences. About 397,595 vehicles in 2002, and 569,634 vehicles in 2004 are expected to use OBD testing in lieu of ASM or TSI test. Beyond 2004, more vehicles are expected to phase into OBD testing requirements as new models being produced with OBD equipment. The vehicle owner will still be required to go to the inspection station. In most cases an emission problem does not affect the drivability of a vehicle. The owners may keep using their vehicles when the OBD system indicates an emission problem. The proposed inspection requirement will prevent the emission problems from extending beyond two years. The current test fee will apply to OBD tests and no changes in costs associated with inspection such as vehicle operating costs, travel time, waiting for inspection are expected.

Proposed changes will remove the requirement for the other two tests. On average vehicle service time for ASM test is about 8.7 minutes.¹³ Thus, it is expected that about 57,651 hours in 2002, and about 82,597 hours in 2004 will be realized in timesaving not only by the vehicle owner but also by the inspection station. This will be a considerable advantage to both the vehicle owner and the inspection station. When quantified by the wage rate in Virginia manufacturing sector, the projected timesaving represent \$1,614,236 in 2002, and \$2,312,714 in 2004 for 392 inspection stations and the affected vehicle owners combined.

Under the current regulations, diesel powered vehicles are not subject to OBD testing. With the proposed amendments, OBD testing will also be required for diesel-fueled vehicles so equipped; model year 1997 and newer, using the same testing equipment used for gasoline-powered vehicles. Diesel vehicles have not been tested in the program in the past because such testing requires completely different equipment. However, beginning with model year 1997, all light duty diesel vehicles certified for sale in the U.S. are required to be equipped with OBD systems similar to that of gasoline fueled vehicles. OBD test is capable of measuring emissions from both diesel and gasoline powered vehicles. OBD testing of light duty diesel vehicles is expected to include only two passenger vehicle models, Volvo and Mercedes, and some light duty diesel trucks. Most diesel-powered trucks are believed to have GVWR greater than 8,500 lbs. and would be exempt from testing.

Diesel powered vehicles will be subject to OBD testing two years after these regulations become effective. About 1,514 diesel-fueled vehicles in 2004 are expected to be subject to emission tests in addition to all other vehicles. Beyond 2004, more diesel vehicles are likely to be subject to emission testing. Thus, the owners of these vehicles are expected to incur about \$36,336 in test and registration fee costs biennially. As for the gasoline powered vehicle owners,

associated costs categories are the same for the owners of diesel powered vehicle owners. Extrapolating the results from gasoline-powered vehicles provides a rough estimate for some of the cost categories. These are summarized in Table 2, which indicates about \$59,394 additional costs to diesel vehicle owners in 2004. Similar, but probably higher, costs are expected to be realized by affected vehicle owners beyond 2004 due to a larger number of vehicles with OBD equipment.

Table 2: Expected Costs in 2004

Cost Category	Estimate
Test Fees	\$36,336
Travel Time	\$9,538
Vehicle Operating Costs	\$3,982
Waiting Time at the Station	\$9,538
Total Quantified Costs	\$59,394
Repair Costs	na
Travel Time for Repairs and Retest	na
Vehicle Operating Costs for Repairs and Retest	na
Waiting Time at the Repair Facility and the Station for Retest	na

Data for diesel vehicle OBD failures is not available since OBD equipped diesel vehicles are still relatively new, limited to model year 1997 and newer, and there is no data for these vehicles. However, the fail rate is expected to be small.¹⁴ Thus, some vehicles will fail the test and be required to spend some money and time for repairs and for retests. These additional costs are likely to provide incentives to register the vehicles out of the nonattainment area.

The impact on emissions is expected to be beneficial because emissions from failing vehicles will be reduced, but no data is available to estimate the size of the emission reductions. The owners of vehicles failing the test are likely to realize additional benefits in terms of improved fuel efficiency, longer vehicle life, and improved vehicle performance.

Two Speed Idle Test: Emissions standards for TSI test will be tightened for some vehicles of 1990 vintage and newer. According to the agency, the revised standards were determined by an analysis of fail rates in the Virginia program and a review of standards from other state programs. The revised standards reflect the advanced technology of 1990 and newer vehicles. Previously these vehicles only had to meet the standards set for 1981 vehicles. Currently, vehicles with known faults can pass the existing standards and that poses a problem for proper program operation. The agency expects that about five percent of the total vehicle population will be subject to reduced cut points for TSI emission test. There will be no change in the testing costs for the owners. Of the five percent, a larger number of vehicles are expected to fail this test due to stricter standards. The agency estimates that about 548 additional vehicles in 2002, and about 800 additional vehicles in 2004 will fail the test and will have to incur repair costs. Thereafter, the fail rates are expected to

¹³ Source: Harrington et al. 1999:2.

¹⁴ Source: The Agency

increase since the vehicles will be older, but an estimate is not available. This means about \$84,392 in 2002, and about \$123,200 in 2004 in additional repair costs are likely to be incurred by vehicle owners. In addition to that, time losses, and operating costs associated with repairs and retests should be considered as additional costs. On the other hand, required repairs are expected to increase fuel efficiency, extend vehicle life, and improve overall performance of the vehicle. The proposed change will also reduce the emissions by a small amount from these affected vehicles and improve air quality.

Acceleration Simulation Mode Test: For the ASM test, the regulation is being revised to allow the agency to have the flexibility to set standards less stringent than the federal "final" ASM standards. Currently the regulation allows only either EPA phase-in standards or EPA final standards. The revised language will allow the agency to determine standards based on an analysis of fail rates. This would enable the agency to set stricter standards than the current levels in order to meet EPA emission reduction requirements. But these standards are expected to be less stringent than the final levels. Currently, ASM test standards are being phased into more stringent levels. The agency believes that the final ASM standards might be too strict for some vehicle classes and will result in these vehicles being difficult or impossible to repair to the standards. According to the agency, EPA is also aware of this possibility and have been warning states about final standards for failing tests falsely. The agency indicated that the ASM test standards are being proposed to be lowered relative to the current phase in levels, but increased relative to the current standards. In other words, the proposed standard is more stringent than the current level but not as much as what it would be in the final stage if phase in continues.

According to the agency, the change in the standards is likely to reduce the number of failures by 18,607 vehicles in 2002, and by 24,097 vehicles in 2004. Thus, the proposed changes are likely to reduce repair costs for vehicle owners by \$2,865,478 in 2002, and \$3,710,938 in 2004. In addition to these the vehicle owners will realize timesaving and vehicle operating cost savings associated with repairs and retests.

On the other hand, the proposed changes are expected to allow higher emissions, which will contribute to air quality problems. However, the agency expects only minor increases in emissions because the proposed standards are expected to affect mainly those vehicles that would be difficult or impossible to repair. These vehicles likely would have received a waiver and continue to emit the same amount of pollutants.

In addition, changes have been made to ASM testing procedures. According to the agency, the ASM test is complicated and the test results depend on factors such as vehicle type, weight, etc. The proposed amendments eliminate many procedural requirements during the test. The agency believes that these requirements were instructing the owners specifically how to do the elements of the test, which are not related to the amount of emissions released from the exhaust. For example, a specific level of tire pressure is required prior to performing the test. The agency indicated that the recent scientific evidence shows no relationship

between the tire pressure and the amount of emissions released. Once allowed, technicians are expected to perform the emission tests in the most efficient manner given their resources.

Remote Sensing: The current regulations include standards for remote sensing. Remote sensing works by reading the emissions of a passing vehicle through a sensor. If a vehicle's emissions are found to be above the standards at least twice within 90 days than the vehicle owner may be required to have an out-of-cycle emissions test; i.e. the owner may have to get an additional test before the next scheduled biennial emissions test. The agency believes that the standards for remote sensing are too strict and increase the chance that a vehicle fails the test falsely. There is a great deal of uncertainty associated with appropriateness of standards used in remote sensing. Not only the readings from remote sensing equipment are believed to be less accurate, but also the actual emissions from a vehicle on road are found to be above the emissions produced during an inspection. (Harrington et al., 1999:1, Calvert et al., 1993) Emissions on actual use may vary significantly due to road conditions, location, speed etc. Thus, the assessment of the true standards for remote sensing is a difficult task.

When a vehicle fails the test falsely, the owner incurs additional costs for the vehicles that have no emission problems. Thus, the determination of the appropriate standards with adequate margin of error is critical for this program. The proposed changes revise the remote sensing standards table to be less stringent and provide flexibility to allow the agency to use CO or HC or any combination as criteria for remote sensing. Due to the uncertainty on the appropriateness of the current remote sensing standards, it is not known whether false failures would be prevented, or vehicles with emission problems would go unnoticed. The agency plans to conduct a pilot program before fully implementing the remote sensing program. The pilot program is likely to provide necessary information to evaluate potential problems and appropriate solutions. The proposed changes will allow incorporation of some of the additional information into criteria for remote sensing.

If appropriate remote sensing criteria are established, considerable benefits may be realized because this is a very cost effective program. It is reported that costs per measurement are considerably low; i.e. lower than 50 cents. (Harrington et al., 1999:1, Hubbard, 1997, Rueff, 1992) Appropriate implementation of the standards is expected to avoid false failures and help identify truly dirty vehicles. In addition, remote sensing with correct standards will help identify vehicles that pass the inspection but may in fact be dirty due to tampering with the emission systems after the inspection, the test may be done by incompetent inspectors, or the system may start failing right after the test due to misfueling. In the past, use of cheap or leaded gas instead of unleaded gas was common. (Calvert et al., 1993) A few tankfuls of leaded gasoline has the potential to poison the catalyst and make its use obsolete.

The remote sensing has not yet been performed in Virginia while the enhanced inspection maintenance program has been in effect. Thus, no data is available either to estimate

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the impact on air quality or to estimate the number of vehicles that may avoid falsely failing the test, and the associated benefits from avoiding potential false failures. However, costs may include increase in HC and CO emissions while benefits may include timesavings, travel cost savings, and savings in additional fees associated with out-of-cycle tests.

Other Changes: Implementation of the evaporative system pressure test will be left to the agency's discretion. The pressure test is a physical test to measure fuel evaporation between the fuel tank and the engine to ensure that the emissions are not released into the ambient air. This is a very difficult task and is to be conducted during a regular emissions inspection. Under the current language, pressure test should have been implemented in 1998, but it has not been due to technical problems. The proposed changes delay the implementation to a future date to be determined by the agency and require the agency to notify the station owners one year in advance if the test is to be implemented. The agency does not believe that this test is a necessary component to have the program approved by EPA. In addition, evaporative tests have not been found workable and cost effective. (Harrington et al., 1999:1) Thus, allowing the agency to implement the test at its discretion is likely to avoid potential problems that may arise if the agency is unprepared and forced to implement the test. Such a case would almost certainly produce costs exceeding benefits associated with this test.

It is proposed to remove the requirement for the purge test which measures the instantaneous purge flow from the canister to motor intake manifold. Under the current language, the purge was to be performed in conjunction with ASM test starting in 1999. The agency has never enforced this test because EPA has determined that the test may be damaging to vehicles and no longer requires enforcement. Given this information, this change is expected to be beneficial.

Changes have been made with respect to the testing of federal fleet vehicles. Under the current language, there are compliance reporting requirements for the federal fleets, but not for private fleets. The requirement that federal fleet administrator make sure fleet vehicles comply with the emission standards and submit reports to the agency will be removed. The regulation will be amended to treat federal fleets the same as private fleets as required by the statute and impose new reporting requirements for all fleets. The agency has been provided the compliance information for the private fleets. Thus, there will be no changes in reporting requirements for federal or private fleets. The proposed changes will have an impact on federal fleets as the agency has been receiving \$2 per vehicle per year from this category. The agency will no longer receive the two-dollar fee from 20,000 federal fleet vehicles not registered with DMV. This will translate into \$40,000 revenue losses for the agency annually.

For reciprocity of vehicles that received an emissions inspection in another state, a waiver will no longer be sufficient. If a vehicle owner has a waiver from another state, he will be required to take the test first, and if the vehicle cannot pass the test, the owner will be required to get repairs or obtain a waiver from the Commonwealth. The agency does

not know how many vehicles are in this category. Some of the repair expenditures that would have taken place in other states are expected to take place in Virginia. Also, it is likely that the repair costs incurred by the vehicle owners moving into nonattainment area will increase. There may be small air quality benefits from the additional repairs.

Non-conforming vehicles, which are not manufactured for sale in the United States to conform emission standards, may be granted an exemption at the agency's discretion. According to the agency non-conforming vehicles are required to have a permission to enter the United States. The agency stated that the permission issued by EPA to enter into the country, in general, justifies the permission to enter the Commonwealth. The agency's records indicate that there have been less than five such cases in the past.

It is proposed that sensitive mission vehicle emissions fleet inspection stations will be allowed to apply for an inspection station permits. This proposed change will allow certain agencies such as the Central Intelligence Agency, the Federal Bureau of Investigation to establish inspection stations of their own. This change is not likely to have an impact on emissions, but is likely to contribute to the national security efforts, which may indirectly benefit the Commonwealth.

Proposed changes allow the inspection station to use internet in lieu of required reference material to make a determination for the proper test type. This represents an additional option for the station owner to reach information and is likely to be used by the owners who anticipate savings from this option.

Summary of Monetary Effects: This section intends to summarize the monetary impact on affected entities without completely considering all associated benefits and costs that may accrue to somebody else. For example, figures in Table 3 do not take into account any air quality benefits and costs. The table identifies the monetary savings and losses from the perspective of an individual entity. The net monetary impact of proposed changes on different entities will be different and is difficult to measure due to the unquantified items. However, quantified components can be netted out and a qualitative assessment can be provided to understand the impact.

All of the items affecting inspection stations are quantified. It appears from Table 3 is that the net impact on stations are negative in 2000 but move into positive territory in 2002 and probably beyond. Losses in test revenues due to exempting older vehicles are increasing over time and the increase in time savings due to OBD testing for diesel-powered vehicles does not start until 2004. The reason driving the savings up relative to losses for the station owners is the large time savings from the OBD testing.

Repair facilities are likely to bear the most of the negative impact. Only two items affecting these facilities are not quantified. These items include the expected increases in repair expenditures in Virginia due to new diesel OBD failures and due to no longer accepting waivers from other states. Although these two items are likely to increase revenues of repair facilities and help mitigate the overall losses, it is unrealistic to expect a large impact. The jump in the losses in 2002 and beyond is because of lowering ASM standards.

Less stringent standards will reduce the failures and consequently repair costs.

The agency's losses are composed of losing \$2 administrative fee from newly exempt older vehicles and changes associated with federal fleets. Although expected fees from diesel vehicles in 2004 represent an increase, the expected sum from that category is not nearly as much.

The numbers summarizing the effect on the vehicle owner does not include three categories. The first category includes the value of traveling time, vehicle operating costs, and waiting time associated with repairs. The second category includes the value of fuel economy changes, performance changes in vehicle operation, and changes in vehicle life span. Note that these two categories are not quantified in this analysis, but they tend to balance each other. Other items not included are the expected additional expenditures for repairs associated with diesel-powered vehicles and eliminated reciprocity waiver. Additional repair expenditures are likely to take out some of the projected savings from vehicle owners, but unlikely to reverse the direction of the overall impact. The repair cost savings from lower ASM failure rates, and from exemption of older vehicles from testing, and time savings from OBD testing are the three major factors for the significant jump in 2004 and beyond.

Table 3: Quantified Monetary Effects

Entity	2000	2002	2004
Inspection Stations	-\$238,840	\$494,620	\$800,481
Repair Facilities	-\$368,832	-\$3,747,744	-\$4,781,236
The Agency	-\$46,168	-\$100,898	-\$109,572
Vehicle Owners	\$745,632	\$4,956,179	\$6,363,683

Businesses and entities affected. Approximately 1.2 million vehicles are subject to the I/M program in the Northern Virginia area. There are currently 392 permitted emissions inspection stations, 1690 licensed emission inspectors, 440 certified emission repair facilities and 1226 certified emission repair technicians.

Localities particularly affected. The localities participating in the program are in northern Virginia and include the counties of Arlington, Fairfax, Loudoun, Prince William and Stafford, and the cities of Alexandria, Fairfax, Falls Church, Manassas and Manassas Park.

Projected impact on employment. This analysis indicates that the inspection stations and repair facilities are likely to demand less labor because the number of required tests and repairs are expected to decrease, and OBD testing will reduce the required labor from the inspection stations. On the other hand reduced testing and repairs, and time savings from OBD testing are likely to increase the vehicle owners' leisure time. Some of this ample time are likely to be supplied in the labor market. Lower labor demand combined with higher labor supply will have an indeterminate effect on employment.

Effects on the use and value of private property. It is expected that the proposed changes will have a positive impact on inspection stations in and after 2002, but a negative impact on repair stations. To the extent the changes in operating costs

and revenues affect the profitability, a small increase in the value of inspection stations and a decrease in the value of emission repair business are expected.

The price of affected vehicles is likely to reflect the expected costs or savings from emissions repairs. For example, expected repair savings from test exemption are likely to increase the price of older vehicles while expected repair costs for diesel vehicles are likely to reduce the price.

Although it is highly uncertain what the overall air quality impact would be, noticeable changes are likely to be reflected in property prices in northern Virginia.

References:

Anderson, Robert, 1990. Reducing Emissions from Older Vehicles. Research Study #053. American Petroleum Institute.

Anderson, Robert, Lareau, Thomas J., 1992. The Cost Effectiveness of Vehicle Inspection and Maintenance Programs. Research Study #067. American Petroleum Institute.

Ando, Amy, McConnel, Virginia, Harrington, Winston, 1999. Costs, Emissions Reductions, and Vehicle Repair: Evidence from Arizona. Discussion Paper 99-23-REV. Resources for the Future.

Calvert, J. G., Heywood, J. B., Sawyer, R. F., and Seinfeld, J. H., 1993. Achieving Acceptable Air Quality: Some Reflections on Controlling Vehicle Emissions. Science. Vol. 261. pp.37-45.

Harrington, Winston, McConnel, Virginia D., 1999:1. Coase and Car Repair: Who Should be Responsible for Emissions of Vehicles in Use? Discussion Paper 99-22. Resources for the Future.

Harrington, Winston, McConnel, Virginia, Ando, Amy, 1999:2. The Enhanced I/M Program in Arizona: Costs, Effectiveness, and a Comparison with Pre-regulatory Estimates. Discussion Paper 99-37. Resources for the Future.

Harrington, Winston, McConnel, Virginia, Ando, Amy, 2000. Are Vehicle Emission Inspection Programs Living up to Expectations? Transportation Research Part D 5. pp. 153-172.

Hubbard, Thomas N., 1997. Using Inspection and Maintenance Programs to Regulate Vehicle Emissions. Contemporary Economic Policy. Vol. 15:2. pp.52-62.

McConnel, Virginia D., 1990. Costs and Benefits of Vehicle Inspection: a Case Study of the Maryland Region. Journal of Environmental Management. Vol. 30. pp. 1-15.

Rueff, Roger M., 1992. The Cost of Reducing Emissions from Late-Model High-Emitting Vehicles Detected Via Remote Sensing. Air & Waste Management Association. Vol. 42:7. pp.921-925.

Schwartz, Joel, 2000. Smog Check II Evaluation, Part IV: Smog Check Costs and Cost Effectiveness. California Inspection and Maintenance Review Committee.

Stedman, Donald H., Bishop, G. A., Slott, R. S., 1998. Repair

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avoidance and Evaluating Inspection and Maintenance Programs. Environmental Science and Technology. Vol. 32:10. pp. 1544-1545.

Agency's Response to the Department of Planning and Budget's Economic Impact Analysis: The department has reviewed the economic impact analysis prepared by the Department of Planning and Budget and has no comment.

Summary:

The proposed amendments make a number of revisions to conform to changes in Virginia law and federal regulations, as well as to conform to current testing procedures and to enhance program enforcement. One of the primary changes affecting the vehicle owner is a change in the model year coverage: from the testing of model year 1968 and newer to a rolling exemption for vehicles 25 years and older. This change actually has been in effect since July 1, 2000, in accordance with the Virginia statute.

Another major change involves implementation of OBD testing. In accordance with changes in federal regulation, OBD testing will be performed for vehicles of model year 1996 and newer beginning January 1, 2002. OBD testing will also be required for diesel-fueled vehicles so equipped (model year 1997 and newer) using the same testing equipment used for gasoline-powered vehicles.

Emissions standards for the two-speed idle (TSI) test are being tightened for some vehicles 1990 and newer, and the regulation is being revised to correct the order in which the TSI test modes are performed.

For the acceleration simulation mode (ASM) test, which is the test performed on the majority of vehicles subject to the emissions inspection program, the regulation is being revised to allow DEQ the flexibility to set standards less stringent than the federal "final" ASM standards. In addition, changes have been made to various permitting, licensing and enforcement procedures to reduce redundancy.

9 VAC 5-91-20. Terms defined.

"Access code" means the security phrase or number which allows ~~emissions inspectors~~ authorized station personnel, the department, and analyzer service technicians to perform specific assigned functions using the certified analyzer system, as determined by the department.

"Actual gross weight" means the ~~weight of a motor vehicle as registered with the Department of Motor Vehicles and which may encompass the empty weight (EW), motorist declared gross weight (GW), or gross vehicle weight rating (GVWR).~~ For the purpose of determining applicability of emissions test procedures and standards, the GVWR shall be used, if available. If GVWR is unavailable, the GW shall be used. If ~~neither is available, the EW shall be used~~ department may make a determination based on the best available evidence including manufacturer reference, information coded in the vehicle identification number, or other available sources of information from which to make the determination.

"Administrator" means the administrator of the U.S. Environmental Protection Agency (EPA) or an authorized

representative.

"Affected motor vehicle" means any motor vehicle which:

1. Was manufactured ~~for the 1968 model year or a more recent model year including the most recent model year or designated by the manufacturer as a model year less than 25 calendar years prior to January 1 of the present calendar year according to the formula, the current calendar year minus 24;~~
2. Is designed for the transportation of persons or property;
3. Is powered by an internal combustion engine; and
4. For the Northern Virginia Emissions Inspection Program, has ~~an actual gross weight~~ a GVWR of 10,000 pounds or less.

The term "affected motor vehicle" does not mean any:

1. Vehicle powered by a clean special fuel as defined in § 58.1-2101 of the Code of Virginia, provided the federal Clean Air Act (42 USC § 4701 et seq.) permits such exemptions for vehicles powered by clean special fuels;
2. Motorcycle;
3. Vehicle which, at the time of its manufacture, was not designed to meet emissions standards set or approved by the federal government;
4. Any antique motor vehicle as defined in § 46.2-100 of the Code of Virginia and licensed pursuant to § 46.2-730 of the Code of Virginia;
5. Firefighting equipment, rescue vehicle, or ambulance; ~~or~~
6. Vehicle for which no testing standards have been adopted by the board; ~~or~~
7. Tactical military vehicle.

"Air intake systems" means those systems which allow for the induction of ambient air (to include preheated air) into the engine combustion chamber for the purpose of mixing with a fuel for combustion.

"Air pollution" means the presence in the outdoor atmosphere of one or more substances which are or may be harmful or injurious to human health, welfare or safety; to animal or plant life; or to property; or which unreasonably interfere with the enjoyment by the people of life or property.

"Air Pollution Control Law" means Chapter 13 (§ 10.1-1300 et seq.) of Title 10.1 of the Code of Virginia.

"Air system" means a system for providing supplementary air into a vehicle's exhaust system to promote further oxidation of hydrocarbons and carbon monoxide gases and to assist catalytic reaction.

~~"Alternative fuel" means an internal combustion engine fuel other than (i) gasoline, (ii) diesel, or (iii) fuel mixtures containing more than 15% volume of gasoline.~~

~~"Alternative evaporative system purge and pressure test" means a method and equipment, as approved by the administrator or the department, which performs evaporative system purge testing and evaporative system pressure testing~~

by pressurizing and testing the evaporative system by means of introducing gases to the system at the fuel filler inlet, and detecting pressure integrity and exhaust gas concentrations, and by testing the integrity of the fuel filler cap.

"Alternative fuel" means an internal combustion engine fuel other than (i) gasoline, (ii) diesel, or (iii) fuel mixtures containing more than 15% volume of gasoline.

"Alternative method" means any method of sampling and analyzing for an air pollutant that is not a reference method, but that has been demonstrated to the satisfaction of the board, in specific cases, to produce results adequate for its determination of compliance.

"ASM" means Acceleration Simulation Mode testing which is a dynamometer-based emissions test performed in one or more, discreet, simulated road speed and engine load modes, and equipment which can be used to perform any such test.

"Authorized personnel" means department personnel, individual designated by analyzer manufacturer, station owner, licensed emissions inspector, station manager or other person as designated by the station manager.

"Basic engine systems" means those parts or assemblies which provide for the efficient conversion of a compressed air and fuel charge into useful power to include but not limited to valve train mechanisms, cylinder head to block integrity, piston-ring-cylinder sealing integrity and post-combustion emissions control device integrity.

"Bi-fuel" means any motor vehicle capable of operating on one of two different fuels, usually gasoline and an alternative fuel, but not a mixture of the fuels. That is, only one fuel at a time.

"Board" means the State Air Pollution Control Board or its designated representative.

"Calibration" means establishing or verifying the total response curve of a measurement device using several different measurements having precisely known quantities.

"Calibration gases" means gases of precisely known concentrations which that are used as references for establishing or verifying the calibration response curve of a measurement device.

"Canister" means a mechanical device capable of adsorbing and retaining hydrocarbon vapors.

"Catalytic converter" means a post combustion device which oxidizes hydrocarbons, carbon monoxide gases, and may also reduce oxides of nitrogen.

~~*"Certified enhanced analyzer system" or "analyzer system" means the complete system which samples and reads concentrations of hydrocarbon, carbon dioxide, nitrogen oxides and carbon monoxide gases and which is approved by the department for use in the Enhanced Emissions Inspection Program in accordance with Part X (9 VAC 5-91-640 et seq.). The system includes the exhaust gas handling system, the exhaust gas analyzer, evaporative system pressure and purge test equipment, associated automation hardware and software, data media, the analyzer system cabinet, the dynamometer and appurtenant devices, vehicle identification*~~

~~equipment, and associated cooling and exhaust fans and gas cylinders.~~

"Certificate of emissions inspection" means a document, device, or symbol, whether recorded in written or electronic form, as prescribed by the director and issued pursuant to this chapter, which indicates that (i) an affected motor vehicle has satisfactorily complied with the emissions standards and passed the emissions inspection provided for in this chapter; (ii) the requirement of compliance with the emissions standards has been temporarily waived; or (iii) the affected motor vehicle has failed the emissions inspection.

"Certified emissions repair facility" means a facility, or portion of a facility, that has obtained a certification in accordance with Part VII (9 VAC 5-91-500 et seq.) to perform emissions related repairs on motor vehicles.

"Certified emissions repair technician" means a person who has obtained a certification in accordance with Part VIII (9 VAC 5-91-550 et seq.) to perform emissions related repairs on motor vehicles.

"Certified enhanced analyzer system" or "analyzer system" means the complete system that samples and reads concentrations of hydrocarbon, carbon dioxide, nitrogen oxides and carbon monoxide gases and that is approved by the department for use in the Enhanced Emissions Inspection Program in accordance with Part X (9 VAC 5-91-640 et seq.). The system includes the exhaust gas handling system, the exhaust gas analyzer, evaporative system pressure test equipment, associated automation hardware and software, data media, the analyzer system cabinet, the dynamometer and appurtenant devices, vehicle identification equipment, and associated cooling and exhaust fans and gas cylinders.

"Certified thermometer" means a laboratory grade ambient temperature measuring device with a range of at least 20°F through 120°F, and an attested accuracy of at least 1°F with increments of 1°, with protective shielding.

~~*"Chargeable inspection" means an initial a completed inspection, or a reinspection that occurs 15 days or later after the initial inspection, on an affected motor vehicle, for which the station owner is entitled to collect an inspection fee. No fee shall be paid for (i) inspections for which a vehicle certificate of emissions inspection report has not been issued, (ii) inspections that are conducted by the department for referee purposes, (iii) inspections which were ordered due to on-road test failures but which do not result in a failure an emissions inspection "pass" at an inspection station, or (iv) the first reinspection done at the same station that performed the initial inspection within 14 days. An inspection ordered by the department due to an on-road test failure and that results in an emissions inspection failure at the emissions inspection station is a chargeable inspection.*~~

"Consent order" means a mutual agreement between the department and any owner, operator, emissions inspector, or emissions repair technician that such owner or other person will perform specific actions for the purpose of diminishing or abating the causes of air pollution or for the purpose of coming into compliance with this chapter. A consent order may include agreed upon civil charges. Such orders may be issued without a formal hearing.

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"Curb idle" means vehicle operation whereby the transmission is disengaged and the engine is operated with the throttle in the closed or idle stop position with the resultant engine speed between ~~300~~ 400 and ~~4,400~~ 1,250 revolutions per minute (rpm), or at another idle speed if so specified by the manufacturer.

"Data handling system" means all the computer hardware, software and peripheral equipment used to conduct emissions inspections and manage the enhanced emissions inspection program.

"Data medium" or *"data media"* means the medium contained in the certified analyzer system and used to electronically record test data.

"Day" means a 24-hour period beginning at midnight.

"Dedicated alternate fuel vehicle" means a vehicle that was configured by the vehicle manufacturer to operate only on one specific fuel other than (i) gasoline, (ii) diesel, or (iii) fuel mixtures containing more than 15% by volume of gasoline.

"Dedicated-fuel vehicle" means a vehicle which was designed and manufactured to operate and operates on one specific fuel.

"Department" means any employee or other representative of the Virginia Department of Environmental Quality, as designated by the director.

"Director" means the director of the Virginia Department of Environmental Quality or a designated representative.

"Dual fuel" means a vehicle which operates on a combination of fuels, usually gasoline or diesel and an alternative fuel, at the same time. That is, the mixed fuels are introduced into the combustion chamber of the engine.

"Emissions control systems" means those parts, assemblies, equipment or systems originally installed by the manufacturer in or on a vehicle for the ~~sole~~ primary purpose of reducing emissions.

"Emissions inspection" means an emissions inspection of a motor vehicle performed by an emissions inspector employed by or working at an emissions inspection station or fleet emissions inspection station, using the tests, procedures, and provisions set forth in this chapter.

"Emissions inspection station" means a facility or portion of a facility which has obtained an emissions inspection station permit from the director authorizing the facility to perform emissions inspections in accordance with the provisions of this chapter.

"Emissions inspector" means a person licensed by the department to perform inspections of vehicles required under the Virginia Motor Vehicle Emissions Control Law and is qualified in accordance with this chapter.

~~*"Emissions repair facility"* means a facility, or portion of a facility, which has obtained a certification in accordance with Part VII (9 VAC 5-91-500 et seq.) to perform emissions related repairs on motor vehicles.~~

~~*"Emissions repair technician"* or *"emissions repair mechanic"* means a person who has obtained a certification in~~

~~accordance with Part VIII (9 VAC 5-91-550 et seq.) to perform emissions related repairs on motor vehicles.~~

"Emissions standard" means any provision of Part III (9 VAC 5-91-160 et seq.) or Part XIV (9 VAC 5-91-790 et seq.) which prescribes an emission limitation, or other emission control requirements for motor vehicle air pollution.

"Empty weight (EW)" means that weight stated as the EW on a Virginia motor vehicle registration or derived from the motor vehicle title or manufacturer's certificate of origin. The EW may be used to determine emissions inspection standards.

"Enhanced emissions inspection program" means a motor vehicle emissions inspection including procedures, emissions standards, and equipment required by 40 CFR Part 51, Subpart S or equivalent and consistent with applicable requirements of the federal Clean Air Act. The director shall administer the enhanced emissions inspection program. ~~Such~~ *Under the Virginia Motor Vehicle Emissions Control Law, the program shall require that affected motor vehicles, unless otherwise exempted, receive biennial inspections at official emissions inspection stations, which may be test and repair facilities, in accordance with this chapter. Nothing in this program shall bar enhanced emissions inspection stations or facilities from also performing vehicle repairs.*

"EPA" means the United States Environmental Protection Agency.

"Equivalent test weight (ETW)" or *"emission test weight"* means the weight of a motor vehicle as automatically determined by the emissions analyzer system based on vehicle make, model, body, style, model year, engine size, permanently installed equipment, and other manufacturer and aftermarket supplied information, and used for the purpose of assigning dynamometer resistance and exhaust emissions standards for the conduct of an exhaust emissions inspection.

"Evaporative system pressure test" or *"pressure test"* means a physical test of the evaporative emission control system on a motor vehicle to determine whether the evaporative system vents emissions of volatile organic compounds from the fuel tank and fuel system to an on-board emission control device, and prevents their release to the ambient air under normal vehicle operating conditions. *The feasibility and practicality of conducting such testing shall be determined by the director and contingent upon the availability and installation of equipment necessary for conducting the test.*

~~*"Evaporative system purge test"* or *"purge test"* means a test which measures the instantaneous purge flow in standard liters per minute from the canister to the motor intake manifold, based upon computation of the total volume of the flow in standard liters over a prescribed driving cycle, or an equivalent procedure approved by the department.~~

"Exhaust gas analyzer" means an instrument which is capable of measuring the concentrations of certain air pollutants in the exhaust gas from a motor vehicle.

"Facility" means something that is built, installed or established to serve a particular purpose; includes, but is not limited to, buildings, installations, public works, businesses, commercial and industrial plants, shops and stores,

apparatus, processes, operations, structures, and equipment of all types.

"Federal Clean Air Act" means 42 USC § 7401 et seq.

~~"Federal employee" means civilian or military personnel employed or stationed at a federal facility, including contractor personnel, for more than 60 days in a calendar year.~~

~~"Federal facility" means a facility or complex that is owned, leased, or operated by a United States government agency, including parking areas provided to federal employees at the facility.~~

"Fleet" means 20 or more motor vehicles which are owned, operated, leased or rented for use by a common owner.

"Fleet emissions inspection station" means any inspection facility operated under a permit issued to a qualified fleet owner or lessee as determined by the director.

"Flexible-fuel vehicle" means any motor vehicle ~~having a single fuel tank and~~ capable of operating on two or more fuels, either one at a time or any mixture of two or more different fuels.

"Formal hearing" means a board or department process ~~which~~ that provides for the right of private parties to submit factual proofs as provided in § ~~9-6.14:12~~ 2.2-4020 of the Administrative Process Act in connection with case decisions. Formal hearings do not include the factual inquiries of an informal nature provided in § ~~9-6.14:14~~ 2.2-4019 of the Administrative Process Act.

"Fuel control systems" means those mechanical, electro-mechanical, galvanic or electronic parts or assemblies which regulate the air-to-fuel ratio in an engine for the purpose of providing a combustible charge.

"Fuel filler cap pressure test" or "fuel filler cap test" or "gas cap test" means a test of the ability of the fuel filler cap to prevent the release of fuel vapors from the fuel tank under normal operating conditions.

"Gas span" means the adjustment of an exhaust gas analyzer to correspond with known concentrations of gases.

"Gas span check" means a procedure using known concentrations of gases to verify the gas span adjustment of an analyzer.

"Gross vehicle weight rating (GVWR)" means the maximum recommended combined weight of the motor vehicle and its load as prescribed by the manufacturer and is (i) expressed on a permanent identification label affixed to the motor vehicle; (ii) stated on the manufacturer's certificate of origin; or (iii) coded in the vehicle identification number. *If the GVWR can be determined it shall be one element used to determine emissions inspection standards and test type.*

~~"Gross weight (GW)" means the weight stated as GW on a Virginia motor vehicle registration and has been declared by the customer at the time of registration, based on the empty weight and the maximum weight the vehicle may legally carry under such registration.~~

"Heavy duty vehicle" means any affected motor vehicle (i) which is rated at more than 8,500 pounds GVWR or (ii) which

has a loaded vehicle weight or GVWR of more than 6,000 pounds and has a basic frontal area in excess of 45 square feet.

"Idle mode" means a condition where the vehicle engine is warm and running at the rate specified by the ~~manufacturer's~~ manufacturer as curb idle, where the engine is not propelling the vehicle, and where the throttle is in the closed or idle stop position.

"Ignition systems" means those parts or assemblies which are designed to cause and time the ignition of a compressed air and fuel charge.

"Informal fact finding" means an informal conference or consultation proceeding used to ascertain the fact basis for case decisions as provided in § ~~9-6.14:14~~ 2.2-4019 of the Administrative Process Act.

"Initial inspection" means the first complete emissions inspection of a motor vehicle conducted in accordance with the biennial inspection requirement and for which a valid vehicle emissions inspection report was issued. Any test following the initial inspection is a retest or reinspection.

"Inspection area" means the area that is occupied by the certified analyzer system and the vehicle being inspected.

"Inspector access code" means the security phrase or number issued by the department to an emissions inspector.

"Inspection fee" means the amount of money that the station owner may collect from the motor vehicle owner for each chargeable inspection.

"Inspector number" means the alpha or numeric identifier issued by the department to every emissions inspector at the time of licensing.

"Light duty truck" means any affected motor vehicle which (i) has a loaded vehicle weight or GVWR of 6,000 pounds or less and meets any one of the criteria below; or (ii) is rated at more than 6,000 pounds GVWR but less than 8,500 pounds GVWR and has a basic vehicle frontal area of 45 square feet or less; and meets one of the following criteria:

1. Designed primarily for purposes of transportation of property or is a derivation of such a vehicle.
2. Designed primarily for transportation of persons and has a capacity of more than 12 persons.
3. Equipped with special features enabling off-street or off-highway operation and use.

"Light duty truck 1" or "LDT1" means any affected motor vehicle which meets the criteria above and is rated at 6,000 pounds GVWR or less. LDT1 is a subset of light duty trucks.

"Light duty truck 2" or "LDT2" means any affected motor vehicle which meets the criteria above and is rated at greater than 6,000 pounds GVWR. LDT2 is a subset of light duty trucks.

"Light duty vehicle" means an affected motor vehicle that is a passenger car or passenger car derivative capable of seating 12 passengers or less.

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"Loaded vehicle weight (LVW)" or "curb weight" means the weight of a vehicle and its standard equipment; i.e., the empty weight as recorded on the vehicle's registration or the base shipping weight as recorded in the vehicle identification number, whichever is greater; plus the weight of any permanent attachments, the weight of a nominally filled fuel tank, plus 300 pounds.

"Locality" means a city, town, or county created by or pursuant to state law.

"Mobile fleet emissions inspection station" means a facility or entity which provides emissions inspection equipment or services to a fleet emissions inspection station on a temporary basis. Such equipment is not permanently installed at the fleet facility but is temporarily located at the fleet facility for the sole purpose of testing vehicles owned, operated, leased or rented for use by a common owner.

"Model year" means, except as may be otherwise defined in this chapter, the motor vehicle manufacturer's annual production period which includes the time period from January 1 of the calendar year prior to the stated model year to December 31 of the calendar year of the stated model year; provided that, if the manufacturer has no annual production period, the term "model year" shall mean the calendar year of manufacture. For the purpose of this definition, model year is applied to the vehicle chassis, irrespective of the year of manufacture of the vehicle engine.

"Motor vehicle" means any motor vehicle as defined in § 46.2-100 of the Code of Virginia as a motor vehicle and which that:

- ~~1. Was manufactured for the 1968 model year or more recent model year;~~
- ~~2. 1.~~ Is designed for the transportation of persons or property; and
- ~~3. 2.~~ Is powered by an internal combustion engine.

"Motor vehicle dealer" means a person who is licensed by the Department of Motor Vehicles in accordance with §§ 46.2-1500 and 46.2-1508 of the Code of Virginia.

"Motor vehicle inspection report" or "vehicle inspection report (VIR)" means a printed certificate of emissions inspection that is a report of the results of an emissions inspection, indicating. It indicates whether the motor vehicle has (i) passed, (ii) failed, ~~(iii) been rejected,~~ or ~~(iv) (iii)~~ obtained an a temporary emissions inspection waiver. It may also indicate whether the emissions inspection could not be completed due to an exhaust dilution or an engine condition that prevents the inspection from being completed. The report shall accurately identify the motor vehicle and shall include inspection results, recall information provided by the department, warranty and repair information, and a unique identification number.

"Motor vehicle owner" means any person who owns, leases, operates, or controls a motor vehicle or fleet of motor vehicles.

"Nonconforming vehicle" means a vehicle not manufactured for sale in the United States to conform to emissions standards established by the federal government.

"Normal business hours" for emissions inspection stations, means a daily eight-hour period Monday through Friday, between the hours of 8 a.m. and 6 p.m., with the exception of national holidays, state holidays, temporary closures noticed to the department and closures due to the inability to meet the requirements of this chapter. Nothing in this chapter shall prevent stations from performing inspections at other times in addition to the "normal business hours." Emissions inspection stations may, with the approval of the department, substitute a combined total of eight hours, between 8 a.m. and 6 p.m., over a weekend period for one weekday as their "normal business hours" for conducting emission inspections. Emissions inspection stations shall post inspection hours.

"Northern Virginia emissions inspection program" means the emissions inspection program required by this chapter in the Northern Virginia program area.

"Northern Virginia program area" or "program area" means the territorial area encompassed by the boundaries of the following localities: the counties of Arlington, Fairfax, Loudoun, Prince William, and Stafford; and the cities of Alexandria, Fairfax, Falls Church, Manassas, and Manassas Park.

"On-board diagnostic system" or "OBD system" means the computerized emissions control diagnostic system installed on model year 1996 and newer light duty vehicles and light duty trucks.

"On-board diagnostic system test" or "OBD system test" means an evaluation of the OBD system pursuant to 40 CFR 86.094-17 according to procedures specified in 40 CFR 85.2222 and this chapter.

"On-board diagnostic vehicle" or "OBD vehicle" means a model year 1996 and newer model gasoline powered vehicle or light duty truck equipped with an on-board diagnostic system and meeting the requirements of 40 CFR 85.2231.

"On-road testing" means tests of motor vehicle emissions or emissions control devices by means of roadside pullovers or remote sensing devices.

"Operated primarily" means ~~the area within which the affected motor vehicle is primarily driven. A vehicle is primarily driven in the program area if the vehicle is operated in the program area for an amount of annual mileage equal to or greater than (i) 50% of its annual mileage or (ii) 6,000 miles, whichever is greater, or routinely driven vehicle operation that constitutes a significant use in the program area. For the purpose of this definition, significant use shall be (i) mileage in excess of 6,000 miles per year or (ii) routine operation into or within the program area as determined~~ evidenced by recordation of travel in the program area ~~more than~~ at least three times in a two-week period by remote sensing or on-road testing.

"Order" means any decision or directive of the board or the director, including orders, consent orders, and orders of all types rendered for the purpose of diminishing or abating the causes of air pollution or enforcement of this chapter. Unless specified otherwise in this chapter, orders shall only be issued after the appropriate administrative proceeding.

"Original condition" means the condition of the vehicle, parts, and components as installed by the manufacturer but not

necessarily to the original level of effectiveness.

~~"Original Equipment Manufacturer (OEM) dedicated fuel vehicle" means a vehicle which was configured by the vehicle manufacturer to operate only on one specific fuel other than (i) gasoline, (ii) diesel, or (iii) fuel mixtures containing more than 15% by volume of gasoline.~~

"Owner" means any person who owns, leases, operates, controls or supervises a facility or motor vehicle.

"Party" means any person who actively participates in the administrative proceeding or offers comments through the public participation process and is named in the administrative record. The term "party" also means the department.

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

"Pollutant" means any substance the presence of which in the outdoor atmosphere is or may be harmful or injurious to human health, welfare or safety, to animal or plant life, or to property, or which unreasonably interferes with the enjoyment by the people of life or property.

"Referee station" means those facilities operated or used by the department to (i) determine program effectiveness, (ii) resolve emissions inspection conflicts between motor vehicle owners and emissions inspection stations, and (iii) provide such other technical support and information, as appropriate, to emissions inspection stations and motor vehicle owners.

"Reference method" means any method of sampling and analyzing for an air pollutant as described in Appendix A of 40 CFR Part 60.

"Reinspection" or "retest" means a type of inspection selected by the department or the emissions inspector when a request for an inspection is ~~accompanied by a completed motor vehicle inspection report indicating due to~~ a previous failure. Any inspection that occurs 120 days or less following the most recent chargeable inspection is a retest.

"Rejected" or "rejected from testing" means that the vehicle cannot be inspected due to conditions in accordance with 9 VAC 5-91-420 C or 9 VAC 5-91-420 G 3.

"Remote sensing" means the observation, measurement, and recordation of motor vehicle exhaust emissions from motor vehicles while travelling on roadways or in specified areas by specialized equipment ~~which is not connected to the vehicle~~. Such equipment may use light sensing and electronic stimuli in conjunction with devices, including videographic and digitized images, to detect and record vehicle identification information, such as registration or other identification numbers.

"Sensitive mission vehicle" means any vehicle which, for law enforcement or national security reasons, cannot be tested in the public inspection system and must not be identified through the fleet testing system. For such vehicles, an autonomous fleet testing system may be established by agreement between the controlling agency and the director.

"Span gas" means gases of known concentration used as

references to adjust or verify the accuracy of an exhaust gas analyzer that are approved by the department and are so labeled.

"Standard conditions" means a temperature of 20°C (68°F) and a pressure of 760 mm of H_g (29.92 inches of H_g).

"Standardized instruments" means laboratory instruments calibrated with precision gases traceable to the National Institute of Standards and Technology and accepted by the department as the standards to be used for comparison purposes. All candidate instruments are compared in performance to the standardized instruments.

"State Implementation Plan" means the plan, including any revision thereof, which has been submitted by the Commonwealth and approved in Subpart VV of 40 CFR Part 52 by the administrator under § 110 of the federal Clean Air Act, or promulgated in Subpart VV of 40 CFR Part 52 by the administrator under § 110(c) of the federal Clean Air Act, or promulgated or approved by the administrator pursuant to regulations promulgated under § 301(d) of the federal Clean Air Act and which implements the relevant requirements of the federal Clean Air Act.

"Tactical military vehicle" means any motor vehicle designed to military specifications or a commercially designed motor vehicle modified to military specifications to meet direct transportation support of combat, tactical, or military relief operations, or training of personnel for such operations.

"Tampering" means to alter, remove or otherwise disable or reduce the effectiveness of emissions control equipment on a motor vehicle.

"Test" means an emissions inspection of a vehicle, or any portion thereof, performed by an emissions inspector at an emissions inspection station, using the procedures and provisions set forth in this chapter.

"Test and repair" means motor vehicle emissions inspection stations which perform emissions inspections and may also perform vehicle repairs. No provision of this chapter shall bar emissions inspection stations from also performing vehicle repairs.

~~"Thermometer, certified" means a laboratory grade ambient temperature measuring device with a range of at least 20°F through 120°F, and an attested accuracy of at least 1°F with increments of 1°, with protective shielding.~~

~~"Thermostatic air cleaner" means a system that supplies warm temperature regulated air to the air intake system during cold engine operation and is active during cold engine warm-up only.~~

~~"Tier 1" means new gaseous and particulate tail pipe emission standards for use in certifying new light duty vehicles and light duty trucks which began to be phased in with the 1994 model year and are completely phased in during the 1996 model year, as promulgated by the U.S. Environmental Protection Agency at 40 CFR Part 86, as amended in the Federal Register, Volume 56, Number 108, page 25724, on June 5, 1991.~~

"True concentration" means the concentration of the gases of

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interest as measured by a standardized instrument which has been calibrated with 1.0% precision gases traceable to the National Bureau of Standards.

"Two-speed idle test" or "TSI" means a vehicle exhaust emissions test, performed in accordance with paragraph (II) of 40 CFR Part 51, Appendix B to Subpart S, which measures the concentrations of pollutants in the exhaust gases of an engine (i) while the motor vehicle transmission is not propelling the vehicle and (ii) while the engine is operated at both curb idle and at a nominal engine speed of 2,500 rpm.

"Virginia Motor Vehicle Emissions Control Program" means the program for the inspection and control of motor vehicle emissions established by Virginia Motor Vehicle Emissions Control Law.

"Virginia Motor Vehicle Emissions Control Law" means Article 22 (§ 46.2-1176 et seq.) of Chapter 10 of Title 46.2 of the Code of Virginia.

"Visible smoke" means any air pollutant, other than visible water droplets, consisting of black, gray, blue or blue-black airborne particulate matter emanating from the exhaust system or crankcase. Visible smoke does not mean steam.

"Zero gas" means a gas, usually air or nitrogen, which is used as a reference for establishing or verifying the zero point of an exhaust gas analyzer.

9 VAC 5-91-30. Applicability and authority of the department.

A. The provisions of this chapter, unless specified otherwise, apply to the following:

1. Any owner of an affected motor vehicle, including new motor vehicles, specified in subsection B of this section (i) on October 9, 1997, or (ii) later upon written notification of the emissions inspection requirement by the Department of Environmental Quality or the Department of Motor Vehicles.
2. Any owner of an emissions inspection station or fleet emissions inspection station under the auspices of the enhanced emissions inspection program.
3. Any person who conducts an emissions inspection under the auspices of the enhanced emissions inspection program.
4. Any owner of an emissions repair facility performing emissions repairs on motor vehicles affected by this chapter.
5. Any emissions repair technician performing emissions repairs on motor vehicles affected by this chapter.

B. The provisions of this chapter, unless specified otherwise, apply to the following affected motor vehicles:

1. Any affected motor vehicle, including new motor vehicles, registered by the Virginia Department of Motor Vehicles and garaged within the Northern Virginia program area.
2. Any affected motor vehicle, including new motor vehicles, registered by the Virginia Department of Motor Vehicles and garaged outside of the Northern Virginia

program area but operated primarily in the Northern Virginia program area.

3. Any affected motor vehicle, including new motor vehicles, ~~(i) owned or operated by a United States government agency located within the Northern Virginia program area, (ii) operated on or commuting to a federal facility within the Northern Virginia program area, or (iii) owned or operated by a United States government agency located outside the Northern Virginia program area not registered by the Department of Motor Vehicles but operated primarily in the Northern Virginia program area.~~

4. Any affected motor vehicle, including new motor vehicles, ~~(i) owned or operated by a state or local government agency located within the Northern Virginia program area, (ii) operated on or commuting to a state or local government facility within the Northern Virginia program area, or (iii) owned or operated by a state or local government agency fleet located outside the Northern Virginia program area but operated primarily in the Northern Virginia program area.~~

C. As provided in the Virginia Motor Vehicle Emissions Control Law, affected motor vehicles shall be submitted for biennial emissions inspections and comply with this chapter.

1. Motor vehicles having obtained a valid enhanced emissions inspection pass ~~or waiver~~ from another program area or another state within the most recent 12 months may be determined by the director to have complied with the enhanced emissions inspection required by this chapter for initial registration in Virginia. The valid period for such emissions inspection shall be ~~determined by the director, not to exceed one year.~~ The ~~subject motor vehicle and~~ proof of emissions inspection results from an enhanced emissions inspection program shall be presented to the Department of Motor Vehicles in such cases. *The vehicle and proof of compliance may be presented to the department for verification purposes in order to resolve questions or disputes.* Such vehicles are subject to all other provisions of this chapter.

2. The director may temporarily defer the emissions inspection requirement for motor vehicles registered in but temporarily located outside the program area at the time of such requirement based on information including, but not limited to, the location of the vehicle, the reason for and length of its temporary location, and demonstration that it is not practical or reasonable to return the vehicle to the program area for inspection. All such information shall be provided by the ~~registered~~ owner and is subject to verification by the department.

~~C-~~ D. Motor vehicles being titled for the first time shall be considered to have an enhanced emissions inspection valid for two years. Such vehicles are not exempt from the emissions inspection program and are subject to all other provisions of this chapter.

~~D-~~ E. Pursuant to § 46.2-1180 B of the Motor Vehicle Emissions Control Law, motor vehicles of the current model year and the four immediately preceding model years, held for sale in a licensed motor vehicle dealer's inventory, may be registered for one year upon sale without obtaining an

emissions inspection in accordance with conditions enumerated below.

1. The vehicle must be registered in the program area.
2. The vehicle has not failed *nor received a waiver during* its most recent emissions inspection.
3. The vehicle has not previously been registered under the provisions of this subsection.
4. The motor vehicle dealer guarantees in writing to the customer and to the department that the emissions equipment on the motor vehicle is operating in compliance with the warranty of the manufacturer or distributor, or both if applicable, at the time of sale.

a. The document supplied must describe the method by which this compliance was determined and provide a copy of any emissions readings obtained from the vehicle for the purpose of making this showing.

b. The document must state in prominent or bold print that the certification in no way warrants or guarantees that the vehicle complied with the emission standards used in the Virginia enhanced emissions inspection program, or similar language approved by the department and that the customer has a right to request an emissions inspection, which may be at the expense of the customer, in lieu of the one year emissions validation period authorized by this subsection.

5. A written request, including the documentation cited above, must be presented to the department not more than 30 days prior to the date of sale so that the department can record such temporary emissions validation period and furnish it to the Department of Motor Vehicles.

6. Such temporary validation period shall not be granted more than once for any motor vehicle.

7. For the purposes of *this subsection* ~~D of this section~~, any used motor vehicle will be considered to be one model year old on the first day of October of the next calendar year after the model year described on the vehicle title or registration, and shall increase in age by one year on the first day of each October thereafter.

F. Owners or operators of fleets, including fleets of government vehicles and sensitive mission vehicles, shall provide a report to the department annually containing information regarding vehicles operated in the program area sufficient to determine compliance with this chapter. The report shall contain information deemed necessary by the department to determine compliance. Such information shall include, but not be limited to, (i) number of vehicles, (ii) compliance method, and (iii) results of any inspections. Reports shall be in a format and according to a schedule acceptable to the department.

~~E. G.~~ Manufacturers and distributors of emissions testing equipment are prohibited from directly or indirectly owning or operating any emissions testing facility or having any direct or indirect financial interest in any such facility other than the leasing of or providing financing for equipment related to emissions testing.

~~F. H.~~ The provisions of this chapter, unless specified otherwise, apply only to those pollutants for which emission standards are set forth in Part III (9 VAC 5-91-160 et seq.) and Part XIV (9 VAC 5-91-790 et seq.).

~~G. I.~~ Applicants for inspection station permits and emissions repair facility certificates shall have a Virginia business license and the application shall only be for a facility in Virginia.

~~H. J.~~ By the adoption of this chapter, the board confers upon the department the administrative, enforcement and decision making authority enumerated herein.

9 VAC 5-91-41. Review and evaluation of chapter. (Repealed.)

~~A. By January 24, 2000, the department shall perform an analysis of this chapter and provide the board with a report on the results. The analysis shall include (i) the purpose and need for the chapter; (ii) alternatives which would achieve the stated purpose of this chapter in a less burdensome and less intrusive manner; (iii) an assessment of the effectiveness of this chapter; (iv) the results of a review of current state and federal statutory and regulatory requirements, including the identification and justification of requirements of this chapter which are more stringent than federal requirements; and (v) the results of a review as to whether this chapter is clearly written and easily understandable by affected entities.~~

~~B. Upon review of the department's analysis, the board shall confirm the need to (i) continue this chapter without amendment, (ii) repeal this chapter or (iii) amend this chapter. If the board's decision is to repeal or amend this chapter, the board shall authorize the department to initiate the applicable regulatory process to carry out the decision of the board.~~

9 VAC 5-91-50. Documents incorporated by reference.

A. The Administrative Process Act and Virginia Register Act provide that state regulations may incorporate documents by reference. Throughout this chapter, documents of the types specified below have been incorporated by reference.

1. United States Code.
2. Code of Virginia.
3. Code of Federal Regulations.
4. Federal Register.
5. Technical and scientific reference documents.

Additional information on key federal regulations and nonstatutory documents incorporated by reference and their availability may be found in ~~subsections~~ *subsection E and F* of this section.

B. Any reference in this chapter to any provision of the Code of Federal Regulations (CFR) shall be considered as the adoption by reference of that provision. The specific version of the provision adopted by reference shall be that contained in the latest revision to the CFR in effect on July 1, ~~1996~~ 2001. In making reference to the Code of Federal Regulations, 40 CFR Part 35 means Part 35 of Title 40 of the Code of Federal Regulations; 40 CFR 35.20 means § 35.20 in Part 35 of Title 40 of the Code of Federal Regulations.

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C. Failure to include in this ~~part~~ *section* any document referenced in ~~the regulation~~ *this chapter* shall not invalidate the applicability of the referenced document.

D. Copies of materials incorporated by reference in this ~~part~~ *section* may be examined by the public at the ~~headquarters~~ *central* office of the Department of Environmental Quality, Air Division, Eighth Floor, 629 East Main Street, Richmond, Virginia, between 8:30 a.m. and 4:30 p.m. of each business day.

E. *Information on federal regulations and nonstatutory documents incorporated by reference and their availability may be found below in this subsection.*

~~E.~~ 1. Code of Federal Regulations.

~~4.~~ a. The provisions specified below from the Code of Federal Regulations (CFR) are incorporated herein by reference:

~~a.~~ (1) 40 CFR Part 51 - Requirements for Preparation, Adoption and Submittal of Implementation Plans, specifically Subpart S (Inspection and Maintenance Program Requirements).

~~b.~~ (2) 40 CFR Part 85 - Control of Air Pollution from Motor Vehicles and Motor Vehicle Engines, specifically Subpart W (Emission Control System Performance Warranty Short Tests).

~~2.~~ b. Copies may be obtained from: Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402; phone (202) 783-3238.

~~F.~~ 2. Environmental Protection Agency, Motor Vehicle Emissions Laboratory.

~~4.~~ a. The following document from the Environmental Protection Agency is incorporated herein by reference: Environmental Protection Agency technical report, "EPA Recommended Practice for Naming I/M Calibration Gas," EPA-AA-TSS-83-8-B, September 1983.

~~2.~~ b. The following document from the Environmental Protection Agency is incorporated herein by reference: Environmental Protection Agency technical guidance, Acceleration Simulation Mode Test Procedures, Emission Standards, Quality Control Requirements, and Equipment Specifications," EPA-AA-RSPD-IM-96-2, July 1996.

~~3.~~ c. Copies may be obtained from: Environmental Protection Agency, ~~Motor Vehicle Emissions Laboratory, 2565 Plymouth Road Office of Transportation and Air Quality, 2000 Traverwood, Ann Arbor, MI 48105.~~

~~G.~~ 3. California Bureau of Automotive Repair.

~~4.~~ a. The following document from the California Bureau of Automotive Repair is incorporated herein by reference: BAR 97, Test Analyzer System Specifications, 1996.

~~2.~~ b. Copies may be obtained from: Department of Consumer Affairs, Bureau of Automotive Repair, California Vehicle Inspection Program, 3116 Bradshaw Road, Sacramento, California 95827.

9 VAC 5-91-70. Appeal of case decisions.

A. Any owner, emissions inspector, emissions repair technician, or other party significantly affected by any action of the director or the department taken without a formal hearing may request a formal hearing in accordance with ~~§ 9-6.14:12 2.2-4020~~ of the Administrative Process Act, provided a formal hearing has not been waived and a petition requesting such formal hearing is filed with the director within 30 days after notice of the action is mailed or delivered to such owner, emissions inspector, emissions repair technician, or party requesting notification of such action.

B. In cases where the director or the department fails to make a case decision within the time frame specified by ~~§§ 9-6.14:11 and 9-6.14:12 2.2-4021~~, the owner, emissions inspector, emissions repair technician, or other party significantly affected, may provide written notice to the director that a decision is due in accordance with ~~§ 9-6.14:14 or § 9-6.14:12 2.2-4021~~ of the Administrative Process Act. Appeals thereafter shall be in accordance with the Administrative Process Act.

C. Prior to any formal hearing, an informal fact finding shall be held pursuant to ~~§ 9-6.14:14 2.2-4019~~ of the Administrative Process Act, unless the named party and the director consent to waive the informal fact finding and go directly to a formal hearing.

D. Any decision of the director resulting from a formal hearing or from an informal fact finding wherein the parties have agreed to waive a formal hearing shall constitute the final decision appealable to court.

E. Judicial review of any final decision shall be afforded in accordance with ~~§ 9-6.14:16 2.2-4026~~ of the Administrative Process Act.

F. Nothing in this section shall prevent disposition of any case by consent.

G. Any petition for a formal hearing or any notice or petition for an appeal by itself shall not constitute a stay of decision or action.

9 VAC 5-91-120. Export and import of motor vehicles.

A. ~~A person may remove~~ The catalyst and fuel filler inlet restrictor *may be removed* from, *installed or reinstalled* on used motor vehicles scheduled for shipment to or from a foreign country provided that:

1. The export or import of the motor vehicle meets the provisions of subsection B of this section; and

2. The removal of the emissions control equipment does not take place prior to 10 days before the vehicle is turned over to the port authorities and the reinstallation of the emissions control equipment takes place within 10 days after receipt of the vehicle by the motor vehicle owner from the port authorities in the United States if such equipment is required for the vehicle configuration.

B. To be exempted under the provisions of subsection A of this section, the motor vehicle must:

1. Be exported or imported under a U.S. Environmental

Protection Agency approved catalyst control program;

2. Be exported or imported under a Department of Defense privately owned vehicle import control program; or

3. Be entered through U.S. Customs under cash bond and formal entry procedures, (19 CFR Part 12 - Special classes of merchandise) and be modified to bring it into conformity with applicable federal motor vehicle emission standards (40 CFR Part 86 - Control of air pollution from new motor vehicle engines: Certification and test procedures).

C. *Nonconforming vehicles may be granted an exemption from the emissions inspection requirement upon (i) submittal and subsequent verification, at the department's discretion, of nonconformity documentation, or (ii) department observation of the vehicle that verifies its status as a nonconforming vehicle.*

9 VAC 5-91-160. Exhaust emission standards for two-speed idle testing in enhanced emissions inspection programs.

A. No motor vehicle subject to the two-speed idle test shall discharge carbon monoxide (CO), or hydrocarbons (HC) in its exhaust emissions in excess of standards set forth in Table III-A when measured with a certified analyzer system and in accordance with the two-speed idle inspection procedures prescribed in Part VI (9 VAC 5-91-410 et seq.).

B. The measured concentration of CO plus CO₂ shall be greater than or equal to 6.0%.

C. The standards in Table III-A may be adjusted by no more than one percentage point for CO and ~~400~~ 150 ppm for HC in order to meet the requirements of the Environmental Protection Agency or the federal Clean Air Act.

~~D. During a transitional period, not to exceed 90 days prior to the date described in 9 VAC 5-91-30 A 1, the emissions standards in Table III A, the analyzer system operations in this chapter, and appropriate test procedures as determined by the director, may be applied to all motor vehicles subject to 9 VAC 5-90-10 et seq. in lieu of the standards and procedures contained therein, and the analyzer system operations contained in 9 VAC 5-100-10 et seq.~~

TABLE III-A.
EXHAUST EMISSION STANDARDS FOR TWO-SPEED
IDLE EMISSIONS INSPECTIONS TESTS.

Model Year	HC (ppm)	CO (%)
For idle test and 2500 RPM test for vehicles up to 8500 pounds GVWR:		
1994 1996 & later Tier 4	220 110	4.2 0.75
1990-95	125	1.0
1981 & later-89	220	1.2
1980	220	2.0
1975-79	400	4.0
1970-74	600	6.0
1968-69	800	8.0
For vehicles from 8501 to 10000 pounds GVWR:		
1994 & later Tier 4	220	4.2

1997 & later	125	0.75
1991-1996	150	1.0
1981 & later -1990	220	1.2
1980	220	2.0
1975-79	400	4.0
1970-74	600	6.5
1968-69	1000	8.0

9 VAC 5-91-170. Exhaust emission standards for ASM testing in enhanced emissions inspection programs.

A. No motor vehicle shall discharge carbon monoxide (CO), hydrocarbons (HC), or oxides of nitrogen (NO_x) in its exhaust emissions in excess of standards set forth in tables in Part XIV (9 VAC 5-91-790 et seq.) when measured with a certified analyzer system and in accordance with the ASM inspection procedures prescribed in Part VI (9 VAC 5-91-410 et seq.).

B. The director may determine, based on results of emissions inspections verified by the department and in consultation with vehicle manufacturers, *EPA or appropriate research organizations* that emissions standards for affected or specific vehicle models, model years, or weight classifications shall remain at the phase-in level as specified in 9 VAC 5-91-790 ~~rather than or be set at interim standards for a period of time determined by the department according to analysis of fail rates before being adjusted automatically~~ to the final standards specified in 9 VAC 5-91-800.

9 VAC 5-91-180. Exhaust emissions standards for on-road testing through remote sensing.

A. No motor vehicle shall exceed the emissions standard for carbon monoxide (CO), *the emission standard for hydrocarbons (HC), whichever is selected for use, or both*, set forth in Table III-B when measured with a remote sensing device and in accordance with the inspection procedures prescribed in Part XII (9 VAC 5-91-740 et seq.).

B. Any motor vehicle determined to have exceeded any emissions standards in Table III-B at least twice within 90 days when measured by a remote sensing device in accordance with the procedures of Part XII (9 VAC 5-91-740 et seq.) may be subject to an emissions inspection at an emissions inspection station in accordance with Part XII (9 VAC 5-91-740 et seq.) or a civil charge in accordance with § 46.2-1178.1 B of the Code of Virginia, or both.

C. The department may adjust the standards in Table III-B by ~~no more than two percentage points~~ if it is determined that the standard is causing a false failure rate in excess of 20% or less than 5.0% as measured by the results of emissions inspections at emissions inspection stations. Such adjustments may be for specific model years within each model year group based on manufacturer's emissions control technology.

TABLE III-B.
EXHAUST EMISSION STANDARDS FOR REMOTE
SENSING.

Model Year	CO (%)	HC (ppm)
1968-74, 4 cyl. engines and fewer	6.30	

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1968-74, more than 4 cyl.	5.90	
1975-78 1977-79, 6000 lb. and less	4.80 10.0	1600
1975-78 1977-79, more than 6000 lb.	5.40 12.0	2000
1979 and newer 1980-95, 8500 lb. and less	4.80 4.8	880
1979 and newer 1980-95, more than 8500 lb.	5.40 6.0	880
1996 and newer-98, 6000 lb. and less	3.80 3.6	660
1996 and newer-98, more than 6000 lb.	5.40 5.0	660
1999 and newer, 6000 lb. and less	3.60	440
1999 and newer, more than 6000 lb.	5.0	440

D. For any 30-day period, up to 5.0% of the number of vehicles measured three times which have been detected as having the cleanest measurements, based on an average of three measurements using on-road testing equipment within the period, may, at the discretion of the director, be recorded as having passed an emissions inspection and such result shall be entered into the emissions inspection record for that vehicle.

E. Remote sensing measurements used for such purposes shall be from at least two different on-road testing locations.

F. Remote sensing measurements obtained while a vehicle is decelerating shall not be used for the purpose described in this section.

9 VAC 5-91-190. Emissions control systems standards.

A. In accordance with § 46.2-1048 of the Code of Virginia and ~~9 VAC 5-40-5670~~, no motor vehicle manufactured for the model year 1973 or for subsequent model years shall be operated on the highways of the Commonwealth unless it is equipped with an emissions control system or device, or combination of such systems or devices, such as a crankcase emissions control system or device, exhaust emissions control system or device, fuel evaporative emissions control system or device, or other, no owner or other person shall cause or permit the removal, disconnection, disabling or intentional alteration that reduces the effectiveness of an emissions control system or device which that has been installed on a motor vehicle in accordance with federal laws and regulations.

B. In accordance with ~~9 VAC 5-40-5670~~, Applicability of and Compliance with Air Quality Standards, no motor vehicle or engine shall be operated if No owner or other person shall attempt to defeat the purpose of any such motor vehicle emissions control system or device has been defeated or replaced by installing any part or component which that is not (i) a standard factory replacement part or component or factory equivalent and of the device or (ii) a part or component certified by the U.S. Environmental Protection Agency to comply with the Federal Motor Vehicle Control Program requirements.

C. In accordance with 40 CFR 51.357 (b)(2), The installation of any aftermarket parts approved by the U.S. Environmental Protection Agency or by the California Air Resources Board for installation as a part of a vehicle's emissions control equipment shall not be considered tampering a violation of this section.

~~D. In accordance with 9 VAC 5-40-5670, No owner or other person shall operate a motor vehicle or engine shall be operated with the motor vehicle emissions control system or device removed or otherwise, rendered inoperable or effectiveness reduced through intentional alteration.~~

E. The provisions of this section shall not prohibit or prevent shop adjustments or replacement, or both, of equipment for maintenance or repair, or the conversion of engines to low polluting fuels such as, but not limited to, natural gas or propane.

9 VAC 5-91-200. Evaporative emissions systems standards.

A. Standards for evaporative emissions inspections shall be those described in 9 VAC 5-91-450 and ~~9 VAC 5-91-460~~ for applicable motor vehicles.

B. Evaporative system fuel filler cap (gas cap) standards shall apply beginning January 5, 1998.

C. Evaporative system pressure test testing standards shall apply ~~beginning July 1, 1998~~ provided a demonstration, based upon the results of testing performed by the department, other states' programs or emissions inspection stations, shows that such testing is applicable to and can be accurately performed on a majority of the vehicles subject to the enhanced emissions inspection program. The director shall determine whether such demonstration is valid and shall notify all permittees, licensees and certificate holders of the decision to implement evaporative system pressure testing standards no later than one year in advance of the anticipated implementation date.

~~D. Evaporative system purge testing standards shall apply January 4, 1999, unless a demonstration, based on the results of voluntary testing performed by the department or emissions inspection stations, shows that such testing is applicable to and can be accurately performed on less than a majority of the vehicles subject to the enhanced emissions inspection program. The director shall determine whether such demonstration warrants the delay of evaporative system purge test standards, and shall notify all permittees, licensee, and certificate holders of the decision to delay implementation no later than July 1, 1998.~~

9 VAC 5-91-210. Visible emissions standards.

~~In accordance with 9 VAC 5-40-5670, no motor vehicle shall discharge visible air pollutants for longer than five consecutive seconds after the engine has been brought up to operating temperature.~~

A. No owner or other person shall cause or permit the emission of visible air pollutants from gasoline and other nondiesel fuel-powered motor vehicles for longer than five consecutive seconds after the engine has been brought up to operating temperature.

B. No owner or other person shall cause or permit the emission of visible air pollutants from diesel-powered motor vehicles of a density equal to or greater than 20% opacity for longer than 10 consecutive seconds after the engine has been brought up to operating temperature.

C. Compliance with opacity standards in this part shall be determined by conducting observations in accordance with Reference Method 9 or any alternative method. Opacity readings of portions of plumes that contain condensed, uncombined water vapor shall not be used for purposes of determining compliance with opacity standards.

9 VAC 5-91-220. General provisions.

A. The director shall issue, suspend, revoke or deny permits and establish procedures and other instructions for the operation of emissions inspection stations.

B. An emissions inspection station permit is valid only for the facility and owner identified on the permit and is not transferable to any other owner or facility. No facility shall be represented as an emissions inspection station unless the owner holds a valid permit issued by the director.

C. Any permit transfer due to a change in ownership, transfer or sale of business, partnership or address is prohibited. The emissions inspection station permit holder shall inform the department of any transfer or sale of the business or change in the name of the station, ownership, partnership, or name of ~~leasee~~ lessee or operator within 10 days of such change.

D. All documents, permits, data media and other inspection related materials shall revert to the ownership of the department if the emissions inspection station is abandoned or if the emissions inspection business is discontinued by the permit holder.

E. Emissions inspection stations shall inspect all subject vehicles, which they are required by permit to inspect, in a timely manner and without prior repair or adjustment except to remedy ~~rejection~~ conditions for which the vehicle is rejected from testing under the provisions of 9 VAC 5-91-420 C.

F. All emissions inspections, including retests, *except for aborted tests*, shall be conducted in their entirety according to the ~~phase-in schedules~~ for emission standards and test components contained in Parts III (9 VAC 5-91-60 9 VAC 5-91-160 et seq.) and, VI (9 VAC 5-91-410 et seq.) and XIV (9 VAC 5-91-790 et seq.) of ~~the~~ this chapter.

9 VAC 5-91-230. Applications.

A. Applications for permits shall be made to, and in accordance with procedures approved by, the department.

B. Applications for permits shall be signed by ~~the corporate president or by another~~ an officer of the corporation or by a duly authorized agent of the corporation; or by an equivalently responsible officer in the case of organizations other than corporations; or in other cases, by the owner; or in the case of governmental entities, by the highest executive official of such entities or his designee. A person is a duly authorized agent only if the authorization is made in writing by ~~the corporate president~~ an officer of the corporation or by an equivalently responsible officer in the case of organizations other than corporations. Such signature shall constitute personal affirmation that the statements made in the application are true and complete to the best of the knowledge and belief of the signer.

C. An application for permit shall identify the facility for which

application is made to become an emissions inspection station. A separate application is required for each facility and each facility requires a separate permit.

1. More than one inspection lane may be included in a single permit but, in such case, any enforcement action taken in regard to that permit shall apply to all lanes contained in the permit.

2. In the case of mobile fleet emissions inspection station permits, the application shall identify the fleet that will be tested as well as the planned dates and times of operations.

D. Applications for permits shall include such information as may be required by the department to determine compliance with applicable requirements of this chapter. The information required shall include, but is not limited to, the following:

1. The name of the applicant.

2. The street and mailing address of the facility or the permittee, or both, as determined by the department, and number of inspections lanes planned.

3. Demonstration that the analyzer system used by each facility for which a permit is requested complies with the provisions of Part X (9 VAC 5-91-640 et seq.).

4. Proof of business ownership, articles of incorporation, partnership agreements, and lease agreements and proof of conformity with local zoning, use, or business licensing laws, ordinances or regulations.

E. The applicant shall provide any other information that the department deems necessary to determine conformity with this chapter.

F. The applicant shall provide any subsequent changes to the information required under ~~subsection B~~ of this section within 30 days of such change.

G. Application for a permit to test fleet vehicles using mobile testing equipment shall be made at least 30 days prior the commencement of any testing and must be signed by appropriate responsible persons of each party.

9 VAC 5-91-260. Emissions inspection station permits, categories.

A. A permit shall be issued to a qualified applicant in the following categories, as determined by the department.

1. Emissions inspection station.

2. Fleet emissions inspection station meeting the requirements of 9 VAC 5-91-370.

3. *Sensitive mission vehicle emissions fleet inspection station.*

B. In accordance with § 46.2-1180 A 5 4 of the Code of Virginia, the director may issue special permits for the operation of emissions inspections facilities in geographic areas which have been determined by the department, based on the number of available emissions inspection facilities or lanes relative to vehicle population density, to be inadequately ~~provided for~~ covered. Such stations may have special permit

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conditions which restrict their operational hours, geographic location, data connection, quality control or other processes in order to effectively address the need and the intent of the Virginia Motor Vehicle Emissions Control Law.

~~B.~~ C. A permit shall be valid only for the emissions inspection station and operator, owner or ~~leasee~~ lessee to which it is issued and shall not be valid for any other emissions inspection station nor any other operator, owner or ~~leasee~~ lessee.

~~C.~~ D. A permit shall be valid for time periods determined by the department, not to exceed three years *from the end of the month in which the permit or permit renewal was issued*.

~~D.~~ E. Upon expiration of the permit, the emissions inspection station shall no longer be authorized to perform inspections.

~~E.~~ F. A permit shall expire whenever the owner voluntarily discontinues the operation of an emissions inspection station. Remaining emissions inspection materials shall be returned to the department immediately.

~~F.~~ G. A permit shall expire and documents or data media related to emissions inspections, reinspections, waivers and audits shall become the property of the department when the owner of record abandons the place of business and cannot be located.

9 VAC 5-91-270. Permit renewals.

A. Renewals of permits shall be subject to the same provisions of this chapter as are original permits.

B. It is the responsibility of the emissions inspection station to have a current valid permit. The department will endeavor to notify emissions inspection stations prior to the expiration of their permit.

C. When supported by justification which the department deems adequate, the director may, upon request by a station owner, extend the expiration date of a permit by a period not to exceed ~~90 days~~ *three months beyond the original expiration date* for the purpose of allowing sufficient time for a station owner to correct such deficiencies in the application as have been identified by the department and to allow completion of the application review by the department.

D. It is the responsibility of the emissions inspection station to notify the department of the expiration of a suspension period.

9 VAC 5-91-290. Emissions inspection station operations.

A. Emissions inspection station operations shall be conducted in accordance with applicable statutes and this chapter.

B. Emissions inspection stations shall cooperate with the department during the conduct of audits, investigations and complaint resolutions.

C. Emissions inspection stations, except fleet emissions inspection stations permitted under 9 VAC 5-91-370, shall conduct emissions inspections during normal business hours and shall inspect every vehicle presented for inspection within a reasonable time period.

D. Emissions inspection stations ~~which~~ *that* have performed a chargeable *initial* inspection that resulted in a test failure shall

provide one free reinspection *on the same vehicle* upon request within 14 calendar days of the ~~first~~ *initial inspection* test failure *or failed invalid result*.

E. Emissions inspection stations finding it necessary to suspend inspections due to analyzer system malfunction or any other reason shall refund any inspection fee collected when a station cannot accommodate a customer's request for a free reinspection in accordance with *subsection D of this section and 9 VAC 5-91-420 M*.

F. Emissions inspection stations shall notify the department when they are unable to perform emission inspections *for any reason* and shall notify the department when they are able to resume inspections.

G. Emissions inspection stations shall:

1. Employ at least one emissions inspector.

2. Have an emissions inspector on duty during posted emissions inspection hours, ~~if applicable~~ *except for fleet emissions inspection stations permitted under 9 VAC 5-91-370*.

3. Only allow licensed emissions inspectors to conduct inspections.

H. Emissions inspection stations shall provide to emissions inspection customers any information which has been provided to the emissions inspection station by the department and which is intended to be provided to the customer.

I. Emissions inspection stations shall allow emissions inspection customers to have viewing access to the inspection process.

9 VAC 5-91-300. Emissions inspection station records.

A. Emissions inspection stations shall have records available at the station for inspection by the department any time during normal business hours.

B. Test, waiver, and repair records, as appropriate, shall be maintained by the permittee for 12 months or until transferred to the department.

C. Certificates of vehicle emissions inspection and motor vehicle inspection reports shall be issued only by emissions inspection stations holding valid permits issued by the department.

D. Documents and data pertaining to emissions inspections and waivers shall be kept in a secure location and only be available to emissions inspectors or authorized personnel, as approved by the department.

E. Missing or stolen emissions inspection data or other official documents shall be reported to the department within 24 hours.

F. Emissions inspection stations shall be accountable for all documents and media issued to them by the department. Emissions inspection stations shall be subject to quality assurance and control procedures as defined in 40 CFR 51.363.

G. Emissions inspection stations shall maintain a file of the name, address, and inspector number of all currently employed emissions inspectors authorized by the permittee to perform emissions inspections at that emissions inspection station and shall notify the department of any changes *within 10 days of such changes*. The emissions inspection station shall provide the file to the department upon request.

9 VAC 5-91-310. Sign and permit posting.

A. Emissions inspection stations shall post a sign, approved or provided by the department, which conforms to local ordinances or codes, designating the location as a Virginia Motor Vehicle Emissions Control Program Inspection Station in a conspicuous location on the permitted premises, within view of the public.

B. Emissions inspection station permits shall be posted in a frame, in a conspicuous place on the permitted premises, within view of the public and approved by the department.

C. Emissions inspection stations shall post the following in a conspicuous location on the permitted premises, within view of the public, and in a manner approved by the department:

~~1. Notice of availability of the applicable exhaust emissions standards prescribed in Part III (9 VAC 5-91-160 et seq.) and Part XIV (9 VAC 5-91-790 et seq.);~~

~~2.~~ 1. The fees charged for emissions inspections; and

~~3.~~ 2. The hours of operation for emissions inspections;

D. Emissions inspection stations shall post all signs required by this chapter in a location approved by the department and in a manner that does not violate local sign ordinances or codes.

E. Fleet emissions inspection stations and mobile fleet emissions inspection stations permitted under 9 VAC 5-91-370 shall be exempt from the sign posting requirements in subsections A and C of this section.

9 VAC 5-91-320. Equipment and facility requirements.

A. Emissions inspection stations shall have adequate facilities and equipment, including all current reference and application guides, as specified in subsection D of this section to perform all elements of the emissions inspection.

B. Emissions inspection stations shall be equipped in accordance with this chapter and applicable statutes.

C. Emissions inspection stations which no longer meet the requirements of this part shall cease inspection operations and may be subject to enforcement actions in accordance with Part IX (9 VAC 5-91-590 et seq.).

D. Emissions inspection stations shall be equipped with the following equipment, tools and reference materials at all times. Fleet and mobile fleet emissions inspection stations shall be so equipped during inspection periods reported to the department.

1. A certified analyzer system in accordance with Part X (9 VAC 5-91-640 et seq.) capable of conducting OBD testing as specified in 9 VAC 5-91-420 G 3.

2. Span gases approved by the department and equipment for performing gas span checks.

3. Hand tools and equipment for the proper performance of all inspections as approved by the department.

~~4. Suitable nonreactive exhaust hoses.~~

~~5.~~ 4. A current emissions control systems application guide which contains a quick reference for emissions control systems and their uses on specific make, model, and model year vehicles. This may be in an electronic form.

~~6.~~ 5. Analyzer manufacturer's maintenance and calibration manual.

~~7.~~ 6. Certified thermometer.

~~8.~~ 7. Suitable nonreactive exhaust hoses or a ventilation system which conforms to the Building Officials and Code Administrators (BOCA) mechanical code for automotive service stations and for facilities in which vehicle engines are operated in excess of 10 continuous seconds and which conforms to the applicable local building or safety code, zoning ordinance, or OSHA requirement.

a. The ventilation system shall discharge the vehicle exhaust outside the building.

b. The flow of the exhaust collection system shall not cause dilution of the exhaust at the sample point in the probe.

~~9.~~ 8. A cooling fan, used to ventilate the engine compartment, which is capable of generating at least 3,000 standard cubic feet per minute of air flow directed at the vehicle's cooling system at a distance of 12 inches.

~~10.~~ 9. This regulation (9 VAC 5-91-10 et seq.).

~~11.~~ 10. Telephone.

~~12.~~ 11. Dedicated phone line for use by the analyzer system in emissions inspection stations except fleet emissions inspection stations which have been authorized by the director to use a nondedicated phone line pursuant to an agreement between the director and the fleet emissions inspection station, based on vehicle maintenance or registration cycles.

~~13.~~ 12. Department approved paper for use in the analyzer system printer.

13. Reference material suitable for making a determination, as applicable, of the proper exhaust emissions test type to be administered. This may include the emissions inspection station having regular access to the Internet.

E. Emissions inspection stations shall maintain equipment, tools, and reference materials in proper working order and available at the emissions inspection station at all times.

F. It is the responsibility of the permit holder to maintain a safe and healthy working environment for the conduct of emissions inspections.

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9 VAC 5-91-330. Analyzer system operation.

A. Emissions inspection stations shall maintain the analyzer in such a manner that will permit the proper operation in accordance with the requirements of the manufacturer, this chapter, applicable statutes, and any procedures developed by the department.

B. The analyzer shall be gas spanned and leak checked according to 40 CFR Part 51, Appendix A to Subpart S or other procedure as approved by the department.

C. No additions or modifications shall be made to the analyzer unless approved by the analyzer manufacturer and the department.

1. All repairs to the analyzer system must be performed by an authorized manufacturer representative *according to 9 VAC 5-91-670 B and C.*

2. No analyzer replacement parts shall be used that are not original equipment replacement, or equivalent, as approved by the department.

D. No person shall tamper or circumvent any system or function of the analyzer.

E. Emissions inspection stations shall be responsible for preventing any tampering or unauthorized use of the analyzer or its functions.

F. Analyzer lockout conditions shall be removed only by authorized service or department personnel.

G. The analyzer system shall be capable of electronically transmitting to and receiving data from the department computer network related to the administration of the Virginia Vehicle Emissions Control Program.

9 VAC 5-91-340. Motor vehicle inspection report; certificate of emissions inspection.

A. Emission inspection stations and emissions inspectors shall be responsible for ensuring that all motor vehicle inspection reports are legible, and properly completed and printed with ~~all~~ *correct* information appearing in the correct location on the form *and shall notify immediately the department and the vehicle operator of any incorrect information appearing on the form.*

B. Emissions inspectors and emissions inspection stations shall be responsible for ensuring that all emissions inspection results are properly communicated to the department *and to the vehicle operator. The use of the vehicle inspection report may serve as proper communication to the vehicle operator.*

C. Certificates of vehicle emissions inspection shall be used only for documentation of official test results ~~and registration of vehicles as appropriate.~~

D. Certificates of emission inspections and motor vehicle inspection reports shall be issued only by licensed emissions inspectors employed by permitted emissions inspection stations.

9 VAC 5-91-370. Fleet emissions inspection stations; mobile fleet emissions inspection stations.

A. ~~A person by whom there are 20 or more vehicles commonly owned, operated, leased or rented~~ *The owner of a fleet may be permitted issued a permit* as a fleet emissions inspection station and may conduct inspections of that fleet or contract to have such inspections conducted. As a fleet inspection station, inspections shall be conducted only on vehicles commonly owned, operated, leased, or rented by that person or political subdivision and not for employees or the general public. A fleet emissions inspection station shall comply with all applicable requirements for emissions inspection stations except those from which they are specifically exempted *by this chapter or by special terms or conditions of a special permit issued according to 9 VAC 5-91-260 A 3.*

B. Fleet emissions inspections stations may, upon application and granted permit, have fleet vehicles inspected through the use of mobile emissions inspection stations which have obtained a permit from the director to conduct inspections of that fleet.

C. Fleet emissions inspection stations using mobile fleet emissions inspections equipment shall notify the department of the planned dates, times and location of intended inspections not later than two weeks prior to testing and, upon request by the department, shall provide a list of vehicles to be inspected.

D. Each fleet emissions inspection station is responsible for all vehicle emissions inspection records and data for vehicles inspected in that facility.

E. Fleets and fleet emissions inspection stations shall provide a list *that includes vehicle compliance status*, updated annually, of *affected vehicles not registered in the program area but otherwise subject to this chapter.*

9 VAC 5-91-380. Emissions inspector licenses and renewals.

A. The director shall issue, suspend, revoke or deny licenses, and establish procedures and other instructions for emissions inspectors.

B. Applicants shall qualify under 9 VAC 5-91-390 and shall demonstrate to the department proof of identification and the ability to properly conduct vehicle emissions inspections according to this chapter prior to being issued an emissions inspector license.

C. Application for licenses shall be made to, and in accordance with procedures approved by, the department.

D. Licenses ~~are~~ *shall be* valid for time periods determined by the department, not to exceed three years *from the end of the month in which issued.*

1. Upon expiration of the license, the emissions inspector shall no longer be authorized to perform emissions inspections.

2. Upon expiration of the license, the applicant shall be required to pass the testing requirements in 9 VAC 5-91-390 before being relicensed.

E. When supported by justification which the department deems adequate, the director may, upon written request by

an emissions inspector, extend the expiration date of a license by a period not to exceed ~~90 days~~ *three months beyond the original expiration date* for the purpose of allowing sufficient time for an inspector to correct such deficiencies in the application, such as completion of the required instruction, as have been identified by the department and to allow completion of the application review by the department. Such application for license extension may require demonstration of the applicant's ability to perform an emissions inspection at an emissions inspection or referee facility to the satisfaction of the department.

F. No person shall represent themselves as an emissions inspector without holding a valid *emissions inspector* license issued by the director *and a valid motor vehicle driver's or operator's license*.

1. *All required* licenses shall be made available to department personnel upon request.
2. It is the responsibility of the emissions inspector to have *both* a current valid *emissions inspector and a valid motor vehicle driver's or operator's* license. The department will endeavor to notify inspectors prior to the expiration of their *emissions inspector* license.
3. Licenses ~~are~~ *shall be* valid only for the person to whom they are issued.
4. Emissions inspector access codes are valid only for the person to whom they are issued. Emissions inspectors shall not provide access codes to anyone.

G. Upon notification of revocation, the inspector shall surrender to the department all licenses issued by the director. It is the responsibility of the emissions inspector to notify the department of the termination of a suspension period.

H. Emissions inspectors shall keep their current mailing address and place of employment on file with the department and must notify the department of any changes in employment or mailing address.

I. Emissions inspectors may perform emissions inspections at more than one permitted emission inspection station after notification to the department and with the authorization of the emissions inspection station owners.

J. The provisions of this part apply to ~~both initial licenses and any renewals~~ *current license holders and applicants for initial, renewal or reinstatement* of licenses.

K. *Qualification may be required at any time by the department based on the results of monitoring of the performance of the emissions inspector or based on changes in applicable vehicle emissions control or inspection technology. Inspectors may be required to complete instruction or testing to satisfy any deficiencies identified by the department and, if necessary, require demonstration of the inspector's ability to perform an emissions inspection at an emissions inspection station or referee facility. Failure to requalify within three months of notification shall result in expiration of the emissions inspector's licenses.*

9 VAC 5-91-410. General.

A. The key steps in the emissions inspection procedure are as follows:

1. Preliminary inspection of the vehicle to determine whether to accept the vehicle for testing or reject it, as approved by the department and according to 9 VAC 5-91-420 C, ~~based on safety and health concerns as related to the safe performance of an emissions inspection.~~ *If the vehicle is rejected*, the results of such preliminary inspection shall be provided to the customer.

2. Advise the customer of the ability of the emissions inspection station to perform emissions related repairs including the availability of certified emissions repair technicians and necessary equipment. If the vehicle failed the test, inform the customer of their right to seek repairs elsewhere.

3. An agreement between the customer and the emissions inspection station, oral or written, that an emissions inspection will be performed and the requisite fee paid.

4. Determination of the type of ~~exhaust~~ *emissions* test required, ~~either~~ *ASM or two-speed idle test, or OBD system test for OBD vehicles.*

5. The inspection of emissions control equipment *and an evaluation for the presence of visible smoke.*

6. The test of exhaust emissions levels, *or the vehicle's on-board diagnostic system if applicable*, using a certified analyzer system.

7. The evaporative system pressure test, *or pressure test of the fuel filler cap, and evaporative system purge test or both*, as applicable and according to the procedure determined automatically by the analyzer system.

8. The distribution of documents and emissions inspection results. *The emissions inspector shall sign each motor vehicle emissions inspection report for each emissions inspection performed by that inspector. The inspector's identification number and access code, or the inspector's signature, or both, shall be an endorsement that all aspects of the emissions inspection were performed by the inspector in accordance with this chapter.*

9. Advise customers of emissions inspection results, options for waiver if applicable, and the obligation of the station to perform a free retest within 14 days for failed vehicles and the conditions placed on the motorist in regard to free retests.

10. Conduct free retest, if necessary, within 14 days of ~~original~~ *a chargeable initial* test.

B. The emissions inspection station may charge a fee not to exceed the amount specified in § 46.2-1182 of the Code of Virginia.

9 VAC 5-91-420. Inspection procedure; rejection, pass, fail, waiver.

A. All aspects of the inspection shall be performed by an emissions inspector, using the instructions programmed in the certified analyzer system and procedures approved by the

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department, within the designated inspection area, and on the permitted premises.

B. The emissions inspection station shall notify the customer prior to initiating an emissions inspection that the emissions inspection station is either able or unable to perform the emission related repairs required by 9 VAC 5-91-480 for that particular vehicle should that vehicle fail the inspection. The emissions inspector shall not conduct an inspection on a motor vehicle unless the customer gives approval after being so notified.

C. The emissions inspector shall not conduct an inspection on a motor vehicle if the vehicle is in an unsafe condition for testing according to the following conditions. The customer shall be informed of any such condition.

1. The vehicle shall not have holes or detectable leaks in the exhaust system. The inspector may check the system for leaks by listening *or visually inspecting* for such leaks or by measuring carbon dioxide. The presence of leaks shall cause the vehicle to be rejected from testing.

2. The motor vehicle shall be evaluated for the presence of visible smoke emissions. Those vehicles exhibiting any *visible* smoke emissions from the engine crankcase or exhaust system or both, shall be rejected from testing.

3. The vehicle shall not have any mechanical problems, such as engine, brake, or transmission problems or engine, radiator, or transmission fluid leaks which would create a safety hazard for the applicable test, or bias test results. Such conditions shall cause the vehicle to be rejected from testing.

4. For vehicles receiving a test while operating on a dynamometer, the vehicle shall be rejected from testing if drive wheel *tire* tread wear indicators, tire cords, bubbles, cuts, or other damage are visible. Such vehicles shall be rejected from testing if space-saver spare tires are being used on a drive axle or if they do not have reasonably sized tires on the drive axle or axles based on dynamometer manufacturer safety criteria or if the set of tires is a mixture of radial and bias ply. Vehicles may be rejected if they have different sized tires on the drive axle or axles. Drive wheel tires shall be checked ~~with a gauge~~ for appropriate tire pressure and adjusted as necessary as recommended by the tire or vehicle manufacturer.

5. The vehicle shall be rejected from testing if the fuel filler cap (gas cap) is missing *or cannot be removed*.

6. The vehicle shall be rejected from testing if a known, emissions-related, manufacturers recall has not been satisfied according to Part XI (9 VAC 5-91-720 et seq.).

7. Vehicles ~~which~~ *that* are overheated shall be rejected from testing. *Vehicles that indicate that an overheated condition will be achieved during testing may be rejected from testing at the discretion of the inspector.*

8. *Provided the provisions of subsection G of this section are being implemented, OBD vehicles shall be rejected from testing for any of the following:*

a. The OBD data link cannot be accessed physically or

electronically.

b. The testing equipment indicates that the OBD system is in a "not ready" status. Unless information discovered in this or other state programs or received from motor vehicle manufacturers or the EPA indicates otherwise, a "not ready" status shall be indicated by the following:

(1) For model year 1996 through 2000, three or more monitors indicate "not ready."

(2) For model year 2001 and newer, two or more monitors indicate "not ready."

D. The emissions inspection procedure shall be performed under the following conditions:

1. *For vehicles subject to exhaust emissions testing, the entire vehicle shall be in normal operating condition as indicated by a temperature gauge or touch test on the radiator hose. If ASM testing is performed, a cooling fan shall be directed at the engine cooling system if the ambient temperature exceeds 72°F.*

2. The inspection shall be performed with the transmission in park or neutral for two-speed idle testing, or in drive (if automatic), ~~second or third~~ *or the appropriate gear to achieve necessary RPM range* (if manual), ~~as appropriate,~~ for ASM testing; and with all accessories off.

3. All electronic and mechanical testing equipment shall be properly attached according to vehicle and analyzer manufacturer requirements and instructions.

4. For the purpose of conducting the evaporative system pressure test ~~and, or gas cap test, or both,~~ the vehicle ~~shall~~ *may* be turned off unless the vehicle manufacturer has instructed otherwise.

5. *For vehicles subject to exhaust emissions testing, the analyzer probe shall be properly inserted into the exhaust system.*

a. The analyzer probe shall be inserted into the tailpipe as recommended by the analyzer manufacturer for a quality sample, or at least 10 inches if not specified by the manufacturer.

b. If a baffle or screen prevents probe insertion to an adequate depth, a suitable probe adapter or extension boot which effectively lengthens the tail pipe must be used.

*c. If the vehicle is equipped with multiple *unique* exhaust outlets, a suitable analyzer manufacturer recommended adapter or other apparatus shall be used in order to provide a single supply of the sample exhaust to the analyzer.*

d. Vehicle exhaust shall be vented safely out of the inspection area and facility.

6. If the vehicle stops running or the engine stalls during the test it shall be started as soon as possible and, *for vehicles subject to exhaust emissions testing, shall be running for at least 30 seconds prior to the restart of the test.*

7. For vehicles subject to exhaust emissions testing, the exhaust test shall be terminated upon reaching the overall maximum test time for the applicable test, or if CO plus CO₂ concentration falls below 6.0% as determined by the analyzer system.

8. Each emissions inspection, whether initial or retest, shall be conducted in its entirety with the exception of: (i) conditions which require that the vehicle be rejected from testing in accordance with 9 VAC 5-91-420 C, (ii) invalid test conditions, or (iii) conditions beyond the emissions inspector's control that cause the test to be aborted.

E. In consideration of maintaining inspection integrity:

1. The temperature of the inspection area shall be between 41°F and 110°F during the inspection. Inspection area temperatures shall be accurately measured in a well-ventilated location away from vehicle engine and exhaust heat sources and out of direct sunlight. The analyzer shall not be operated when the temperature of the inspection area is not within the range stated above.

2. The analyzer system shall be kept in a stable environment which affords adequate protection from the weather and local sources of hydrocarbons or other pollutants that may interfere with analyzer performance or accuracy of test results, or both.

3. The electrical supply to the analyzer system shall be able to meet the manufacturer's requirements for voltage and frequency stability.

4. The inspection location shall meet all applicable zoning requirements.

5. The analyzer system shall be operated according to quality assurance procedures and other procedures approved by the department.

F. The emissions inspector shall accurately identify and enter vehicle and owner information, *visual component and visible smoke inspection results* as required applicable for vehicle emissions inspection records. The data entered into the certified analyzer system and recorded on the certificate of vehicle emissions inspection shall be the data from the vehicle being inspected and must be obtained from that vehicle.

G. For 1973 and newer model year vehicles, The emissions inspector shall perform an inspection of the emissions control systems. The inspection shall include:

1. Examination of the emissions control information decal (sticker) under the hood, reference manual, and applications guide to determine if the vehicle, as manufactured or certified for sale or use within the United States, should be equipped with a catalytic converter system, air injection system, fuel evaporative emissions control system, positive crankcase ventilation system, exhaust gas recirculation valve, on-board diagnostic system, or thermostatic air cleaner system, as appropriate.

2. Based on the determinations made in 9 VAC 5-91-420 G 1, a visual inspection for the presence and operability of the catalytic converter system and, for vehicles subject to

exhaust emissions testing, the air injection system, catalytic converter system, fuel evaporative emissions control system, positive crankcase ventilation system, exhaust gas recirculation valve, system and thermostatic air cleaner system based on determinations made in 9 VAC 5-91-420 G-4. If any of these parts or systems are inoperable, or have been removed or damaged, or rendered inoperable, the vehicle will not qualify for a certificate of an emissions inspection approval or waiver. If systems are missing which the reference manual or applications guide indicates should be present, the motor vehicle manufacturer's emissions control information provided for that vehicle shall apply. The inspector shall enter the result of the visual inspection, "pass," "fail," or "not applicable" as appropriate into the certified analyzer system.

The department may issue a temporary waiver for the unavailability of component parts listed in subdivision 2 of this subsection if it is determined that the subject components or parts are not available provided the following conditions have been met:

a. The owner of the vehicle obtains a signed statement from the manufacturer's dealer or automotive parts source that supplies parts for the vehicle model indicating the nonavailability of such parts.

b. The statement submitted must be on letterhead or other official form or document and signed by an officer, owner or other responsible official of the automotive parts source.

c. The statement must identify the parts by description and part number and must indicate whether the parts are not currently stocked, have been superseded by other parts, or are out of production.

d. The department may conduct an independent investigation to locate any such parts or to verify the information on the statement prior to the issuance of any vehicle inspection report. The vehicle shall be held to all applicable inspection parameters, test type and standards or other conditions with the exception of the emissions control components and parts that have been verified as unavailable.

e. Any additional requirements to repair the vehicle to meet the applicable emissions standards or to qualify for an emissions inspection waiver under 9 VAC 5-91-420 N shall apply.

f. If the department is able to determine that (i) the unavailable part, or parts, is the only method of controlling the emissions for which the vehicle has failed an emissions inspection or (ii) no other repairs will be effective in reducing such emissions, the department may issue a temporary waiver notwithstanding the provisions of 9 VAC 5-91-420 N.

3. For 1996 and newer OBD vehicles so equipped, an electronic inspection of the applicable on-board diagnostic (OBD) system according to manufacturer specifications and procedures approved by the EPA. The exhaust emissions test may also be performed on a limited basis as specified

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by the department for quality control or program evaluation purposes.

a. ~~Beginning January 4, 1999~~ Pending availability and installation of necessary hardware and software, emissions-related results of sensing of OBD ~~phase-II~~ systems for OBD vehicles shall be recorded in the inspection record in addition to the exhaust emissions test procedures and reported to the customer. ~~The OBD results shall not cause the vehicle to be rejected from testing or to fail the emissions inspection.~~

b. Beginning ~~January 3, 2000~~ (effective date), or later date as determined by the department pending availability and installation of necessary hardware and software, emissions-related failure codes that cause the malfunction indicator lamp to be commanded "on" provided by OBD ~~phase-II~~ systems of ~~vehicle model years 1996 and newer~~ OBD vehicles shall cause the vehicle to fail the emissions inspection. ~~If testing equipment or visual inspection indicates that the malfunction indicator lamp is inoperable, the vehicle shall fail the emissions inspection. If the testing equipment indicates that the OBD system is in a "not ready" status, the vehicle shall be rejected from testing according to 9 VAC 5-91-420 C 8.~~

c. Beginning (effective date plus 2 years), or later date as determined by the department pending availability and installation of necessary hardware and software, emissions related failure codes which cause the malfunction indicator lamp to be commanded "on" as provided by OBD systems of light duty diesel powered vehicles of model years 1997 and newer shall cause the vehicle to fail the inspection. ~~In addition, if the testing equipment or visual examination indicates that the malfunction indicator lamp is inoperable, the vehicle shall fail the emissions inspection. The department may set standards for the number of "not ready" monitors allowed based on an analysis of the program data, data from other state's programs and the EPA.~~

d. The department may exempt vehicle models or some classes of vehicles from OBD testing due to known OBD system problems or anomalies associated with such vehicles. ~~If exempted from OBD testing, such vehicles shall receive the ASM or TSI test as applicable.~~

H. For vehicles otherwise subject to ASM testing based on model year and weight classification, the department may determine, due to complications identified in *this or other state programs*, or consultation with vehicle manufacturers, that certain vehicle makes or models shall be tested using the two-speed idle test in lieu of the ASM test or using a mixture of test modes such as an ASM 2525 coupled with an idle test.

I. For 1981 model year and newer vehicles with a GVWR up to and including 8,500 pounds, the exhaust emissions inspection procedure, *if applicable*, shall be an ASM, two-mode (ASM 5015 plus ASM 2525), loaded test, performed while the vehicle is operating on the analyzer system dynamometer. The test shall be preceded by a 30-90 second preconditioning period, as determined by the department, using the ASM 2525 load simulation.

J. The exhaust emissions inspection procedure, *if applicable*, shall be a two-speed idle test as specified in paragraph (II) of Appendix B of 40 CFR Part 51, Subpart S, and 9 VAC 5-91-440 for the following *affected* vehicles:

1. Vehicles with a GVWR greater than 8,500 pounds and up to and including 10,000 pounds,
2. Vehicles of model years ~~1968 through~~ 1980 and older,
3. Vehicles which employ full-time four wheel drive systems,
4. Vehicles which have traction control or anti-lock brake systems which have been determined by the manufacturer, or the department to permanently interfere with proper ASM testing; or
5. Vehicles which have some other configuration which has been determined by the department to permanently interfere with proper ASM testing.

K. For vehicles originally factory equipped with an evaporative emissions control system, the vehicle's evaporative emissions control system shall be checked by performing (i) an evaporative system pressure test, (ii) or a fuel filler cap pressure test, (iii) ~~an evaporative system purge test, or (iv) any combination thereof or both~~, as applicable and according to the phase-in of testing specified in 9 VAC 5-91-200.

~~1. Beginning January 5, 1998, the evaporative system pressure test shall be performed on vehicles of model year 1973 and newer and the results recorded in the inspection record and reported to the customer. Beginning July 1, 1998, a failure of the evaporative system pressure test shall cause the vehicle to fail the inspection.~~

~~2. A separate fuel filler cap pressure test shall be performed on vehicles of model year 1973 and newer unless the evaporative system pressure test will be performed and the method employed includes a test of the fuel filler cap.~~

~~3. Beginning July 1, 1998, unless determined to the contrary by the director by March 1, 1998, the evaporative system purge test shall be performed on vehicles of model year 1981 and newer which receive ASM exhaust emissions testing, according to the phase-in standards in Part III (9 VAC 5-91-160 et seq.) and the test results recorded in the record and reported to the customer. Beginning January 4, 1999, a failure of the evaporative system purge test shall cause the vehicle to fail the emissions inspection.~~

L. In order to obtain a vehicle registration from the Department of Motor Vehicles, a certificate of *emissions inspection* shall be issued by an emissions inspector or the department indicating that the vehicle has either passed the emissions inspection or has received a waiver as specified below. A motor vehicle shall pass the emissions inspection and a certificate of vehicle emissions inspection and a motor vehicle inspection report indicating the vehicle has passed shall be issued if:

1. The motor vehicle meets the applicable emissions control systems inspection requirements;

2. For vehicles subject to exhaust emissions testing, the vehicle emissions levels are the same as or less than the applicable exhaust emission standards in Part III (9 VAC 5-91-160 et seq.) and ~~Appendix A Part XIV (9 VAC 5-91-790 et seq.)~~, as applicable;

3. There are no *visible* smoke emissions ~~visible~~ from the vehicle engine crankcase or tail pipe, or both; ~~and~~

4. The vehicle passes the *applicable* evaporative system pressure ~~and purge tests test~~ or fuel filler cap pressure test ~~as or both; and~~

5. The vehicle passes the OBD test if applicable.

M. If the vehicle fails the initial emissions inspection, a certificate of emissions inspection and a motor vehicle inspection report shall be issued indicating a failure, and the owner shall have 14 days in which to have repairs or adjustments made and return the vehicle to the emissions inspection station which performed the initial inspection for one free reinspection.

N. A certificate of vehicle emissions inspection waiver may be issued if all of the following conditions are met:

1. The vehicle passes the emissions control systems inspection ~~(1973 and newer model year vehicles only)~~ described by subsection G of this section *if applicable*.

2. There are no *visible* smoke emissions ~~visible~~ from the vehicle engine crankcase or exhaust system, or both.

3. ~~The vehicle passes the applicable evaporative system pressure test or fuel filler cap pressure test, or both.~~

~~4. The vehicle continues to exceed applicable emissions standards after emissions related repairs required by 9 VAC 5-91-480 have been performed.~~

4. 5. An amount equal to or greater than the adjusted waiver cost for enhanced emissions inspection programs, listed below, has been spent on emissions related repairs as specified in 9 VAC 5-91-480 ~~and according to 40 CFR 51.360 (a) (1) (as amended in 60 Federal Register 20934, April 28, 1995) provided that (i):~~

a. Proof that ~~appropriate~~ *emission related* repairs have been accomplished and costs for that specific vehicle have been provided to the emissions inspection station in the form of an itemized bill, invoice, paid work order, or statement in which emissions related parts or repairs, or both, are specifically identified, ~~(ii)~~ *and to the extent practical, the inspector can confirm the repairs by visual examination;*

b. The emissions inspector has ~~confirmed~~ *been provided with a properly completed emissions repair data form indicating that the repair work was performed or approved by at a certified emissions repair facility and that the repairs were performed by or under the supervision or approval of a certified emissions repair technician at a certified emissions repair facility;*; and

~~(iii)~~ c. The repair work was performed no earlier than 60 days prior to the initial inspection.

~~5. 6. Beginning January 1 [after the effective date of the regulation], the repair cost requirements for waiver eligibility for the enhanced emissions inspection program shall be adjusted annually to reflect the increase in the Consumer Price Index (CPI), as described at 40 CFR 51.360(a)(7), and shall be phased in as follows \$450 unless delayed by an action of the director. The director may delay each phase in by up to 12 months if it is determined that such a delay will not cause the waiver rate to exceed 3.0% of failed vehicles.~~

~~a. Through January 4, 1998, the amount shall be \$250 multiplied by the CPI as provided by the Environmental Protection Agency (EPA) according to the Clean Air Act.~~

~~b. From January 5, 1998, through June 30, 1998, the amount shall be \$350 multiplied by the CPI as described above.~~

~~c. From July 1, 1998, and henceforward, the amount shall be \$450 multiplied annually by the CPI as described above.~~

~~6. 7. A waiver shall not be issued for a vehicle which is eligible for the emissions control systems performance warranty, under the provisions of § 207(b) of the federal Clean Air Act. In accordance with the provisions of § 207(b) of the federal Clean Air Act, the repair costs necessary for compliance with emissions standards specified in Part III (9 VAC 5-91-160 et seq.) and Part XIV (9 VAC 5-91-790 et seq.) will be borne by the vehicle manufacturer or authorized dealer representative.~~

O. The analyzer system shall generate an electronic record of the certificate of emissions inspection and transmit the appropriate data to the department and the emissions inspector shall make distribution of the vehicle inspection report to the customer.

P. ~~The emissions inspector shall advise the customer~~ *shall be advised* as specified below upon completion or termination of the inspection procedure.

1. If the test is terminated prior to completion, explain ~~reasons for failure of the problem with the vehicle or equipment and, if applicable, advise of free retest and time limit, if applicable.~~

2. If the vehicle passes or receives a waiver, provide a motor vehicle inspection report and advise motorist of registration requirement and process, including the process to be used in case of interruption of the electronic data transfer system.

3. If the vehicle fails:

a. Give vehicle inspection report of failure to customer;

b. Advise of type of failure;

c. Advise of free retest and time limit;

d. Advise of repair facility information as provided by the department; and

e. Advise of waiver requirements, *if applicable*.

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Q. In cases of complaints or disputes between the emissions inspector or emissions inspection station and the customer, the customer shall be advised of the location and phone number of a department representative to be contacted to obtain assistance in resolving disputes.

9 VAC 5-91-430. ASM test procedure.

A. The ASM equipment shall be in proper operating condition according to manufacturers instructions prior to initiating a test.

1. The vehicle shall be maneuvered onto the dynamometer with the drive wheels positioned on the dynamometer rolls. Prior to test initiation, the rolls shall be rotated until the vehicle laterally stabilizes on the dynamometer. Vehicles that cannot be stabilized on the dynamometer shall be rejected from testing. Drive wheel tires shall be dried if necessary to prevent slippage.

2. Prior to initiating the ASM exhaust test procedure:

a. Vehicles ~~which~~ *that* are also required to receive OBD or evaporative emissions testing shall be connected to the appropriate test equipment according to 9 VAC 5-91-450 and vehicle and analyzer manufacturer instructions.

b. The OBD test, evaporative emissions pressure test ~~and~~, or fuel filler cap test, or *both*, including second chance fuel filler cap test if required, shall be performed prior to the ASM test.

~~c. The evaporative emissions pressure test and fuel filler cap test shall only be performed while the vehicle is not running unless the vehicle manufacturer has instructed otherwise.~~

~~d. Vehicles which are required to receive the evaporative system purge test shall be connected to the appropriate test equipment according to 9 VAC 5-91-460 and vehicle and analyzer manufacturer instructions.~~

3. When ambient temperatures exceed 72°F, testing shall not begin until the cooling fan is positioned and activated. The cooling fan shall be positioned to direct air to the vehicle cooling system, but shall not be directed at the catalytic converter.

4. Testing shall not begin until the vehicle is *properly* restrained according to the instructions provided by the analyzer equipment manufacturer. ~~In addition, the parking brake shall be set for front wheel drive vehicles prior to the start of the test, unless parking brake functions on front~~

~~axle or if is automatically disengaged when in gear for ASM testing.~~

5. Testing shall not begin until the exhaust ventilation system is properly functioning and attached or positioned as necessary.

6. To ensure that the motor vehicle and the dynamometer are in a warmed-up condition prior to official testing, a 30-90 second preconditioning, as determined by the department, shall be performed using the ASM 2525 load simulation.

7. Prior to each test or mode of a test, the system shall automatically select the load setting of the dynamometer.

8. Engine speed shall be monitored by means of an RPM sensor and recorded in the test record.

B. The test sequence shall consist of first chance and, if applicable, second chance tests in both ASM modes described in this section. Vehicles that fail the first chance test as described within 150% of the standard shall receive a second chance test. *The department may increase this percentage to 200% when interim or final standards take effect according to 9 VAC 5-91-170 B.* The second chance test shall consist of a repetition of the mode or modes that were failed in the first chance test. *The department may eliminate the need to do a second chance test if the vehicle has already failed an emission component check.*

C. The ASM 2525 mode timer shall start when the dynamometer speed (and corresponding power) are maintained at 25 ±1.0 miles per hour for five continuous seconds. If the acceleration simulation exceeds the tolerance specified by the analyzer equipment manufacturer for more than five consecutive seconds after the mode timer is started, the test mode timer shall be reset. Should this happen a ~~second~~ *third* time, the test shall be aborted and another started. The dynamometer shall apply the required torque load for 25.0 mph at any testing speed within the tolerance of 25 ±1.0 miles per hour (i.e., constant torque load over speed range). The torque tolerance shall be ±5.0% of the correct torque at 25 mph.

1. The analyzer shall automatically select the proper load setting for the dynamometer and test standards, based on the Equivalent Test Weight (ETW) and the look-up table in Part XIV (9 VAC 5-91-790 et seq.), using vehicle identification information. Vehicles for which a load setting is not automatically selected, and for which a test weight is not available shall be tested using the following default settings:

DEFAULT ASM 2525 DYNAMOMETER HORSEPOWER SETTINGS FOR 8.6" ROLLERS BASED ON NUMBER OF ENGINE CYLINDERS

VEHICLE TYPE	3 CYL.	4 CYL.	5 & 6 CYL.	8 CYL.	> 8 CYL.
SEDAN	6.9	9.5	11.5	13.7	13.3
STATION WAGON	6.8	9.7	11.5	13.4	13.3
MINI-VAN	8.8	11.7	13.2	14.9	15.3
PICKUP TRUCK	8.0	10.9	13.6	16.0	17.8

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SPORT/UTILITY	8.8	11.2	12.9	16.1	17.8
FULL VAN	9.0	11.6	14.7	16.3	17.2

DEFAULT ASM 2525 DYNAMOMETER HORSEPOWER SETTINGS FOR 20" ROLLERS BASED ON NUMBER OF ENGINE CYLINDERS

VEHICLE TYPE	3 CYL.	4 CYL.	5 & 6 CYL.	8 CYL.	> 8 CYL.
SEDAN	6.9	10.1	12.3	14.5	14.3
STATION WAGON	7.0	10.4	12.2	14.2	14.4
MINI-VAN	8.9	12.5	14.0	15.9	16.3
PICKUP TRUCK	8.1	11.4	14.4	16.9	18.8
SPORT/UTILITY	8.9	11.8	13.6	17.1	18.8
FULL VAN	9.1	12.5	15.5	17.3	18.3

The department may revise these settings based upon EPA guidance.

2. If the dynamometer speed or torque falls outside the speed or torque tolerance for more than two consecutive seconds, or for more than five seconds total, the test mode time shall reset to zero and resume timing. The minimum mode length shall be 45 seconds. The maximum mode length shall be 90 seconds elapsed time.

3. During the 10 second period used for the pass/fail decision, dynamometer speed shall not fall more than 0.5 mph (absolute drop, not cumulative). If the speed at the end of the 10 second period is more than 0.5 mph less than the speed at the start of the 10 second period, testing shall continue until the speed stabilizes enough to meet this criterion.

4. The pass/fail analysis shall begin after an elapsed time of 30 seconds, *which may include up to 15 seconds of the preconditioning time period if the ASM 2525 torque and speed tolerances are maintained.* A pass or fail determination shall be made for the vehicle and the mode shall be terminated as follows:

a. The vehicle shall pass the ASM 2525 mode and the mode shall be immediately terminated if, at any point between an elapsed time of 30 seconds and 90 seconds, the 10 second running average measured values for each pollutant are simultaneously less than or equal to the applicable test standards described in Part XIV (9 VAC 5-91-790 et seq.).

b. The vehicle shall fail the ASM 2525 mode and the mode shall be terminated if subdivision C 4 a of this section is not satisfied by an elapsed time of 90 seconds.

5. Upon termination of the ASM 2525 mode, the vehicle and dynamometer shall immediately begin a transition to the speed required for the ASM 5015 mode. The dynamometer torque shall smoothly transition during the transition period and shall automatically reset to the load required for the ASM 5015 mode as specified in subdivision D 1 of this subsection.

D. The ASM 5015 mode timer shall start when the dynamometer speed (and corresponding power) are maintained within 15 ±1.0 miles per hour for five continuous seconds. If the acceleration simulation exceeds the tolerance specified by the analyzer system manufacturer for more than five consecutive seconds after the mode timer is started, the test mode timer shall be reset. Should this happen a ~~second~~ *third* time, the test shall be aborted and another started. The dynamometer shall apply the required torque for 15.0 mph at any testing speed within the tolerance of 15 ±1.0 miles per hour (i.e., constant torque load over speed range). The torque tolerance shall be ±5.0% of the correct torque at 15 mph.

1. The analyzer shall automatically select the proper load setting for the dynamometer and test standards, based on the ETW and the look-up table in Part XIV (9 VAC 5-91-790 et seq.), using vehicle identification information. Vehicles for which a load setting is not automatically selected, and for which a test weight is not available shall be tested using the following default settings:

DEFAULT ASM 5015 DYNAMOMETER HORSEPOWER SETTINGS FOR 8.6" ROLLERS BASED ON NUMBER OF ENGINE CYLINDERS

VEHICLE TYPE	3 CYL.	4 CYL.	5 & 6 CYL.	8 CYL.	> 8 CYL.
SEDAN	7.9	11.4	13.8	16.4	16.0
STATION WAGON	8.1	11.7	13.8	16.1	16.1
MINI-VAN	10.2	14.1	15.8	17.9	18.2
PICKUP TRUCK	9.6	13.1	16.4	19.2	21.1
SPORT/UTILITY	10.1	13.4	15.5	19.4	21.1
FULL VAN	10.3	13.9	17.7	19.6	20.5

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DEFAULT ASM 5015 DYNAMOMETER HORSEPOWER SETTINGS FOR 20" ROLLERS BASED ON NUMBER OF ENGINE CYLINDERS

VEHICLE TYPE	3 CYL.	4 CYL.	5 & 6 CYL.	8 CYL.	> 8 CYL.
SEDAN	8.1	11.8	14.3	16.9	16.6
STATION WAGON	8.3	12.1	14.2	16.6	16.6
MINI-VAN	10.4	14.5	16.3	18.5	18.7
PICKUP TRUCK	9.8	13.4	16.8	19.8	21.7
SPORT/UTILITY	10.5	13.8	15.9	19.9	21.7
FULL VAN	10.8	14.4	18.2	20.2	21.1

The department may revise these settings based upon EPA guidance.

2. If the dynamometer speed or torque falls outside the speed or torque tolerance for more than two consecutive seconds, or for more than five seconds total, the mode timer shall reset to zero and resume timing. The minimum mode length shall be 40 seconds. The maximum mode length shall be 90 seconds elapsed time.
 3. During the 10 second period used for the pass/fail decision, dynamometer speed shall not fall more than 0.5 mph (absolute drop, not cumulative). If the speed at the end of the 10 second period is more than 0.5 mph less than the speed at the start of the 10 second period, testing shall continue until the speed stabilizes enough to meet this criterion.
 4. The pass/fail analysis shall begin after an elapsed time of 30 seconds. A pass or fail determination shall be made for the vehicle and the mode shall be terminated as follows:
 - a. The vehicle shall pass the ASM 5015 mode if, at any point between an elapsed time of 30 seconds and 90 seconds, the 10-second running average measured values for each pollutant are simultaneously less than or equal to the applicable test standards described in Part XIV (9 VAC 5-91-790 et seq.). If the vehicle passed the ASM 2525 mode, the ASM 5015 mode shall be terminated upon obtaining passing scores for all three pollutants.
 - b. The vehicle shall fail the first chance ASM 5015 mode if subdivision D 4 a of this section is not satisfied by an elapsed time of 90 seconds.
- E. The inspector shall perform a second chance test on vehicles which fail either mode of the previous test sequence as follows:
1. If the vehicle fails the first-chance test, the test timer shall reset to zero and a second-chance test shall be performed, except as noted below. The second-chance test shall have an overall maximum test time of 145 seconds if one mode is repeated, an overall maximum time of 290 seconds if two modes are repeated.
 2. If the vehicle failed only the ASM 2525 mode of the first chance test, then that mode shall be repeated upon completion of the first chance ASM 5015 mode. The repeated mode shall be performed as described in this

section except that the provisions of subdivision C 5 of this section shall be omitted.

3. If the vehicle failed only the ASM 5015 mode of the first chance test, then the first chance ASM 5015 mode shall not end at 90 seconds but shall continue for up to 180 seconds.

4. If the vehicle failed both ASM 5015 and ASM 2525 modes of the first chance test, then the vehicle shall receive a second-chance test for the ASM 2525 mode immediately following the first chance ASM 5015 mode. If the vehicle fails the second-chance ASM 2525 mode, then the vehicle shall fail the test, otherwise the vehicle shall also receive a second-chance ASM 5015 mode test.

9 VAC 5-91-440. Two-speed idle test procedure.

A. The emissions inspection procedure shall be a two-speed idle test as specified in paragraph (II) of Appendix B of 40 CFR Part 51, Subpart S.

1. The two-speed idle test shall consist of a test of the vehicle's exhaust emissions at idle and at 2500 rpm while the vehicle's gear selector is in neutral or park.

2. The idle test shall be administered ~~prior to~~ after the 2500 rpm test. The tests shall be run consecutively.

3. The complete test shall consist of a first chance ~~idle~~ 2500 RPM mode test; followed by a first chance ~~2500 RPM~~ idle mode test; ~~If either first chance mode fails, the first chance shall be followed by a preconditioning at 2500 RPM for up to three minutes and a second chance 2500 RPM mode test if the first one was failed;~~ followed by a second chance idle mode ~~if the first one was failed and if the 2500 RPM mode test was passed.~~ *The department may eliminate the need to repeat a mode that passed the first chance test.*

4. If the vehicle fails the first chance test, the second chance test ~~and preconditioning~~ shall be omitted if no exhaust hydrocarbon concentration less than 1800 ppm is detected within an elapsed time of 30 seconds. *The department may eliminate the need to do a second chance test if the vehicle has already failed an emission component check.*

5. Motor vehicle manufacturers and the Environmental Protection Agency may issue special test instructions for specific vehicle models which shall be followed in lieu of the test procedures specified in this section if such instructions are provided through the administrator.

6. In order to pass the two-speed idle test, the vehicle's exhaust shall not exceed the standards listed in 9 VAC 5-91-160.

7. Prior to initiating the two-speed idle exhaust test procedure:

a. Vehicles which are required to receive OBD or evaporative emissions testing shall be connected to the appropriate test equipment according to 9 VAC 5-91-450 and vehicle and analyzer manufacturer instructions.

b. The OBD test, evaporative emissions pressure test and or fuel filler cap test, or both, including second chance fuel filler cap test if required, shall be performed prior to the two-speed idle test.

~~c. The evaporative emissions pressure test and fuel filler cap test shall only be performed while the vehicle is not running unless the vehicle manufacturer has instructed otherwise.~~

B. The idle test mode shall be performed as follows:

1. The vehicle transmission shall be in neutral or park and the parking brake applied; the engine shall be operating at curb idle ~~according to manufacturer specifications~~, and there shall not be any manipulation of the engine throttle mechanism.

2. The engine speed (RPM) shall be obtained and shall be between ~~350 400~~ and ~~1100 1250~~ RPM for the duration of the test mode.

3. The pass/fail analysis shall begin after an elapsed time of 10 seconds.

4. The ~~minimum~~ idle mode elapsed time shall be 30 seconds ~~and the maximum idle mode elapsed time shall be 90 seconds.~~

5. The exhaust concentrations shall be measured as percent carbon monoxide and parts per million hydrocarbons after stabilized readings are obtained ~~or and averaged over the last five seconds~~ at the end of ~~30 seconds, whichever occurs first the idle test mode.~~

C. The 2500 RPM test mode shall be performed as follows:

1. The vehicle transmission shall be in neutral or park.

2. The vehicle engine speed shall be increased from idle to between 2200 and 2800 RPM and maintained at that level.

3. If the engine speed varies outside the parameters of 2200 to 2800 RPM for more than two seconds during a sampling period, the ~~value 2500 RPM mode~~ shall be invalid and the ~~2500 RPM test duration extended to allow another sampling shall be restarted.~~ If the engine speed varies outside such parameters ~~more for more than a cumulative total of 10 seconds~~, the 2500 RPM test mode shall be invalid and another initiated.

4. The pass/fail analysis shall begin after an elapsed time of 10 seconds.

5. The ~~minimum~~ 2500 RPM mode elapsed time shall be 30 seconds, ~~unless the vehicle failed the first chance idle~~

~~mode, and the maximum first chance 2500 RPM mode elapsed time shall not exceed 90 seconds. If the vehicle failed the first chance idle mode the 2500 RPM mode shall continue for 90 seconds.~~

~~6. If a second chance 2500 RPM mode is conducted immediately thereafter, the maximum total 2500 RPM mode elapsed time shall not exceed 180 seconds.~~

~~7. 6. The exhaust concentrations shall be measured as percent carbon monoxide and parts per million hydrocarbons after stabilized readings are obtained or and averaged over the last five seconds at the end of 30 seconds, whichever occurs first the 2500 RPM test mode.~~

9 VAC 5-91-450. Fuel system evaporative pressure test and gas cap pressure test procedure.

A. The evaporative pressure test and or fuel filler cap pressure test, or both, shall be performed according to the requirements of 40 CFR 51.357(a)(10) and (b)(3), or according to alternate procedures approved by the Environmental Protection Agency and approved by the department as part of a certified analyzer system.

B. If the certified analyzer system uses the procedures in 40 CFR 51.357(a)(10), the test shall be performed as follows:

1. The gas cap shall be removed and the appropriate adapter connected to the fuel filler inlet.

2. The gas cap shall be connected to an appropriate adapter, either as part of the adapter connected to the fuel filler inlet or as part of a separate gas cap test rig.

3. The vapor hose or line in the fuel system connecting the evaporative canister to the fuel tank shall be clamped as close as possible to the canister. If the vapor line cannot be clamped to prevent vapor passage, it shall be disconnected from the canister and plugged to prevent vapor passage.

4. The fuel tank shall be pressurized with ambient air, or a suitable, equivalent gas, to a pressure of 14 inches, ± 0.5 inches, of water.

5. The flow shall be turned off and the decay of pressure monitored for up to two minutes.

6. If at any time during the two minutes the fuel tank vapor system is being monitored the pressure drops from the starting pressure by more than six inches of water, the test shall be terminated and the vehicle shall be determined to fail the evaporative pressure test.

7. After two minutes, the clamp shall be removed from the vapor line or the line shall be unplugged and the system monitored for a drop in pressure. If a pressure drop is detected, and the fuel tank vapor system did not fail the conditions in step 6 above, the vehicle shall pass the fuel tank portion of the evaporative pressure test. If the gas cap is also connected to the fuel filler neck adapter during the fuel tank evaporative pressure test then the gas cap shall also pass and the vehicle shall pass the evaporative system pressure test.

8. If no pressure drop was detected after unclamping or unplugging the vapor line, the fuel tank, and cap if attached

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to the fuel inlet adapter, shall be pressurized to a pressure of 28 inches, ± 1.0 inches, of water, and steps 5, 6, and 7 above repeated.

9. If the gas cap was connected to an adapter on a separate gas cap test rig, the gas cap shall be pressurized to a pressure of 28 inches, ± 1.0 inches, of water.

10. The flow shall be turned off and the decay of pressure monitored for up to two minutes.

11. If at any time during the two minutes the gas cap test rig is being monitored the pressure drops from the starting pressure by more than six inches of water, the test shall be terminated and the vehicle shall be determined to fail the evaporative pressure test; otherwise the vehicle shall pass the gas cap test.

12. If both the fuel tank and gas cap pressures tests are passed, the vehicle shall pass the evaporative system pressure test.

13. At the termination of the test, the vapor hose and gas cap shall be reinstalled.

C. If the vehicle fails the evaporative system pressure test solely because of the failure of the gas cap test, a new gas cap may be installed and a second chance gas cap test performed. Any failure and subsequent pass under this second chance testing must be recorded as part of the emissions inspection and reported to the customer.

D. Vehicles equipped with more than one functional fuel tank shall have all gas caps tested.

9 VAC 5-91-460. Fuel system evaporative purge test procedure. (Repealed.)

A. The evaporative purge test shall be conducted only on vehicles receiving the ASM exhaust emissions test and shall be conducted in conjunction with that test.

B. The evaporative purge test shall be performed according to the requirements of 40 CFR 51.357(a)(9) and (b)(3), or according to alternate procedures approved by the Environmental Protection Agency and approved by the department as part of a certified analyzer system.

C. If the certified analyzer system uses the procedures in 40 CFR 51.357(a)(9), the test shall be performed as follows:

1. Prior to initiating the ASM exhaust emissions test, the vapor hose or line between the evaporative canister and the engine shall be disconnected at one end and the purge flow meter installed, reconnecting the system.

2. The vehicle shall undergo the ASM test and the evaporative purge flow shall be monitored.

3. If the purge flow meter indicates a total flow volume of over one liter at any time over the course of the ASM exhaust emissions test, the vehicle shall pass the evaporative purge test.

4. If the ASM exhaust emissions test ends prior to a purge of one liter, and the vehicle did not receive a second chance ASM test, the vehicle shall be operated up to an additional 90 seconds in the ASM 2525 mode in order to

detect a purge exceeding one liter. Otherwise, the vehicle shall be determined to have failed the evaporative purge test.

5. At the termination of the test the flow meter shall be disconnected and the vapor hose reconnected.

~~D. If the evaporative purge test is conducted by introducing an inert gas to the evaporative system and determining its presence in the exhaust, the test shall be conducted as follows:~~

~~1. Prior to initiating the ASM exhaust emissions test, the gas cap shall be removed and an appropriate fuel filler inlet adapter installed.~~

~~2. Helium or a suitable inert gas shall be introduced into the fuel tank according to the specifications of the analyzer system manufacturer.~~

~~3. The exhaust shall be monitored for the flow of the gas used.~~

~~4. At the end of ASM exhaust emissions test, if the helium concentration has at no time exceeded 25 ppm, the vehicle shall be determined to have failed the evaporative purge test; except that if the vehicle passed or failed the ASM exhaust emissions test without requiring a second chance test in either mode, the vehicle shall be operated the additional time periods allowed for whichever second chance test modes have not been performed in order to obtain a passing concentration of 25 ppm. Otherwise, the vehicle shall fail the evaporative purge test.~~

~~5. At the termination of the test, the gas cap shall be properly reinstalled.~~

9 VAC 5-91-470. Short test standards for warranty eligibility. (Repealed.)

A. For 1981 and newer model year light duty vehicles for which any of the test procedures described in 9 VAC 5-91-420 are utilized to establish Emissions Performance Warranty eligibility, (i.e., 1981 and newer model year light duty vehicles at low altitude and 1982 and newer model year vehicles at high altitude certification standards of 1.5 grams per mile HC and 15 grams per mile CO or less) short test emissions for all tests and test modes for HC shall not exceed 220 parts per million as hexane and 1.2% CO.

B. For 1981 and newer model year light duty trucks for which any of the test procedures described in 9 VAC 5-91-420 are utilized to establish Emissions Performance Warranty eligibility, (i.e., 1981 and newer model year light duty trucks at low altitude and 1982 and newer model year trucks at high altitude certification standards of 2.0 grams per mile HC and 26 grams per mile CO or less) short test emissions for all tests and test modes for HC shall not exceed 220 parts per million as hexane and 1.2% CO.

9 VAC 5-91-480. Emissions related repairs.

A. Emissions related repairs generally include only those adjustments to and maintenance and repair of the motor vehicle components and systems which are directly related to the reduction of exhaust and evaporative emissions necessary to comply with the applicable emissions standards.

The expenditure for emissions related repairs does not include the inspection fee as specified in § 46.2-1182 of the Virginia Motor Vehicle Emissions Control Law, ~~the expense of emissions related adjustments, repairs or replacements required by subdivision C 2 of 9 VAC 5-91-420~~ or the expenses associated with the adjustments to and maintenance, replacement, and repair of emissions control equipment ~~on the vehicle~~ if the need for such adjustment, maintenance, or repair is due to obvious disconnection of, tampering with, or abuse to such emissions control equipment. Emissions control equipment means any part, assembly or system originally installed by the manufacturer for the sole or primary purpose of reducing emissions.

B. Repairs and maintenance including but not limited to the following systems may qualify as emissions related repairs insofar as the purpose is to reduce exhaust or evaporative emissions:

1. Air intake systems.
2. Ignition systems.
3. Electrical systems.
4. Fuel control systems.
5. Emissions control systems.
6. Basic engine systems.
7. Engine cooling systems for microprocessor based air and fuel control systems.
8. On-board diagnostic systems.

C. *The cost of emissions related repairs may qualify for repair costs applicable toward the waiver cost threshold under 9 VAC 5-91-420 N 5 only if performed at a certified emissions repair facility. The repairs shall be performed by or under the supervision or approval of a certified emissions repair technician.*

9 VAC 5-91-490. Engine and fuel changes.

A. For those vehicles in which the original engine has been replaced, the following conditions shall apply:

1. The emissions standards and applicable emissions control equipment for the year and model of the vehicle body or chassis, or the engine, whichever is newer, according to the registration or title, shall apply.
2. For those diesel powered vehicles which have been converted to operate on fuels other than diesel, the emissions standards and applicable emissions control equipment for the year, make and model of the gasoline equivalent for the vehicle chassis, according to the registration, shall apply.
3. Exceptions and final determinations regarding this section may be granted by the department provided information is verifiable by inspection of the vehicle engine and emissions control equipment by the department.

B. For those vehicles ~~itled or registered as model year 1973 and newer,~~ that were assembled by other than a licensed manufacturer, such as kit cars, the applicable emissions

control equipment and emissions standards shall be based upon a determination of the year of the vehicle engine. The year of the engine shall be presumed to be that stated by the vehicle owner unless it is determined by the department, after physical inspection of the vehicle engine, that the year of the engine is other than stated by the owner. The emissions standards for a vehicle of this classification shall be determined by the year of manufacture of the engine.

C. For those vehicles which have the capability or are equipped to operate on either gasoline or an alternative fuel, and are subject to emissions inspections, the vehicle shall be tested while operating on gasoline containing ~~less~~ *no more* than ~~85%~~ *15%* ethanol or methanol.

D. In order to provide for the accurate inspection and registration coordination of motor vehicles in which the original engine has been replaced, questions shall be referred to the department for resolution.

9 VAC 5-91-500. Applicability and authority.

A. The director shall issue, deny, suspend or revoke certification and establish procedures and other instructions for the operation of vehicle emissions repair facilities where vehicle emissions related repairs will apply toward a vehicle emissions inspection waiver.

B. The provisions of this part apply to *current certified facilities and applicants* for initial certifications, renewals of certification, reinstatements and requalifications.

C. The director shall issue a certification for any emissions repair facility qualified or requalified under 9 VAC 5-91-510 except facilities whose suspension period has not expired.

9 VAC 5-91-510. Certification qualifications.

A. Application for certification shall be made to the department in accordance with procedures approved by the department.

B. Applicants shall demonstrate to the department the ability to conform to this chapter.

C. Certifications shall be valid only to the emissions repair facility, owner, or ~~leasee~~ *lessee* for which it is issued and may not be transferred or used at any other emissions repair facility nor by any other owner.

D. Transfer or sale of business, or changes in *partnership* name or location ~~will~~ *shall* require notification to the department and ~~may~~ *shall* require new certification.

E. The department may require proof of business ownership, articles of incorporation, partnership agreements and lease agreements prior to certification of an emissions repair facility.

F. All emissions repair facility certification documentation shall be posted in a conspicuous place on the certified premises, within view of the public and approved by the department.

G. Certification is valid for time periods determined by the department, not to exceed three years *from the end of the month in which certified.* The director may extend such certification once, for up to ~~480 days~~ *six months from the original expiration date*, if shown that the availability of training or equipment prevent recertification prior to expiration.

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H. Equipment, tools, and reference materials, including but not limited to the following list, are required to be available in certified emissions repair facilities contingent on commercial availability.

1. For vehicles subject to the Northern Virginia emissions inspection program and serviced by that emissions repair facility, current reference material, either in manual or electronic form, to include:

- a. Emissions control systems and application guides.
- b. Emissions related repair guides.

2. Necessary tools and equipment, either as components or as a complete system, for emissions related repairs as listed below:

- a. A four-gas exhaust emissions analyzer capable of analyzing exhaust emissions from vehicles on which emissions repairs are being performed.
- b. Oscilloscope or other automotive analyzer capable of displaying ignition patterns, cylinder power contributions, and square wave and injection patterns of vehicles.
- c. Ammeter, DC.
- d. Ohmmeter.
- e. Voltmeter, AC/DC.
- f. Tachometer, RPM meter.
- g. Fuel pressure gauge capable of fuel injection diagnosis.
- ~~h. Cam angle dwell meter.~~
- ~~h. Ignition timing light with timing advance meter and adjustment.~~
- ~~j. i. Compression test gauge and cylinder leak-down tester.~~
- ~~k. j. Vacuum pump with gauge for applying simulated manifold vacuum to emissions control devices.~~
- ~~l. Temperature gauge (32° to 300°F) for measuring engine coolant temperature.~~
- ~~m. k. Scan tools, supplemental analyzer provisions, or detailed reference materials sufficient to allow the extraction and interpretation of computer fault codes from any vehicle being repaired that is equipped with an exhaust gas oxygen sensor and malfunction indicator light.~~

l. OBD scan tool designed to interface with OBD vehicles meeting the requirements of 40 CFR 85.2231.

9 VAC 5-91-520. Expiration, reinstatement, renewal, and requalification.

A. Upon expiration, *temporary inactive status due to inability to conform to the qualifications for certification*, suspension, or revocation of certification, vehicle emissions related repairs henceforth performed by the emissions repair facility shall no longer be applicable toward a vehicle emissions inspection waiver as described in 9 VAC 5-91-420 N *until such time as*

the facility's certification is reinstated or the facility's status is reactivated.

B. A new application is required after revocation or expiration of the certification.

C. The director shall reinstate an emissions repair facility certification at the end of a suspension period upon notification by the facility that the suspension period has ended.

D. Requalification may be required at any time by the department based on the results of monitoring of emissions repair facility performance or changes in applicable vehicle emissions control or repair technology.

E. If an emissions repair facility fails to become requalified within 90 days after notice of requalification requirement by the department, the certification shall expire.

F. The department will endeavor to notify facilities prior to the expiration of certification. However, it is the responsibility of the emissions repair facility to have a current valid certification.

G. Expiration of certification or revocation of certification shall require reapplication.

H. Upon expiration or notification of revocation, the emissions repair facility shall surrender to the department all certification documents issued by the department.

I. Any applicant whose certification has been revoked shall make a showing to the director that the condition causing the revocation has been corrected to the satisfaction of the director.

9 VAC 5-91-530. Emissions repair facility operations.

A. Emissions repair facilities shall maintain applicable repair and certification related records available for inspection and audit by the department any time during normal business hours for 12 months.

B. Emissions repair facilities shall employ at least one certified emissions repair technician during posted emissions repair station hours. *Facilities shall immediately notify the department if repairs applicable toward a waiver are unable to be performed for any reason.*

C. Emissions repair ~~facilities~~ *facility* operations shall be conducted in accordance with applicable statutes and this chapter.

D. Emissions repair facilities shall provide emissions repair data and other such information related to repair effectiveness as required by the department in accordance with ~~9 VAC 5-91-530~~ *subsection A of this section* for the purposes of emissions related repair performance monitoring. *The facilities shall ensure that emissions repair data forms (i) are properly and completely filled-out, (ii) are signed by the certified emissions repair technician employed by that facility who performed, supervised or approved the repairs, and (iii) are provided to the customer along with a receipt, invoice or repair order for the work performed.*

E. No facility shall be represented as a certified emissions repair facility unless a valid certification has been issued for

that facility by the director.

F. Emissions repair facilities shall cooperate with the department during the conduct of audits, investigations and complaint resolutions.

G. Equipment, tools, and reference materials must be maintained in proper working order.

H. Emissions repair facilities shall maintain a file of the name, address, and identification number of all currently employed certified emissions technicians and shall provide such information to the department upon request.

I. Repairs to qualify toward the waiver cost threshold shall be conducted in accordance with 9 VAC 5-91-420 N, 9 VAC 5-91-480 C and 9 VAC 5-91-580 D.

9 VAC 5-91-540. Sign and certificate posting.

A. Emissions repair facilities performing emissions related repairs for the public shall post a sign approved or provided by the department designating the location as a certified vehicle emissions repair facility in a conspicuous location on the premises, in view of the public and approved by the department.

~~B. Emissions repair facilities performing emissions related repairs for the public inspection station certificates shall post the applicable waiver cost requirements be posted in a frame, in a conspicuous location place on the permitted premises, in within view of the public, and approved by the department.~~

C. Emission repair facilities performing emissions related repairs for the public shall post all signs in a manner consistent with local sign ordinances or codes.

9 VAC 5-91-550. Applicability and authority.

A. The director shall issue, deny, suspend or revoke certifications to perform *emissions related* adjustments and repairs which are intended to apply towards a vehicle emissions inspection waiver.

B. The provisions of this part apply to *current certified technicians and applicants* for initial certifications, renewals, requalifications and any reinstatement of certification.

C. The director shall issue a certification to any person qualified or requalified under 9 VAC 5-91-560 except persons whose suspension period has not expired.

9 VAC 5-91-560. Certification qualifications for emissions repair technicians.

A. Application for certification under this part shall be made to the department and in accordance with procedures approved by the department.

B. Applicants shall demonstrate to the department the ability to conform with applicable motor vehicle laws and this chapter.

C. Certification is valid only for the person to whom it is issued.

D. Emissions repair technicians may be certified to perform emissions related repairs at more than one certified station.

E. Certification is valid for a time period determined by the department, not to exceed three years *from the end of the month in which issued*. The director may extend such certification once, for up to ~~480 days~~ *six months from the date of original expiration*, if shown that the availability of training or equipment prevent recertification prior to expiration.

F. The requirements for emissions repair technician certification are as follows:

1. The certification process shall be administered by the department or its agent according to procedures of the department. Before applicants are certified, they must comply with the requirements of this section. The department will notify applicants of the certification requirements prior to testing.

2. An applicant shall demonstrate knowledge, skill, and competence concerning the adjustment and repair of vehicle emissions control systems. Such knowledge, skill and competence shall be demonstrated by passing a qualification test and certification process, which may include training, as approved by the department. Such demonstration may include knowledge of the following:

a. Operation and purpose of emissions control systems.

b. Relationship of hydrocarbon, oxides of nitrogen and carbon monoxide emissions to timing and air-to-fuel ratio control and vehicle load as applicable to the emissions inspection required.

c. Adjustment and repair to manufacturers' specifications.

d. Contemporary diagnostic and engine tune-up procedures.

e. Emissions related adjustment and repair requirements for all vehicles failing an emissions inspection, in particular, the adjustment and repair of those systems described in 9 VAC 5-91-480.

f. Other such relevant emissions related repair criteria, as determined by the department.

g. Other provisions of this chapter applicable to emissions related repair.

G. Any applicant whose certification has been revoked shall make a showing to the director that the condition causing the revocation has been corrected to the satisfaction of the director.

9 VAC 5-91-570. Expiration, reinstatement, renewal and requalification.

A. Upon expiration, suspension, or revocation of the certification, the emissions repair technician shall no longer be authorized to perform emissions related repairs and have them apply toward emissions inspection waivers as described in 9 VAC 5-91-420 N.

B. Certification of an emissions repair technician is required as a result of revocation or expiration of the certification.

C. The director shall reinstate certification of an emissions repair technician at the end of a suspension period upon

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notification by the emissions repair technician that the suspension period has ended.

D. Requalification may be required at any time by the department based on the results of monitoring of the performance of the emissions repair technician or based on changes in applicable vehicle emissions control or repair technology. Failure to requalify within ~~90 days~~ *three months of notification* shall result in expiration of the emissions repair technician certification.

E. The department will endeavor to notify technicians prior to the expiration of their certification. However, it is the responsibility of the emissions repair technician to maintain a current certification.

F. Upon expiration or notification of revocation or suspension, the technician shall surrender to the department all certification documents issued by the department.

G. Requalification requirements for all emissions repair technicians.

1. When necessary to update the technical qualifications of emissions repair technicians, or when technician performance monitoring indicates a need for additional training or other action, holders of emissions repair technician certifications shall be required to requalify.

2. Emissions repair technicians shall be required to requalify within 90 days from the date of written notification by the department. Notice of this requirement shall be mailed to the address of record as maintained by the department. The notice shall inform the person of the necessity of requalification and the nature of such skills, systems, and procedures requiring the training for the continued performance as an emissions repair technician. The notice shall give the name and location of training sources approved or accredited for purposes of retraining, the necessity of requalification by a certain date, and the nature and evidence of documentation to be filed with the department evidencing such requalification.

9 VAC 5-91-580. Certified emissions repair technician responsibilities.

A. No person shall ~~claim to be~~ *represent himself* as a certified emissions repair technician without holding a valid certification issued by the director.

B. Certification documents shall be available on the premises where the emissions repair technician is performing emissions related repairs and available to department personnel upon request.

C. Emissions repair technicians shall keep their current mailing address and place of employment on file with the department.

D. Certified emissions repair technicians shall properly complete and sign forms, including but not limited to the repair section of the vehicle emissions inspection report, indicating the diagnosis or reason for failure of the emissions inspection, the type of emissions related repair work performed, the itemized and total cost of such repairs, and provide other data the department requires for consideration

of emissions inspection waiver requests. *The technician shall sign only repair data forms for repairs that were performed or supervised by the technician while on duty at the repair facility.*

E. All emissions repair technicians shall cooperate with the department during the conduct of audits, investigations and complaint resolution.

9 VAC 5-91-600. General enforcement process.

A. Upon issuance of a notice of violation, attempts shall be made to negotiate a consent order. The negotiation process may take the form of two tiers, the first involving negotiations with the department field staff. The second tier involves subsequent negotiations with the department's management personnel for regional compliance, mobile sources operations, or enforcement if the first tier negotiations are unsuccessful and the alleged violator wishes to continue negotiations.

B. If the parties cannot agree on a consent order, an informal fact finding shall be held after reasonable notice in accordance with ~~§ 9-6-14:14~~ *2.2-4019* of the Virginia Administrative Process Act. Upon consent of all parties, the informal fact finding may be waived and a formal hearing shall be held after reasonable notice in accordance with ~~§ 9-6-14:12~~ *2.2-4020* of the Virginia Administrative Process Act. During these proceedings, the department and the alleged violator may present facts and circumstances surrounding the alleged violation in accordance with the Virginia Administrative Process Act.

C. A formal hearing shall be held to suspend emissions inspection station permits, unless the parties agree to hold an informal fact finding and waive a formal hearing and agree that the decision from the informal fact finding is the final decision ~~appealable~~ *which may be appealed* to court. An emissions inspection station permit may be suspended pursuant to an informal fact finding, provided the department holds a formal hearing within 10 days from the date of suspension in accordance with § 46.2-1185 of the Virginia Motor Vehicle Emissions Control Law.

D. As provided in § 46.2-1185 of the Virginia Motor Vehicle Emissions Control Law, the director can summarily suspend an emissions inspection station permit without a formal hearing and require the permit holder to immediately cease performing emissions inspections. Within 10 days of such action, the director shall hold a formal hearing to affirm, modify, amend, or cancel the suspension unless the affected party agrees to waive the formal hearing and allow the suspension to remain in effect.

E. For all formal hearings, the department shall issue a prehearing order which shall indicate the manner in which the hearing will be conducted and shall address issues regarding witnesses, the prefilling of exhibits, and proposed findings of fact and conclusions of law.

F. With respect to appeals of penalties imposed pursuant to an informal fact finding, the presiding officer shall be a designee of the director other than the regional emissions inspection program manager or any emissions inspection program staff member.

G. Any case decision made pursuant to an informal fact finding must be in writing, must inform the alleged violator of the penalty being imposed and the basis for any adverse decision, and must inform the named party of his right to appeal.

1. Any affected party has the right to request a formal hearing to appeal an adverse decision from an informal fact finding unless the parties agree before the decision is rendered to waive the formal hearing and that the decision shall be considered a final decision ~~appealable~~ *which may be appealed* to court.

2. A written informal fact finding decision shall contain a statement that the affected party has the right to request a formal hearing in order to appeal the decision within 10 days of notification of the decision or, if previously agreed by the parties, that the decision is final and the affected party has the right to appeal the decision to court.

3. Any request for a formal hearing shall be made within 10 days of notification of the decision by the affected party, in writing, to the department representative who made the informal fact finding decision.

H. Case decisions made pursuant to a formal hearing shall be made by the director or a designated representative. They must be in writing and contain findings of fact and conclusions of law that set forth the basis for any adverse decision, inform the alleged violator of the penalty being imposed and inform the named party of his right to appeal that decision to court.

I. All permits, licenses and certifications shall be surrendered to the department upon notice of revocation. Emissions inspection stations and emissions repair facilities shall also surrender to the department all forms, data media and documents issued by or purchased from the department.

J. If the case decision is a final decision ~~appealable~~ *which may be appealed* to court, the department need not act further except to enforce any penalty or order issued pursuant to the decision.

K. If the director determines that a permittee, licensee, or holder of a certification is not complying with the Virginia Motor Vehicle Emissions Control Law, this chapter, any case decision, penalty or consent order issued pursuant to this chapter, the director may seek appropriate criminal or civil judicial enforcement, or both, in accordance with §§ 46.2-1187 and § 46.2-1187.2 of the Code of Virginia.

9 VAC 5-91-610. Consent orders and penalties for violations.

A. Penalties for violations of the Virginia Motor Vehicle Control Law, this chapter, permits, licenses, certifications, and orders include letters of reprimand, probation, suspension, and revocation.

B. Penalties may be imposed as a result of an informal fact finding or formal hearing, and may be negotiated by the parties for inclusion in consent orders.

C. A consent order shall contain an agreed-to penalty in the form of a letter of reprimand, probationary period, or

suspension, or a civil charge, a combination thereof, or other agreed upon actions.

D. For any minor violation, as described in 9 VAC 5-91-630, the director may negotiate or impose pursuant to an informal fact finding or formal hearing:

1. A letter of reprimand.

2. For the second minor violation within 24 months, a letter of reprimand and a probationary period not to exceed 12 months.

E. For any major violation, as described in 9 VAC 5-91-620, the director may negotiate or impose pursuant to an informal fact finding or formal hearing:

1. A letter of reprimand.

2. A letter of reprimand and a probationary period not to exceed 12 months.

3. A suspension of a permit, license or certification followed by a probationary period not to exceed 12 months.

4. A revocation of a permit, license or certification.

F. Suspensions shall be for a period not to exceed one year.

G. In the case of multiple violations, suspensions may run concurrently.

H. No application for a permit, license, or certification from a person whose permit, license, or certification has been revoked shall be considered by the director until (i) 12 months have elapsed from the date of revocation and (ii) until the conditions of 9 VAC 5-91-240 D, 9 VAC 5-91-390 D, 9 VAC 5-91-520 I or 9 VAC 5-91-560 G have been satisfied.

I. Emissions inspectors ~~and~~ *certified* emissions repair technicians *and certified emissions repair facilities* are subject to the same penalties that may be imposed on emissions inspection station permit holders. Such penalties shall be imposed separately on each affected party only as part of a consent order or through an informal fact finding or formal hearing. The director shall consider a party's level of responsibility for the violation in negotiating a consent order or in imposing a particular level of penalty pursuant to an informal fact finding or a formal hearing.

J. Any intentional falsification of an emissions inspection shall result in a revocation; or in a suspension of the inspector's license, or the station permit for not less than six months, or an equivalent civil charge, or both.

K. As a condition of probation, terms may be imposed during the probationary period that must be complied with by the violator. The terms may include a requirement that the permittee, licensee, or certified repair technician perform additional or periodic demonstrations of competency or obtain additional training. Completion of such terms to the satisfaction of the department may serve as a basis for reducing the probationary period.

9 VAC 5-91-620. Major violations.

A. Major violations are considered the most serious of offenses resulting from unacceptable performances in the

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conduct of emissions inspections, the operation of emissions analyzer systems, and the conduct of emissions related repairs. Such violations are of a nature that would directly affect the integrity, credibility, and emissions reduction effectiveness of the vehicle emissions inspection program.

B. A violation of the following provisions of this chapter *by any person or facility whether or not permitted, licensed or certified*, shall constitute a major violation:

~~Permittee: Licensee: Emissions Repair Facility: Technician:~~

~~9 VAC 5-91-220 B, C 9 VAC 5-91-290 B 9 VAC 5-91-510 C,
9 VAC 5-91-560 C~~

~~9 VAC 5-91-260 B, D 9 VAC 5-91-330 H 9 VAC 5-91-570 F
9 VAC 5-91-280 9 VAC 5-91-340 9 VAC 5-91-520 H 9 VAC
5-91-580 A,~~

~~9 VAC 5-91-290 B, 9 VAC 5-91-360 C, E 9 VAC 4-91-530 A
D, E~~

~~G, H 9 VAC 5-91-370 through G~~

~~9 VAC 5-91-300 B, 9 VAC 5-91-380 F, I
C, D, F 9 VAC 5-91-400~~

~~9 VAC 5-91-320 A, D 9 VAC 5-91-410,~~

~~9 VAC 5-91-330 420, 430, 440,~~

~~9 VAC 5-91-340 450, 460~~

~~9 VAC 5-91-360 B, 9 VAC 5-91-480, 490
C, E~~

~~9 VAC 5-91-370~~

~~9 VAC 5-91-410,~~

~~420, 430, 440,~~

~~450, 460~~

~~9 VAC 5-91-480, 490~~

9 VAC 5-91-220 B, C, E, F

9 VAC 5-91-290 B, C, D, E, G

9 VAC 5-91-300 B, C

9 VAC 5-91-320 A, D

9 VAC 5-91-330

9 VAC 5-91-340 A, D

9 VAC 5-91-360 B, C, E

9 VAC 5-91-370 A, C

9 VAC 5-91-380 F, I

9 VAC 5-91-400

9 VAC 5-91-410

9 VAC 5-91-420 (except D 4)

9 VAC 5-91-430 A 1, 2, 3, 5, 8

9 VAC 5-91-440 A 1, 7

9 VAC 5-91-450 A, C, D

9 VAC 5-91-480 A

9 VAC 5-91-490 A, B, C

9 VAC 5-91-510 C, H

9 VAC 5-91-530 A, B, D, E, F, G

9 VAC 5-91-560 C

9 VAC 5-91-580 A, D, E

9 VAC 5-91-640 B

C. Obtaining a permit, license or certification by false statement or misrepresentation or operating under a permit, license or certification while not in compliance with the conditions for such permit, license, or certification is a major violation and shall be grounds for revocation.

D. Use of alcohol or illegal drugs while performing emissions

inspections or emissions-related repair, *or performing emissions inspections or emissions-related repair while under the influence of alcohol or illegal drugs*, shall be considered a major violation *and shall be grounds for revocation of the license, permit or certificate*.

E. Any third and subsequent minor violation within 24 months shall be considered a major violation.

F. Any violation of the Virginia Motor Vehicle Emissions Control Law and this chapter that is not specifically identified in this section may be treated as a major violation if the director determines on a case-by-case basis that the violation fits the criteria for major violations set forth in subsection A of this section.

9 VAC 5-91-650. Design goals.

A. The analyzer system shall be designed for maximum operational simplicity with a minimum number of operational decisions required by the emissions inspector in the performance of a complete emissions analysis including exhaust tests, evaporative emissions or fuel filler cap tests, other emissions-related electronic or mechanical tests, or a combination of such tests.

B. The analyzer system shall be unaffected by ambient conditions in a typical emissions inspection station environment and its use shall be primarily for compliance inspection purposes. It shall be capable of providing emissions characteristics, independent of the inspection function, which can be used for vehicle diagnostic work as well.

C. The analyzer system shall be of a design which can perform ASM testing using a BAR 97 analyzer with the addition of (i) a dynamometer, (ii) a NO_x analyzer, (iii) evaporative emissions control system pressure test equipment, (iv) fuel filler cap test equipment, and (v) a two-dimensional bar code reader and laser printer.

D. The analyzer shall be readily upgradable, without replacing the existing central processing unit, to incorporate on-board diagnostic (OBD) ~~phase II testing equipment, evaporative system purge test equipment,~~ and additional electronic vehicle identification equipment such as video and audio processes.

9 VAC 5-91-680. Certification of analyzer systems.

A. No analyzer system may be installed, sold or represented as a certified enhanced analyzer system without prior written certification by the department.

B. The analyzer system must have a certificate from the manufacturer that it meets the specifications of 40 CFR Part 85, Subpart W. This certification is necessary so that inspections performed using that analyzer will qualify applicable vehicles for warranty repair coverage according to the provisions of the Emissions Control System Performance Warranty (§ 207(b) of the federal Clean Air Act).

C. A person requesting the certification of an emissions analyzer system for use in the Virginia Motor Vehicle Emissions Control Program shall make application to the department using procedures approved by the department.

D. The analyzer system, in order to become certified for use and be used for emissions inspections, shall conform to the equipment specifications and quality control requirements of EPA Technical Guidance document EPA-AA-RSPD-IM-96-2 unless requirements contained therein are excluded or superseded by requirements of this chapter as enumerated below.

1. Vehicles powered by a fuel other than gasoline are not covered by ~~this program~~ *ASM testing* and references to emissions standards and correction factors to test such vehicles do not currently apply to ~~this program~~ *ASM testing*. (Ref. EPA-AA-RPSD-IM-92-2 § 85.1(b)(1)(iv)).

2. The emissions inspection equipment is not required to incorporate vehicle brake sensing. (Ref. EPA-AA-RPSD-IM-92-2 § 85.2(a)(5)).

3. The preconditioning period for all vehicles undergoing an ASM test ~~shall~~ *may be up to* 90 seconds. System prompts regarding queuing time are unnecessary. (Ref. EPA-AA-RPSD-IM-92-2 § 85.21(b)(10)(i) and (ii)(C)).

4. All ~~OBD~~ vehicles of ~~model year 1996 and newer~~ *equipped with the SAE standardized OBD connection* shall have engine RPM and emissions-related information read through the OBD connection ~~beginning January 1, 1999~~ *pending availability and installation of necessary hardware and software or January 1, 2002, whichever first occurs*. Emissions inspection equipment shall have the necessary equipment to perform such testing by this date, *or as specified in 9 VAC 5-91-420 G 4*. (Ref. EPA-AA-RPSD-IM-92-2 § 85.1(c)(9) and § 85.3(c)(5)).

5. Vehicles subject to ASM testing shall receive the ASM 2525 and ASM 5015 modes in that sequence, followed by any second chance testing for which the vehicle is eligible in the same sequence. Second chance tests shall only be performed on vehicles which failed the first chance test ~~within 450% the software specifications~~ of all applicable standards. (Ref. EPA-AA-RPSD-IM-92-2 § 85.2(d) and (e)).

6. Dynamometers shall be calibrated through a coast-down procedure every 72 hours. (Ref. EPA-AA-RPSD-IM-92-2 § 85.4(b)(1)).

7. The allowable tolerances for the low-range audit gas in § 85.4(d)(2)(iii)(B) shall be: ± 10 ppm HC, $\pm 0.025\%$ CO, $\pm 0.36\%$ CO₂, and ± 28 ppm NO. For the time period in which phase-in exhaust emissions standards are in use, analyzers shall not lock out unless the low-range gas audit has been out of tolerance for more than 72 hours. However, for any reading out of tolerance with the low-range audit, the system shall prompt the inspector to have the analyzer serviced.

8. Analyzer calibration gas bottles shall be bar-coded or have bar-coded labels providing the specifications of the gas contained within and the analyzer system shall require a reading of these specifications, through the system bar code reader, whenever the bottles are changed. The calibration gases, therefore, may have up to a 5.0% blend tolerance. (Ref. EPA-AA-RPSD-IM-92-2 § 85.4(d)(2)(iv)).

~~9. The analyzer shall prompt for gas audits to be performed quarterly. (Ref. EPA-AA-RPSD-IM-92-2 § 85.4(d)(3)(i)).~~

~~40. 9. Analyzer audit gas bottles shall be bar-coded or have bar-coded labels providing the specifications of the gas contained within and the analyzer system shall require a reading of these specifications, through the system bar code reader, whenever the audit is conducted. The calibration gases, therefore, may have up to a 5.0% blend tolerance. (Ref. EPA-AA-RPSD-IM-92-2 § 85.4(d)(3)(iv)).~~

9 VAC 5-91-700. Calibration of exhaust gas analyzers.

The department shall use, and require for use, gases and containers meeting the following parameters, blends, and specifications in the calibration of exhaust gas analyzers:

1. The calibration gases for standardizing instruments shall conform to the provisions outlined in EPA-AA-RSPD-IM-96-2.

2. Analyzers shall ~~automatically perform and pass a three-point~~ *two-point* gas calibration for HC, CO, and CO₂ and ~~a two-point calibration for~~ NO, within 72 hours before each test.

3. Analyzers shall ~~require and~~ pass a five-point gas audit for HC, CO, CO₂, and NO at least ~~every 180 days~~ *two times within 12 months*, and each time an analyzer emissions measurement system, sensor, or other electronic components are repaired or replaced *in response to an audit failure*.

9 VAC 5-91-710. Upgrade of analyzer system.

A. Any requirement to upgrade a certified emissions analyzer system beyond the specifications and requirements described in this chapter and EPA-AA-RSPD-IM-96-2 shall apply to all such systems certified under this chapter and shall require an amendment to this chapter.

B. Such upgrade may include, but not be limited to, enhanced on-board diagnostic (OBD) testing equipment, any evaporative emissions control system pressure test ~~or purge test equipment not already in use~~, and electronic vehicle identification systems such as video and audio processes.

9 VAC 5-91-720. Vehicle manufacturer recall.

A. Motor vehicles subject to the enhanced emissions inspection program shall have any known emissions-related, vehicle manufacturer recall requirement satisfied prior to testing, *as feasible and practicable pending the availability of an emissions recall database, installation of necessary hardware and software, and on a schedule as determined by the director*.

B. Manufacturers' emissions-related recall requirements may be pursuant to either a "Voluntary Emissions Recall" as defined at 40 CFR 85.1902(d) or to a remedial plan determination made pursuant to 42 USC § 7541(c).

C. The motor vehicle owner shall provide proof of compliance with such recall requirement to the emissions inspector or to the department.

1. Such proof shall consist of dated receipts from a motor vehicle dealer or repair facility authorized by the vehicle manufacturer to perform such repair or adjustment required by the recall.

Proposed Regulations

2. The motor vehicle owner is responsible for obtaining satisfactory resolution of any such recall requirement and retaining all pertinent records and data.

D. Notification by mail to the motor vehicle owner of an emissions-related manufacturer recall at least 60 days prior to the requirement for an emissions inspection shall constitute adequate notice. Such notice may be provided through motor vehicle registration renewal notification, motor vehicle dealer notification, notification by the department, or other means.

9 VAC 5-91-740. General requirements.

A. The on-road testing program shall conform, at a minimum, to the requirements of 40 CFR 51.371 and § 46.2-1178.1 of the Code of Virginia applicable to the program area in which it is employed.

B. The emissions standards for the on-road remote sensing program are those contained in Table III-B in 9 VAC 5-91-180.

C. The on-road testing program and the emissions standards applicable thereto shall apply to all *affected* motor vehicles registered in the program area and any *affected motor* vehicles operated in the program area.

9 VAC 5-91-770. General requirements. (Repealed.)

~~A. Federal facilities located within the Northern Virginia program area shall be subject to the Northern Virginia Vehicle Emissions Control Program, and administrators of such facilities shall ensure compliance with all applicable program requirements, according to § 118 of the federal Clean Air Act.~~

~~B. The program applies to affected motor vehicles (i) operated on or commuting to the federal facility regardless of where the vehicles are registered, and (ii) affected motor vehicles owned, leased, or operated by the federal government or federal employees.~~

~~C. This requirement shall not apply to vehicles which operate on or commute to federal facilities less than 60 calendar days per year.~~

9 VAC 5-91-780. Proof of compliance. (Repealed.)

~~A. Each federal facility administrator or his designee shall provide the department with proof of compliance with this chapter by March 31 of each year, covering the preceding calendar year.~~

~~B. Such proof shall consist of a report, in a format approved by the department, which identifies, at a minimum:~~

~~1. A listing of each affected motor vehicle that has complied with all requirements of this chapter, its date of compliance, and the means of compliance as described in subsection C of this section;~~

~~2. A listing of each affected motor vehicle that has not complied with all requirements of this chapter and the reasons therefor; and~~

~~3. A plan for action necessary to ensure that vehicles in noncompliance with this part are brought into compliance within 90 days.~~

~~C. The federal facility administrator shall use one of the following means to establish proof of compliance:~~

~~1. Presentation of a valid vehicle inspection report showing compliance with any enhanced emissions inspection program;~~

~~2. Presentation of proof of Department of Motor Vehicles registration identifying a garaged address within the Northern Virginia program area; or~~

~~3. Any other means approved by the department.~~

~~D. Each federal facility administrator or his designee shall collect and remit to the department a fee of \$2.00 per vehicle per year of registration, as required by § 46.6-1182.1 of the Code of Virginia for vehicles commuting to and operated on the facility as described in this part and operated primarily in but not registered in the program area. Such remittance shall occur annually by March 31 of each year, covering the preceding calendar year.~~

~~E. Failure to comply with this part shall cause a notice of violation to be issued to the facility administrator.~~

9 VAC 5-91-790. ASM start-up standards.

The following standards shall apply upon implementation of the emissions inspection program. The exhaust emissions standards for the following model years are cross-referenced by using the number in the column in Table 14.1 to locate the column that lists the appropriate standards in the tables in 9 VAC 5-91-810. Each column reference below corresponds to two columns, one for the ASM 5015 and one for the ASM 2525, in 9 VAC 5-91-810. The test standards are then listed in the appropriate column according to the Equivalent Test Weight.

TABLE 14.1

Light Duty Vehicles.			
Model Years	Hydrocarbons 9 VAC 5-91-810 A	Carbon Monoxide 9 VAC 5-91-810 B	Oxides of Nitrogen 9 VAC 5-91-810 C
1994+ Tier 4 1996 and later	1	21	41
1991-1995	2	22	42
1983-1990	4	23	43
1981-1982	4	26	43
1980	4	26	48
1977-1979	11	30	48
1975-1976	11	30	50
1973-1974	13	34	50
1968-1972	13	34	51
Light Duty Trucks 1 (less than 6000 pounds GVWR).			
Model Years	Hydrocarbons 9 VAC 5-91-810 A	Carbon Monoxide 9 VAC 5-91-810 B	Oxides of Nitrogen 9 VAC 5-91-810 C
1994+ Tier 4 1996 and later			

Proposed Regulations

(≤ £ 3750 LVW)	1	21	41
(> 3750 LVW)	2	22	42
1991-1995	5	26	43
1988-1990	7	29	44
1984-1987	7	29	49
1979-1983	11	31	49
1975-1978	12	32	50
1973-1974	13	34	50
1968-1972	13	34	51
Light Duty Trucks 2 (greater than 6000 pounds GVWR).			
Model Years	Hydrocarbons 9 VAC 5-91-810 A	Carbon Monoxide 9 VAC 5-91-810 B	Oxides of Nitrogen 9 VAC 5-91-810 C
1994+ Tier 4 1997 and later			
(≤ £ 5750 LVW)	2	22	42
(> 5750 LVW)	5	26	45
1991- 1995 1996	5	26	46
1988-1990	7	29	47
1984-1987	7	29	49
1979-1983	11	31	49
1975-1978	12	32	50
1973-1974	13	34	50
1968-1972	13	34	51

9 VAC 5-91-800. ASM final standards.

The following standards shall apply ~~beginning one year after program implementation~~ unless specifically determined according to 9 VAC 5-91-170 to apply at a later date. The exhaust emissions standards for the following model years are cross-referenced by using the number in the column in Table 14.2 to locate the column that lists the appropriate standards in the tables in 9 VAC 5-91-810. Each column reference below corresponds to two columns, one for the ASM 5015 and one for the ASM 2525, in 9 VAC 5-91-810. The test standards are then listed in the appropriate column according to the equivalent test weight.

TABLE 14.2

Light Duty Vehicles.			
Model Years	Hydrocarbons 9 VAC 5-91-810 A	Carbon Monoxide 9 VAC 5-91-810 B	Oxides of Nitrogen 9 VAC 5-91-810 C
1994+ Tier 4 1996 and later	1	21	41
1983-1995	1	21	41
1981-1982	1	23	41
1980	1	23	45
1977-1979	6	27	45

1975-1976	6	27	48
1973-1974	10	32	48
1968-1972	10	32	49
Light Duty Trucks 1 (less than 6000 pounds GVWR).			
Model Years	Hydrocarbons 9 VAC 5-91-810 A	Carbon Monoxide 9 VAC 5-91-810 B	Oxides of Nitrogen 9 VAC 5-91-810 C
1994+ Tier 4 1996 and later			
(≤ £ 3750 LVW)	1	21	41
(>3750 LVW)	1	21	41
1988-1995	3	24	42
1984-1987	3	24	46
1979-1983	8	28	46
1975-1978	9	29	48
1973-1974	10	32	48
1968-1972	10	32	49
Light Duty Trucks 2 (greater than 6000 pounds GVWR).			
Model Years	Hydrocarbons 9 VAC 5-91-810 A	Carbon Monoxide 9 VAC 5-91-810 B	Oxides of Nitrogen 9 VAC 5-91-810 C
1994+ Tier 4 1997 and later			
(≤ £ 5750 LVW)	1	21	41
(>5750 LVW)	1	21	41
1988- 1995 1996	3	24	44
1984-1987	3	24	46
1979-1983	8	28	46
1975-1978	9	29	48
1973-1974	10	32	48
1968-1972	10	32	49

NOTICE: The forms used in administering 9 VAC 5-91, Regulations for the Control of Motor Vehicle Emissions in the Northern Virginia Area, are listed below. Any amended or added forms are reflected in the listing and are published following the listing.

FORMS

Application for Official Emissions Inspection Station, MSOS 101 (rev. 12/00)

Application for Official Virginia Certified Emissions Repair Facility, MSOS 201 (rev. 1/01)

Vehicle Emissions Inspector License Application, MSOS 1001 (rev. 7/98)

Inspector License Extension Request, MSOS 1101 (12/00)

Proposed Regulations

National Institute for Automotive Service Excellence
Transcript Request Form (9/01)

Field Inspection Report (9/01)

Inspection Station Notice of Violation (6/99)

Consent Order (9/01)


Letter of Reprimand (9/01)

Vehicle Emissions Inspection Report (1998)

Notice of Rejection from Vehicle Emissions Testing (9/01)

Request for Deferral of Vehicle Emissions Inspection
Requirement, MSOS 1 (rev. 8/00)

DEPARTMENT OF ENVIRONMENTAL QUALITY
Northern Virginia Regional Office
Mobile Source Operations Section
13901 Crown Court
Woodbridge, Virginia 22193-1453



EIS

APPLICATION FOR OFFICIAL EMISSIONS INSPECTION STATION

PLEASE TYPE OR PRINT

Application for (Check One): New Permit Permit Renewal Reinstatement

Facility or Trade Name: _____

Location: _____

City: _____ State: _____ Zip: _____

County: _____ Fleet: _____

Fax: _____ E-mail: _____

Type of Facility (Check One): Repair Shop Service Station Fleet Station - Private
 Fleet Station - Government Dealer - New Cars Dealer - Used Cars OTHER

Type of Organization (Check One): Corporation Partnership Individual Government

Organization or Owner Name: _____

Organization Address: _____

City: _____ State: _____ Zip: _____

Phone #: _____ Fax: _____

Do you presently employ a Virginia Licensed emissions inspector? YES NO

Inspector's Name: _____ (Identification #: _____)

Inspector's Name: _____ (Identification #: _____)

In accordance with the rules and regulations of the Department of Environmental Quality, emissions inspections shall be performed only by those individuals who are licensed as inspectors and approved for emissions testing by the Department.

MSOS 10 Rev. 02/20/00 **Continue on Reverse Side**

COMPLETE THIS SECTION FOR NEW PERMIT ONLY

1. Have you ever had an emissions inspection appointment? YES NO
If yes, under what name: _____ What city: _____

2. Have you ever been refused an emissions inspection appointment? YES NO
If yes, under what name: _____ What city: _____

3. Has this location ever been an official emissions inspection station? YES NO
If yes, under what name: _____

The necessary space, equipment and personnel will be provided and maintained, in a manner satisfactory to the Department of Environmental Quality (DEQ). All owner(s)/manager, and official emissions inspectors will read and be thoroughly familiar with the instructions and regulations furnished for Official Emissions Inspection Stations and will abide by these regulations, and carefully inspect every vehicle presented for inspection. The operations of this facility will be conducted in strict accord with the Air Pollution Control Law and the rules and regulations furnished by DEQ. The appointment of this facility, if made, may be suspended or revoked in accordance with the regulations, and will automatically be canceled if the station changes its ownership, name, or location.

Are you in any way a manufacturer or distributor of emissions testing equipment?
YES NO

If yes, then you may not in any way, own, operate, or have any direct or indirect financial interest in an emissions inspection facility other than the leasing of or providing financing for equipment related to emissions testing.

Does your business conform with local zoning, use, or business licensing laws, ordinances or regulations as well as any applicable OSHA requirements?
YES NO

I (we) have read the requirements for appointment and agree to the conditions as stated.

Name: _____ (Please Print Full Name) Title: _____ (Please Print Job Title or Position of the representative writing/typing/typing)

Signature: _____ Date: _____

Name: _____ (Please Print Full Name) Title: _____ (Please Print Job Title or Position of the representative writing/typing/typing)

Signature: _____ Date: _____

If you have any questions, please call the Department of Environmental Quality
at (703) 583-3900 or toll-free in Virginia at 1-800-275-3844

DEPARTMENT OF ENVIRONMENTAL QUALITY

Northern Virginia Regional Office
 Mobile Source Operations Section
 13901 Crown Court
 Woodbridge, Virginia 22193-1433



CRF

APPLICATION FOR OFFICIAL VIRGINIA
 CERTIFIED EMISSIONS REPAIR FACILITY

(PLEASE TYPE OR PRINT)

Application for (Check One): New Permit Permit Renewal Reinstatement

Facility or Trade Name: _____
 Location: _____
 City: _____ State: _____ Zip: _____
 County: _____ Phone: _____
 Fax: _____ E-mail: _____

Type of Facility (Check One): Repair Shop Service Station Fleet Station - Private
 Fleet Station - Government Dealer - New Cars Dealer - Used Cars OTHER

List make(s) of vehicle(s) only if the facility repairs specific make(s): _____

Type of Organization (Check One): Corporation Partnership Individual Government

Organization or Owner Name: _____
 Organization Address: _____
 City: _____ State: _____ Zip: _____
 Phone #: _____ Fax: _____

Emissions Inspection Station number if applicable: _____
 Do you presently employ a Virginia-Certified emissions repair technician: YES NO

Technician's Name: _____ Identification #: _____
 Technician's Name: _____ Identification #: _____

200105-201 (Rev. 06/20/2001)

Continued on Reverse Side

COMPLETE THIS SECTION FOR NEW CERTIFICATION ONLY

1. Have you ever had an emissions repair appointment? YES NO
 If yes, under what name: _____ What city: _____
2. Have you ever been refused an emissions repair appointment? YES NO
 If yes, under what name: _____ What city: _____
3. Has this location ever been an official emissions repair station? YES NO
 If yes, under what name: _____

Emissions related repairs of motor vehicles applicable towards a vehicle emissions inspection waiver, as required under the Air Pollution Control Law of Virginia and the Regulation for the Control of Motor Vehicle Emissions in the Northern Virginia Area, shall be performed at a Virginia Certified Emissions Repair Facility, and such repairs shall be performed or approved by a Virginia Certified Emissions Repair Technician(s) employed by that facility.

The necessary space, equipment and personnel will be provided and maintained by this facility in a manner satisfactory to the Department of Environmental Quality (DEQ). All owner(s)/manager(s), and Virginia Certified Emissions Repair Technicians, will read and be thoroughly familiar with the instructions and regulations furnished for Virginia Certified Emissions Repair Facilities; we will abide by these regulations, and strive to conduct the diagnosis and repair of motor vehicles in a manner appropriate to the cause(s) of vehicle emissions inspection failures. The operations of this facility will be conducted in strict accord with the Air Pollution Control Law and the rules and regulations furnished by DEQ. The appointment of this facility, if made, may be suspended or revoked in accordance with the regulations, transfers of ownership, name, or location will require recertification.

I (we) have read the requirements for appointment and agree to the conditions as stated.

Name: _____ Title: _____ (Corp. Officer, Partner, Owner)
 Signature: _____ Date: _____
 Name: _____ Title: _____ (Corp. Officer, Partner, Owner)
 Signature: _____ Date: _____

If you have any questions, please call the Department of Environmental Quality at (703) 583-3900 or toll-free in Virginia at 1-800-275-3844

**DEPARTMENT OF ENVIRONMENTAL QUALITY
NORTHERN VIRGINIA REGIONAL OFFICE
MOBILE SOURCE OPERATIONS SECTION**

VEHICLE EMISSIONS INSPECTOR LICENSE APPLICATION
(Please Print or Type)

Check one: New _____ Renewal _____ Reinstatement _____

Name: _____ (Last) _____ (First) _____ (MI) _____ SSN: _____

Address: _____ (Street) _____ (City/State) _____ (Zip)

Date of Birth: _____ Hm. Phone: _____ Wk. Phone: _____

Operator's License No.: _____ State: _____ Exp. Date: _____

Height: _____ Weight: _____ Color Eyes: _____ Color Hair: _____

Station Name: _____ Station #: _____

Station Address: _____ (Street) _____ (City/State) _____ (Zip)

Have you ever been licensed as a Virginia Vehicle Emissions Inspector?
NO () YES () If Yes, Expiration date of license: _____

*I certify that the information provided above is true and complete to the best of my knowledge.
Submission of false information may result in license revocation.*

Signature: _____ Date: _____

**DO NOT WRITE BELOW THIS LINE - FOR DEPARTMENT USE ONLY
THIS SECTION TO BE COMPLETED BY NOVA INSTRUCTOR**

Completion Date: _____ Grade: _____

School Attended: _____ Campus: _____

Course Title: _____ Course No. _____

Instructor's Name: _____ Signature: _____

MSOS-101 (Revised 07/01/1995)

VECOs - COMPLETE THIS SECTION UPON FIELD CERTIFICATION

Knowledge of Virginia Enhanced IM Program regulations: _____ Satisfactory () Unsatisfactory ()

Ability to conduct Pre-inspection Safety Check: _____ Satisfactory () Unsatisfactory ()

Ability to conduct visual emissions component inspections: _____ Satisfactory () Unsatisfactory ()

Ability to test vehicle using certified analyzer system: _____ Satisfactory () Unsatisfactory ()

Ability to conduct span gas calibration, leak, and dynamometer check: _____ Satisfactory () Unsatisfactory ()

Type of analyzer system used: _____

Remarks: (Explain any unsatisfactory or other pertinent information)

Information on front side verified? Yes () No ()

Date Field Certified: _____ Expiration Date: _____

Date of Data Entry: _____ V.E.C.O.'S Initials: _____

VECOs - COMPLETE THIS SECTION UPON RECERTIFICATION

Date of Data Entry: _____ Expiration Date: _____

V.E.C.O.'S Initials: _____

Date Licensed Modified: _____ Initials: _____

COMMONWEALTH OF VIRGINIA
DEPARTMENT OF ENVIRONMENTAL QUALITY
Northern Virginia Regional Office
Mobile Source Operations Section

INSPECTOR LICENSE EXTENSION REQUEST
(Please Print)

Name: _____ ID#: _____

Street: _____ Lic. Exp. Date: _____


City, State, Zip: _____

Home Phone: _____ Work Phone: _____

Employed by: _____ Station ID#: _____

Use the space below to describe why re-licensing requirement(s) cannot be met prior to your original license expiration date. If you have registered for an inspector class, include information on class registration (campus, section number and starting date).

NOTE: If approved, your emissions inspector license will be extended for a maximum of ninety (90) days from the date of original expiration; no extensions beyond ninety (90) days are permitted for any reason. Upon expiration of your license, original or extended, you must cease performing emissions inspections until such time as your license has been renewed. Field certification may be required prior to extension approval and/or for license renewal.



**National Institute for
AUTOMOTIVE SERVICE EXCELLENCE**

**TRANSCRIPT REQUEST FORM FOR
THE VIRGINIA DEPARTMENT OF ENVIRONMENTAL QUALITY**

To obtain a verified listing of the ASE certifications that you currently hold, fill out the form below. One copy will be sent to you, and one copy will be sent to the DRQ Mobile Source Operations Section, 13901 Crown Court, Woodbridge, VA 22193-1453.

(Technician's Name)

(ASE I.D. Number)

(Street Address)

(City)

(State)

(Zip Code)

(Technician's Signature)

Technician: Mail this completed request form with a check or money order for \$5.00 to:

*ASE Transcript Service
National Institute for
AUTOMOTIVE SERVICE EXCELLENCE
13505 Dulles Technology Drive
Herndon, Virginia 20171-3421*

If you have any questions regarding this request, please contact Jan Conhill with ASE at (703) 713-3800 ext. 238, or call the Virginia Department of Environmental Quality at 703-583-3900.

Inspector's Signature _____ Date _____

[Do not Write Below This Line]

VECO Initials	Date	Original Exp. Date	New Exp. Date
---------------	------	--------------------	---------------

MS008-100 (12/2000)

Proposed Regulations

<p style="text-align: center;">COMMONWEALTH OF VIRGINIA Department of Environmental Quality Northern Virginia Regional Office Mobile Source Operations Section</p> <p style="text-align: center;">Inspection Station notice of Violation</p> <p>DATE: 05/15/1990 ID: 1223 NAME: Department of Environmental Quality/MSOS Address: 13701 Crown Court City: Woodbridge State: VA Zip Code: 22193 1483</p>	<p style="text-align: center;">COMMONWEALTH OF VIRGINIA Department of Environmental Quality Mobile Source Operations Section</p> <p style="text-align: center;">Inspection Station notice of Violation</p> <p>DATE: 05/15/1990 ID: 1223 NAME: Department of Environmental Quality/MSOS Address: 13701 Crown Court City: Woodbridge State: VA Zip Code: 22193 1483</p>
<p>VIOLATION(S) CITED</p> <p>Part: VI Paragraph: 436.A. Class: MOTOR Counsel: 1 REV No. 1</p>	
<p>TO: Station Owner/Manager</p> <p>DEQ has reason to believe that you may be in violation of the Regulation for the Control of Motor Vehicle Emissions in the Northern Virginia Area (5 VAC 5-21) as specified above and hereby on this Field Inspection Report as dated herein. Please indicate your responsibility in this notice by checking the appropriate block and signing your name. The entry for "REV NO." indicates the number of actual violations which occurred during twenty-four months for this class, but does not include any of the alleged violations.</p> <p>LETTERS OF REPRIMAND / SUSPENSION / REVOCATION AND/OR PROBATIONARY PERIOD MAY RESULT</p> <p><input type="checkbox"/> I understand and admit to the alleged violation(s) as cited. I wish to request a suspension period or civil charge, letter of reprimand and/or terms/conditions of probation.</p> <p><input type="checkbox"/> I understand but do not admit to the alleged violation(s) as cited. I nonetheless wish to negotiate a suspension period or civil charge, letter of reprimand and/or terms/conditions of probation.</p> <p><input type="checkbox"/> I do not admit to the alleged violation(s) as cited and request an administrative proceeding.</p>	
<p>Signature: _____ Title: _____ Date: _____ Print Name: _____ V.E.C. Officer: _____</p>	
<p>The above alleged violation(s) is subject to the Regulation for the Control of Motor Vehicle Emissions (5 VAC 5-21). All penalties and terms of probation are subject to approval. Final terms will be included in a consent order. This notice of violation is not an agency proceeding or determination which may be considered a case decision under the Virginia Administrative Process Act, Va. Code Sections 9-6.15(1) et seq. You are not required to take any action pursuant to this notice, but may do so voluntarily.</p>	

<p style="text-align: center;">COMMONWEALTH OF VIRGINIA Department of Environmental Quality Mobile Source Operations Section Field Inspection Report Emissions Inspection Station (EIS)</p> <p>Station Name: _____ Street Address: _____ Zip: _____ State: _____ Other Inspection: _____ Date: _____ Regular Inspection: _____ Inspections Results To: _____</p>	<p style="text-align: center;">INSPECTION CHECKLIST</p> <p style="text-align: center;">U = UNSATISFACTORY N = NOT APPLICABLE</p> <table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 50%;"> 1. Permit Properly Displayed 2. Poster Properly Displayed 3. Record Keeping/Document Security 4. Required Equipment/References 5. Inspectors Inspection Manual 6. Inspectors License(s) 7. Calibration Gases </td> <td style="width: 50%;"> 8. Analyzer System 9. DEQ Span Gas Check 10. Dynamometer 11. Inspection Area/Station Operation 12. Inspection Procedures 13. Inspections Observed 14. Other (Explain Below) </td> </tr> </table>	1. Permit Properly Displayed 2. Poster Properly Displayed 3. Record Keeping/Document Security 4. Required Equipment/References 5. Inspectors Inspection Manual 6. Inspectors License(s) 7. Calibration Gases	8. Analyzer System 9. DEQ Span Gas Check 10. Dynamometer 11. Inspection Area/Station Operation 12. Inspection Procedures 13. Inspections Observed 14. Other (Explain Below)
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<p>REMARKS</p>			
<p>REV Issued to: _____ Station: _____ Inspector: _____ V.E.C. Officer: _____ V.E.C. Officer Signature: _____ Date: _____ Received By: _____ Time: _____</p>			

COMMONWEALTH OF VIRGINIA
DEPARTMENT OF ENVIRONMENTAL QUALITY

Northern Virginia Regional Office
13901 Crown Court
Woodbridge, VA 22193-1453
(703) 583-3800 Fax (703) 583-3801
http://www.deq.state.va.us

James S. Gilmore, III
Governor

John Paul Woolley, Jr.
Secretary of Natural Resources

Dennis H. Treacy
Director

Gregory L. Clayton
Regional Director

[DATE]

Identification No: XXXX

TO: [Name]
[Address]
[City, State, Zip]

SUBJECT: **LETTER OF REPRIMAND**

You have been cited for an alleged violation(s) of the Virginia Motor Vehicle Emissions Control Law, the Regulation for the Control of Motor Vehicle Emissions in the Northern Virginia Area, and/or the provision(s) of a permit, license, certification or order as follows:

[enter the regulatory section(s), or other provision violated]

In accordance with the provisions of 9 VAC 5 Chapter 91, Regulation for the Control of Motor Vehicle Emissions in the Northern Virginia Area, you are hereby officially reprimanded for the cited violation(s). A violation(s) of any such provision is a serious matter, and may affect the integrity, credibility, and/or emissions reduction or overall effectiveness of the vehicle emissions inspection program.

This Letter of Reprimand represents a penalty for the violation(s), and may be in addition to a fine(s) or combination(s) of prohibition as described in a consent order in reference to this matter. The violation(s) will remain active on your Violation History Report for a period of twenty-four (24) months.

J. Michael Thompson, Jr.
EM Program Manager

cc: file

An Agency of the Natural Resources Secretariat

COMMONWEALTH OF VIRGINIA
DEPARTMENT OF ENVIRONMENTAL QUALITY

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James S. Gilmore, III
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John Paul Woolley, Jr.
Secretary of Natural Resources

Dennis H. Treacy
Director

Gregory L. Clayton
Regional Director

[DATE]

Identification No. 99999

TO: VA Emissions Control, Inc.
T/A Mobile Source Operations Section
13901 Crown Court
Woodbridge, VA 22193-1453

SUBJECT: **CONSENT ORDER**

It is understood and agreed that the above named [inspection/station/technician/facility] has been served notice for the following alleged violation(s):

[Reference the alleged violation(s), date(s), and report number if applicable]

Ref: [Regulatory Section(s) & Paragraph(s)] Count: [# of Counts]

It is acknowledged that the violation(s) did occur as cited. I understand that I have the right to contest the violation(s) and appear for an informal fact finding proceeding and/or a formal hearing according to the Virginia Administrative Process Act. However, I do not wish to contest the violation(s), and agree to the following condition(s):

1. Voluntary suspension of [appropriate activity] privileges for thirty (30) days beginning Monday, May 1, 1996 through Tuesday, May 30, 1996.
2. A probationary period of six (6) months following reinstatement.

As a condition of continued participation in the Vehicle Emissions Inspection Program, I agree to fully comply with all applicable program regulations. I understand that this consent order will serve as the disposition of the Notice of Violation (NOV) in this matter and, as such, will be included on the Violation History Report and considered for future NOV action determinations if necessary.

Signature _____ Date _____
Signature _____ Date _____
Station Representative: Emissions Control
Title: President, VA Emissions Control, Inc.

DEQ Representative: Dennis H. Treacy
Title: Director

An Agency of the Natural Resources Secretariat



COMMONWEALTH OF VIRGINIA

VEHICLE EMISSIONS INSPECTION REPORT

Test Date/Time: 02/24/1998 @ 19:25:59

DUPLICATE

VEHICLE INFORMATION			
Year: 1994	Make: TAURUS	Model: 06	Cylinders: 06
VIN: 1234	Engine Size: 3500	Inspection Type: 1	
GVWR: 6000	Estimated Test Weight: 3500		
VEHICLE EMISSIONS INSPECTION			
Limit	Reading	Result	Result
HC (ppm)	0124	0007	0120
CO (%)	0069	00.00	00.00
NO (ppm)	0907	0036	0080
RPM	1714	VALID	1749
Distance	16.2	VALID	15.2
VEHICLE EMISSIONS INSPECTION			
Air Injection System:	PASS		
Exhaust Gas Recirculation System:	PASS		
Positive Crankcase Ventilation System:	PASS		
Catalytic Converter:	PASS		
Fuel Evaporative System:	PASS		
Thermostatic Air Cleaner System:	PASS		
Gas Cap Pressure Test:	PASS		
Evaporative System Pressure Test:	N/A		
Evaporative System Purge Test:	N/A		
OBD - Fault Code Inspection:	N/A		
Transaction Identification Number: 37448870			

OVERALL TEST RESULTS: PASS

PLEASE RETAIN THIS DOCUMENT FOR YOUR RECORDS.

The results of the emissions inspection for this vehicle have been transmitted to DMV. You may now register this vehicle for a period of up to two (2) years.

NOTICE OF REJECTION FROM VEHICLE EMISSIONS TESTING

STATION NAME: _____ STATION NO.: _____

YEAR/MAKE/MODEL: _____

Your vehicle could not be tested safely on state approved equipment. Please note the checked box(es) below indicating what item(s) will need to be repaired before proper emissions testing can be performed on your vehicle:

<input type="checkbox"/>	TRES (ASM Test Only) >	<input type="checkbox"/>	Exposed fire cords
<input type="checkbox"/>		<input type="checkbox"/>	Bubbles (Jell separation)
<input type="checkbox"/>		<input type="checkbox"/>	Cuts
<input type="checkbox"/>		<input type="checkbox"/>	Tread wear indicators exposed
<input type="checkbox"/>		<input type="checkbox"/>	"space tower" type spare tire mounted on drive axle
<input type="checkbox"/>		<input type="checkbox"/>	Radii and Blaz Flow tires mixed on drive axle
<input type="checkbox"/>		<input type="checkbox"/>	Different sized tires mixed on drive axle
<input type="checkbox"/>		<input type="checkbox"/>	Other

<input type="checkbox"/>	Visible Smoke >	<input type="checkbox"/>	Tailpipe
<input type="checkbox"/>		<input type="checkbox"/>	Crackcase

<input type="checkbox"/>	Mechanical Integrity >	<input type="checkbox"/>	Engine
<input type="checkbox"/>		<input type="checkbox"/>	Transmission
<input type="checkbox"/>		<input type="checkbox"/>	Fluid Leak
<input type="checkbox"/>		<input type="checkbox"/>	Brakes
<input type="checkbox"/>		<input type="checkbox"/>	Overheating
<input type="checkbox"/>		<input type="checkbox"/>	Other

<input type="checkbox"/>	Exhaust System Leak	<input type="checkbox"/>	
<input type="checkbox"/>	Missing Fuel Filler Cup	<input type="checkbox"/>	

A manufacturer's emissions recall indicates that this vehicle is eligible for emissions related repair/service. Please contact your vehicle dealer for further details and assistance.

This vehicle is found to be in excess of 10,000 lbs. Gross Vehicle Weight Rating (GVWR). Please contact the Mobile Source Operations Section for assistance at (703) 563-3900 or toll-free in Virginia at 1-800-275-3944.

Emissions Inspector's Signature _____ Date _____

EMMISSIONS INSPECTION STATION	
STATION NAME: Department of Environmental Quality/MSOS	REPORT NUMBER: 060033
ADDRESS: 1901 Crown Court	STATION NUMBER: 1233
PHONE: (703) 563-3900	ANALYZER NUMBER: A1133
INSPECTOR NAME: John N. Trageser	SOFTWARE VERSION: 1.14
VEHICLE EMISSIONS INSPECTION QUESTIONS	
For additional information, please contact the Department of Environmental Quality, Mobile Source Operations Section.	
(703) 563-3900	
Inspector's Signature _____	

1. Address where vehicle is currently located: _____


2. Vehicle has been there since _____ (Enter Date) and will be there until _____ (Enter Date)

3. Reason for deferral request:

4. Address where you want the deferral letter to be sent:

5. The information that is provided on this form is true and correct. I agree to obtain a vehicle emissions inspection within 15 days after returning the vehicle to Northern Virginia.
 Name: _____ (Please Print)
 Signature: _____ Date: _____

DEQ VIRGINIA DEPARTMENT OF ENVIRONMENTAL QUALITY

 AIR CHECK VIRGINIA

REQUEST FOR DEFERRAL OF VEHICLE EMISSIONS INSPECTION REQUIREMENT

REGISTRATION

This form must be completed in its entirety. Failure to provide all the information requested on this form will result in denial of the deferral request.

The request for deferral of the vehicle emissions inspection requirement will be reviewed for completeness, and will be granted only if it is determined that it is unreasonable to have the vehicle returned to the Northern Virginia program area for the emissions inspection. Normally, a drive time of four (4) hours or less will not qualify for a deferral. If the deferral is granted, a memorandum will be sent to you, which you may submit to DMV with your registration renewal form.

Return this form along with a copy (not original) of the DMV registration renewal form to:

DEPARTMENT OF ENVIRONMENTAL QUALITY
 MOBILE SOURCE OPERATIONS SECTION
 13901 CROWN COURT
 WOODBRIDGE, VIRGINIA 22193-1453

For questions regarding this request, contact the Mobile Source Operations Section at 703-683-3900 or Toll-free in Virginia: 1-800-275-3844

OWNER INFORMATION

Name: _____
 Address: _____

 Phone: (H) _____ (W) _____

VEHICLE INFORMATION

Year: _____ Make: _____ Model: _____
 Vehicle Identification Number (VIN): _____
 Plate Number: _____ Expiration Date: _____

MSOP-1 (REV. 10-01-2001) (Continue on Reverse Side)

VA.R. Doc. No. R01-20; Filed September 19, 2001, 9:04 a.m.

Proposed Regulations

TITLE 10. FINANCE AND FINANCIAL INSTITUTIONS

STATE CORPORATION COMMISSION

Title of Regulation: **10 VAC 5-20-10 et seq. State Savings Banks; Corporate Name and Investment Requirement (adding 10 VAC 5-20-40).**

Statutory Authority: §§ 6.1-194.141 and 12.1-13 of the Code of Virginia.

Agency Contact: John Crockett, Deputy Commissioner, Bureau of Financial Institutions, State Corporation Commission, Tyler Bldg., 1300 E. Main St., Richmond, VA 23219, telephone (804) 371-9704 or e-mail jcrockett@scc.state.va.us.

Summary:

The State Corporation Commission is proposing to exercise its statutory authority to create parity for state savings banks with federal savings institutions in two respects: the corporate name of a state savings bank, and the requirement that a savings bank invest a percentage of assets in "real estate loans" as currently defined in § 6.1-194.62 of the Code of Virginia.

AT RICHMOND, SEPTEMBER 19, 2001

COMMONWEALTH OF VIRGINIA, ex rel.

STATE CORPORATION COMMISSION

Case No. BF1010203

Ex Parte: In re: powers of state savings banks; corporate name; investment requirement

ORDER TO TAKE NOTICE

WHEREAS, § 6.1-194.112 of the Code of Virginia provides that a savings bank incorporated under the laws of Virginia shall have the words "savings bank" as a part of its corporate name, while federal law and regulations do not subject federal savings institutions to such a requirement; and

WHEREAS, § 6.1-194.62 of the Code requires state savings banks to invest 60 percent of assets in "real estate loans," as defined therein, while federal savings institutions are less constrained in satisfying the "qualified thrift lender test," the analogous federal-law investment requirement; and

WHEREAS, § 6.1-194.141 authorizes the State Corporation Commission ("Commission") to adopt such regulations as may be necessary to permit state savings banks to have powers comparable with those of federal financial institutions regardless of existing statutes; and

WHEREAS, at the request of an applicant for conversion to a state savings bank charter, the Bureau of Financial Institutions has proposed a regulation that will authorize state savings banks to select a corporate name and invest in credit card loans on equal terms with federal savings associations, and the Bureau has recommended adoption of the regulation;

IT IS THEREFORE ORDERED THAT:

(1) The proposed regulation, entitled "Special Authority for State Savings Banks: Corporate Name and Investment Requirement," is appended hereto and made a part of the record herein.

(2) On or before October 22, 2001, any person desiring to comment on the proposed regulation shall file written comments containing a reference to Case No. BF1010203, with the Clerk of the Commission, Document Control Center, P. O. Box 2118, Richmond, Virginia 23218.

(3) The proposed regulation shall be posted on the Commission's website at <http://www.state.va.us/scc>.

(4) An attested copy hereof, together with a copy of the proposed regulation, shall be sent to the Registrar of Regulations for publication in the Virginia Register.

AN ATTESTED COPY hereof shall be sent to the Commissioner of Financial Institutions.

10 VAC 5-20-40. State savings banks; corporate name and investment requirement.

Pursuant to § 6.1-194.141 of the Code of Virginia, a state savings bank shall not be required to have as a part of its corporate name the words "savings bank," regardless of § 6.1-194.112 of the Code of Virginia. Further, a state savings bank may include in its investment in "real estate loans," for purposes of meeting the requirement of § 6.1-194.62 of the Code of Virginia, its credit card loans, regardless of the fact that the definition of "real estate loans" in § 6.1-194.62 of the Code of Virginia does not include such loans. The term "credit card loans" shall have the meaning set forth in 12 USC § 1464(c)(i)(T), i.e., loans made through credit cards or credit card accounts.

VA.R. Doc. No. R02-11; Filed September 19, 2001, 11:44 p.m.



TITLE 12. HEALTH

STATE BOARD OF HEALTH

Title of Regulation: **12 VAC 5-615-10 et seq. Authorized Onsite Soil Evaluator Regulations.**

Statutory Authority: §§ 32.1-163.5 and 32.1-164 of the Code of Virginia.

Public Hearing Dates:

October 25, 2001 - 7 p.m. (Fairfax)

November 7, 2001 - 7 p.m. (Roanoke)

November 29, 2001 - 10 a.m. (Richmond)

Public comments may be submitted until December 7, 2001.

(See Calendar of Events section for additional information)

Agency Contact: Donald J. Alexander, Director, Division Onsite Sewage Water Services, Department of Health, Office of Environmental Health Services, P.O. Box 2448, Room 115,

Richmond, VA 23218, telephone (804) 786-1620 or FAX (804) 225-4003.

Basis: Sections 32.1-163.4, 32.1-163.5, 32.1-164, and 32.1-164.1:01 of the Code of Virginia contain requirements and provisions for authorized onsite soil evaluators (AOSE). These sections require the Board of Health to establish a program for qualifying individuals as AOSEs, to accept private evaluations and designs for onsite sewage systems for residential development from an AOSE or from a professional engineer (PE) in consultation with an AOSE, to contract with an AOSE for evaluations when backlogs exceed 15 days, and they allow for the discretionary use of the Onsite Sewage Indemnification Fund to support the program for training and recognizing AOSEs. The board's program must include, but is not limited to, approved training courses, written and field tests, application fees to cover the costs of the program, renewal fees and schedules, and procedures for listing, removing from the list, and reinstating individuals as AOSEs. The department is not required to perform a field check of any evaluation accepted in proper form from an AOSE or a PE prior to issuing a permit, a certification letter, or a subdivision approval although it may conduct such field analyses as may be necessary to protect public health and the integrity of the Commonwealth's environment. The Code of Virginia establishes specific time limits for processing requests submitted by AOSEs or PEs for residential development and provides that in the event the department does not issue or deny a requested approval within the specified time limit the request shall be "deemed approved."

Purpose: The Board of Health has a statutory mandate to establish a program for AOSEs (and PEs in consultation with AOSEs) and for accepting evaluations and designs from AOSEs and PEs. Under the proposed regulations the Department of Health is not required to conduct routine field checks on submittals by AOSEs and PEs prior to making a decision to approve or disapprove an application. Errors in evaluation or design by an AOSE or a PE may result in costly delays for owners, potential damage to the environment and threats to public health, and in some cases loss of significant investments. Therefore, to minimize the potential for such errors and to protect the health, safety, and welfare of the citizens, it is essential that the regulations establish minimum qualifications for AOSE training and experience (and other requirements), as well as standards of conduct and enforcement procedures. Because "deemed approval" may result in the issuance of a permit, letter, or subdivision approval (for residential development) without any review by the department and because the department may only conduct field checks on a portion of the sites certified by AOSEs and PEs as part of its quality control and oversight duties, the regulations must establish minimum standards for the content of packages submitted for approval. These regulations are specifically intended to speed the processing of requests for onsite sewage system permits, certification letters, and subdivision approvals by defining roles and responsibilities for private evaluators and designers.

Substance: The proposed regulations are similar to the Emergency Regulations for Authorized Onsite Soil Evaluators that were effective January 3, 2000; however, there are substantive changes from those Emergency Regulations.

1. The proposed regulations establish an AOSE advisory committee (12 VAC 5-615-50).
2. The proposed regulations establish a cut-off date after which the department will not accept evaluation reports and designs from non-AOSEs (12 VAC 5-615-60).
3. The proposed regulations provide that the department will accept evaluations and designs for private wells (12 VAC 5-615-60 C).
4. The regulations provide that the department may conduct field checks at any time (12 VAC 5-615-70).
5. The proposed regulations establish "professional courtesy reviews" (12 VAC 5-615-70, 12 VAC 5-615-390).
6. The proposed regulations provide that VDH will initiate proceedings to revoke an approval issued on the basis of an AOSE or PE certification when it has reason to believe that the site or design does not comply with the Sewage Handling and Disposal Regulations (12 VAC 5-615-70 B 5).
7. The proposed regulations provide for an affected party to appeal a permit (or other approval) revocation to the Sewage Handling and Disposal Appeal Review Board (12 VAC 5-615-70 B 5).
8. The proposed regulations require AOSEs and PEs to inspect systems (and wells) installed pursuant to their designs and VDH to inspect all systems (12 VAC 5-615-70 D).
9. The proposed regulation includes new or revised definitions (12 VAC 5-615-120).
10. The proposed regulation allows AOSEs and PEs to certify evaluations and designs for repair or replacement systems (12 VAC 5-615-120).
11. The proposed regulations provide for the making of final agency decisions via informal proceedings with two exceptions (12 VAC 5-615-150, 12 VAC 5-615-180, 12 VAC 5-615-200) and more closely align the appeal provisions with the Administrative Process Act.
12. The proposed regulations require all current AOSEs to pass the department's written and field tests on or before December 31, 2002 (12 VAC 5-615-210).
13. The proposed regulations establish new requirements for certification as an AOSE (12 VAC 5-615-230).
14. The proposed regulations establish a requirement for standardizing requests to VDH for information and that an AOSE make a "good faith effort" to secure accurate information (12 VAC 5-615-280, 12 VAC 5-615-370).
15. The proposed regulations differentiate between "suspension" and "revocation" with respect to certification as an AOSE (12 VAC 5-615-290, 12 VAC 5-615-300).
16. Specific requirements for the content of reports have been dropped from the proposed regulations and replaced with a general requirement that such reports must be "in a form approved by the division" (12 VAC 5-615-350, 12 VAC 5-615-360).

Proposed Regulations

17. The proposed regulations require VDH to generate a report when it performs a field check and to send a copy of that report to the owner and the appropriate AOSE (12 VAC 5-615-400).

Issues: The primary advantages associated with the proposed regulations are that citizens have an avenue for securing health department approvals (permits, letters, subdivision review) for residential development within very specific time limits by going to the private sector for evaluations and designs. This is a benefit in areas where the number of requests exceeds the local health department's resources and applicants would otherwise have to wait for the health department to respond to their requests. Some citizens have expressed concerns that private evaluations and designs may not comply with regulations and may be less reliable than the department's evaluations and designs. They have asked that the health department conduct field reviews on all AOSE/PE submittals prior to approval. To these individuals the new program represents a liability and a potential for environmental, public health, and financial losses. Some other issues associated with the new program include "deemed approval," resolving difficulties with local ordinances and local governments, requirements for becoming an AOSE, and whether or not the department should conduct field checks prior to issuing an approval. The provisions for "deemed approval" are mandated by law and the board does not have discretion to include or exclude them from the proposed regulations. Many localities have ordinances governing onsite sewage systems that are more stringent than the Board of Health's regulations and most have subdivision ordinances that are unique. Some localities have been reluctant to accept the concept that a private evaluator/designer could provide the same level of public health and environmental protection as the local health department. The proposed regulations provide that a locality may decide to include its more-stringent ordinances in the AOSE/PE program or it may hold those ordinances separate from the program. Those localities that choose to hold their ordinances separate from the AOSE/PE program will most likely experience delays in processing requests and some confusion on the part of citizens and AOSE/PEs seeking approvals. In such localities a submittal may be "deemed approved" in accordance with the Board of Health's regulations but still require a separate onsite review to determine whether or not it complies with more stringent local ordinances. The proposed regulations seek to establish a measurable and consistent standard for submitting subdivision requests. However, the subdivision process varies widely among localities. Differences in subdivision ordinances and local policies in some cases have necessitated working out new procedures with local subdivision administrators and local government officials. Some localities seem opposed to the program because they see it as eroding local control over growth and zoning and that errors by AOSEs may result in problems for citizens. The proposed regulations provide that the department will review a package submitted in proper form and it may make a decision to issue or deny approval without conducting a field check. Field checks are to be conducted on a percentage of the submittals as a quality control measure to assess the performance of AOSE/PEs and to protect public health and the environment. These field checks may be performed before an approval is issued or

they may be performed at a later time. Many have expressed concerns that this will result in approvals issued for sites and designs that do not comply with the Board of Health's regulations. In addition to being consistent with the legislative mandate, the proposed regulations are intended to ensure the quality of the private evaluations and designs through the adoption of appropriate AOSE training, testing, and experience requirements and through a quality control program with appropriate enforcement and disciplinary actions when needed.

Fiscal Impact:

1. The proposed regulations will result in an increase in costs to the state over those associated with the current onsite sewage permitting program. It is estimated that statewide VDH staffing needs in the AOSE program will total approximately two additional full-time equivalents. In addition VDH estimates that its costs for informal and formal hearings may approach \$16,000 annually (Office of Environmental Health Services) and that demands for legal services (Office of Attorney General) will increase by approximately 250 hours each year. Any cost savings that might be realized by not having to conduct field checks on all applications are expected to be offset by the increased responsibilities for monitoring the performance of AOSEs, conducting administrative actions, reviewing packages submitted, and other activities associated with administering the AOSE/PE program.

2. Local health departments may incur total costs for informal and formal hearings of approximately \$1,000 each year.

3. The proposed regulation does not mandate that citizens utilize the services of AOSE/PEs. Therefore, the citizens are only affected when they choose to hire an AOSE/PE. Those individuals likely to use the AOSE/PE certification process include individuals and businesses owning property that is to be used for residential or light commercial development.

4. During the first year of the AOSE/PE program, a total of approximately 1,000 approvals were issued by the department for permits, letters, and subdivision lots combined. By comparison, statewide applications for onsite sewage system construction permits total approximately 40,000 annually.

5. Since the costs to individuals results from hiring a private AOSE/PE and is dependent on market forces, the department does not have specific cost figures.

Department of Planning and Budget's Economic Impact

Analysis: The Department of Planning and Budget (DPB) has analyzed the economic impact of this proposed regulation in accordance with § 2.2-4007 G of the Administrative Process Act and Executive Order Number 25 (98). Section 2.2-4007 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, the projected costs to affected businesses or entities to implement or comply with the regulation, and the impact on the use and value of private

property. The analysis presented below represents DPB's best estimate of these economic impacts.

Summary of the proposed regulation. Pursuant to changes in the Code of Virginia in 1999, the State Board of Health (the board) proposes to allow the Virginia Department of Health (the agency) to accept private site evaluations and designs for septic systems prepared by an Authorized Onsite Soil Evaluator (AOSE) or a Professional Engineer (PE) in consultation with an AOSE and to create a program for AOSEs. The agency will not be required to perform a field check on evaluations and designs submitted by AOSEs prior to making a decision. The agency will only review an application package submitted in proper form and make a decision to issue or deny the request. The proposed regulations also establish time limits within which the agency must make a decision on applications for individual permits, individual certification letters, multiple lot certification letters, and subdivision reviews. The objective of the regulations is to alleviate historical backlogs in the sewage system approval process pursuant to changes in statutory requirements. The proposed changes were in effect as emergency regulations from 1/3/2000 to 1/3/2001, but the emergency regulations are currently expired.

Estimated economic impact. Prior to the 1999 legislation, the agency conducted all site evaluations, and produced designs for septic systems, and private wells before issuing construction permits, certification letters, and subdivision approvals. The agency's approval is required to verify that the site is suitable for a septic system before the actual construction takes place. The proposed regulations authorize private consultants to conduct site evaluations, and to design septic systems and private wells to fulfill the requirements for the agency's approval. The purpose of the regulations is to alleviate historical backlogs in evaluating sites for sewage system approvals. In the past, it has taken the agency up to three months to conduct site evaluations, and to produce designs in order to approve or deny applications for permits and certification letters. To speed up the decision process, the board proposes to allow private consultants to conduct site evaluations, develop system designs, and conduct final inspections. Individuals may still choose to go through the traditional procedure, but they will have an option to utilize the services of an AOSE.

Under the proposed regulations, the agency will not be required to perform a field check on submittals by AOSEs prior to making a decision. The agency will only review an application package submitted in proper form and make a decision to issue or deny the request. Once a complete application is received, the agency must make a decision on an individual permit application within 15 days, an individual certification letter within 20 days, a multiple lot certification letter within 60 days, and a subdivision review within 60 days. If the time limit is passed, then the application will be "deemed approved."

The agency's approvals will be subject to field inspections on a random basis for quality control purposes. A random field check requirement is an attainable solution to mitigate potential problems that may arise if there was no quality control mechanism. This mechanism will allow the agency to

monitor the work of AOSEs with a small number of personnel and identify inappropriate evaluations and designs. The proposed quality control procedure based on random sampling is also consistent with the practice in many private enterprises. This mechanism is expected to provide additional incentives for the AOSEs to provide quality work beyond those incentives that will be present in a competitive market.

The agency expects to conduct random field checks for at least 10% of the applications as part of its quality control and oversight duties. The random investigation procedure is likely to amount to conducting field checks for about 800 applications out of 8,000 individual submittals expected from AOSEs annually.¹ Thus, approximately 7,200 individual systems will be approved without a field investigation by the agency. According to the agency, at the stakeholder meetings facilitated by the University of Virginia's Institute for Environmental Negotiation that occurred between April and July 2000, multiple individuals expressed concerns about this issue since it increases exposure to potential financial, environmental, and health losses. However, elimination of these concerns requires a field investigation for every application submitted. This option is not feasible given the lack of necessary personnel at the agency.

There are inherent uncertainties associated with the work of AOSE's. These uncertainties stem from measurement of the perkability of the site for a septic system. In a small number of cases, there is likely to be a chance that evaluations and designs produced by an AOSE may not comply with the standards established by the agency due to marginal soil conditions. Consequently, this uncertainty is likely to create financial risks for both the AOSE and for the property owner. It is possible that a permit can be revoked if the soil evaluations or system designs are found in violation of the agency's standards. Random field checks can be conducted any time before or after an application is approved or deemed approved. Thus, revocation actions can be taken before or after an initial approval. Potentially, an individual may purchase a land after obtaining an initial approval, and later on be subject to permit revocation actions by the agency if the site is found out of compliance with standards during a random field check. Being subject to revocation at all times may elevate associated financial risks to property owners and AOSEs. This is because potential financial losses are likely to be higher for late revocations than for early revocations.

On the other hand, if the revocation actions can be taken only for a limited time, say until an initial approval is issued, uncertainty for the property owner and the AOSE is likely to be reduced, but public health risks may arise. Without the possibility of revocation after initial approval is obtained, improperly sited and designed systems may allow untreated sewage to move hundreds of feet away from a home contaminating the underground and surface waters, threatening the public health. Organic matter, suspended solids, and nutrients may threaten streams, rivers, and lakes. Pollutants such as bacteria, viruses, and nitrate may threaten the public health. If the agency is not allowed to revoke the permit at all times, the problem with the septic system would

¹ Source: The Department of Health

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not be fixed and would continue to pose health risks.

In short, by holding the initial approvals subject to revocation at all times, the proposed regulations ensure that corrective action can be taken at all times if a problem is identified that is likely to reduce the potential health risks, but also may increase the financial risks faced by the property owner and the AOSE.

The experience with the emergency regulations indicates that potential problems are likely to exist especially at the beginning of the AOSE program. The agency revoked seven initial approvals among about 200 random field checks conducted from July of 1999 to January of 2001. In one of the seven cases, the septic system was built. In six other cases, revocation of the permit took place before the system was built. In addition to these cases, there are about ten more cases where a problem is identified, but the cases are pending as of May 2001. One of the pending cases occurred in Shenandoah County.² It is reported that an individual paid \$30,000 for a 3.5-acre lot based on the AOSE site evaluation to build a home. After the initial approval, the agency conducted a random field check and concluded that the site is not suitable for development. The price of the property is likely to decrease if the home cannot be built on the lot.

In such cases, where the work performed by an AOSE is flawed, the liability of the AOSE becomes important. The language in the proposed regulations states that the AOSE is fully responsible for the work he has performed. However, there is no mechanism to make sure that the damages will be recovered if the work performed is flawed. In other words, the AOSE is responsible for the damage that may be caused by his work only as much as the value of his assets.

In general, the size of the financial risks will depend on the nature of the problem, soil conditions, proximity of the system to water supplies, the size of the system, and the timing of the identification of the problem. The agency acknowledged that it would not be unusual to rebuild a failing system to correct the problem. On average, replacement of a system may cost in the neighborhood of \$5,000 to \$20,000.³ Although it is unlikely, there is a small chance that a very serious problem may be discovered too late in the process. For example, a finished building cannot be permitted for use if the problems with the sewage system cannot be resolved by any of the alternatives available. Thus, the costs associated with replacing a system and damages to the environment can be substantial. Incurring costs and other liabilities associated with these problems is likely to be beyond the financial means of most AOSEs.

In short, if the damage is greater than the AOSE's financial worth, there is no way to recover the difference. The absence of a financial assurance mechanism puts the AOSEs and property owners employing the services of AOSEs at financial risk. The agency indicated that a financial assurance mechanism is not established because such a mechanism would primarily protect AOSEs and the property owners'

interests rather than the public health. In the absence of an insurance mechanism, the property owners are likely to consider potential financial risks when making a decision to hire a consultant, and AOSEs are likely to consider associated risks when deciding to supply their services under the proposed regulations. These financial risks may discourage some property owners and AOSEs, and may limit the potential of the proposed program.

Having identified the sources of the risks and related parties, a relevant issue becomes the mechanisms contained in the proposed regulations to mitigate these risks. There are at least three mechanisms that may mitigate the potential risks to AOSEs and the property owners. First, courtesy reviews will be offered to AOSEs upon request. This feature is expected to reduce potential revocations if the AOSE is not comfortable with site conditions. An AOSE will be able to reduce potential financial risks by minimizing the chance for revocation. In these cases, the agency will conduct reviews subject to availability of its resources. It would certainly be more beneficial to respond to requests sooner than later, as the timing of the identification of the problem is an important factor in determining financial risks. The agency does not know how many courtesy reviews will be requested and conducted annually. Since the courtesy reviews represent a valuable free service for the AOSEs, many requests should be expected. An excessive number of courtesy review requests are likely to reduce the effectiveness of this risk mitigation mechanism. From the agency's perspective, the courtesy reviews will consume some resources, but will reduce the need for some of the random field checks.

Second, improved AOSE education is likely to help reduce potential revocations due to disputes over marginal soil conditions, and consequently reduce potential financial losses. A property owner may have a failing system because the system is designed improperly or sited improperly. Quality of design and siting significantly depend on the knowledge possessed by the AOSE. The proposed regulations develop training and certification programs to make sure that an AOSE has the necessary knowledge, and establish continuing education requirements.

Third, the long-run free market forces and the experience with the program are likely to help reduce risks. Reduction of financial risks due to uncertainty is desirable for AOSEs and property owners. Some of these individuals are likely to be willing to pay to avoid this uncertainty. Over time, property owners are likely to be better informed about the potential financial consequences of hiring an AOSE and likely to request and promote a hedge against potential financial losses. Similar to the property owners, AOSEs will likely realize potential risks and have a need for insurance for their own financial protection. Faced by the demand for insurance from property owners and their own need, AOSEs are likely to start offering guaranteed or insured work to their customers. Since the insurance will not eliminate the risks but merely will shift the risks to someone else, both AOSEs and the property owners are likely to pay premiums to insurers in addition to the other associated costs with an application under the AOSE program. In this framework, information is likely to affect the speed of the market's development. For example, if disclosure of information regarding the associated risks in this

² Source: Shenandoah Free Press, April 26, 2001 and Northern Virginia Daily, May 16, 2001.

³ Source: The Department of Health

program to the property owners were required, it would help create demand for insurance and mitigate potential risks faster.

These three mechanisms are likely to mitigate but not likely to eliminate the uncertainty and consequently potential financial risks. However small it may be, there is likely to be financial risk to AOSEs and property owners in this program, but potential health risks will be prevented. It is important to realize that the fact that establishment of this program is mandatory because of statutory requirements and the fact that the agency does not have necessary personnel to conduct field checks for 100% of the applications submitted by AOSEs can be held liable for the uncertainty that may be present in this program.

The other economic impacts of the proposed regulations include creating a market for the services of AOSEs. Since AOSEs will, under this proposal, be allowed to site and design systems and they can secure an initial approval, an increase in the number of private AOSEs is expected. The agency indicated that about 61 individuals became authorized onsite soil evaluators in the private sector, and it is expected that about 60 additional individuals will become AOSEs in coming years. About 25 professional engineers have been participating in AOSE evaluations for more complex designs. In addition to the AOSEs in the private sector about 117 individuals working at the agency have become AOSEs but do not perform as AOSEs. About four of the agency's personnel already transferred to the private sector, and more are likely to do so in the long run. On average, AOSEs charge \$500 to \$1,200 per plan for their services.⁴ For individuals who choose to use the services of an AOSE, this expense is in addition to the application fee paid to the agency. These estimated fees and the 8,000 expected applications from AOSEs indicate that the size of the market for the services of AOSEs is likely to be about \$4 million to \$9.6 million.

On the other hand, the proposed regulations will adversely affect the soil consultants. Starting from 2003, the Board of Health proposes to no longer accept permit applications with no AOSE documentation from soil consultants. Soil consultants are individuals who submit an application form to the agency for traditional application processing; that is, the agency evaluates the site and develops designs without involving an AOSE. The information required on the bare application is minimal, such as the name of the applicant and the location of the property. According to the agency, there are about 100 soil consultants in Virginia offering their services to applicants. About 50 of these soil consultants are believed to have necessary qualifications to become an AOSE. Some of these consultants with the qualifications are expected to participate in the AOSE program, some without qualifications are expected to acquire more experience to qualify to become an AOSE. The others are likely to quit their practices and involve themselves more in other alternative businesses, such as wetland delineation and testing farm soils.

The proposed regulations are also likely to cause a significant

change in the staffing needs of the agency. The main effect is likely to be on the administrative staffing needs. The professional staffing needs are expected to be about the same because the decrease in the workload of professional staff is believed to be about the same as the workload that was necessary to eliminate the backlogs existed. Some additional administrative capacity will be required to solve controversies, to process applications, and to devote time to conflict of interest and disclosure issues. The agency's total estimates for these costs on an annual basis include two full-time staff for informal and formal hearings. The agency expects that the travel, per diem expenses for the appeal review board, court reporter, and transcript fees will amount to about \$12,500 per year. It is estimated that approximately \$17,500 worth of legal advice from the Attorney General's Office will be needed every year. Estimated costs for the informal hearings are about \$4,000 per year for the court reporter, transcript, and legal advice. Proposed regulations also establish a 14-member advisory committee that is expected to meet four times in a year. The agency expects to reimburse about \$2,000 to the members annually for their travel expenses. In addition to these, the agency is using the Onsite Sewage Indemnification Fund to pay for a position that is devoting a quarter of its time to prepare exams. Another contract position is expected to be paid for a quarter of its time to provide educational services to AOSEs.

Individuals who wish to be an AOSE will be required to pay about \$1,200 to \$1,500 for a four- to five-week program. Currently, the agency is the only authorized entity offering a training program for AOSEs. The agency expects about three to four private individuals to attend their program annually. About 61 private individuals paid \$100 for the application fee and written exams and about 60 more individuals are expected in the future. The AOSE candidate is also required to pay \$100 for the field tests. About 14 individuals have paid this fee, and 30 more individuals are expected to take the field test. AOSE certification is required to be renewed every two years, which will require an additional \$100 per renewal. All 61 current private AOSEs will be required to pay the renewal fees every two years. AOSEs will also be required to participate in continuing education programs biennially. These programs are offered by many professional organizations throughout the USA, and about three organizations in Virginia. The estimated costs of approximately 20 hours of required continuing education credits may vary from \$150 to \$500. About 178 AOSEs working for the agency and for the private sector will be required to pay for the continuing education programs. In addition to these, an AOSE may incur travel and lodging expenses to participate in these educational programs.

Businesses and entities affected. Approximately 40,000 construction permits, certification letters, and subdivision applications are submitted to VDH each year. About 8,000 applicants are expected to utilize AOSE option.⁵ The proposed regulations will also affect about 178 certified AOSEs working for the agency and for the private sector, and about 100 soil consultants working privately.

⁴ Source: Ibid.

⁵ Source: Ibid.

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Localities particularly affected. The twenty or more localities that receive a high volume of permit applications will particularly be affected. These localities include Spotsylvania, Loudoun, Prince William, Fauquier, Caroline, Westmoreland, Northumberland, Lancaster, Middlesex, Gloucester, Bedford, Chesterfield, Powhatan, Franklin, Isle of Wight, York and James City counties, and the cities of Suffolk, Virginia Beach and Chesapeake.

Projected impact on employment. About 61 individuals have become AOSEs in the private sector and about 60 more are expected to become AOSEs. In addition, administrative staffing needs of the Department of Health are expected to increase by about 2.5 positions. On the other hand some of the soil consultants are likely to lose some business starting from 2003. Although the proposed regulations may increase demand for labor, no significant impact on employment in Virginia is expected due to the tight labor market.

Effects on the use and value of private property. The values of private consulting businesses involved in sewage system site evaluations and designs are expected to increase by a significant amount because of increased business volume. Faster sewage system approval may have a positive impact on land values if time is an important element of a buyer's decision. Also, the proposed regulations are expected to reduce the delay in construction projects. This is likely to reduce construction costs and increase the profitability of some real estate development businesses. Finally, the price of some of the land that is not suitable for development may artificially increase upon obtaining an initial sewage system approval by a mistake. Such artificial increases in land prices will disappear if the approval is revoked by the agency or if landowners find out on their own the soil does not perk.

Agency's Response to the Department of Planning and Budget's Economic Impact Analysis: The Virginia Department of Health concurs with the substantive conclusions outlined in the referenced economic impact analysis.

Summary:

These regulations will replace emergency regulations that became effective January 3, 2000. The emergency regulations and the proposed replacement regulations allow the agency to accept private site evaluations and designs, in compliance with the Board of Health's regulations for onsite sewage systems, designed and certified by an authorized onsite soil evaluator (AOSE) or a licensed professional engineer (PE) in consultation with an AOSE.

CHAPTER 615.

AUTHORIZED ONSITE SOIL EVALUATOR REGULATIONS.

PART I. GENERAL PROVISIONS.

12 VAC 5-615-10. Authority for regulations.

Section 32.1-164 of the Code of Virginia provides that the State Board of Health has the duty to qualify individuals as authorized onsite soil evaluators (AOSEs) and establish procedures for utilizing the work of AOSEs and professional engineers (PEs) in consultation with AOSEs when issuing construction permits, certification letters, and subdivision

approvals. Section 32.1-163.4 of the Code of Virginia provides that the department shall contract with an AOSE for the field evaluation of backlogged application sites and that the department shall only accept private evaluations from AOSEs. Section 32.1-163.5 of the Code of Virginia provides that the department shall accept private evaluations and designs for residential development from an AOSE or a PE in consultation with an AOSE and that the department is not required to perform a field check of such evaluations and designs prior to issuing an approval.

12 VAC 5-615-20. Purpose of regulations.

These regulations have been promulgated to:

- 1. Guide the state health commissioner in determining who should be listed as an authorized onsite soil evaluator.*
- 2. Guide certified professional soil scientists and others in the procedures necessary to become and maintain the status of authorized onsite soil evaluator.*
- 3. Guide authorized onsite soil evaluators and professional engineers in the processes and site documentation procedures necessary to secure timely responses to applications submitted to the department.*
- 4. Establish standards of practice and conduct for AOSEs.*

12 VAC 5-615-30. Relationship to the Sewage Handling and Disposal Regulations.

This chapter is supplemental to the current Sewage Handling and Disposal Regulations (12 VAC 5-610-20 et seq.) adopted by the State Board of Health pursuant to Title 32.1 of the Code of Virginia. This chapter addresses the department's program for qualifying authorized onsite soil evaluators, processing applications with AOSE/PE supporting documentation, quality control procedures, and enforcement.

12 VAC 5-615-40. Administration of regulations.

This chapter is administered by the following:

- 1. The State Board of Health, hereinafter referred to as the board, has the responsibility to promulgate, amend, and repeal regulations necessary to recognize and use the work of AOSE/PEs to site and design onsite wastewater systems in a manner that protects public health and the environment.*
- 2. The State Health Commissioner, hereinafter referred to as the commissioner, is the chief executive officer of the State Department of Health. The commissioner has the authority to act, within the scope of regulations promulgated by the board, for the board when it is not in session. The commissioner may delegate authority under this chapter with the exception of the authority to issue orders under § 32.1-26 of the Code of Virginia.*
- 3. The State Department of Health, hereinafter referred to as the department, is designated as the primary agent of the commissioner for the purpose of administering this chapter.*
- 4. The district or local health departments are responsible for implementing and enforcing the operational activities required by this chapter.*

5. The Sewage Handling and Disposal Appeal Review Board may hear the appeal of an aggrieved named party in any case where the department has revoked a sewage disposal system permit, certification letter, or subdivision approval when that approval was issued in reliance upon the certified evaluation and design of an AOSE/PE.

12 VAC 5-615-50. Authorized Onsite Soil Evaluator Advisory Committee.

The commissioner shall appoint an Authorized Onsite Soil Evaluator Advisory Committee consisting of up to 14 appointed members and one ex officio member. The commissioner shall appoint members to the Authorized Onsite Soil Evaluator Advisory Committee as follows: four AOSEs from four different regions of the Commonwealth, one or more of whom must be a member of the Virginia Association of Professional Soil Scientists; four individuals currently employed by the department as Environmental Health Specialist Senior (these may or may not also be AOSEs); two persons actively engaged in the installation of onsite sewage systems; one professional engineer; and three discretionary voting positions intended to provide substantive expertise, when needed, from the following categories (but not limited to these categories): Homebuilder/Developer, Well Driller, Local Government, Lending Institution, Surveyor. Each member of the advisory committee may be appointed to serve a term of two years; however, the commissioner, when making initial appointments, shall designate seven of the members to serve terms of three years. The appointment, renewal and removal of each advisory committee member lies in the sole discretion of the commissioner. The commissioner should seek to ensure that one or more members of the advisory committee is a homeowner with experience with onsite sewage systems so that homeowner's interests may be represented on the committee. The director of the division, or a designee, shall serve as an ex officio member of the advisory committee. The commissioner shall designate that the chairman of the committee and members shall serve at the discretion of the commissioner. The committee shall make recommendations to the commissioner regarding AOSE/PE policies, procedures, and programs. The committee shall meet at least annually. The committee shall establish its rules of order.

12 VAC 5-615-60. Scope of regulations.

A. This chapter describes the content and form of site and soil evaluation reports submitted to the department by an AOSE/PE pursuant to an application filed for an approval under the Sewage Handling and Disposal Regulations (12 VAC 5-610-20 et seq.). The department will accept applications from owners (or their agents) without any site evaluation work (bare applications), with complete supporting documentation from an AOSE/PE, and until December 31, 2002, with complete supporting documentation from non-AOSE/PE consultants. After December 31, 2002, the department will only accept site evaluation reports and designs from AOSE/PEs.

B. The provisions of local ordinances regarding onsite wastewater systems that are more restrictive than, and not inconsistent with, the Sewage Handling and Disposal Regulations are not affected by this regulation unless a

locality indicates in writing to the commissioner that it wants the department to apply its more restrictive ordinances in concert with the provisions of this chapter. When such a request is made, the department will require all AOSE/PE reports submitted in the locality to be certified as complying with both the Sewage Handling and Disposal Regulations and the more restrictive local requirements and implement the provisions of the more restrictive ordinances pursuant to this chapter. In those localities with more restrictive ordinances where the local government has not indicated to the commissioner in writing that it desires that the provisions of this chapter be applied to the more restrictive ordinances, the department will review all applications for compliance with state law and regulations only. Such applicants then must obtain a certification of compliance with local ordinances from a local official. The department shall maintain a list of all localities that have notified the commissioner in writing pursuant to this section.

C. The department may accept evaluations and designs from AOSE/PEs in accordance with this chapter that include a certification as to the suitability of sites for the construction of private wells in accordance with the Private Well Regulations (12 VAC 5-630-10 et seq.).

12 VAC 5-615-70. Roles and responsibilities.

A. An AOSE/PE must certify that a site meets or does not meet the requirements of either the Sewage Handling and Disposal Regulations (12 VAC 5-610-20 et seq.), the Private Well Regulations (12 VAC 5-630-20 et seq.), or both, and may design traditional systems in accordance with the same regulations. Responsibility for assuring that site evaluations and designs comply with the Sewage Handling and Disposal Regulations or the Private Well Regulations rests with the AOSE/PE submitting the work.

B. The Department of Health shall have the following responsibilities:

1. The department's role in evaluating an AOSE/PE submission will be to review the materials submitted with an application for compliance with this chapter, the Sewage Handling and Disposal Regulations, the Private Well Regulations and the department's policies prior to approval or disapproval of an application.

2. The department is not required to conduct a field check of any evaluation and/or design submitted pursuant to this chapter prior to issuing the appropriate approval; however, it will conduct such field reviews as it deems necessary to protect public health and the environment and to assess the performance of AOSE/PEs.

3. When requested by an AOSE/PE prior to the filing of an application for a construction permit or certification letter, the department may provide a site-specific field review consultation. Such requests shall not be included in any calculation of backlogs nor shall they be subject to the time limits contained in 12 VAC 5-615-80 or to deemed approval. The department may limit the number of such professional courtesy reviews provided to any individual AOSE/PE as it deems reasonable and as its resources allow. The professional courtesy review shall not be considered to be a case decision.

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4. The department may provide professional courtesy reviews as it deems reasonable and as its resources allow when requested by an AOSE/PE in conjunction with a proposed subdivision, provided such field reviews are general in nature (not site-specific) and provided the developer or owner has generated a base map or preliminary plat of the proposed subdivision and provided that the request for review is made prior to any submission of a subdivision package to the local government for consideration under local subdivision ordinances. Such professional courtesy reviews shall be voluntary and within the sole discretion of the department and shall not be subject to any time limits. Professional courtesy reviews shall not be considered to be case decisions.

5. Whenever the department has approved a permit, certification letter, or subdivision approval in reliance upon an AOSE/PE certification and later has reason to believe that the site or sites or system design submitted by the AOSE/PE does not substantially comply with the minimum requirements of the Sewage Handling and Disposal Regulations, the department shall initiate proceedings, in accordance with the Sewage Handling and Disposal Regulations, to revoke its approval. Such approvals, when revoked, shall be deemed to be permit denials and may be appealed by the aggrieved named party to the Sewage Handling and Disposal Appeal Review Board in accordance with § 32.1-166.6 of the Code of Virginia. All requests for appeals to the Appeal Review Board must be in writing and received by the commissioner within 30 days of receipt of notice of the revocation.

C. An AOSE/PE must make minor revisions that are discovered to be necessary at any time, including, but not limited to, during the installation of the system, to a permit, certification letter or subdivision approval issued in reliance on the evaluations and/or designs of an AOSE/PE.

1. Minor revisions do not include changes in design flow or substantive changes in square footage of absorption area.
2. All revisions must fully comply with the Sewage Handling and Disposal Regulations and must be approved by the department before the issuance of the operation permit.
3. Whenever major revisions, such as changes in system design or location, are required, a new application in accordance with Part III (12 VAC 5-615-210 et seq.) of this chapter shall be required.

D. Whenever a construction permit has been issued pursuant to a design certified by an AOSE/PE, the certifying AOSE/PE shall inspect that system at the time of installation and provide an inspection report and completion statement to the local health department. The inspection report and completion statement shall be in a form approved by the division and shall state that the AOSE/PE has inspected the installation. It shall state any deficiencies discovered and identify the methods of correction, and it shall state that the system was installed in accordance with the construction permit, approved plans where appropriate, and the requirements of 12 VAC 5-610-20 et seq. The local or district health department shall also perform an inspection of such systems as required under 12 VAC 5-610-320. Whenever an AOSE/PE is unable to

conduct an inspection under this section, the owner may provide an inspection report and completion statement executed by another AOSE or PE. An Operation Permit (12 VAC 5-610-340) shall not be issued for any system until the appropriate report and completion statement have been received by the local or district health department.

E. When the department has issued a construction permit for a private well only (no onsite sewage system), in reliance on a certification by an AOSE/PE, the construction inspection required by 12 VAC 5-630-320 will be performed by the local or district health department. In such cases, the owner shall provide to the local or district health department a written inspection statement signed by the AOSE/PE stating that the private well was installed in accordance with the permit and the Private Well Regulations. Whenever an AOSE/PE is unable to conduct an inspection under this section, the owner may provide an inspection report and completion statement executed by another AOSE or PE.

12 VAC 5-615-80. Processing time limits and deemed approval.

A. The provisions of this section apply only to applications for residential development.

B. The department shall review applications submitted with AOSE/PE documentation in the form specified in this chapter and shall issue a written approval or denial within the time frames specified in Table 1 of this subsection. In the event the application is denied, the department shall set forth in writing the reasons for denial.

Table 1

Type of Application	Time Limit
Individual Permit Application	15 working days
Individual Certification Letter	20 working days
Multiple Lot Certification Letter	60 days
Subdivision Review	60 days

C. If the department does not approve or disapprove an AOSE/PE application or a request for a subdivision review properly submitted in accordance with this chapter within the time limits specified in Table 1, the application shall be deemed approved and the appropriate letter, permit, or approval shall be issued.

12 VAC 5-615-90. The practice of engineering.

A. An AOSE may site and design traditional onsite systems; however, § 32.1-163.5 of the Code of Virginia provides that no one other than a licensed professional engineer may practice engineering. Section 54.1-400 of the Code of Virginia states the "practice of engineering" means any service wherein the principles and methods of engineering are applied to, but are not necessarily limited to, the following areas: consultation, investigation, evaluation, planning and design of public or private utilities, structures, machines, equipment, processes, transportation systems and work systems, including responsible administration of construction contracts. The term "practice of engineering" shall not include the service or maintenance of existing electrical or mechanical systems.

B. An AOSE may submit site and soil evaluations as described in this chapter for any traditional system regardless of whether the system design requires an engineer. An AOSE, however, may only submit system designs and specifications for systems that do not require the practice of engineering. When a system is sufficiently complex to require the practice of engineering, formal plans and specifications, sealed by a professional engineer (PE) shall be required.

C. Some traditional systems (see definition) may require the practice of engineering. An AOSE may design traditional systems that do not require the practice of engineering.

D. When engineering plans and specifications are required for an application submitted pursuant to this chapter, the site evaluation work shall be either conducted and certified by an AOSE or certified by a PE working in consultation with an AOSE. When the site and soil evaluation submitted in support of the application is submitted by a PE, the engineer shall submit a statement indicating that he consulted with a specific AOSE, giving both the name and certification number of the AOSE, on the proposal under review.

12 VAC 5-615-100. AOSE certification required.

No person shall sign a certification statement for submittal to the department in support of an application for a sewage disposal system construction permit representing that he is an AOSE/PE or otherwise represent that he is an AOSE/PE unless that person possesses a valid certification as an AOSE issued by the commissioner in accordance with 12 VAC 5-615-240 A or unless that person is a Virginia licensed Professional Engineer who has consulted with an AOSE in accordance with this chapter.

12 VAC 5-615-110. Right of entry.

The commissioner or the commissioner's designee shall have the right to enter any property to assure compliance with this chapter in accordance with the provisions of § 32.1-25 of the Code of Virginia.

12 VAC 5-615-120. Definitions.

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

"AOSE/PE" means an authorized onsite soil evaluator or a professional engineer working in consultation with an authorized onsite soil evaluator.

"Authorized onsite soil evaluator (AOSE)" means a person currently listed by the board as possessing the qualifications to evaluate soils and soil properties in relationship to the effects of these properties on the use and management of these soils as the locations for traditional onsite sewage disposal systems.

"Backlog" is deemed to exist when the processing time for more than 10% of a local or district health department's complete bare applications for construction permits exceeds a predetermined number of working days (i.e., a 15-day backlog exists when the processing time for more than 10% of permit applications exceeds 15 working days). When calculating backlogs, only applications for construction permits shall be

counted. Working days characterized by severe weather conditions shall not be included in any backlog calculation.

"Bare application" means an application for a construction permit or a certification letter submitted without supporting documentation from an AOSE/PE.

"Board" means the State Board of Health.

"Certification letter" means a letter issued by the department, in lieu of a construction permit, that identifies a specific site and recognizes the appropriateness of the site for an onsite wastewater disposal system.

"Complete application" means an application for a construction permit or certification letter that includes all necessary information needed to process the application as specified in 12 VAC 5-610-250 including a site plan as specified in 12 VAC 5-610-460.

"Deemed approved" or "deemed approval" means that the department has not taken action to approve or disapprove an application for a permit, an individual lot certification letter, multiple lot certification letters, or subdivision approval for residential development within the time limits prescribed in §§ 32.1-163.5 and 32.1-164 H of the Code of Virginia. In such cases, an application submitted in proper form pursuant to this chapter is deemed approved and the appropriate letter or letters, permit, or approval shall be immediately issued by the department. Deemed approval applies only to applications for single-lot construction permits, subdivision review, and single or multiple-lot certification letters submitted with evaluations and designs certified by an AOSE/PE in accordance with the provisions of the Code of Virginia, the Sewage Handling and Disposal Regulations, and this chapter. Sites that have been previously denied by the department are not subject to the provisions of deemed approval. An application "deemed approved" means that it is approved only with respect to the Board of Health's regulations. In accordance with 12 VAC 5-615-60 B a local government may authorize the department in writing to implement the provisions of any local ordinance that are more restrictive than the Sewage Handling and Disposal Regulations through the provisions of this chapter.

"Multiple lot certification letters" means two or more applications for certification letters filed by the same owner for existing or proposed lots to serve detached, individual dwellings.

"Professional courtesy review" means a site-specific field review requested by an AOSE/PE prior to the submission of an application for a construction permit or certification letter or a general field consultation (not site-specific) regarding a proposed subdivision.

"Professional engineer in consultation with an AOSE" means that a professional engineer has communicated with an AOSE regarding the site and soil conditions present where the system is proposed, in a manner sufficient to assure compliance with the Sewage Handling and Disposal Regulations and this chapter.

"Processing time" means the number of working days from the date a complete, bare application is received by a local or district health department to the date a permit or certification letter is issued.

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"Residential development" means development, including repair or replacement systems in accordance with 12 VAC 5-610-280 C 2, using single family homes, which utilize individual onsite sewage systems for each structure. Mass drainfields and other cluster systems that serve more than one dwelling are not considered residential development for the purposes of this chapter.

"Single lot construction permit/certification letter" means one application filed by an owner for a sewage disposal system construction permit or certification letter to serve an individual dwelling on one lot or parcel of land.

"Subdivision review" means the review of a proposed subdivision plat by a local health department for a local government pursuant to a local ordinance or ordinances and pursuant to §§ 15.2-2242 and 15.2-2260 of the Code of Virginia and 12 VAC 5-610-360 of the Sewage Handling and Disposal Regulations for the purposes of determining and documenting whether an approved sewage disposal site is present on each proposed lot.

"Traditional systems" means onsite wastewater treatment and disposal systems for which design criteria are contained in the Sewage Handling and Disposal Regulations, except as noted below. At present, traditional systems include gravity, pumped, and low-pressure distribution (lpd) septic effluent drainfields, and Wisconsin-type mound systems. Traditional systems as defined in this regulation do not include experimental permits, conditional permits issued for temporary, intermittent or seasonal use, septage stabilization systems, or systems permitted under a soil drainage management plan. Conditional construction permits issued for limited occupancy or the use of permanent water saving fixtures are not excluded (see 12 VAC 5-610-250 J).

PART II.

COMPLIANCE WITH ADMINISTRATIVE PROCESS ACT.

12 VAC 5-615-130. Compliance with Virginia Administrative Process Act.

The provisions of the Virginia Administrative Process Act (§ 2.2-4000 et seq.) of the Code of Virginia shall govern the promulgation and administration of this chapter and shall be applicable to the appeal of any case decision based upon this chapter.

12 VAC 5-615-140. Emergency order or rule.

If an emergency exists, the commissioner may issue an emergency order or rule as is necessary for preservation of public health, safety, and welfare. The emergency order or rule shall state the reasons and precise factual basis upon which the emergency rule or order is issued. The emergency order or rule shall state the time period for which it is effective.

12 VAC 5-615-150. Enforcement of regulations.

A. All activities of an AOSE/PE pertaining to evaluations and designs of sewage treatment systems governed by the Sewage Handling and Disposal Regulations (12 VAC 5-610-20 et seq.) and applications for certification as an AOSE shall comply with the requirements set forth in this chapter. The commissioner may enforce this chapter through any means lawfully available.

B. Subject to the exceptions indicated below, whenever the commissioner, the commissioner's designee, or the district or local health department has reason to believe a violation of this chapter, any law administered by the board, commissioner, or department, any regulations of the board, any order of the board or commissioner, or any conditions in a permit has occurred or is occurring, the department shall notify the alleged violator. Such notice shall be made in writing, shall be delivered personally or sent by certified mail, shall cite the regulation or regulations that are allegedly being violated, shall state the facts that form the basis for believing the violation has occurred or is occurring, shall include a request for a specific action by the recipient by a specified time and shall state the penalties associated with such violations (see § 32.1-27 of the Code of Virginia). In addition, or in the alternative, when the commissioner or the commissioner's designee deems it necessary, the department may initiate criminal prosecution or seek civil relief in circuit court through mandamus or injunctive relief without giving notice. Written notice pursuant to this section is required only when the department intends to pursue administrative enforcement pursuant to the Administrative Process Act (§ 2.2-4000 et seq. of the Code of Virginia).

C. Pursuant to the authority granted in § 32.1-26 of the Code of Virginia, the commissioner may issue orders to require any person to comply with the provisions of this chapter. The order shall be signed by the commissioner and may require, for example:

1. The immediate cessation or correction, or both, of the violation;
2. The submission of a plan to prevent future violations to the commissioner for review and approval;
3. The submission of an application for certification as an AOSE, an application for a permit, or an application for a variance; and
4. Any other corrective action deemed necessary for proper compliance with the regulations or to protect public health.

D. Before the issuance of an order described in subsection B of this section, a hearing must be held with at least 30 days notice to the affected party of the time, place and purpose thereof, for the purpose of adjudicating the alleged violation or violations of this chapter. The procedure at the hearing shall be in accordance with § 2.2-4020 of the Code of Virginia.

E. All orders shall become effective not less than 15 days after mailing a copy thereof by certified mail to the last known address of the person violating this chapter. Violation of an order is a misdemeanor. (See § 32.1-27 of the Code of Virginia.)

F. The commissioner may enforce all orders. Should any person fail to comply with any order, the commissioner may:

1. Apply to an appropriate court for an injunction or other legal process to prevent or stop any practice in violation of the order;
2. Seek mandamus against any owner or person that is a municipal corporation;

3. Request the Attorney General to bring an action for civil penalty;

4. Request the Commonwealth's Attorney to bring a criminal action.

G. Nothing contained in this section shall be interpreted to require the commissioner to issue an order prior to seeking enforcement of any regulations or statute through an injunction, mandamus or criminal prosecution.

12 VAC 5-615-160. Suspension of regulations during disasters.

If in the case of a man-made or natural disaster, the commissioner finds that certain regulations cannot be complied with and that the public health is better served by not fully complying with this chapter, the commissioner may authorize the suspension of the application of the regulations for specifically affected localities and institute a provisional regulatory plan until the disaster is abated.

12 VAC 5-615-170. Variances.

A. The commissioner may grant a variance to this chapter. The commissioner shall follow the appropriate procedures set forth in this section in granting a variance.

B. A variance is a conditional waiver of a specific regulation which is granted to a specific person and may be for a specified time period.

C. The commissioner may grant a variance if a thorough investigation reveals that the hardship imposed (may be economic) by this chapter outweighs the benefits that may be received by the public and that the granting of such variance does not subject the public to unreasonable health risks.

D. Any person who seeks a variance shall apply in writing for a variance. The application shall be sent to the commissioner for review. The application shall include:

1. A citation to the regulation from which a variance is requested;
2. The nature and duration of the variance requested;
3. Any relevant information in support of the request including information relating to experience or education received, or evaluations and designs conducted pursuant to the requirements of this chapter;
4. The hardship imposed by the specific requirement of this chapter;
5. A statement of reasons why the public health and welfare would be better served if the variance were granted;
6. Suggested conditions that might be imposed on the granting of a variance that would limit the detrimental impact on the public health and welfare;
7. Other information, if any, believed pertinent by the applicant; and
8. Such other information as the commissioner may require.

E. The commissioner shall act on any variance request submitted pursuant to subsection D of this section within 60 working days of receipt of the request.

F. In the commissioner's evaluation of a variance application, the commissioner shall consider the following factors:

1. The effect that such a variance would have on the performance of the AOSE/PE or system;
2. The cost and other economic considerations imposed by this requirement;
3. The effect that such a variance would have on protection of the public health;
4. Any relevant information in support of the request including information relating to experience or education received, or evaluations and designs conducted pursuant to the requirements of this chapter;
5. The hardship imposed by enforcing the specific requirement of this chapter;
6. The applicant's statement of reasons why the public health and welfare would be better served if the variance were granted;
7. The suggested conditions that might be imposed on the granting of a variance that would limit the detrimental impact on the public health and welfare;
8. Other information, if any, believed pertinent by the applicant;
9. Such other information as the commissioner may require; and
10. Such other factors as the commissioner may deem appropriate.

G. Disposition of a variance request:

1. The commissioner may reject any application for a variance by sending notice to the applicant. The rejection notice shall be in writing and shall state the reasons for rejection. The applicant may petition for a hearing to challenge the rejection pursuant to 12 VAC 5-615-190 within 30 calendar days of receipt of notice of rejection.
2. If the commissioner proposes to grant a variance request submitted pursuant to subsection D of this section, the applicant shall be notified in writing of this decision. Such notice shall identify the variance, person, property, or sewage handling or disposal facility covered, and shall specify the period of time for which the variance will be effective and any conditions imposed pursuant to issuing the variance. The effective date of a variance shall be 15 calendar days following its issuance.
3. No person may challenge the terms set forth in the variance after 30 calendar days have elapsed from the date of issuance.

H. All variances granted are nontransferable. A variance may be attached to a person's certification to act as an AOSE or to a permit or other approval document. A variance is revoked

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when the permit or other approval or AOSE certification to which it is attached is revoked.

I. Any request for a variance must be made by the applicant in writing and received by the department prior to the denial of a certification for authorization as an AOSE, or within 30 days after such denial.

12 VAC 5-615-180. Case decisions.

The agency may make case decisions via informal hearings or by agreement. An informal hearing, for purposes of this chapter, is conducted by a department employee designated by the commissioner. The agency shall provide the named party with reasonable notice of violations and administrative hearings, the right to be present at administrative hearings or by counsel or other qualified representative before the agency or its subordinates for the informal presentation of factual data, argument or proof in connection with any case. A named party shall also have the right to (i) have notice of any contrary fact basis or information in the possession of the agency which can be relied upon in making an adverse decision, (ii) receive a prompt decision of any application for a permit, benefit or renewal, and (iii) to be informed, briefly and generally, in writing, of the factual basis or procedural basis for an adverse decision in any case. The commissioner's designee shall review the facts presented and based on those facts render a case decision. Such case decision shall be the final administrative decision of the agency. The agency may, but is not required to, have a verbatim record made of the hearing proceedings. When a verbatim record is made at the direction of the agency, it shall constitute the official record of the proceedings. A written copy of the decision and the basis for the decision shall be sent to the named party in a timely manner in accordance with the Administrative Process Act unless the parties mutually agree to a later date in order to allow the department to evaluate additional evidence. Only an aggrieved named party to a case decision may appeal an adverse decision to the appropriate circuit court pursuant to § 2.2-4026 of the Code of Virginia and Part Two A of the Rules of the Supreme Court of Virginia.

12 VAC 5-615-190. (Reserved.)

12 VAC 5-615-200. Appeal.

A. Any appeal from a denial of an application for certification as an AOSE must be made by the applicant in writing and received by the department within 30 days of the date of receipt of notice of the denial.

B. Any request for hearing on the denial of an application for a variance pursuant to 12 VAC 5-615-170 must be made by the applicant in writing and received within 30 days of receipt of the notice.

C. In the event a person applies for a variance within the 30-day period provided by 12 VAC 5-615-170 I, the date for appealing the denial of the certification pursuant to subsection B of this section shall commence from the date on which the department acts on the request for a variance.

D. Pursuant to the Administrative Process Act (§ 2.2-4000 et seq. of the Code of Virginia), an aggrieved named party may appeal an adverse case decision to an appropriate circuit court.

PART III. AOSE CERTIFICATION REQUIREMENTS.

12 VAC 5-615-210. Persons holding a valid certificate on [the effective date of these regulations].

Any person holding a valid certificate as an AOSE on [the effective date of these regulations] who has not passed the AOSE written and field tests dated January 2000 or later must do so on or before December 31, 2002. Any such person whose AOSE certification expires prior to passing the AOSE written and field test may apply for renewal in accordance with 12 VAC 5-615-270; however, such individuals must pass the written and field tests on or before December 31, 2002.

12 VAC 5-615-220. Construction permit in lieu of field test.

Any AOSE required to pass the field portion of the AOSE test pursuant to 12 VAC 5-615-210 may submit to the department a construction permit application package that he prepared that was approved for issuance of a permit and was satisfactorily reviewed in the field by a representative of the department in lieu of taking and passing the field test.

12 VAC 5-615-230. Application requirements.

Any person may apply to the department for certification as an AOSE by filing a complete application in a form approved by the division, by paying the application fee in accordance with 12 VAC 5-615-250, and by submitting three professional references from an AOSE, a PE, or a Virginia Certified Professional Soil Scientist. In addition, all applicants for certification as an AOSE shall pass the AOSE written and field tests and meet at least one of the requirements below:

1. A person holding a current certificate as a Virginia Certified Professional Soil Scientist from the Board of Professional Soil Scientists shall be eligible to receive a certificate as an AOSE upon passing the AOSE written and field tests.
2. A person who demonstrates to the satisfaction of the division that he has at least four years of full-time experience evaluating site and soil conditions for onsite sewage systems in Virginia in accordance with the Board of Health's regulations (12 VAC 5-610-20 et seq.) and a related four-year college degree such as science or engineering shall be eligible to receive a certificate as an AOSE provided:
 - a. The applicant successfully completes a training course or courses designated and approved by the division; and
 - b. The applicant successfully completes the AOSE written and field tests approved by the division.
3. A person who demonstrates to the satisfaction of the division that he has at least six years of full-time experience evaluating site and soil conditions for onsite sewage systems in Virginia in accordance with the Board of Health's regulations (12 VAC 5-610-20 et seq.) and a two- or four-year college degree shall be eligible to receive a certificate as an AOSE provided:
 - a. The applicant successfully completes a training course or courses designated and approved by the division;

b. The applicant passes the AOSE written and field tests; and

c. The applicant provides a written statement signed by a current or former supervisor or an AOSE with a current certification stating that the person is sufficiently experienced to become an AOSE.

4. A person who demonstrates to the satisfaction of the division that he has at least eight years of experience evaluating site and soil conditions for onsite sewage systems in Virginia in accordance with the Board of Health's regulations (12 VAC 5-610-20 et seq.) shall be eligible to receive a certificate as an AOSE provided:

a. The applicant successfully completes a training course or courses designated and approved by the division,

b. The applicant successfully completes the AOSE written and field tests approved by the division, and

c. The applicant provides a written statement signed by a current or former supervisor or an AOSE with a current certification stating that the person is sufficiently experienced to become an AOSE.

12 VAC 5-615-240. Disposition of AOSE applications.

A. Upon satisfactory completion of the requirements of 12 VAC 5-615-230, the commissioner shall issue to the applicant a certification as an AOSE.

B. Applicants who have been found ineligible for any reason may request further consideration by submitting in writing evidence of additional qualifications, training, or experience. No additional fee will be required provided the requirements for certification are met within one year from the date the original application is received by the department. After such period, a new application shall be required.

C. If the commissioner finds that the applicant has not met the minimum requirements for certification as an AOSE, the applicant shall be notified in writing, sent by certified mail or hand delivered, and the reasons for denial of the certification shall be stated. The notice to the applicant of denial shall also state that the applicant has the right to a hearing as specified in 12 VAC 5-615-180 to challenge the certification denial. Any request for a hearing must be received by the commissioner within 30 days of the affected party's receipt of written notice of the decision.

D. Before approving an AOSE application, the commissioner or the commissioner's designee may make further inquiries and investigations with respect to the qualifications of the applicant and all references, etc. to confirm or amplify the information supplied. The commissioner may also require a personal interview with the applicant.

12 VAC 5-615-250. Fees for applications, training, and testing.

A. The following fees will be assessed. All fees due the department shall be paid by check or money order.

B. Any person making application for certification as an AOSE or applying for renewal of an AOSE certification shall pay an application fee of \$100. Those persons currently employed by

the department shall not be required to pay the application fee.

C. Those persons taking a department-sponsored training course or courses as specified in 12 VAC 5-615-230 shall pay the fee for such course as determined by the department. Fees for such course or courses will be based on the department's actual expenses in preparing course materials and conducting the training. This section is not intended to prevent or discourage training courses recognized by the department and offered by entities other than the department. In the case of training that is not directly sponsored by the department, applicants will pay appropriate fees to the sponsoring entity.

D. Those persons taking written and field tests specified in 12 VAC 5-615-230 shall pay a fee for such testing as determined by the department based on the actual costs of preparing and administering the tests.

12 VAC 5-615-260. Expiration of AOSE certifications.

AOSE certifications shall expire on June 30 of the second calendar year following the year in which the certificate was issued unless revoked or suspended.

12 VAC 5-615-270. Renewal of expired AOSE certifications.

A. Any person whose AOSE certification has expired in accordance with 12 VAC 5-615-260 may apply to the department for renewal of that certification. An AOSE may apply for renewal not more than 60 days prior to the expiration of his AOSE certification. If more than six months have elapsed from the expiration of the most recent certification, the department may require an applicant to comply with the provisions of 12 VAC 5-615-230 and subsection C of this section. Suspended certifications are not renewable until reinstated by the department; revoked certifications cannot be renewed.

B. Any person making application for renewal of an AOSE certification shall file a complete application in a form approved by the division and pay the application fee in accordance with 12 VAC 5-615-250.

C. Any person making application for renewal of an AOSE certification shall provide documentation that he has earned two continuing education units (CEUs) in topics related to the evaluation of site and soil conditions for onsite sewage treatment and disposal and/or the design of onsite sewage treatment and disposal systems during the previous two years. For the purposes of this chapter, a CEU shall be equivalent to 10 contact hours of instruction in subject matter and from sources approved by the division. Each AOSE shall be responsible for maintaining appropriate records of CEUs and for providing proof of satisfactory completion of CEUs to the department.

12 VAC 5-615-280. Site evaluations and design certifications to comply with regulations.

No AOSE/PE shall certify a site evaluation and/or design unless such evaluation and/or design complies with the minimum requirements of the Sewage Handling and Disposal Regulations (12 VAC 5-610-20 et seq.) and such certification

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and/or design is produced in accordance with this chapter. An AOSE/PE shall make a good faith effort to secure complete, accurate, and timely information regarding site and soil conditions, including relevant factors on adjacent parcels, including but not limited to utilities, water supplies, and other sewage systems. The AOSE/PE shall certify that all information submitted is true and correct to the best of his knowledge and shall be required to be aware of all information in agency files pertaining to the site he is certifying.

12 VAC 5-615-290. Revocation or suspension of AOSE certification.

A. The commissioner may revoke or suspend an AOSE certification for failure to comply with any law administered by the board, commissioner, or department, any regulations of the board, any order of the board or commissioner, or any conditions in a permit.

B. Actions that may result in revocation or suspension include, but are not limited to, certifying as suitable a site that does not comply with the minimum requirements of the Sewage Handling and Disposal Regulations (12 VAC 5-610-20 et seq.), certifying as suitable a site that has been rejected by the department unless certified pursuant to 12 VAC 5-615-320, falsifying any document, and any act of misrepresentation made related to AOSE activities.

C. Whenever the commissioner or the commissioner's designee takes action to revoke or suspend an AOSE certification, there must be an informal fact-finding conference in accordance with 12 VAC 5-615-180 and proper notice must be given to the affected party.

1. The AOSE shall be notified in writing. The notice must be hand delivered or sent by certified mail. The notice must provide the factual and legal basis for the contemplated action and must give the date, time, place, and location of the informal fact-finding conference.

2. The informal fact-finding conference is to be conducted by an employee of the department designated by the commissioner. The conference shall be conducted in accordance with, but is not limited to, the requirements of § 2.2-4019 of the Code of Virginia and may include the creation of a verbatim or summary record of the proceedings.

3. The commissioner or the commissioner's designee shall render a decision from the informal fact-finding conference in a timely manner in accordance with § 2.2-4021 of the Code of Virginia. Such decisions shall constitute the final administrative decision and may be appealed in accordance with 12 VAC 5-615-180.

4. When action is taken to suspend an AOSE certification, that suspension shall be for a specified period of time. Remedial actions including, but not limited to, additional training courses, additional testing, and reevaluation of a site and/or redesign of an onsite sewage system may be specified as conditions of any suspension.

12 VAC 5-615-300. Application for reinstatement of AOSE certification.

Any person whose AOSE certification has been revoked pursuant to 12 VAC 5-615-290 may apply to the department for reinstatement as an AOSE no sooner than 12 months after the effective date of the revocation. Any person making application for reimbursement of an AOSE certification pursuant to this section shall:

1. File a complete application in a form approved by the division and pay the application fee in accordance with 12 VAC 5-615-250. The AOSE application for reinstatement must also include a certification that the AOSE has not engaged in AOSE activities after his certification was revoked.

2. Provide documentation that the applicant has satisfactorily completed any remedial actions required as a result of the revocation. Remedial actions including, but not limited to, additional training courses, additional testing, and reevaluation of a site and/or redesign of an onsite sewage system may be specified as conditions for reinstatement.

12 VAC 5-615-310. Appeal of suspension or revocation.

In accordance with 12 VAC 5-615-180, any person whose AOSE certification has been suspended or revoked shall have the right to review by the appropriate circuit court.

12 VAC 5-615-320. AOSE/PE cannot certify a site that has been previously denied by the department.

No AOSE/PE shall certify a site as meeting the minimum requirements of the Sewage Handling and Disposal Regulations (12 VAC 5-610-20 et seq.) if the department has previously denied that site. Exception: An AOSE/PE may certify a previously denied site as meeting the requirements of the Sewage Handling and Disposal Regulations if the board's regulations or policies have changed in such a way that the site is suitable for a system that was not allowed by the board's prior regulations or policies at the time of the original denial. An AOSE/PE may certify as meeting the requirements of the Sewage Handling and Disposal Regulations a site located on the same property as a site previously denied by the department if the site being certified is not the same one that was denied by the department.

12 VAC 5-615-330. Change of address or other status.

The AOSE shall be responsible for notifying the commissioner of any change in address, business partnership or affiliation, or any other status that affects his standing as an AOSE. Such notice must be in writing and must be delivered to the commissioner as soon as practicable after the effective date of the change.

PART IV. PROCEDURES AND REPORTS.

12 VAC 5-615-340. Application processing.

A. All applications that are submitted with evaluation and design documentation by an AOSE/PE shall contain the minimum required information necessary to complete the application and shall be accompanied by the required fees.

Such applications when submitted for residential development will be processed within specified time limits in 12 VAC 5-615-80.

B. When such an application is found to be complete an approval may be issued without field review.

C. Applications that are found to be incomplete or defective in any manner shall be denied and the owner and AOSE/PE will be notified of deficiencies. If an application has been denied, the owner or their agent may submit a new application to correct the deficiency or deficiencies contained in their first application. If the application is received within 90 days, the department will waive all state fees associated with the new application. This waiver may be granted not more than once per site.

12 VAC 5-615-350. Documentation requirements for AOSE/PE reports.

A. Applications may be submitted for a single lot construction permit, a single lot certification letter, multiple lot certification letters, and subdivision reviews. The minimum requirements for each type of application are listed below. Additional information may be submitted when an AOSE/PE believes it may be in the client's interest to provide additional information.

B. A complete application for a construction permit shall consist of the following:

1. A complete application for a Sewage Disposal System Construction Permit (CHS 200), signed, dated, and with all pertinent information supplied;
2. The appropriate fee for the application as per the Code of Virginia;
3. A site evaluation report in accordance with 12 VAC 5-615-360 and the department's policies;
4. A proposed well site (when a private water supply is proposed);
5. Construction drawings and specifications for the recommended system in accordance with 12 VAC 5-615-380 and the department's policies; and
6. A statement in accordance with 12 VAC 5-615-70, 12 VAC 5-615-280, and 12 VAC 5-615-380 C certifying that the site and soil conditions and design conform with the Sewage Handling and Disposal Regulations.

C. A complete application for certification letter differs from an equivalent application for a construction permit in that a complete design is not required. It is, however, necessary to assure a system meeting the requirements specified on the application can be supported by the proposed site. Therefore, the requirements for a single certification letter are:

1. A complete application for a Sewage Disposal System Construction Permit (CHS 200), signed, dated, and with all pertinent information supplied;
2. The appropriate fee for the application;
3. A site evaluation report in accordance with 12 VAC 5-615-360 and the department's policies;

4. A proposed well site (when a private water supply is proposed);

5. An abbreviated system design for the type of system proposed in a form approved by the division; and

6. A statement in accordance with 12 VAC 5-615-70, 12 VAC 5-615-280, and 12 VAC 5-615-380 C certifying that the site and soil conditions and design conform with the Sewage Handling and Disposal Regulations.

D. Applications for multiple certification letters may be used as the method for reviewing proposed subdivisions in localities that do not require the local health department to review proposed subdivisions. Each application submitted must contain the following:

1. Complete applications for Sewage Disposal System Construction Permits (CHS 200), signed, dated, and with all pertinent information supplied;
2. The appropriate fee for each site to be reviewed;
3. Site evaluation reports in accordance with 12 VAC 5-615-360 and the department's policies;
4. Proposed well sites (when a private water supply is proposed);
5. Abbreviated system designs for the type of system proposed in a form approved by the division;
6. A statement in accordance with 12 VAC 5-615-70, 12 VAC 5-615-280, and 12 VAC 5-615-380 C for each proposed site certifying that the site and soil conditions and design conform with the Sewage Handling and Disposal Regulations; and
7. If the multiple certification letters are intended to establish the suitability of soils for a proposed subdivision, the information specified in subdivision E 3 c of this section is to be submitted by the applicant.

E. Section 32.1-163.5 of the Code of Virginia provides that the department shall accept private site evaluations and designs, for subdivision review for residential development, designed and certified by a licensed professional engineer in consultation with an AOSE or by an AOSE. The following shall apply to all requests for subdivision review and approval:

1. All requests for subdivision reviews must be submitted to the local health department with a request from the local government entity specifically asking for review of the proposed lots for onsite wastewater system approvals pursuant to the local ordinance governing such proposals (cite reference to local ordinance).
2. In localities where there is no subdivision ordinance, subdivisions should be handled using applications for multiple certification letters (see subsection D of this section).
3. All requests submitted by local governments for review and approval must contain the following minimum information:
 - a. A letter requesting subdivision review and certification by the locality that the subdivision package has been

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determined to be complete.

b. Individual site and soil evaluation reports in accordance with 12 VAC 5-615-360 for each proposed lot in the subdivision. These individual reports must be identified as to the subdivision and the proposed lot number.

c. A preliminary subdivision plat that provides the information specified in 12 VAC 5-610-360. This includes all information required by the local ordinance, and includes the following if not required by local ordinance: proposed streets, utilities, storm drainage, water supplies, easements, lot lines, existing and proposed water supplies for each proposed lot and within 200 feet

of any proposed or existing sewage system, and original topographic contour lines by detail survey. The plat shall be prepared according to suggested scales and contour intervals contained in Appendix L of the Sewage Handling and Disposal Regulations.

4. Abbreviated system designs in a form approved by the division for the type of system proposed.

5. A statement in accordance with 12 VAC 5-615-70, 12 VAC 5-615-280, and 12 VAC 5-615-380 C for each proposed site certifying that the site and soil conditions and design conform to the Sewage Handling and Disposal Regulations.

Table 3
Types of Applications

	Single Lot Construction Permit	Single Lot Certification Letter	Multiple Lot Certification Letters	Subdivision
Application	X	X	X	
Fee	X	X	X	
Site Evaluation	X	X	X	X
Proposed Well Site	X	X	X	X
Construction Drawings	X			
Construction Specifications	X			
Design Calculations	X			
Abbreviated Design calculations		X	X	X
Certification of Compliance	X	X	X	X
Local Government Request				X
Preliminary Subdivision Plat			X (as necessary)	X
Max. Time to Process	15 Working Days	20 Working Days	60 Days	60 Days
Rec. Time to Process	5 Working Days	10 Working Days	45 Days	45 Days

12 VAC 5-615-360. Site evaluation reports.

All site evaluation reports submitted to the department shall be in a form approved by the division, shall contain the minimum information specified by the division, and shall be certified as fully complying with the Sewage Handling and Disposal Regulations (12 VAC 5-610-20 et seq.). A statement approved by the department shall be used to certify that a site evaluation and/or design complies with the board's regulations for onsite sewage systems. No approval shall be granted pursuant to this chapter for any site that has not been certified by an AOSE/PE. Additional information required by local ordinances (i.e., Chesapeake Bay requirements) may be included with an AOSE submission in order to facilitate processing the application. However, for the purposes of an AOSE/PE certifying that an evaluation and/or design complies with the Sewage Handling and Disposal Regulations and for "deemed approval" only those requirements contained in the Board of Health's regulations are considered to apply unless a local government has requested its health department to implement a more restrictive local ordinance in accordance with 12 VAC 5-615-60 B. Wastewater system sites proposed for use must be defined in a manner that allows them to be

identified with an accuracy and precision of three feet or less.

12 VAC 5-615-370. Access to information.

When requesting information from the department's official records, an AOSE/PE shall clearly and accurately identify property locations, using tax map numbers when possible, and specify the information requested on a form approved by the division. The department shall, as resources permit, provide the requested information in as timely a manner as possible, and shall in all cases comply with the Virginia Freedom of Information Act (§ 2.2-3700 et seq. of the Code of Virginia).

12 VAC 5-615-380. System design requirements, construction drawings, certification statement, and site denial.

A. Any application for a construction permit accompanied by an AOSE/PE certification shall contain construction drawings, plans, and specifications in a form approved by the division sufficient to allow the system to be installed by the contractor in accordance with the Sewage Handling and Disposal Regulations (12 VAC 5-610-20 et seq.) and the proposed permit. When a system is sufficiently complex to require the

practice of engineering, a professional engineer shall seal the plans and specifications. The design information necessary to issue a sewage disposal system construction permit includes:

1. All the information required on form CHS 202 A and B (see Forms, Sewage Handling and Disposal Regulations);
2. System construction drawings containing the minimum information as determined by the division;
3. Plans and specifications sufficient to allow the successful installation of a system when the application is for a construction permit;
4. Design calculations used to establish the design parameters of the recommended system, including the minimum information deemed appropriate by the division; and
5. Three copies of the construction drawings and specifications.

Subdivisions 1 through 5 of this subsection establish the minimum information necessary to issue a construction permit. Additional information may be necessary depending on the specific site. Applications that do not contain this minimum data set shall be denied.

B. Certification letters and subdivision submittals do not normally require a complete design with specifications. Prior to applying for a certification letter or preparing a package for subdivision review an AOSE/PE shall conduct evaluations and provide documentation sufficient to verify that specific and sufficient area is available for the proposed system, including setback distances, and that the soils are capable of supporting the proposed design flow.

C. All site evaluation work submitted in support of a construction permit, certification letter, or subdivision review shall be in the form specified above and shall be certified as fully complying with the Sewage Handling and Disposal Regulations. A certification statement approved by the department shall be used to make such certification.

D. In some cases an owner may desire to submit an application with a certification by an AOSE/PE stating that a site does not comply with the minimum requirements of the Sewage Handling and Disposal Regulations. In such cases an AOSE/PE may submit the appropriate reports and information as required by this chapter and the department shall process the application in accordance with the procedures for processing applications for permits and letters. Instead of issuing a permit or letter, the department will issue a denial letter.

12 VAC 5-615-390. Professional courtesy review.

A. Any AOSE/PE may request a site-specific professional courtesy review, prior to the submission of an application for a construction permit or certification letter, where he has determined that the site and soil conditions in a specific area proposed for an onsite sewage system are marginal or where he has not been able to determine with certainty that the conditions comply with the requirements of the Sewage Handling and Disposal Regulations. A request for review shall be in a form approved by the division and shall include a

complete evaluation report as described in 12 VAC 5-615-360, with the exception of the certification statement. In place of the certification statement required under 12 VAC 5-615-360 the AOSE/PE shall provide a brief description of the particular site and soil features or characteristics that the AOSE/PE has identified as marginal or questionable and which form the basis for the request for review and a preliminary opinion as to whether the site meets the requirements of the Sewage Handling and Disposal Regulations. Professional courtesy reviews are not intended to replace the AOSE/PE's responsibility to exercise professional judgement in determining whether a site meets the minimum requirements of the Sewage Handling and Disposal Regulations. The department is not required to perform such reviews but may do so in its sole discretion.

B. In accordance with 12 VAC 5-615-70 B 3, the department may limit professional courtesy reviews for construction permits and certification letters. Whenever the department determines that it will not provide a requested review, it shall notify the AOSE/PE and the applicant in writing within a reasonable time. When the department elects to provide professional courtesy reviews, it shall do so in a reasonable time.

C. Any AOSE/PE may request a general (not site-specific) professional courtesy review, prior to the submission of a proposal for subdivision approval to a local government entity, where he has determined that the site and soil conditions in an area proposed for a subdivision with onsite sewage systems are marginal or where he has not been able to determine with certainty that the conditions comply with the requirements of the Sewage Handling and Disposal Regulations. A request for review shall be in a form approved by the division and shall include a summary evaluation report that generally comports with the requirements of 12 VAC 5-615-360, with the exception of the certification statement. In place of the certification statement required under 12 VAC 5-615-360, the AOSE/PE shall provide a brief description of the particular site and soil features or characteristics that the AOSE/PE has identified as marginal or questionable and which form the basis for the request for review and a preliminary opinion as to whether the area generally meets the requirements of the Sewage Handling and Disposal Regulations. Such requests are intended to allow the department to consult with AOSE/PEs in a nonsite-specific manner where the local health department's knowledge of general site and soil conditions and the requirements of the Sewage Handling and Disposal Regulations can assist the AOSE/PE and local governments in the planning stages of subdivision approval. Professional courtesy reviews are not intended to replace the AOSE/PE's responsibility to exercise professional judgment in determining whether a specific site meets the minimum requirements of the Sewage Handling and Disposal Regulations.

D. In accordance with 12 VAC 5-615-70 B 4, the department may limit professional courtesy reviews for proposed subdivisions. Whenever the department determines that it will not provide a requested review, it shall notify the AOSE/PE and the applicant in writing within a reasonable time. When the department elects to provide professional courtesy reviews, it shall do so in a reasonable time.

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E. Professional courtesy reviews shall not be construed as case decisions.

12 VAC 5-615-400. Field checks.

The department is not required to perform a field check of AOSE/PE evaluations and designs prior to issuing a permit, certification letter, or subdivision approval; however, it may conduct a field analysis as it deems necessary to protect public health and the environment. Whenever the department performs such field checks, it shall make a record of the results of the analysis in a form approved by the division. The department shall mail a copy of such report to the owner and to the AOSE/PE at the address provided by the AOSE/PE with the evaluation and design reports or at the address supplied to the department with the AOSE's application for AOSE certification or renewal of certification.

PART V.

CONFLICT OF INTEREST AND DISCLOSURE.

12 VAC 5-615-410. Responsibility to the public.

The primary obligation of the AOSE is to the public. If the judgment of the AOSE is overruled under circumstances when the safety, health, property and welfare of the public are endangered, the AOSE shall inform the employer or client of the possible consequences and notify appropriate authorities.

12 VAC 5-615-420. Public statements.

A. The AOSE shall be truthful in all AOSE matters.

B. When serving as an expert or technical witness, the AOSE shall express an opinion only when it is based on an adequate knowledge of the facts and in areas on which he is competent to testify. Except when appearing as an expert witness in court or an administrative proceeding where the parties are represented by counsel, the AOSE shall issue no statements, reports, criticisms, or arguments on matters relating to AOSE practice that are inspired or paid for by an interested party or parties, unless the AOSE has prefaced the comment by disclosing the identities of the party or parties on whose behalf the AOSE is speaking and by revealing any self-interest.

C. An AOSE shall not knowingly make a materially false statement or fail deliberately to disclose a material fact requested in connection with his application for licensure, certification, registration, renewal or reinstatement.

D. An AOSE shall not knowingly make a materially false statement or fail to deliberately disclose a material fact requested in connection with an application submitted to the department by any other individual or business entity for licensure, certification, registration, renewal or reinstatement.

12 VAC 5-615-430. Conflicts of interest.

A. The AOSE shall promptly and fully inform an employer or client of any business association, interest, or circumstance or circumstances that may influence the AOSE's judgment or the quality of service.

B. The AOSE shall not accept compensation, financial or otherwise, from more than one party for services on or pertaining to the same project, unless the circumstances are

fully disclosed in writing to all parties of current interest and he obtains the parties' written approval.

C. The AOSE shall neither solicit nor accept financial or other valuable consideration from suppliers for specifying their products or services.

D. The AOSE shall not solicit or accept gratuities, directly or indirectly, from contractors, their agents, or other parties dealing with a client or employer in connection with work for which the AOSE is responsible.

12 VAC 5-615-440. Solicitation of work.

In the course of soliciting work:

1. The AOSE shall not bribe.

2. The AOSE shall not falsify or permit misrepresentation of the AOSE's work or an associate's academic or AOSE qualifications, nor shall the AOSE misrepresent the degree of responsibility for prior assignments. Materials used in the solicitation of employment shall not misrepresent facts concerning employers, employees, associates, joint ventures or past accomplishments of any kind.

12 VAC 5-615-450. Competency for assignments.

An AOSE shall not misrepresent to a prospective or existing client or employer his qualifications and the scope of his responsibility in connection with work for which he is claiming credit.

12 VAC 5-615-460. AOSE responsibility.

A. The AOSE shall not knowingly associate in a business venture with, or permit the use of the AOSE's name or firm name by, any person or firm where there is reason to believe that person or firm is engaging in activity of a fraudulent or dishonest nature or is violating any law or regulations of the department.

B. An AOSE who has direct knowledge that another individual or firm may be violating any of these provisions, or the provisions of Article 1 (§ 32.1-163 et seq.) of Chapter 6 of Title 32.1 of the Code of Virginia, shall immediately inform the commissioner in writing and shall cooperate in furnishing any further information or assistance that may be required.

C. The AOSE shall, upon request or demand, produce to the commissioner, or any of his agents, any plan, document, book, record or copy thereof in his possession concerning a transaction covered by this chapter, and shall cooperate in the investigation of a complaint filed with the commissioner against a certificate holder.

D. Except as provided in subsection E of this section, an AOSE shall not utilize the evaluations, design, drawings or work of another AOSE without the knowledge and written consent of the AOSE or organization of ownership that originated the design, drawings or work. In the event that the AOSE who generated the original document is no longer employed by the firm retaining ownership of the original documents or is deceased, another AOSE who is a partner or officer in the firm retaining ownership of the original documents may authorize utilization of the original documents by another AOSE or firm. This fact must be disclosed to the

department when submitting applications supported by AOSE materials and certifications.

E. The information contained in Department of Health records, on which a decision to approve or deny a site has been made, shall be considered to be in the public domain and may be utilized by an AOSE without permission.

F. An AOSE who relies on information in Department of Health files or has received permission to modify or otherwise utilize the evaluation, design, drawings or work of another AOSE pursuant to subsection D or E of this section may certify that work only after a thorough review of the evaluation, design, drawings or work and after he determines that he is willing to assume full responsibility for all design, drawings or work on which he relies for his opinion.

G. The information contained in recorded plats or surveys may be utilized by an AOSE without permission. If modifications are to be made to the plats or surveys, such modifications shall only be made by a person or persons authorized pursuant to Chapter 4 (§ 54.1-400 et seq.) of Title 54.1 and Title 13.1 of the Code of Virginia to make such changes or modifications to the plats or surveys.

12 VAC 5-615-470. Good standing in other jurisdictions.

An AOSE licensed or certified to practice site and soil evaluations or to design onsite wastewater systems in other jurisdictions shall be in good standing in every jurisdiction where licensed or certified, and shall not have had a license or certificate suspended, revoked or surrendered in connection with a disciplinary action or have been the subject of discipline in another jurisdiction.

<p>NOTICE: The forms used in administering 12 VAC 5-615-10 et seq., Authorized Onsite Soil Evaluator Regulations, are listed below. Any amended or added forms are reflected in the listing and are published following the listing.</p>

FORMS

Application to Become an Authorized Onsite Soil Evaluator, eff 9/01.

Renewal Application-Authorized Onsite Soil Evaluator, eff 9/01.

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Application to Become an Authorized Onsite Soil Evaluator

Application Type (check one)

- CPSS
- Person with 5 yrs. experience
- Person with 2 yrs. experience
- VDH Employee

If a question is not applicable, mark "N/A". All blocks must be completed. Please type your responses.

Name (Last, first, middle):	Date of Application:
Home Address: (must include a street address)	Business Address
Phone (home):	Phone (work):
Email address:	Other:
Fax:	Mobile:
Drivers License Number: _____	Date of Birth:
Are you a Virginia Certified Professional Soil Scientist? Yes ___ No ___	CPSS registration number: _____ Please attach a copy of your CPSS Registration.
How many years experience do you have evaluating site and soil conditions for onsite sewage systems in Virginia? ___ years	Have you attached two site evaluations that comply with the requirements described in GMP #99? Yes ___ No ___
Have you attached three letters of reference that comply with the requirements of GMP #99? Yes ___ No ___	Have you attached two system designs that comply with the requirements of GMP #99? Yes ___ No ___

I certify that the information provided on this application is true. Further, I understand that providing false or misleading information or suppressing information on this application may result in denial of my application or the suspension or revocation of my standing as an Authorized Onsite Soil Evaluator if my application has been approved. I authorize the Department to conduct reference checks as necessary to evaluate my application.

Signed _____ Date _____

Applications should be submitted to: The Division of Onsite Sewage and Water Services
PO Box 2448
1500 E. Main St., Room 117
Richmond, VA 23218. **Attention AOSE Application**

Please enclose a check for the application fee of \$100 (made payable to the Commonwealth of Virginia)

Department Use: AOSE Test results: _____
AOSE Training completed _____

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**Renewal Application
Authorized Onsite Soil Evaluator**

If a question is not applicable, mark "N/A". All blocks must be completed. Please write legibly or type.

Name (Last, first, middle):	Date of Application:
Home Address: (please include a street address)	Business Address:
Phone (home):	Phone (work):
Email address:	Other:
Fax:	Mobile:
Are you a Virginia Certified Professional Soil Scientist? Yes ___ No ___	CPSS registration number: _____ Please attach a copy of your CPSS Registration.

I certify that the information provided on this application is true. Further, I understand that providing false or misleading information or suppressing information on this application may result in denial of my application or the suspension or revocation of my standing as an Authorized Onsite Soil Evaluator. I authorize the Department to conduct checks as necessary to evaluate the information contained on this form.

Signed _____ Date _____

Applications should be submitted to: Division of Onsite Sewage and Water Services
1500 E. Main Street, Room 115
Richmond, VA 23219 **Attention: AOSE Application**

It shall be the responsibility of the AOSE to update the above information as necessary. Please enclose a check for the application renewal fee of \$100.00 (made payable to the Commonwealth of Virginia).

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Continuing Education Classes attended in the previous two years.

Number of CEUs	Number of hours	Course Title	Offered By	Date Taken

Attach additional information as necessary.

TOTAL CEU's _____

TOTAL HOURS _____

9/01

VA.R. Doc. No. R00-225; Filed September 18, 2001, 1:42 p.m.

**DEPARTMENT OF MEDICAL ASSISTANCE
SERVICES**

Title of Regulation: **Married Institutionalized Individuals Eligibility and Patient Pay. 12 VAC 30-110-10 et seq. Eligibility and Appeals (amending 12 VAC 30-110-720; adding 12 VAC 30-110-831).**

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

Public Hearing Date: N/A - Public comments may be submitted until December 7, 2001.

(See Calendar of Events section for additional information)

Agency Contact: Victoria P. Simmons, Regulatory Coordinator, Department of Medical Assistance Services, 600 East Broad Street, Suite 1300, Richmond, VA 23219, telephone (804) 786-7959.

Basis: Section 32.1-325 of the Code of Virginia grants to the Board of Medical Assistance Services (BMAS) the authority to administer and amend the Plan for Medical Assistance. Section 32.1-324 of the Code of Virginia grants to the Director of the Department of Medical Assistance Services (DMAS) the authority to administer and amend the Plan for Medical Assistance in lieu of board action pursuant to the board's requirements.

Federal law at § 1924(c)(3)(C) of the Social Security Act provides that an institutionalized spouse shall not be ineligible for medical assistance because resources are available for the costs of care when the state determines that denial of eligibility would work an undue hardship.

Purpose: This proposal amends the regulations governing Medicaid eligibility for married institutionalized individuals who have a community spouse to set forth the instances in which the Commonwealth will determine that a Medicaid applicant will be considered to face an undue hardship if Medicaid eligibility is denied. This revision to existing regulations is necessary because the existing hardship regulation is vague and difficult to apply. The regulations governing the Medicaid eligibility of married institutionalized individuals are essential to the public's health and welfare. Many elderly and disabled Virginians are unable to pay the high cost of long-term care services without assistance. In addition, when one spouse of a couple needs long-term care services, the other spouse's financial security may be seriously threatened. These regulations specify how local department of social service's eligibility workers must evaluate the income and resources owned by couples when one spouse needs long-term care.

Substance:

12 VAC 30-110-720. The definition of undue hardship is amended to remove the requirement that an applicant must have exhausted all legal means to access a resource. This requirement is confusing and difficult to apply. The definition is amended solely to define when an applicant's circumstances can be said to reach the level of undue hardship.

12 VAC 30-110-831. A regulation is added to provide an alternative approach that may be followed when for some

reason beyond the couple's control, the actual value of the resources the couple owned on the first day of the first continuous period of institutionalization cannot be verified because the records no longer exist or because they cannot be obtained. For example, during bank mergers, old records of deposits and balances in the far past may no longer be maintained by the new banking entity. This regulation permits the substitution of the spousal resource standard for the spousal share. This approach ensures that an amount of the couple's resources may be protected for the support of the community spouse even though a resource assessment cannot be completed. It prevents ineligibility due to circumstances over which the couple has no control.

A regulation is added to clarify that an applicant may not claim that he has an undue hardship simply because he does not know the current status of his marriage. It should be the responsibility of any individual who knows that he has been married to determine his marital status rather than ask the Commonwealth to grant him public assistance as if he had no spouse.

A regulation has been added to clarify that an applicant cannot claim undue hardship in instances in which his community spouse cannot be located or when his community spouse fails or refuses to disclose or verify the value of resources he owns. An individual spouse has legal recourse through family and domestic relations court to seek support from his spouse. It is the applicant's responsibility to avail himself of such legal recourse before requesting public assistance. In cases in which a spouse has abandoned him and cannot be located, an individual still has legal recourse to resolve the status of his marriage. These legal recourses should be utilized before public assistance is sought.

Issues: The advantage of this rule's promulgation to the public, DMAS and eligibility workers in local departments of social services who process Medicaid applications will be the establishment of a clear and specific rule for determining when a Medicaid applicant is considered to face an undue hardship if Medicaid eligibility is denied. The establishment of this specific rule will also benefit DMAS by reducing the number of referrals that local departments of social services must make when Medicaid applicants allege undue hardship. The hardship provision will allow individuals with unique and compelling situations to establish Medicaid eligibility and avoid suffering and deprivation of life sustaining medical care. There are no disadvantages to the public or the Commonwealth.

Department of Planning and Budget's Economic Impact Analysis:

The Department of Planning and Budget (DPB) has analyzed the economic impact of this proposed regulation in accordance with § 2.2-4007 G of the Administrative Process Act and Executive Order Number 25 (98). Section 2.2-4007 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, the projected costs to affected businesses or entities to implement or comply with the regulation, and the impact on the use and value of private

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property. The analysis presented below represents DPB's best estimate of these economic impacts.

Summary of the proposed regulation. The Director of the Department of Medical Assistance Services (DMAS) proposes to amend the hardship rule definition used to determine Medicaid eligibility for institutionalized individuals who have spouses living in the community.

Estimated economic impact. This regulation specifies how local social services employees must evaluate the income and resources owned by a married couple when one spouse needs long-term care. Federal and state law requires, when one spouse is institutionalized, that a portion of the couple's resources be reserved for the support of the other non-institutionalized or "community spouse." When too few resources are reserved, it often reduces the community spouse to a life of poverty. This situation has caused some couples to consider divorce as the only option for preserving what is left of the couple's assets so that the community spouse can maintain a reasonable standard of living.

The current regulation includes a hardship rule that allows the DMAS to grant relief in situations where a denial of eligibility would constitute an undue hardship on the applicant; however, according to the agency, this provision is vague and difficult to apply. The proposed regulation establishes a more precise definition of hardship and clarifies the instances in which the department will determine that a Medicaid applicant will be considered to face an undue hardship if Medicaid eligibility is denied. Such situations often arise when a spouse has already been institutionalized for a period of years and the task of obtaining banking and other records dating back several years proves impossible. By preventing ineligibility due to circumstances beyond their control, the proposed rule protects married couples who, in good faith, are unable to verify resources they owned at the time when the disabled or elderly spouse first became institutionalized.

According to the agency, the new language reflects the agency's current practice in determining eligibility in such cases. The proposed change, therefore, will have no effect on the number of individuals determined eligible for Medicaid, and, as a result, no expected economic impact.

Businesses and entities affected. Since the proposed change reflects current practice at the agency, it is not expected to have any effect on married and institutionalized individuals applying for medical assistance.

Localities particularly affected. The proposed change will not uniquely affect any particular localities.

Projected impact on employment. The proposed change will not have any impact on employment in Virginia.

Effects on the use and value of private property. The proposed change will not have any effects on the use and value of private property.

Agency's Response to the Department of Planning and Budget's Economic Impact Analysis: The agency concurs with the economic impact analysis prepared by the Department of Planning and Budget regarding the regulations concerning Married Institutionalized Individuals Eligibility and Patient Pay, 12 VAC 30-110-10 et seq., Eligibility and Appeals.

Summary:

The proposed amendments establish a more precise definition of hardship to be used in determining Medicaid eligibility for institutionalized individuals who have spouses living in the community.

12 VAC 30-110-720. Definitions.

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

"Acceptable medical evidence" means either (i) certification by a nursing home preadmission screening committee; or (ii) certification by the individual's attending physician.

"Actual monthly expenses" means the total of:

1. Rent or mortgage, including interest and principal;
2. Taxes and insurance;
3. Any maintenance charge for a condominium or cooperative; and
4. The utility standard deduction under the Food Stamp Program that would be appropriate to the number of persons living in the community spouse's household, if utilities are not included in the rent or maintenance charge.

"Applicable percent" means that percentage as defined in § 1924 (d)(3)(B) of the Social Security Act.

"As soon as practicable" (as it relates to transfer of resources from the institutionalized spouse to the community spouse for the purpose of the community spouse resource allowance) means within 90 days from the date the local agency takes action to approve the institutionalized spouse's initial eligibility for medical assistance long-term care services when the institutionalized spouse agrees to transfer resources to the community spouse.

"At the beginning of the first continuous period of institutionalization" means the first calendar month of a continuous period of institutionalization in a medical institution or of receipt of a Medicaid community-based care waiver service or hospice.

"Community spouse" means a person who is married to an institutionalized spouse and is not himself an inpatient at a medical institution or nursing facility.

"Community spouse monthly income allowance" means an amount by which the minimum monthly maintenance needs allowance exceeds the amount of monthly income otherwise available to the community spouse.

"Community spouse resource allowance" means the amount of the resources in the institutionalized spouse's name that can be transferred to the community spouse to bring the resources in the community spouse's name up to the protected resource amount.

"Continuous period of institutionalization" means 30 consecutive days of institutional care in a medical institution or nursing facility, or 30 consecutive days of receipt of Medicaid waiver or hospice services, or 30 consecutive days

of a combination of institutional care and waiver and hospice services. Continuity is broken only by 30 or more days absence from a medical institution or 30 or more days of nonreceipt of waiver services.

"Couple's countable resources" means all of the couple's nonexcluded resources regardless of state laws relating to community property or division of marital property. For purposes of determining the combined and separate resources of the institutionalized and community spouses when determining the institutionalized spouse's eligibility, the couple's home, contiguous property, household goods and one automobile are excluded.

"Department" means the Department of Medical Assistance Services.

"Dependent child" means a child under age 21 and a child age 21 years old or older, of either spouse, who lives with the community spouse and who may be claimed as a dependent by either member of the couple for tax purposes pursuant to the Internal Revenue Code.

"Dependent family member" means a parent, minor child, dependent child, or dependent sibling, including half brothers and half sisters and siblings gained through adoption, of either member of a couple who resides with the community spouse and who may be claimed as a dependent by either member of the couple for tax purposes pursuant to the Internal Revenue Code.

"Exceptional circumstances resulting in significant financial duress" means circumstances other than those taken into account in establishing the spousal maintenance allowance for which the community spouse incurs expenses in amounts that he cannot be expected to pay from the spousal maintenance allowance or from amounts held in the community spouse resource allowance.

"Excess shelter allowance" means the amount by which the actual monthly expense of maintaining the community spouse's residence plus the standard utility allowance exceeds the excess shelter standard.

"Excess shelter standard" means 30% of the monthly maintenance needs standard.

"Family member's income allowance" means an allowance for each dependent family member residing with the community spouse. The family member's income allowance is equal to 1/3 of the amount by which the monthly maintenance needs standard exceeds the family member's income.

"Federal Poverty Level" or *"FPL"* means the annual Federal Poverty Level as computed by the Office of Management and Budget and published in the Federal Register.

"First continuous period of institutionalization" means the first day of the first month of the first continuous period of institutionalization, which began on or after September 30, 1989.

"Initial eligibility determination" means:

1. An eligibility determination made in conjunction with a medical assistance application filed during an individual's most recent continuous period of institutionalization; or

2. The initial redetermination of eligibility for a medical assistance eligible institutionalized spouse after being admitted to an institution or receiving medical assistance community-based care waiver services.

"Initial redetermination" means the first redetermination of eligibility for a medical assistance eligible spouse which is regularly scheduled, or which is made necessary by a change in the individual's circumstances.

"Institutionalized spouse" means an individual who is an inpatient at a medical institution, who is receiving medical assistance community-based care waiver services, or who has elected hospice services, and who is likely to remain in such facility or to receive waiver or hospice services for at least 30 consecutive days, and who has a spouse who is not in a medical institution or nursing facility.

"Likely to remain in an institution" means a reasonable expectation based on acceptable medical evidence that an individual will be in a medical institution or will receive medical assistance waiver or hospice services for 30 consecutive days, even if receipt of institutional care or waiver or hospice services actually terminates in less than 30 days. Individuals who have been screened and approved for medical assistance community-based waiver services or who have elected hospice services shall be considered likely to remain in an institution.

"Maximum monthly maintenance needs standard" is the upper limit, i.e., cap established under § 1924(d)(3)(C) of the Social Security Act.

"Maximum spousal resource standard" means the maximum amount of the couple's combined countable resources established for a community spouse to maintain himself in the community calculated in accordance with § 1924(f)(2)(A)(ii)(II) of the Social Security Act. This amount increases annually by the same percentage as the percentage increase in the Consumer Price Index for all urban consumers between September 1988 and the September before the calendar year involved as required in § 1924(g) of the Social Security Act.

"Medical institution" or *"nursing facility"* means hospitals and nursing facilities (including ICF/MR), consistent with the definitions of such institutions found in the Code of Federal Regulations at 42 CFR 435.1009, 440.40 and 440.150 and which are authorized under Virginia law to provide medical care.

"Minimum monthly maintenance needs allowance" means the monthly maintenance needs standard, plus an excess shelter allowance, if applicable, not to exceed the maximum monthly maintenance needs standard. The minimum monthly maintenance needs allowance is the amount to which a community spouse's income is compared in order to determine the community spouse's monthly income allowance.

"Minor" means a child under age 21, of either spouse, who lives with the community spouse.

"Monthly maintenance needs standard" means an amount no less than 150% of 1/12 of the Federal Poverty Level for a family of two in effect on July 1 of each year.

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"*Other family members*" means dependent children and dependent parents and siblings of either member of a couple who reside with the community spouse.

"*Otherwise available income or resources*" means income and resources which are legally available to the community spouse and to which the community spouse has access and control.

"*Promptly assess resources*" means within 45 days of the request for resource assessment unless the delay is due to nonreceipt of documentation or verification, if required, from the applicant or from a third party.

"*Protected period*" means a period of time, not to exceed 90 days after an initial determination of medical assistance eligibility. During the protected period, the amount of the community spouse resource allowance will be excluded from the institutionalized spouse's countable resources if the institutionalized spouse expressly indicates his intention to transfer resources to the community spouse.

"*Resource assessment*" means a computation, completed by request or upon medical assistance application, of a couple's combined countable resources at the beginning of the first continuous period of institutionalization of the institutionalized spouse beginning on or after September 30, 1989.

"*Resources*" means real and personal property owned by a medical assistance applicant or his spouse. Resources do not include resources excluded under subsection (a) or (d) of § 1613 of the Social Security Act and resources that would be excluded under § 1613(a)(2)(A) but for the limitation on total value described in such section.

"*Significant financial duress*" means, but is not limited to, threatened loss of basic shelter, food or medically necessary health care or the financial burden of caring for a disabled child, sibling or other immediate relative.

"*Spousal protected resource amount*" means (at the time of medical assistance application as an institutionalized spouse) the greater of: (i) the spousal resource standard in effect at the time of application; (ii) the spousal share, not to exceed the maximum spousal resource standard in effect at the time of application; (iii) the amount actually transferred to the community spouse by the institutionalized spouse pursuant to a court spousal support order; or (iv) the amount of resources designated by a department hearing officer.

"*Spousal resource standard*" means the minimum amount of a couple's combined countable resources calculated in accordance with § 1924(f)(2)(A)(i) of the Social Security Act necessary for the community spouse to maintain himself in the community. The amount increases each calendar year after 1989 by the same percentage increase as in the Consumer Price Index as required by § 1924(g) of the Social Security Act.

"*Spousal share*" means 1/2 of the couple's total countable resources at the beginning of the first continuous period of institutionalization as determined by a resource assessment.

"*Spouse*" means a person who is legally married to another person under Virginia law.

"*State Plan*" means the State Plan for Medical Assistance.

"*Undue hardship*" means denial of medical assistance eligibility due to excess resources would result in the institutionalized spouse being removed from the institution and unable to purchase life sustaining medical care ~~when the applicant has exhausted all legal avenues to access the resources due to reasons permitted under the provisions listed under 12 VAC 30-110-831.~~

"*Waiver services*" means medical assistance reimbursed home or community-based services covered under a § 1915(c) waiver approved by the Secretary of the United States Department of Health and Human Services.

12 VAC 30-110-831. Undue hardship.

A. *Undue hardship can be claimed when the value of resources owned on the first day of the first month of the first continuous period of institutionalization cannot be verified after both spouses have exhausted all avenues to document the value of the resources owned on that day. When hardship is claimed, the spousal resource standard shall be used as a substitute for the spousal share when calculating the spousal protected resource amount.*

B. *Undue hardship shall not be claimed when an applicant is determined ineligible for Medicaid because:*

1. *The institutionalized spouse fails to establish his marital status; or*
2. *The community spouse refuses or fails to disclose or verify the value of resources owned by the community spouse.*

VA.R. Doc. No. R01-191; Filed September 7, 2001, 3:06 p.m.

* * * * *

Title of Regulation: 12 VAC 30-150-10 et seq. Uninsured Medical Catastrophe Fund.

Statutory Authority: §§ 32.1-324.3 and 32.1-325 of the Code of Virginia.

Public Hearing Date: N/A - Public comments may be submitted until December 7, 2001.

(See Calendar of Events section for additional information)

Agency Contact: Victoria P. Simmons, Regulatory Coordinator, Department of Medical Assistance Services, 600 E. Broad Street, Suite 1300, Richmond, VA 23219, telephone (804) 786-7959 or FAX (804) 786-1680.

Basis: Section 32.1-324.3 of the Code of Virginia grants to the Board of Medical Assistance Services (BMAS) the authority to publish regulations to administer the Uninsured Medical Catastrophe Fund (UMCF). Section 32.1-324 of the Code of Virginia grants to the Director of the Department of Medical Assistance Services (DMAS) the authority to administer and amend the Plan for Medical Assistance in lieu of board action pursuant to the board's requirements.

Purpose: The purpose of this proposal is to develop rules to administer the Uninsured Medical Catastrophe Fund. In addition to criteria specified in the Code of Virginia, these

regulations (i) further define an uninsured medical catastrophe as a life-threatening illness or injury requiring specialized medical treatment, hospitalization, or both; (ii) establish procedures for distribution of moneys in the fund to pay for the costs of treating uninsured medical catastrophes; (iii) establish application and appeals procedures; and (iv) establish criteria for eligibility for assistance from the fund and the prioritization and allocation of available moneys among applicants for assistance from the fund.

Regulations are necessary to develop criteria and procedures for determining who will receive funds. Due to the nature of uninsured medical catastrophes, this new fund can make the difference between life and death. It will be very important that funds are distributed fairly. The agency will consider any alternatives suggested during the regulatory process.

Substance: Virginia taxpayers can designate a portion of their Virginia tax refund to the Uninsured Medical Catastrophe Fund beginning with their 1999 tax returns and anyone can make a contribution to the fund at any time. Funds will first become available January 2, 2001, and, thereafter, will be available the month after tax returns are filed or after contributions are posted to the fund. It is anticipated that funding will be limited relative to the potential need.

The fund should have a positive impact on Virginia families by providing access to treatment for uninsured medical catastrophes. Because the UMCF regulations are designed to help uninsured Virginians receive treatment that they otherwise would not have received, the UMCF will not pay for services already rendered, including emergency services. Hospitals are already required to provide emergency services.

There will be four criteria that must be met prior to disbursement of funds. The first criterion is that the individual meets the eligibility rules. The second criterion is that there is an approved treatment plan. The third criterion is that funds are available. The fourth criterion is that a provider can be found who is willing to accept the UMCF contract.

In addition to being a citizen or legally resident alien and a resident of Virginia, an eligible individual must have income under 300% of the federal poverty level, have a life-threatening illness or injury, and be uninsured for the needed treatment.

These regulations establish an income limit above which UMCF funds will not be available. The income limits are to be updated annually effective July 1 following the issuance of annual figures by the federal government.

The UMCF is not a poverty program. Most Virginians who are uninsured are so because their employers do not offer health insurance. In addition, it is generally difficult and costly to purchase individual health insurance. However, the agency feels that most uninsured Virginians with incomes over 300% of poverty should have access to affordable health insurance or have the resources to pay for treating a medical catastrophe. Given the limited funding which is expected for this program, the agency believes that it would be most beneficial to the neediest citizens to target funds to persons with incomes under 300% of the federal poverty level.

The Code of Virginia indicates that an uninsured medical

catastrophe shall include a life-threatening illness or injury requiring specialized medical treatment, hospitalization, or both. This regulation further defines life threatening as an illness or injury that, if left untreated, would more than likely result directly in death. The agency intends to cover only acute illnesses or injuries or acute phases of chronic illnesses.

The regulation clarifies that an eligible individual may be insured in general, but may be uninsured for the particular needed medical treatment. For example, someone may have health insurance that does not cover organ transplants. Such an individual could apply for UMCF payment for an organ transplant, if the failure to receive a transplant would be life-threatening, and the other stated criteria were met.

The UMCF, in general, will pay for services needed to treat acute illnesses or injuries or the acute phases of chronic illnesses. The services must be part of an approved treatment plan. The proposed treatment plan must be for a course of treatment to remediate, cure, or ameliorate the life threatening illness or injury. The treatment plan must not be open ended. The UMCF will not be responsible for long-term maintenance medications or additional treatments beyond the course of treatment approved by DMAS. The UMCF will not pay for custodial care, for transportation, or for mental health services.

Coverage will be limited to medical or surgical services that are not considered to be experimental or investigational by the medical community. The proposed treatment plan should reflect the medical community's standard of practice for treating the particular life-threatening illness.

In addition, the UMCF will only cover certain organ and tissue transplants. Transplants are some of the most expensive treatments that could be covered by the UMCF. There can be waiting lists for organs and the transplant procedures vary in effectiveness. Because of the concern about limited funding, the agency proposes to limit coverage of transplants. This will avoid tying up UMCF funds to assist individuals on transplant waiting lists to receive transplants when the procedure has demonstrated limited effectiveness for the diseases being treated. These regulations propose that the UMCF cover only cornea, liver, kidney, and bone marrow/stem cell transplants. Livers, kidneys, and bone marrow/stem cell transplants are generally available and generally very effective. Kidney transplants on average cost less than \$10,000. Autologous bone marrow/stem cell transplants can cost \$80,000 and allogeneic bone marrow/stem cell transplants can cost \$120,000. Liver transplants are the most expensive of the three transplants and can cost \$155,000. The actual costs of these transplants (except for kidney) could be more as the amounts shown are what DMAS pays as an all-inclusive rate.

Even if an applicant is determined eligible and the treatment plan is approved, expenditures will be limited to available funding. The UMCF is not an entitlement program. The agency anticipates that funding will be limited relative to the need. These regulations establish objective criteria for determining who gets available funds. Funds will be disbursed on a first-come, first-served basis based on the date the original application is received by DMAS or its agent. The agency will also develop a waiting list, if necessary.

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Finally, the agency cannot disburse these designated funds unless there is a provider willing to contract with DMAS. The agency intends to establish a global fee to cover the costs of the proposed treatment plan. The global fee will be based on the Medicaid reimbursement methodology to cover the services in the approved treatment plan. This is similar to the process the agency uses to pay for transplant procedures under Medicaid. The agency will work with applicants to find a willing provider but the responsibility for identifying a willing provider will ultimately rest with the applicant.

On the basis of the individual's contract, funds will be fully committed from the UMCF and unavailable to other applicants. This will insure that the UMCF will cover treatment in full once a commitment has been made. Funds will be available for up to one year after the contract is signed. Any unused funds at the end of the contracted course of treatment will be returned to the UMCF.

These regulations also establish application and appeals procedures. Funds will be committed on behalf of eligible individuals on a first-come, first-served basis based on the date and time the original signed application is received by DMAS or its agent. This date and time will also determine ranking on a waiting list, if necessary. DMAS will determine eligibility and approval of the treatment plan within 60 days of the application date.

If funds are not available for all applicants, applicants who have been determined eligible and whose treatment plans have been approved will be placed on a waiting list on a first-come, first-served basis based on the date and time their original, signed applications are received by DMAS or its agent. DMAS may review the eligibility and treatment plan decisions if more than 60 days have elapsed between the date that DMAS initially determines an applicant eligible and approves the treatment plan, and the date that funds become available to assist the highest ranking individual on the waiting list. The approved treatment plan takes into account applicants' health status at the time the treatments are approved. If applicants' health status deteriorates while they are on the waiting list, the treatment plan may no longer be appropriate and can be revised.

Applicants have the right to appeal adverse determinations regarding eligibility and their treatment plans. Every effort will be made to make determinations before funds become available. Applicants will have an expedited appeal process that will protect their place on the waiting list for available funds. An applicant will lose his position on the waiting list during a normal appeal or if the appeal decision is unfavorable and the applicant sues in circuit court. If an applicant subsequently receives a favorable decision, he is restored to the waiting list with the ranking based on the date and time the original signed application was received by DMAS or its agent.

Issues: The primary advantage of this regulation is that some uninsured Virginians will be able to receive medical treatments for medically catastrophic illnesses that they otherwise would not have been able to because they could not pay for it. The advantage to the agency and the Commonwealth is that these regulations will specify patient criteria, service coverage requirements and limitations, and

reimbursement requirements necessary to administer these public funds.

The primary disadvantage is expected to be the limited source of funding. This issue's success is completely dependent on individual tax payers' donations to the Uninsured Medical Catastrophe Fund. As a result, the fund may be able to serve only a few uninsured Virginians who have medical catastrophes. In particular, the UMCF will not help uninsured Virginians who have already received medical services that they cannot pay for. There are not expected to be any disadvantages to the agency or the Commonwealth.

Fiscal Impact: No general funds are required. Funding is limited to contributions, primarily designated contributions from individual income tax refunds. The agency estimates annual contributions between \$50,000 and \$200,000. Administrative costs will be minimal and can be absorbed by the DMAS' administrative budget. There are no localities that are uniquely affected by these regulations as they will apply statewide.

Funding Source/Cost to Localities/Affected Entities: Virginia taxpayers can designate a portion of their Virginia income tax refund to the Uninsured Medical Catastrophe Fund. Designated tax refunds and voluntary contributions are the sole sources of funding for this program.

This program would have a minimal impact on local departments of social services. The local departments of social services would have information and applications for the Uninsured Medical Catastrophe Fund and could receive applications to be forwarded to DMAS.

Department of Planning and Budget's Economic Impact Analysis: The Department of Planning and Budget (DPB) has analyzed the economic impact of this proposed regulation in accordance with § 2.2-4007 G of the Administrative Process Act and Executive Order Number 25 (98). Section 2.2-4007 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, the projected costs to affected businesses or entities to implement or comply with the regulation, and the impact on the use and value of private property. The analysis presented below represents DPB's best estimate of these economic impacts.

Summary of the proposed regulation. In 1999, the General Assembly established the Uninsured Medical Catastrophe Fund (UMCF) in § 32.1-324.3 of the Code of Virginia. The fund will be used to provide a source of payment for medical treatment of uninsured medical catastrophes. In a broad sense, a life-threatening illness or injury requiring specialized medical treatment, hospitalization or both are defined as medical catastrophes. The proposed regulation develops rules to administer the fund. More specifically, it (i) further defines an uninsured medical catastrophe, (ii) establishes procedures for distribution of moneys in the fund to pay for the costs of treating uninsured medical catastrophes, (iii) establishes application and appeals procedures, and (iv) establishes criteria for eligibility for assistance from the fund

and the prioritization and allocation of available moneys among applicants.

Estimated economic impact. The source of funds for the UMCF is donations. Taxpayers may choose to designate a portion of their Virginia tax refund to the fund. This option has been in effect since 1999. Also, the fund will receive donations from anyone who wishes to contribute directly. The fund is nonreverting in the sense that the moneys remaining in the fund at the end of the fiscal year will carry over to the next year. The interest earned on the balance will be added to the fund.

An individual must have certain characteristics to be eligible to receive funds. The criteria are being a citizen of the United States or legally resident alien, being a resident of the Commonwealth, having an annual gross income equal to or less than 300% of the federal nonfarm poverty income guidelines, having a life-threatening illness or injury, and being uninsured or not being eligible for coverage through other medical assistance programs. Furthermore, the disbursement of funds requires that the individual is eligible, there is an approved treatment plan, there are available funds, and that there is a provider willing to accept the UMCF contract.

As of September 8, 2000, \$8,217.50 was already accumulated in the fund. The Department of Medical Assistance Services (DMAS) expects to receive contributions between \$50,000 and \$200,000 annually for the fund. DMAS anticipates that the funding will likely not be sufficient to provide for all of the potential need. The cost of a treatment for an illness and injury varies. For example, DMAS indicates that liver transplants can cost \$155,000 while other covered illnesses cost considerably less to treat. Given the limited amount of funding, there exists the strong possibility that only a few individuals may be helped in a year. DMAS expects that the demand for funds will greatly surpass the available funding especially at the beginning of the program.

The applicants will be eligible for funding on a first-come, first-served basis if they are qualified. If the funds are not available for all applicants who are eligible and whose treatment plans have been approved, individuals not initially funded will be placed on a waiting list based on the date and time their original signed applications were received by DMAS or its agent. DMAS will start accepting applications after the proposed regulation is approved. DMAS must determine the eligibility and approval of the treatment plan within 60 days of the application date. Furthermore, the agency may review the eligibility and treatment decisions if more than 60 days have elapsed from the initial approval date and the date that the funds become available. The fund does not allow donors to designate funds to specific applicants, but also does not intervene with separate fund raising efforts for specific individuals.

The most significant benefit of the proposed regulation is making use of moneys accumulated in UMCF for intended purposes. DMAS indicated that they do not plan to spend any money from the fund unless the proposed regulation is approved. The agency is particularly aware of the potential litigation issues in cases where the moneys would be spent without the proposed regulation. The proposed regulation will

establish rules regarding the use of moneys from the fund allowing DMAS to be objective. Furthermore, the proposed regulation is expected to save time and resources by avoiding potential confusions on the functioning of the fund.

The proposed regulation will allow treatment of a very small number of individuals who may have been left untreated otherwise. The number of applicants helped will be jointly determined by the amount of available funding and the cost of the illness or injury. The estimated annual donations to the fund indicates that between \$50,000 and \$200,000 will be available for qualifying individuals who may have been left untreated without the proposed regulation.

Finally, the proposed regulations may encourage slightly more donations than would otherwise occur based on the language in the Code of Virginia, because coherent rules are established regarding the use of donations when they are received. This informational aspect of the proposed regulation may encourage marginal donors who may have been uncertain regarding how their donations would be used.

The proposed regulation will require additional resources from DMAS. One of the costs will be administrative cost. DMAS indicated that they have been administering a similar program called the State Local Hospitalization program (SLH). Based on their experience with SLH, the agency expects that each case will consume about 30 hours of staff time.

In addition to the administrative costs, DMAS will be responsible for evaluating the appeals regarding the adverse determinations on eligibility of applicants and approval of the treatment plans. Based on the experience with SLH appeals, DMAS expects that roughly 6.0% of the total applications would be appealed. The average cost of an appeal is estimated to be about \$787.¹

In short, the proposed regulation will enable DMAS to provide between \$50,000 and \$200,000 worth of treatment for medical catastrophes that was not available before. A few people with a qualifying illness or injury will be helped by the proposed regulation per year. The proposed regulation will cost DMAS some staff time for administration and appeals associated with running the fund. However, these costs seem to be small relative to the benefits of the proposed regulation.

Businesses and entities affected. The proposed regulation will affect a few individuals with uninsured medical catastrophes, and the health care providers who treat them. According to the agency, approximately 50 applications are expected in the first year.

Localities particularly affected. Localities with low-income levels will likely have a higher percentage of their population that qualify for coverage. Thus, these localities may benefit from the proposed regulation more than the localities with high-income levels.

Projected impact on employment. The proposed regulation is not anticipated to have a significant effect on employment.

Effects on the use and value of private property. A few health care providers may treat a few additional patients. But the

¹ Source: The Department of Medical Assistance Services

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value of private property will not likely increase significantly.

Agency's Response to the Department of Planning and Budget's Economic Impact Analysis: The agency concurs with the economic impact analysis prepared by the Department of Planning and Budget regarding the regulations concerning Uninsured Medical Catastrophe Fund.

Summary:

The proposed regulation sets forth rules to administer the Uninsured Medical Catastrophe Fund. The regulation (i) further defines an uninsured medical catastrophe, (ii) establishes procedures for distribution of moneys in the fund to pay for the costs of treating uninsured medical catastrophes, (iii) establishes application and appeals procedures, and (iv) establishes eligibility criteria for assistance from the fund and the prioritization and allocation of available moneys among applicants.

CHAPTER 150.
UNINSURED MEDICAL CATASTROPHE FUND.

12 VAC 30-150-10. Definitions.

As used in this chapter, the following terms shall have the following meanings unless the context clearly indicates otherwise:

"Applicant" means the individual who applies for assistance under these regulations and § 32.1-324.3 of the Code of Virginia. An application may be filed for or on behalf of a minor or person under a legal disability by a parent, legal guardian, an attorney in fact, or an attorney at law.

"DMAS" means the Department of Medical Assistance Services.

"Life-threatening illness or injury" means a medical condition (i) requiring specialized medical treatment, hospitalization, or both and (ii) that would more likely than not result directly in death within 12 months if left untreated.

"Recipient" means the individual for whom assistance is committed under these regulations and § 32.1-324.3 of the Code of Virginia.

"Resident" means an individual who is residing in the Commonwealth of Virginia at the time of application for Uninsured Medical Catastrophe Funds with the intent of remaining indefinitely in the Commonwealth and who did not establish residency for the purpose of obtaining Uninsured Medical Catastrophe Fund benefits. Aliens illegally living in the United States and migrant workers shall not be considered residents of the Commonwealth for purposes of the UMCF. A resident may temporarily reside outside of the Commonwealth to receive treatment.

"Treatment plan" means the written plan of services submitted by the contracting provider, certified by the patient's physician, and approved by DMAS to treat the life-threatening illness or injury.

"UMCF" means the Uninsured Medical Catastrophe Fund.

12 VAC 30-150-20. UMCF program established.

The Uninsured Medical Catastrophe Fund program is hereby

established within the Department of Medical Assistance Services to provide funds for uninsured persons who need treatment for a life-threatening illness or injury. The DMAS director shall administer this program and expend funds in accordance with the provisions of these regulations and § 32.1-324.3 of the Code of Virginia.

12 VAC 30-150-30. Criteria for disbursements from the UMCF.

Disbursements from the UMCF will be made:

1. On behalf of a person who meets the eligibility criteria in 12 VAC 30-150-40;
2. Based on an approved treatment plan consistent with 12 VAC 30-150-50;
3. If funds are available consistent with 12 VAC 30-150-60; and
4. If a provider is willing to accept the UMCF contract consistent with 12 VAC 30-150-70.

12 VAC 30-150-40. Eligibility criteria.

An individual is eligible to receive Uninsured Medical Catastrophe Funds for the period of time that he:

1. Is a citizen of the United States or a legally resident alien;
2. Is a resident of the Commonwealth (eligibility will end if the recipient is no longer a resident);
3. Has a gross income equal to or less than 300% of the federal nonfarm poverty income guidelines as published in the United States Code of Federal Regulations, 66 CFR 10695 (Feb. 16, 2001), updated each July 1;
4. Has a life-threatening illness or injury;
5. Is uninsured for the needed treatment on the date of application and is not eligible for coverage for the needed treatment through private insurance or federal, state, or local government medical assistance programs.

12 VAC 30-150-50. Treatment plan.

A. Except as otherwise provided in this section, any medical services that are not experimental or investigational may be covered under a treatment plan.

B. Services provided for in the treatment plan must be for a course of treatment approved by DMAS to remediate, cure, or ameliorate the life-threatening illness or injury. The course of treatment proposed in the plan may not exceed 12 months.

C. The treatment plan should reflect the standard of practice for treating the life-threatening illness or injury given the applicant's health status at the time the treatment plan is approved. Treatment plans will not be approved for any illness or injury that is expected to be terminal even with the treatment.

D. DMAS may approve the treatment plan as submitted, modify the treatment plan, or deny the treatment plan. DMAS may review and revise treatment plan decisions based on additional information up until the time a contract is signed. A

treatment plan may only be altered if, during the course of treatment approved, the medical condition of the person substantially changes and renders the original course of treatment no longer appropriate, as determined by the contracting health provider. Any alteration cannot exceed either the established total dollar amount or the one-year time frame from initial authorization.

E. The UMCF is not responsible for maintenance medications or additional treatments beyond the course of treatment approved by DMAS and contracted with a provider.

F. The UMCF will not commit funds or pay for services provided prior to the date the contract is signed between DMAS and the contracting provider.

G. Covered services include specialized medical treatment, hospitalization, or both, to include the following to the extent they are part of the approved treatment plan:

1. Inpatient hospital services;
2. Outpatient hospital services and ambulatory surgical centers;
3. Ambulatory care;
4. Laboratory and x-ray services;
5. Physician's services and other ambulatory care;
6. Medical care furnished by licensed practitioners within the scope of their practice as defined by state law;
7. Prescribed drugs; and
8. Rehabilitative services to the extent necessary to recover from medical treatment.

H. Noncovered services include:

1. Transportation services;
2. Mental health services;
3. Nursing facility services;
4. Case management;
5. Hospice care;
6. Private duty nursing services;
7. Prosthetic devices;
8. Eyeglasses, dentures, hearing aids and other similar devices;
9. Alternative medicine therapies such as homeopathic remedies, hypnosis, or herbal remedies; and
10. Emergency services.

I. Only the following organ and tissue transplant procedures will be covered:

1. Kidney;
2. Liver;
3. Heart;
4. Lung; and

5. Bone marrow.

J. Patients receiving transplants must be acceptable for coverage and treatment by meeting the same selection criteria (except for the age limitation) outlined in 12 VAC 30-50-540, 12 VAC 30-50-560, and 12 VAC 30-50-570 of the Virginia Title XIX State Plan for Medical Assistance.

12 VAC 30-150-60. Availability of funds; no entitlement.

Expenditures shall be limited to available funding. These regulations do not create any legally enforceable right or entitlement to payment for medical services on the part of any person or any right or entitlement to participation.

Except as otherwise provided in this chapter, funds shall be committed on behalf of eligible individuals on a first-come, first-served basis based on the date DMAS or its agent receives the original signed application.

12 VAC-150-70. Contracts with providers.

A. It shall be the responsibility of the applicant to find a qualified provider willing to contract with DMAS under the terms in this section.

B. Reimbursement for covered services shall be a global fee based on existing Medicaid rates or Medicaid reimbursement methodology to cover all services in the approved treatment plan. The global fee will cover: procurement costs for transplants; any hospital costs from admission to discharge; total physician costs for all physicians providing services during the course of treatment; and any other medical or drug costs associated with the treatment plan approved by DMAS.

C. A provider may agree to less than the full global fee as long as the provider agrees to complete the treatment plan with no additional payment by the applicant or on behalf of the applicant subject to subsection D of this section.

D. A provider may accept private funds raised on behalf of the applicant. The sum of private funds plus UMCF commitment may not exceed the global fee determined in subsection B of this section. Private funding must be fully disclosed in the contract, and the contract cannot be contingent on funds to be raised in the future. Private funds are not considered part of the applicant's income for purposes of determining eligibility. Private funds are not a factor in determining access to the UMCF or its waiting list.

E. A contract shall commit Uninsured Medical Catastrophe Funds to a course of treatment for up to one year from the date the contract is signed.

F. Reimbursement agreed to in the contract pursuant to this section shall constitute payment in full.

G. An application shall be denied if no provider is willing to sign a contract pursuant to this section within 30 days after the date all of the following are in place: a favorable determination of eligibility, approval of the treatment plan, and the availability of funds.

H. Facilities providing transplant procedures must be recognized as being capable of providing high quality care in the performance of the transplant by meeting the selection criteria outlined in 12 VAC 30-50-540, 12 VAC 30-50-560, and

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12 VAC 30-50-570 under the Virginia Title XIX State Plan for Medical Assistance.

12 VAC 30-150-80. Payments.

A. Payments shall be made only to providers that have contracted with DMAS in accordance with 12 VAC 30-150-70. No payments shall be made directly to eligible individuals or applicants.

B. Payments are based on a global fee as provided for in 12 VAC 30-150-70. DMAS may establish a schedule of payments in the contract consistent with phases of the treatment plan. Payments will be made to contracting providers upon the completion of the treatment or phases of the treatment as specified in the contract.

C. Any committed funds not paid out by the fund within one year from the date of the contract will revert back to the UMCF and will be made available for other applicants. If a recipient dies during the contract period, the UMCF is responsible for payment of that portion of the treatment plan that has been completed. The remainder of the committed funds revert back to the UMCF to be available for other applicants.

12 VAC 30-150-90. Application procedures and waiting list.

A. An application for assistance under the Uninsured Medical Catastrophe Fund must be on a form prescribed by DMAS and signed by the applicant. Funds will be committed on behalf of eligible individuals on a first-come, first-served basis based on the date and time the original signed application is received by DMAS or its agent.

B. Applicants must: (i) provide a statement signed by a physician licensed in the state in which he practices who has examined the individual certifying that the individual has a life-threatening illness or injury as defined in this regulation and (ii) submit a treatment plan developed by a potential contracting provider and signed by a physician licensed in the state in which he practices.

C. It is the responsibility of the applicant to provide financial and medical information necessary to determine eligibility and approve the treatment plan. Failure to complete the application, submit the items in subsection B of this section, or provide requested information within 45 days of the date of the original signed application is grounds for denial.

D. Eligibility for Uninsured Medical Catastrophe Funds and approval of the treatment plan shall be determined by DMAS within 60 days of the date the original signed application was received. DMAS will not fully evaluate an application if it has determined that there is at least one cause for disqualification. DMAS shall advise in writing all applicants within 60 days of its determination about their applications.

E. DMAS may establish a waiting list if funds are insufficient to make commitments for all applicants. Applicants will be placed on the waiting list in the order that the original signed application was received by DMAS or its agent. An applicant will be taken off the waiting list if (i) there is an adverse determination regarding eligibility and no expedited appeal has been requested, (ii) the treatment plan is denied, (iii) the

applicant requests to be taken off the waiting list, or (iv) the applicant dies. An applicant who prevails on appeal or in circuit court will be restored to the waiting list based on the date of the original signed application, but this action does not affect any contracts signed in the interim.

F. If more than 60 days have elapsed between the date that DMAS initially determines an applicant eligible and approves the treatment plan and the date that funds become available, DMAS may review and revise the eligibility and treatment plan decisions. DMAS may require applicants to update the information provided in the original application.

G. An application may be denied if no provider is willing to contract with DMAS pursuant to 12 VAC 30-150-70 within 30 days of a favorable determination of eligibility, approval of the treatment plan, and the availability of funds.

H. DMAS may establish additional application procedures as necessary.

12 VAC 30-150-100. Appeals.

A. Except as otherwise provided in this section, a UMCF applicant may appeal an adverse determination regarding eligibility and the treatment plan. UMCF will follow the procedures established under 12 VAC 30-110-10 et seq., Eligibility and Appeals, except that applicants have no right to appeal a denial of benefits because of a lack of funds.

B. An applicant who wishes to appeal an adverse determination must follow an expedited appeal process to maintain a position on the waiting list if sufficient funds are not available. The expedited appeal has no impact on appeal rights granted under 12 VAC 30-110-10 et seq.

1. An expedited appeal must be made within 15 days of receiving an adverse determination.
2. The expedited appeal can be filed by facsimile, e-mail, or by regular mail or courier, but it must be in writing.
3. The agency's expedited appeal decision shall be rendered by a DMAS hearing officer.
4. The agency must make an expedited appeal decision within 15 days of receiving an appeal.
5. The agency shall advise the appellant within one day of its decision.

VA.R. Doc. No. R00-99; Filed September 17, 2001, 12:04 p.m.



TITLE 13. HOUSING

VIRGINIA HOUSING DEVELOPMENT AUTHORITY

<p>REGISTRAR'S NOTICE: The Virginia Housing Development Authority is exempt from the Administrative Process Act (§ 2.2-4000 et seq. of the Code of Virginia) pursuant to § 2.2-4002 A 4; however, under the provisions of § 2.2-4031, it is required to publish all proposed and final regulations.</p>
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Title of Regulation: 13 VAC 10-180-10 et seq. Rules and Regulations for Allocation of Low-Income Housing Tax Credits (amending 13 VAC 10-180-10, 13 VAC 10-180-50, 13 VAC 10-180-60, and 13 VAC 10-180-100).

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

Agency Contact: J. Judson McKellar, Jr., Virginia Housing Development Authority, 601 S. Belvidere Street, Richmond, VA 23220, telephone (804) 343-5540, FAX (804) 783-6701 or e-mail judson.mckellar@vhda.com.

Summary:

The proposed amendments (i) provide a definition for "Revitalization Area," (ii) require all applicants to provide relocation assistance to displaced households, (iii) revise method for providing points for local financial support, (iv) delete census tract calculation points from Development Characteristics scoring category, (v) remove requirement that all units have the minimum number of bathrooms to qualify for these amenity points, (vi) revise points for leasing preference to families with children, (vii) delete points for using a nonprofit managing general partner, (viii) provide negative points for exceeding the per unit credit amount and per unit cost parameters under the Efficient Use of Resources scoring category, (ix) permit bonus points for developments serving lower income households that receive rental assistance exceeding the rent levels that would be applicable to such income levels, (x) adjust the threshold score, (xi) establish minimum credit amount needed for partially funded developments, (xii) permit the reservation of additional credits from the at-large pool to partially funded developments from the geographic pools, (xiii) revise the paragraph regarding the cap on credits to any one developer, (xiv) require tax-exempt bond financed developments to submit an application and provide a market study prior to the issuance of bonds, (xv) remove "homeless persons or families; or" from the list of tenant population characteristics, and (xvi) make other miscellaneous administrative clarification changes.

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.

"*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.

"*Low-income jurisdiction*" means any city or county in the Commonwealth with an area median income at or below the

statewide area median income established by the U.S. Department of Housing and Urban Development.

"*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.

"*Revitalization Area*" means any area designated by a municipality for implementation of either a "redevelopment plan" meeting the requirements of § 36-51 of the Code of Virginia or a "conservation plan" meeting the requirements of § 36-51.1 of the Code of Virginia.

13 VAC 10-180-50. Application.

Prior to submitting an application for reservation, applicants shall submit on such form as required by the executive director, the letter for authority signature by which the authority shall notify the chief executive officers (or the equivalent) of the local jurisdictions in which the developments are to be located to provide such officers a reasonable opportunity to comment on the developments. When scoring the applications, the executive director will award points to those applications that submit the form within the deadlines established by the executive director and subtract points from those applications that fail to submit the form by such deadlines.

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 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, if applicable, needs to be included in the application to determine the feasible credit amount: 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 costs and fees. All applications seeking credits for rehabilitation of

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existing units must provide for contractor construction costs of at least \$7,500 per unit.

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 four 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. In the case of acquisition and rehabilitation of developments funded by Rural Development of the U.S. Department of Agriculture, the site control document does not need to be approved by all partners of the seller if the general partner of the seller executing the site control document provides (i) an attorney's opinion that such general partner has the authority to enter into the site control document and such document is binding on the seller or (ii) a letter from the existing syndicator indicating a willingness to secure the necessary partner approvals upon the reservation of credits.

Each application shall include, in a form or forms required by the executive director, a certification of previous participation listing all residential real estate developments in which the general partner(s) or their affiliates has or had an ownership or participation interest, the location of such developments, the number of residential units and low-income housing units in such developments and such other information as more fully specified by the executive director. 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. The executive director may reject any application from consideration for a reservation or allocation of credits unless the above information is submitted with the application. If, after reviewing the above information or any other information available to the authority, the executive director determines that the general partner(s) do not have the experience, financial capacity and predisposition to regulatory compliance necessary to carry out the responsibilities for the acquisition, construction, ownership, operation, marketing, maintenance and management of the proposed development or the ability to fully perform all the duties and obligations relating to the proposed development under law, regulation and the reservation and allocation documents of the authority or if an applicant is in substantial noncompliance with the

requirements of the IRC, the executive director may reject applications by the applicant.

The application 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 application and certifying, among other things, that under the existing facts and circumstances the applicant will be eligible for the amount of credits requested.

Each applicant shall commit in the application to provide relocation assistance to displaced households, if any, at such level required by the director.

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.

In any situation in which the executive director deems it appropriate, he may treat two or more applications as a single application.

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 may be indicated on the application form, 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. If the executive director determines that an applicant for a reservation of credits has failed to submit one or more mandatory attachments to the application by the reservation application deadline, he may allow such applicant an opportunity to submit such attachments within a certain time established by the executive director with a ten-point scoring penalty per item.

After receipt of the applications, if necessary, 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.

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. The division of such pools may be based upon one or more of the following factors: geographical areas of the state; types or characteristics of housing, construction, financing, owners, 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 "qualified nonprofit organization" (as described in § 42(h)(5)(C) of the IRC) which is authorized to do business in Virginia and is determined by the executive director, on the basis of such relevant factors as he shall consider appropriate, to be substantially based or active in the community of the development and is to materially participate (regular, continuous and substantial involvement as determined by the executive director) 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 (directly or through a partnership), prior to the reservation of credits to the buildings or development, all of the general partnership interests of the ownership entity thereof; (ii) 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; (iii) the executive director of the authority shall have determined that the qualified nonprofit organization was not formed by one or more individuals or for-profit entities for the principal purpose of being included in any nonprofit pools (as defined below) established by the executive director, and (iv) 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 determinations required by the preceding subdivision 1 and clauses (ii), (iii) and (iv) of subdivision 2 of this section, 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 nonprofit organization's proposed involvement in the construction or rehabilitation and the operation of the proposed development, 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, and the proposed involvement in the construction or rehabilitation and operation of the proposed development by any persons or entities 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 ("nonprofit pools") of credits as he may deem appropriate to satisfy the foregoing requirement. If any such nonprofit pools 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 any such applications in such nonprofit pools 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 to make such reservations) shall be assigned to such other pool 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 a rescission in whole or in part of an allocation of credits made from such nonprofit pools or otherwise) for reservation and allocation by the authority during the same calendar year as that in which applications in the nonprofit pools have been so assigned to other pools as described above, the executive director may, in such situations, designate all or any portion of such additional credits for the nonprofit pools (or for any other pools as he shall determine) and may, if additional credits have been so designated for the nonprofit pools, reassign such applications to such nonprofit pools, 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

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amount of credits reserved within such nonprofit pools 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 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 as the executive director shall designate 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. Notwithstanding anything to the contrary herein, no reservation of credits shall be made from any nonprofit pools 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 any combination of pools may receive a reservation or allocation of annual credits in an amount greater than \$500,000 unless credits remain available in such nonprofit pools after all eligible applications for credits from such nonprofit pools receive a reservation of credits.

Notwithstanding anything to the contrary herein, applicants relying on the experience of a local housing authority for developer experience points described hereinbelow and/or using Hope VI funds from the U.S. Department of Housing and Urban Development (HUD) in connection with the proposed development shall not be eligible to receive a reservation of credits from any nonprofit pools.

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. Written evidence satisfactory to the authority of (i) conditional approval by local authorities of the plan of development or site plan for the proposed development (30 points) or (ii) approval by local authorities of the plan of development or site plan for the proposed development or that such approval is not required. (40 points)
- b. Written evidence satisfactory to the authority (i) of approval by local authorities of proper zoning or special use permit for such site or (ii) that no zoning requirements or special use permits are applicable. (40 points)
- c. Valid building permit(s) or letter dated within three months prior to the application deadline stating that all approvals are in place and building permits will be issued upon receipt of all fees. (20 points)
- d. Submission of plans and specifications or, in the case of rehabilitation for which plans will not be used, a unit-by-unit 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. Submission of the letter in the form prescribed by the authority with the necessary attachments, addressed to the current chief executive officer (or the equivalent) of the locality in which the proposed development is located, soliciting input on the proposed development from the locality within the deadlines established by the executive director. (10 points; failure to make timely submission, minus 50 points for any proposed development other than a rehabilitation of existing apartments)

- b. (1) A letter dated within three months prior to 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; or 60 points if the proposed development is a rehabilitation of existing apartments that did not receive points in subdivision 2(a) above)

- (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 b (1) above) nor opposition (as described in subdivision b (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 is not consistent with current zoning or other applicable land use regulations. (0 points)

- c. Documentation from the local authorities that the proposed development is located in (i) a ~~locally identified~~ Revitalization Area, or determination by the authority that the proposed development is located in a Difficult Development Area as defined by HUD or in an Enterprise Zone designated by the state (20 points) or (ii) a qualified census tract ~~and the development of which contributes to a concerted community revitalization plan~~ within either a Revitalization Area or Enterprise Zone. (25 points)

- d. Commitment by the applicant to give leasing preference to individuals and families (i) ~~with children,~~ (ii) 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; or (iii) (ii) on section 8 (as defined in 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 each for (i), and either (i) or (ii) or (iii) above). Points under (i) above are available only to developments that will have at least 20% of its units with three or more bedrooms and no more than 20% of its units with one bedroom or less.)

e. Any of the following: (i) firm financing commitment(s) from the local government, local housing authority, Federal Home Loan Bank affordable housing funds, or the Rural Development of the U.S. Department of Agriculture or, (ii) a resolution passed by the locality in which the proposed development is to be located committing a grant or below market rate loan or a waiver of taxes and fees, donation of land or other similar financial support to the development in a form approved by the authority or (iii) evidence from Rural Development that the development will remain subject to existing financing from Rural Development. In the case of (iii) above, if the applicant is, or has any common interests with, the current owner, directly or indirectly, the application will only qualify for these points if the applicant waives all rights to any developer's fee and any other fees associated with the acquisition and rehabilitation (or rehabilitation only) of the development unless permitted by the executive director for good cause. (The amount of such financing or value of local support 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.)

f. Any development subject to HUD's section 8 or section 236 programs at the time of application. (20 points)

3. Development characteristics.

a. The average unit size. (100 points multiplied by the sum of the products calculated by multiplying, for each unit type as defined by the number of bedrooms per unit, (i) the quotient of the number of units of a given unit type divided by the total number of units in the proposed development, times (ii) the quotient of the average actual gross square footage per unit for a given unit type minus the lowest gross square footage per unit for a given unit type established by the executive director divided by the highest gross square footage per unit for a given unit type established by the executive director minus the lowest gross square footage per unit for a given unit type established by the executive director. If the average actual gross square footage per unit for a given unit type is less than the lowest gross square footage per unit for a given unit type established by the executive director or greater than the highest gross square footage per unit for a given unit type established by the executive director, the lowest or highest, as the case may be, gross square

footage per unit for a given unit type established by the executive director shall be used in the above calculation rather than the actual gross square footage per unit for a given unit type.)

~~b. Rehabilitation of existing housing stock and adaptive reuse developments (points equal to (percentage of households at or below 60% of the Area Median Income (AMI) in the proposed development's census tract (not less than 10% and not to exceed 90%) times 100) minus 10). Increase of housing stock attributable to new construction (points equal to 90 minus (percentage of households at or below 60% of the AMI in the proposed development's census tract (not less than 10% and not to exceed 90%) times 100)). Developments involving both rehabilitation and new construction will be scored on a weighted average of the point calculations above. Proposed new construction developments to be located in the jurisdictions included in the rural pool established by the executive director will receive an additional 20 points; however, no applicant will receive more than 80 points under this subdivision. Notwithstanding the above, the applicant shall receive the maximum 80 points in this subdivision if the applicant provides a letter signed by the chief executive officer of the locality in which the proposed development is located requesting the authority to override the point calculations and provide the maximum points under this subdivision.~~

~~e. b. Lower amount of credit request. (Fifty points multiplied by the percentage by which the total amount of the annual tax credits requested is less than \$1,000,000, including negative points using the percentage in which the total amount of annual credits requested is greater than \$1,000,000. Developments financed with tax-exempt bonds will receive an automatic 25 points under this scoring category.)~~

~~d. c. Evidence satisfactory to the authority documenting the quality of the proposed development's amenities as determined by the following:~~

(1) The following points are available for any application:

(a) If all 2-bedroom units have 1.5 bathrooms and all 3-bedroom units have 2 bathrooms. (15 points multiplied by the percentage of units meeting these requirements)

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

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

(d) If all units have a washer and dryer hook-up only. (3 points, no points if points awarded in subdivision 1 (b) above)

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

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

(g) If the development has a laundry room. (1 point, no points if points awarded in subdivision 1 (b) above)

(h) If a community/meeting room with a minimum of

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800 square feet is provided. (5 points)

(i) If all units have a range hood above the stove. (1 point)

(j) If all metal windows have thermal breaks, and if insulating glass for metal or vinyl windows and sliding glass doors have a 10-year warranty against breakage of the seal from date of delivery. (1 point)

(k) If all insulation complies with Virginia Power Energy Efficient Home Requirements, with a minimum R=30 insulation for roofs. (2 points)

(l) If all refrigerators are frost free, a minimum size of 14 cubic feet, and provide separate doors for freezer and refrigerator compartments. (1 point)

(m) If all exterior doors exposed to weather are metal. (1 point)

(n) Brick exterior walls. (15 points times the percentage of exterior walls covered by brick)

(o) Durable siding other than brick that complies with ASTM 1186 standard specifications and is warranted to last for 50 or more years. (5 points)

(p) If the development has a minimum STC (sound transmission class) rating of 52 for the floor construction between units. (3 points)

(q) All kitchen cabinets comply with authority minimum guidelines. (1 point)

(r) All closet doors are side hinged (no bi-fold or sliding doors). (1 point)

(s) All exterior wood, including trim, fascia and rake boards are clad in aluminum. (1 point)

(2) The following points are available to applications electing to serve elderly and/or physically disabled tenants as elected in subdivision 4 a of this section:

(a) If all cooking ranges have front controls. (1 point)

(b) If all units are adaptable for the handicapped in buildings with elevators. (2 points)

(c) If all units have an emergency call system. (3 points)

(d) If all bathrooms have grab bars and slip-resistant bottoms for bathtubs. (1 point)

(e) If all bathrooms have an independent or supplemental heat source. (1 point)

(f) If all corridors have a handrail on one side. (1 point)

(g) If all entrance doors to each unit have two eye viewers, one at 48 inches and the other at standard height. (1 point)

(3) The following points are available to proposed developments which rehabilitate or adaptively reuse an existing structure:

(a) If all bathrooms, including ones with windows,

have exhaust fans ducted out. (1 point)

(b) If all existing, single-glazed windows in good condition have storm windows, and all windows in poor condition are replaced with new windows with integral storm sash or insulating glass. The insulating glass metal windows must have a thermal break. The insulated glass must have a 10-year warranty against breakage of the seal. (3 points)

(c) If all apartments have a minimum of one electric smoke detector with battery backup. (1 point)

(d) If all bathrooms have ground fault interrupter electrical receptacles. (1 point)

(e) If the structure is historic, by virtue of being listed individually in the National Register of Historic Places, or due to its location in a registered historic district and certified by the Secretary of the Interior as being of historical significance to the district, and the rehabilitation will be completed in such a manner as to be eligible for historic rehabilitation tax credits. (5 points)

(f) All buildings have a minimum insulation of R=30 for attics and R=19 for crawl spaces. (3 points)

(g) All public areas, such as community rooms, laundry rooms, and rental office are accessible to persons in wheelchairs. (1 point)

(h) If replacing the roof, removing the old roof and felt. (1 point)

The maximum number of points that may be awarded under any combination of the scoring categories under subdivision 3 d of this section is 50 points.

e. Any proposed 50 unit or less development that meets at least three of the following criteria: (i) sets maximum rents on all units at or below 25% of the gross income of households at or below 50% of the area median income (without vouchers or rental assistance); (ii) restricts at least 20% of the units for occupancy by households with incomes at or below 40% of the area median income; (iii) requires at least 60% of the developer's fee to pay development costs; and (iv) has below market rate financial assistance from local, state or federal government. (20 points)

4. Tenant population characteristics.

a. Commitment by the applicant to lease low-income housing units in the proposed development only to ~~one or more of the following~~ either: (i) elderly households as defined by the United States Fair Housing Act; or (ii) ~~homeless persons or families, or~~ (iii) physically or mentally disabled persons. Applicants committing to serve physically disabled persons must meet the requirements of the federal Americans with Disabilities Act (42 USC § 12101 et seq.). 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 give leasing preference to individuals and families with children in developments that will have no more than 20% of its units with one bedroom or less. Applicants receiving points under this subdivision b may not receive points under subdivision a above. (30 points)~~

~~e. 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. (10 points)

~~b. Participation by a qualified nonprofit organization (or by a wholly owned subsidiary of such organization) authorized to do business in Virginia and substantially based or active in the community of the development that acts as a managing general partner under the partnership agreement. (20 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 through a for-profit entity.~~

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 standard per unit credit amounts established by the executive director for a given unit type, based upon the number of such unit types in the proposed development. ~~(If 180 points multiplied by the percentage by which the total amount of the per unit credit amount of the proposed development equals or exceeds is less than the applicable standard per unit credit amount established by the executive director, the proposed development is assigned no points; if including negative points using the percentage in which the total amount of the per unit credit amount of the proposed development is less than exceeds the applicable standard per unit credit amount established by the executive director, the difference is calculated as a percentage of such standard per unit credit amount established by the executive director, and then multiplied by 180 points.)~~

b. 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 standard per unit cost amounts established by the executive director for a given unit type, based upon the number of such unit types in the proposed development. ~~(If 75 points multiplied by the percentage by which the total amount of the per unit cost of the proposed development equals or exceeds is less than the applicable standard per unit cost amount established by the executive director, the proposed development is assigned no points; if including negative points using the percentage in which the total amount of the per unit cost of the proposed development is less than exceeds the applicable standard per unit cost amount established by~~

~~the executive director, the difference is calculated as a percentage of such standard per unit cost amount established by the executive director, and then multiplied by 75 points.)~~

The executive director may use a standard per square foot credit amount and a standard per square foot cost amount in establishing the per unit credit amount and the per unit cost amount in subdivision 6 above. For the purpose of calculating the points to be assigned pursuant to such subdivisions 3c and 6 above, all credit amounts shall include any credits previously allocated to the development, and the per unit credit amount for any building documented by the applicant to be 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.

7. Bonus points.

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. Applicants receiving points under this subdivision a may not receive points under subdivision b below. (The product of (i) 50 points multiplied by (ii) the percentage of housing units in the proposed development both rent restricted to and occupied by households at or below 50% of the area median gross income; plus 1 point for each percentage point of such housing units in the proposed development which are further restricted to rents at or below 30% of 40% of the area median gross income up to an additional 10 points.)

b. Commitment by the applicant to impose rent 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. Applicants receiving points under this subdivision b may not receive points under subdivision a above. (The product of (i) 25 points (50 points for proposed developments in low-income jurisdictions) multiplied by (ii) the percentage of housing units in the proposed development rent restricted to households at or below 50% of the area median gross income; plus 1 point for each percentage point of such housing units in the proposed development which are further restricted to the rents at or below 30% of 40% of the area median gross income up to an additional 10 points.)

c. Commitment by the applicant to maintain the low-income housing units in the development as a qualified low-income housing development beyond the 30-year extended use period (as defined in the IRC). Applicants receiving points under this subdivision c may not receive bonus points under subdivision d below. (40

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points for a 10-year commitment beyond the 30-year extended use period or 50 points for a 20-year commitment beyond the 30-year extended use period.)

d. Participation by a local housing authority or qualified nonprofit organization (substantially based or active in the community with at least a 10% ownership interest in the general partnership interest of the partnership) and a commitment by the applicant to sell the proposed development pursuant to an executed, recordable option or right of first refusal to such local housing authority or qualified nonprofit organization or to a wholly owned subsidiary of such organization or authority, at the end of the 15-year compliance period, as defined by IRC, for a price not to exceed the outstanding debt and exit taxes of the for-profit entity. The applicant must record such option or right of first refusal immediately after the low-income housing commitment described in 13 VAC 10-180-70 and give the qualified nonprofit veto power over any refinancings of the development. Applicants receiving points under this subdivision d may not receive bonus points under subdivision c above. ~~(60 points or, if the applicant receives 20 points under subdivision 5 (b) of this section, 50 points; plus 5 points if the local housing authority or qualified nonprofit organization submits a homeownership plan satisfactory to the authority in which the local housing authority or qualified nonprofit organization commits to sell the units in the development to tenants whose incomes shall not exceed the applicable income limit at the time of their initial occupancy of such units.)~~

In calculating the points for subdivisions 7(a) and (b) above, ~~(i) any unit with rental assistance that exceeds the rent limit for 50% or 40% of the area median gross income, whichever is applicable, will not be counted as a low-income unit with incomes below those required by the IRC in order for the development to be a qualified low-income development for bonus point purposes when calculating the percentage of such low-income units in the proposed development and (ii) any units in the proposed development required by the locality to exceed 60% of the area median gross income will not be considered when calculating the percentage of low-income units of the proposed development with incomes below those required by the IRC in order for the development to be a qualified low-income development, provided that the locality submits evidence satisfactory to the authority of such requirement.~~

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 that is assigned a total number of points less than a threshold amount of ~~550 (475 450 (375 points for developments financed with tax-exempt bonds)~~ points shall be rejected from further consideration hereunder and shall not be eligible for any reservation or allocation of credits.

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 shall have been established, each application shall be assigned to a pool and shall be ranked within such pool. 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, 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, if none, within the Commonwealth, select one or more of the applications with the highest combination of points from subdivision 2(c)(ii) and subdivision 7 above, and each application so selected shall receive (in order based upon the number of such points, beginning with the application with the highest number of such 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, if none, in the Commonwealth. If two or more of the tied applications receive the same number of points from subdivision 2(c)(ii) and subdivision 7 above 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, 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 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. The executive director may, if he deems it appropriate, consider the development to be a part of a larger development. In such a case, the executive director may consider, examine, review and establish any or all of the foregoing items as to the larger development in making such determination for the development.

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, 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 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 at different times for different pools and may reserve credits, based on such rankings, one or more times with respect to each pool. 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 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, provided that the *available credits represent at least 70% of the feasible credit amount established by the executive director and the applicant's modified development produces, as modified, will produce at least 75% of the units and bedrooms described in the application for the proposed development*, or (ii) move the proposed development and the credits available to another pool. Any modifications shall be subject to the approval of the executive director; however, in no event shall such modifications result in a material reduction in the number of points assigned to the application pursuant to this section. If any credits remain in any pool after accepting any modifications to an applicant's proposed development or moving proposed developments and credits

to another pool, the executive director may reserve the remaining credits to any proposed development(s) scoring at or above the minimum point threshold established by this chapter without regard to the ranking of such application *and any development modified pursuant to the provisions of this paragraph*. If necessary, the executive director may, 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. However, the reservation of credits from the Commonwealth's annual state housing credit ceiling for the following year shall be in the reasonable 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 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 for reservation and allocation in any subsequent round or rounds or (ii) redistribute such unreserved credits to such other pool or pools as the executive director may designate 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.

Notwithstanding anything contained herein, the ~~executive director shall not reserve more than \$1.2 million of credits to any general partner(s) or principal(s) of such general partner(s), directly or indirectly, in any credit year. total amount of credits that may be awarded after credit year 2001 to any applicant or to any related applicants for one or more developments shall not exceed \$1,200,000. Applicants shall be deemed to be related if any principal in an applicant or any person or entity related to the applicant or principal is a principal in any other applicant or applicants. A principal is a general partner or other person or entity who, in the determination of the executive director, will exercise, directly or indirectly, substantial control over the applicant or will perform responsibilities or functions customarily performed by the applicant with respect to the application or the development. For the purpose of determining whether any person or entity is related to the applicant or principal, persons or entities shall be deemed to be related if the executive director determines that any substantial relationship existed, either directly between them or indirectly through a series of one or more substantial relationships (e.g., if party A has a substantial relationship with party B and if party B has a substantial relationship with party C, then A has a substantial relationship with both party B and party C), at any time within three years of the filing of the application for the credits. In determining in any credit year whether an applicant has a substantial relationship with another applicant with respect to any application for which credits were awarded in any prior credit year, the executive director shall determine whether the applicants were related as of the date of the filing of such~~

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prior credit year's application or within three years prior thereto and shall not consider any relationships or any changes in relationships subsequent to such date. Substantial relationships shall include, but not be limited to, the following relationships (in each of the following relationships, the persons or entities involved in the relationship are deemed to be related to each other): (i) the persons are in the same immediate family (including, without limitation, a spouse, children, parents, grandparents, grandchildren, brothers, sisters, uncles, aunts, nieces, and nephews) and are living in the same household; (ii) the entities have one or more common general partners or members (including related persons and entities), or the entities have one or more common owners which (by themselves or together with any other related persons and entities) have, in the aggregate, 5.0% or more ownership interest in each entity; (iii) the entities are under the common control (e.g., the same person or persons and any related persons serve as a majority of the voting members of the boards of such entities or as chief executive officers of such entities) of one or more persons or entities (including related persons and entities); (iv) the person is a general partner, member or employee in the entity or is an owner (by himself or together with any other related persons and entities) of 5.0% or more ownership interest in the entity; (v) the entity is a general partner or member in the other entity or is an owner (by itself or together with any other related persons and entities) of 5.0% or more ownership interest in the other entity; or (vi) the person or entity is otherwise controlled, in whole or in part, by the other person or entity. In determining compliance with the foregoing limitation of \$1,200,000 with respect to any application, the executive director may exclude any person or entity related to the applicant or to any principal in such applicant if the executive director determines that (i) such person or entity will not participate, directly or indirectly, in matters relating to the applicant or the ownership of the development to be assisted by the credits for which the application is submitted, (ii) such person or entity has no agreement or understanding relating to such application or the tax credits requested therein, and (iii) such person or entity will not receive a financial benefit from the tax credits requested in the application. A limited partner or other similar investor shall not be determined to be a principal and shall be excluded from the determination of related persons or entities unless the executive director shall determine that such limited partner or investor will, directly or indirectly, exercise control over the applicant or participate in matters relating to the ownership of the development substantially beyond the degree of control or participation which is usual and customary for limited partners or other similar investors with respect to developments assisted by the credits. If the award of multiple applications of any applicant or related applicants in any credit year shall cause such limitation of \$1,200,000 to be exceeded, such applicant or applicants shall, upon notice from the authority, jointly designate those applications for which credits are not to be reserved or are to be reserved in an amount less than the amount requested in the application (if the amount of credits to be reserved for any application is to be so reduced, the applicant may modify the proposed development and the application to achieve financial feasibility based upon the amount of the credits as so reduced; provided, however, that the credits may not be reduced to less than 70% of the

amount of credits requested in the application and may not be reduced so as to produce fewer than 75% of the number of units or bedrooms proposed in the application) so that such limitation shall not be exceeded. Such notice shall specify the date by which such designation shall be made. In the absence of any such designation by the date specified in such notice, the executive director shall make such designation as he shall determine to best serve the interests of the program. Each applicant and each principal therein shall make such certifications, shall disclose such facts and shall submit such documents to the authority as the executive director may require to determine compliance with the above described limitation of \$1,200,000. If an applicant or any principal therein makes any misrepresentation to the authority concerning such applicant's or principal's relationship with any other person or entity, the executive director may reject any or all of such applicant's pending applications for reservation or allocation of credits, may terminate any or all reservations of credits to the applicant, and may prohibit such applicant, the principals therein and any persons and entities then or thereafter having a substantial relationship (in the determination of the executive director as described above) with the applicant or any principal therein from submitting applications for credits for such period of time in the future as the executive director shall determine.

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 unless the transfer is consented to by the executive director. The written binding commitment shall further limit the developers' fees to the amounts established during the review of the applications for reservation of credits and such amounts shall not be increased unless consented to by the executive director. The executive director shall, as a condition to the binding commitment, require each applicant to obtain a market study, in form and substance satisfactory to the authority, that shows adequate demand for the housing units to be produced by each applicant's proposed development.

If credits are reserved to any applicants for developments which have also received an allocation of credits from prior years, the executive director may reserve additional credits from the current year equal to the amount of credits allocated to such developments from prior years, provided such previously allocated credits are returned to the authority. Any previously allocated credits returned to the authority under such circumstances shall be placed into the credit pools from which the current year's credits are reserved to such applicants.

The executive director shall make a written explanation

available to the general public for any allocation of housing credit dollar amount which is not made in accordance with established priorities and selection criteria of the authority.

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 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 this section). 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.

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~~ *prior to the issuance of the bonds*, an application for allocation of credits and supporting information and documents as described in 13 VAC 10-180-70, and such other information and documents as the executive director may require *(including a market study, in form and substance satisfactory to the authority, that shows adequate demand for the housing units to be produced by each applicant's proposed development)*. 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

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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 under the ranking system described in 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 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 13 VAC 10-180-50, and such good faith deposits as described in 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 13 VAC 10-180-70 and all requirements for compliance monitoring as described in 13 VAC 10-180-90.

V.A.R. Doc. No. R02-5; Filed September 18, 2001, 11:34 a.m.

TITLE 22. SOCIAL SERVICES

CHILD DAY-CARE COUNCIL

Title of Regulation: 22 VAC 15-10-10 et seq. **Public Participation Guidelines (amending 22 VAC 15-10-10, 22 VAC 15-10-30, 22 VAC 15-10-40, 22 VAC 15-10-50, 22 VAC 15-10-60, and 22 VAC 15-10-70).**

Statutory Authority: §§ 2.2-4007, 63.1-202 and 63.1-202.1 of the Code of Virginia.

Public Hearing Date: N/A - Public comments may be submitted until December 7, 2001.

(See Calendar of Events section for additional information)

Agency Contact: Arlene Kasper, Program Development Consultant, Division of Licensing Programs, Department of Social Services, 730 E. Broad St., Richmond, VA 23219, telephone (804) 692-1791 or FAX (804) 692-2370.

Basis: Sections 63.1-202 and 63.1-202.1 of the Code of Virginia give the Child Day-Care Council authority to promulgate regulations for child day centers. Section 2.2-4007 of the Code of Virginia requires each agency to have public participation guidelines for "soliciting the input of interested parties in the formation and development of its regulations."

Purpose: The purpose of the public participation guidelines is to establish written procedures to solicit input from interested parties prior to formation and drafting of the regulations and during the formation, promulgation and final adoption process of regulations. The Administrative Process Act requires these guidelines to be effective before other regulations can be adopted. Thus, these guidelines allow the Child Day-Care Council to carry out its statutory responsibility to promulgate

regulations for child day centers. The child day center regulations are designed to ensure the safety and welfare of children under the care of licensed centers. The goals of this revision of the public participation guidelines are to provide for electronic transmission of information and to clarify the regulation especially regarding the responsibilities of the Child Day-Care Council and Department of Social Services. Electronic transmission of information may increase participation, reduce costs and improve the speed of communication.

Substance: 22 VAC 15-10-50 was revised to provide for the electronic transmission of information. The other changes to the regulation are editorial to improve clarity.

Issues: The public participation guidelines benefit the public by letting individuals know that they can be involved in the promulgation of the Child Day-Care Council's regulations. These guidelines also benefit the Commonwealth by allowing the Council to fulfill its state mandate to promulgate child day center regulations. Center regulations promulgated according to the public participation guidelines benefit: (i) the Department of Social Services by providing standards that can be used to monitor licensed centers and (ii) families by establishing a level of safety at licensed centers. There is no disadvantage to the public or the Commonwealth in having public participation guidelines.

Department of Planning and Budget's Economic Impact Analysis: The Department of Planning and Budget (DPB) has analyzed the economic impact of this proposed regulation in accordance with § 2.2-4007 G of the Administrative Process Act and Executive Order Number 25 (98). Section 2.2-4007 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, the projected costs to affected businesses or entities to implement or comply with the regulation, and the impact on the use and value of private property. The analysis presented below represents DPB's best estimate of these economic impacts.

Summary of the proposed regulation. The Child Day-Care Council proposes to revise its public participation guidelines (PPGs) to incorporate electronic forms of regulatory submission, notification, and communication that are currently available or may become available in the near future. Specific amendments include permitting notification and comment by facsimile, email, or other electronic means, and allowing electronic mailing lists to be maintained in addition to traditional paper lists. Several editorial changes are also proposed.

Estimated economic impact. Under the Administrative Process Act, all state agencies that promulgate regulations are required to maintain public participation mailing lists containing the names of all parties that have registered an interest in a particular regulation. Membership on these lists typically includes members of the regulated community, public interest groups, law firms, and individual citizens with an interest in a particular area of regulation.

There are no clear disadvantages associated with the changes proposed by the Child Day-Care Council. Interested parties will be encouraged to be notified of regulatory actions electronically through the Virginia Regulatory Town Hall. However, individuals may also choose to remain on the traditional mailing lists, which will continue to be maintained by the board. While it is not known if this change will increase or decrease public participation in the development of the council's regulations, any change is likely to be very small.

If electronic notification and comment becomes more prevalent, there would be a reduction in printing and mailing costs incurred by the council. In addition to the potential fiscal benefits, these changes also allow the council to increase the speed of notification and the amount of information readily available to interested parties, which will increase efficiency and may enhance public participation.

Businesses and entities affected. This change will affect individuals and organizations interested in the regulations governing child day centers licensed by the Child Day-Care Council in Virginia. There are currently 2,500 licensed child day centers, 100 licensing staff, and 122 individuals listed on the PPG mailing list for the Child Day-Care Council.

Localities particularly affected. No localities are particularly affected by the proposed regulation.

Projected impact on employment. The proposed regulation is not anticipated to have a significant effect on employment.

Effects on the use and value of private property. The proposed regulation is not anticipated to have a significant effect on the use and value of private property.

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

Summary:

This regulation describes the way the Child Day-Care Council will obtain public input when developing, revising or repealing a regulation. The regulation covers the following topics: petition from interested parties, solicitation of input, public hearings, and withdrawal of regulations. The proposed amendments provide for electronic transmission of information and make changes for clarity especially regarding the responsibilities of the Child Day-Care Council and Department of Social Services.

22 VAC 15-10-10. Definitions.

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

"Administrative Process Act (APA)" means Chapter 1-1:4 (~~§ 9-6.14:1 et seq.~~) of Title 9 40 (§ 2.2-4000 et seq.) of Title 2.2 of the Code of Virginia.

~~"Agency" means Department of Social Services.~~

~~"Approving authority" means Child Day-Care Council.~~

"Commissioner" means the Commissioner of the Department of Social Services or his designee.

"Council" means Child Day-Care Council.

"Department" means Department of Social Services.

~~"Division" means the organizational entity within the department, designated by the commissioner, which develops regulations subject to the Administrative Process Act.~~

"Governor's Executive Order" means any policy or procedure issued by the Governor under § ~~2-4-41.4~~ 2.2-103 or § ~~9-6.14:9.4~~ 2.2-4013 A of the Code of Virginia establishing the administrative policy and procedures for gubernatorial review and regulatory actions governed by the Administrative Process Act.

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

22 VAC 15-10-30. General.

A. The procedures in 22 VAC 15-10-50 shall be used for soliciting the input of interested persons in the initial formation and development, amendment or repeal of regulations in accordance with the Administrative Process Act. This chapter does not apply to regulations exempted or excluded from the provisions of the Administrative Process Act (~~§ 9-6.14:4.1 of the Code of Virginia~~).

B. The *council and* department shall follow the policies and procedures established by the Administrative Process Act and the Governor's Executive Order in developing emergency, proposed and final adoption, amendment or repeal of regulations.

C. At the discretion of the ~~approving authority or the agency council~~, the public participation procedures in 22 VAC 15-10-50 may be supplemented to provide additional public participation in the regulation adoption process or as necessary to meet federal requirements.

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

22 VAC 15-10-40. Petitions from interested parties.

Any person may petition the ~~agency council or department~~ to develop a new regulation or to adopt, amend or repeal a regulation. The petition, at a minimum, shall contain the following information:

1. Name of petitioner;
2. Petitioner's mailing address and telephone number;
3. Petitioner's interest in the proposed action;
4. Recommended new regulation or addition, deletion, or amendment to a specific regulation or regulations;
5. Statement of need and justification for the proposed action;
6. Statement of impact on the petitioner and other affected persons; and
7. Supporting documents, as applicable.

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The ~~agency council or department~~ shall provide a written response to such petition *and shall notify the other entity*.

22 VAC 15-10-50. Solicitation of input.

~~A. Each division of the agency~~ *The department shall establish and maintain a list or lists consisting of persons expressing an interest in the adoption, amendment or repeal of regulations under its administration, management or supervision. Persons may request the addition of their name and address to the list lists at any time. Persons who elect to be included on an electronic mailing list may also request that all mailings be sent in hard copy. The lists will be updated as additional interested parties are identified. Deletions will be made when either regular or electronic mail is returned undeliverable or there is a lack of interest is as determined by the division department as a result of periodic contact initiated by the division department.*

~~B. The department council~~ may form an ad hoc advisory group or utilize a standing advisory committee to assist in the drafting, formation or review of a proposal when expertise is necessary to address a specific regulatory interest or issue, or when persons register an interest in the subject of the regulation and in working with the ~~agency council~~.

~~C. Whenever a division the council~~ identifies a need for the adoption, amendment or repeal of regulations under its ~~administration, management or supervision authority~~, it may commence the regulation adoption process according to these procedures.

~~D. The agency council~~ shall issue a Notice of Intended Regulatory Action (NOIRA) which describes the subject matter and intent of the planned regulation for all regulatory proposals in accordance with the Administrative Process Act. The NOIRA shall state whether the ~~agency council~~ intends to hold a public hearing.

~~E. The commissioner shall disseminate the NOIRA to the public by: 4. distribution to the Registrar of Regulations for publication in The Virginia Register; and~~

~~2. Distribution by mail to~~ *F. The council shall disseminate the NOIRA to the interested parties on the list lists established under subsection A of this section by mail or electronic transmission as chosen by the parties.*

~~F. G.~~ *The council shall make provision for receiving comments pertaining to the NOIRA by regular mail, the Internet, facsimile or electronic means. The agency council shall consider public comment in drafting proposed regulations.*

~~G. H.~~ Upon approval by the council of the proposed regulations ~~prepared by the department~~, the ~~department commissioner~~ shall solicit public comment through: ~~4. distribution to the Registrar of Regulations for publication in The Virginia Register;~~

I. The council shall solicit public comment on proposed regulations through:

~~2. 1.~~ Publication of a Notice of Comment Period in a newspaper of general circulation published at the state capital and such other newspapers as the department may

deem appropriate; and

~~3. 2.~~ Distribution of a notice of comment ~~by mail to persons on the list or to the interested parties on the lists~~ established under subsection A of this section *by mail or electronic transmission as chosen by the parties.*

J. The council shall make provision for receiving comments pertaining to the proposed regulation by regular mail, the Internet, facsimile or electronic means.

22 VAC 15-10-60. Public hearings.

A. The council shall permit public comment concerning the adoption, amendment, or repeal of a regulation submitted for its promulgation during the council's regularly scheduled public comment period of its authorized meetings in conformity with the established rules of the council. The council may allow public comment about a proposed regulation at a committee meeting when the proposed regulation is under consideration by the committee.

B. When the NOIRA states that the ~~agency council~~ does not plan to hold a hearing on the proposed regulation, the ~~agency council~~ shall schedule a hearing when it determines that there is sufficient public interest in a proposed regulation through receipt of requests for a hearing from 25 people or more. The hearing or hearings may be held at any time during the public comment period and at such times and locations as the ~~department council~~ decides will best facilitate input from interested persons.

22 VAC 15-10-70. Withdrawal of regulations.

If the ~~agency department~~ determines that the process to adopt, amend or repeal any regulation should be terminated after promulgation of the proposed regulation by the ~~approving authority council~~, the ~~agency department~~ shall present a recommendation and rationale for the withdrawal of the proposed regulation to the ~~approving authority council~~.

VA.R. Doc. No. R99-236; Filed September 10, 2001, 3:01 p.m.

STATE BOARD OF SOCIAL SERVICES

Title of Regulations: 22 VAC 40-32-10 et seq. Aid to Families with Dependent Children (AFDC) Program - Determining AFDC Eligibility When Only Dependent Child Receives Foster Care Benefits.

VA.R. Doc. No. R00-135; Filed September 7, 2001, 10:59 a.m.

22 VAC 40-290-10. Earned Income Disregards/Student Earnings in the Aid to Families with Dependent Children (AFDC) Program.

VA.R. Doc. No. R00-134; Filed September 7, 2001, 10:58 a.m.

22 VAC 40-300-10 et seq. Lump Sum Ineligibility Period in the Aid to Families with Dependent Children (AFDC) Program.

VA.R. Doc. No. R00-133; Filed September 7, 2001, 10:59 a.m.

22 VAC 40-310-10 et seq. Maximum Resource Limit in the Aid to Families with Dependent Children (AFDC) Program.

VA.R. Doc. No. R00-132; Filed September 7, 2001, 11 a.m.

22 VAC 40-320-10 et seq. Disclosure of Information to Law-Enforcement Officers in the Aid to Families with Dependent Children (AFDC) Program.

VA.R. Doc. No. R00-131; Filed September 7, 2001, 11 a.m.

22 VAC 40-350-10 et seq. Real Property Disposition Period in the Aid to Families with Dependent Children (AFDC) Program.

VA.R. Doc. No. R00-130; Filed September 7, 2001, 11 a.m.

22 VAC 40-360-10 et seq. Definition of a Home in the Aid to Families with Dependent Children (AFDC) and General Relief (GR) Programs.

VA.R. Doc. No. R00-129; Filed September 7, 2001, 11 a.m.

22 VAC 40-370-10 et seq. Job Training Partnership Act (JTPA) Income Disregards in the Aid to Families with Dependent Children (AFDC) Program.

VA.R. Doc. No. R00-128; Filed September 7, 2001, 11 a.m.

22 VAC 40-380-10 et seq. Disregard of Certain Income Received by Indian Tribes in the Aid to Families with Dependent Children (AFDC) Program.

VA.R. Doc. No. R00-127; Filed September 7, 2001, 11:01 a.m.

22 VAC 40-390-10 et seq. Persons and Income Required to be Considered When Evaluating Eligibility for Assistance in the Aid to Families with Dependent Children (AFDC) Program.

VA.R. Doc. No. R00-126; Filed September 7, 2001, 11:01 a.m.

22 VAC 40-420-10 et seq. Aid to Families with Dependent Children: Unemployed Parent Demonstration (AFDC-UPDEMO) Project.

VA.R. Doc. No. R00-125; Filed September 7, 2001, 11:01 a.m.

22 VAC 40-430-10 et seq. Treatment of Casual and Inconsequential Income in the Aid to Families with Dependent Children (AFDC) Program.

VA.R. Doc. No. R00-124; Filed September 7, 2001, 11:01 a.m.

22 VAC 40-440-10 et seq. Aid to Families with Dependent Children (AFDC) Program Allocation of Income.

VA.R. Doc. No. R00-123; Filed September 7, 2001, 11:02 a.m.

22 VAC 40-450-10 et seq. Lump Sum Payments in the Aid to Families with Dependent Children (AFDC) Program.

VA.R. Doc. No. R00-122; Filed September 7, 2001, 11:02 a.m.

22 VAC 40-460-10 et seq. Deeming of Stepparent Income in the Aid to Families with Dependent Children (AFDC) Program.

VA.R. Doc. No. R00-121; Filed September 7, 2001, 11:02 a.m.

22 VAC 40-490-10 et seq. Aid to Families with Dependent Children (AFDC) Program - Deprivation Due to the Incapacity of a Parent.

VA.R. Doc. No. R00-120; Filed September 7, 2001, 11:02 a.m.

22 VAC 40-500-10 et seq. Work-Related Child Care Expenses Disregarded in the Aid to Families with Dependent Children (AFDC) Program.

VA.R. Doc. No. R00-119; Filed September 7, 2001, 11:03 a.m.

22 VAC 40-510-10 et seq. Aid to Families with Dependent Children (AFDC) Program - Entitlement Date.

VA.R. Doc. No. R00-118; Filed September 7, 2001, 11:03 a.m.

22 VAC 40-520-10 et seq. Aid to Families with Dependent Children (AFDC) Program – Disregarded Income and Resources.

VA.R. Doc. No. R00-117; Filed September 7, 2001, 11:03 a.m.

22 VAC 40-530-10 et seq. Aid to Families with Dependent Children (AFDC) Program - Deprivation Due to Continued Absence.

VA.R. Doc. No. R00-116; Filed September 7, 2001, 11:03 a.m.

22 VAC 40-550-10 et seq. Aid to Families with Dependent Children Program - Unemployed Parent (AFDC-UP) Program.

VA.R. Doc. No. R00-115; Filed September 7, 2001, 11:04 a.m.

22 VAC 40-580-10 et seq. Aid to Families with Dependent Children (AFDC) – Elimination of Monthly Reporting.

VA.R. Doc. No. R00-114; Filed September 7, 2001, 11:04 a.m.

22 VAC 40-590-10 et seq. Aid to Families with Dependent Children - Earned Income Tax Credit (EITC) Disregard.

VA.R. Doc. No. R00-113; Filed September 7, 2001, 11:04 a.m.

22 VAC 40-610-10 et seq. Aid to Families with Dependent Children (AFDC) Program - Exclusion of Children Receiving Adoption Assistance and Foster Care Maintenance Payment.

VA.R. Doc. No. R00-112; Filed September 7, 2001, 11:05 a.m.

22 VAC 40-620-10 et seq. Aid to Families with Dependent Children (AFDC) Program - Fifth Degree Specified Relative.

VA.R. Doc. No. R00-111; Filed September 7, 2001, 11:05 a.m.

22 VAC 40-650-10 et seq. Aid to Families with Dependent Children (AFDC) Program - Disqualification for Intentional Program Violation.

VA.R. Doc. No. R00-110; Filed September 7, 2001, 11:05 a.m.

22 VAC 40-750-10 et seq. Grant Diversion.

VA.R. Doc. No. R00-109; Filed September 7, 2001, 11:06 a.m.

22 VAC 40-760-10 et seq. Employment Services Program Policy.

VA.R. Doc. No. R00-108; Filed September 7, 2001, 11:06 a.m.

Statutory Authority: § 63.1-25 of the Code of Virginia.

Public Hearing Date: N/A -- Public comments may be submitted until December 7, 2001.

(See Calendar of Events section for additional information)

Agency Contact: Mark L. Golden, TANF Program Consultant, Department of Social Services, 730 East Broad Street, Richmond, Virginia 23219, telephone (804) 692-1735 or FAX (804) 692-1704.

Proposed Regulations

Basis: Section 63.1-25 of the Code of Virginia places responsibility on the State Board of Social Services to make rules and regulations necessary to carry out the purpose and intent of the sections of the Code of Virginia related to social services.

Purpose: To reduce regulations, this regulation is being repealed. Simultaneously, a comprehensive TANF regulation is being promulgated. Up to this point, separate regulations have been promulgated that deal with different aspects of the TANF program. The result is that the eligibility rules are contained in many different regulations and it is difficult to access and understand the different regulations. The necessary language from this regulation will be contained in the comprehensive TANF regulation, 22 VAC 40-295-10 et seq.

Substance: This regulation is being repealed.

Issues: The public will benefit from the repeal of this regulation because it will be easier to access all rules regarding TANF at one time, rather than having to research approximately 30 different regulations. The public will benefit by having easier access to the rules they are governed by. The Commonwealth will benefit because only one regulation will contain the program rules for TANF. Less time will have to be used for review and maintenance of the regulation.

Department of Planning and Budget's Economic Impact Analysis:

The Department of Planning and Budget (DPB) has analyzed the economic impact of this proposed regulation in accordance with § 2.2-4007 G of the Administrative Process Act and Executive Order Number 25 (98). Section 2.2-4007 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, the projected costs to affected businesses or entities to implement or comply with the regulation, and the impact on the use and value of private property. The analysis presented below represents DPB's best estimate of these economic impacts.

Summary of the proposed regulation. The Board of Social Services proposes to repeal 28 regulations that apply to the now obsolete Aid to Families with Dependent Children (AFDC) program. The Temporary Assistance for Needy Families (TANF) program has replaced the AFDC program and all rules regarding this program have been consolidated into one regulation, 22 VAC 40-295 Temporary Assistance for Needy Families. The board proposes to repeal the following regulations:

- Earned Income Disregards/Student Earnings in the Aid to Families with Dependent Children Program (22 VAC 40-290)
- Lump Sum Ineligibility Period in the Aid to Families with Dependent Children Program (22 VAC 40-300)
- Maximum Resource Limit in the Aid to Families with Dependent Children Program (22 VAC 40-310)
- Aid to Families with Dependent Children Program - Determining AFDC Eligibility When Only Dependent Child

Receives Foster Care Benefits (22 VAC 40-32)

- Disclosure of Information to Law-Enforcement Officers in the Aid to Families with Dependent Children Program (22 VAC 40-320)
- Real Property Disposition Period in the Aid to Families with Dependent Children Program (22 VAC 40-350)
- Definition of a Home in the Aid to Families with Dependent Children and General Relief Programs (22 VAC 40-360)
- Job Training Partnership Act (JTPA) Income Disregards in the Aid to Families with Dependent Children Program (22 VAC 40-370)
- Disregard of Certain Income Received by Indian Tribes in the Aid to Families with Dependent Children Program (22 VAC 40-380)
- Persons and Income Required to be Considered When Evaluating Eligibility for Assistance in the Aid to Families with Dependent Children Program (22 VAC 40-390)
- Aid to Families with Dependent Children: Unemployed Parent Demonstration Project (22 VAC 40-420)
- Treatment of Casual and Inconsequential Income in the Aid to Families with Dependent Children Program (22 VAC 40-430)
- Aid to Families with Dependent Children Program Allocation of Income (22 VAC 40-440)
- Lump Sum Payments in the Aid to Families with Dependent Children Program (22 VAC 40-450)
- Deeming of Stepparent Income in the Aid to Families with Dependent Children Program (22 VAC 40-460)
- Aid to Families with Dependent Children Program - Deprivation Due to the Incapacity of a Parent (22 VAC 40-490)
- Work-Related Child Care Expenses Disregarded in the Aid to Families with Dependent Children Program (22 VAC 40-500)
- Aid to Families with Dependent Children Program - Entitlement Date (22 VAC 40-510)
- Aid to Families with Dependent Children Program - Disregarded Income and Resources (22 VAC 40-520)
- Aid to Families with Dependent Children Program - Deprivation Due to Continued Absence (22 VAC 40-530)
- Aid to Families with Dependent Children Program - Unemployed Parent (AFDC-UP) Program (22 VAC 40-550)
- Aid to Families with Dependent Children - Elimination of Monthly Reporting (22 VAC 40-580)
- Aid to Families with Dependent Children - Earned Income Tax Credit (EITC) Disregard (22 VAC 40-590)
- Aid to Families with Dependent Children - Exclusion of Children Receiving Adoption Assistance and Foster Care Maintenance Payment (22 VAC 40-610)

- Aid to Families with Dependent Children - Fifth Degree Specified Relative (22 VAC 40-620)
- Aid to Families with Dependent Children - Disqualification for Intentional Program Violation (22 VAC 40-650)
- Grant Diversion (22 VAC 40-750)
- Employment Services Program Policy (22 VAC 40-760)

Estimated economic impact. The proposed repeal of these regulations is not expected to have any economic impact; the provisions contained in these 28 regulations will be included in the new comprehensive TANF regulation. The estimated economic impact of the consolidated regulation is presented in DPB's review of Temporary Assistance for Needy Families (22 VAC 40-295) (see 17:14 VA.R. 2168 March 26, 2001).

Businesses and entities affected. Since the provisions contained in these 28 regulations will be included in the consolidated TANF regulations, their repeal should not affect any of the approximately 62,600 current TANF recipients in Virginia.¹

Localities particularly affected. The repeal of these regulations is not expected to uniquely affect any particular localities.

Projected impact on employment. The repeal of these regulations is not expected to have any impact on employment in Virginia.

Effects on the use and value of private property. The repeal of these regulations is not expected to have any impact on the use and value of private property in Virginia.

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

Summary:

The Board of Social Services proposes to repeal 28 regulations that apply to the now obsolete Aid to Families with Dependent Children (AFDC) program. The Temporary Assistance for Needy Families (TANF) program has replaced the AFDC program and all rules regarding this program have been consolidated into one regulation, 22 VAC 40-295-10 et seq., Temporary Assistance for Needy Families, which is currently in the promulgation process.

Title of Regulation: 22 VAC 40-330-10 et seq. Collection of Overpayments in the Refugee Other Assistance Program (amending 22 VAC 40-330-10 and 22 VAC 40-330-20).

Statutory Authority: § 63.1-25 of the Code of Virginia.

Public Hearing Date: N/A - Public comments may be submitted until December 7, 2001.

(See Calendar of Events section for additional information)

Agency Contact: Mark L. Golden, TANF Program Consultant, 730 E. Broad St., Richmond, VA 23219, telephone (804) 692-1735 or FAX (804) 692-1704.

Basis: Section 63.1-25 of the Code of Virginia places responsibility on the State Board of Social Services to make rules and regulations necessary to carry out the purpose and intent of the sections of the Code of Virginia related to social services.

Purpose: To reduce regulations, this regulation is being amended so that it does not apply to the TANF, formerly AFDC, Program. Simultaneously, a comprehensive TANF regulation is being promulgated. Up to this point, separate regulations have been promulgated that deal with different aspects of the TANF program. The result is that the eligibility rules are contained in many different regulations and it is difficult to access and understand the different regulations. The necessary language from this regulation will be contained in the comprehensive TANF regulation, 22 VAC 40-295-10 et seq.

Substance: This regulation will no longer apply to the TANF, formerly AFDC, program. However, the requirements of this regulation will be contained in the comprehensive TANF regulation, 22 VAC 40-295-10 et seq.

Issues: The public will benefit from the consolidation of TANF regulations because it will be easier to access all rules regarding TANF at one time, rather than having to research approximately 30 different regulations. The public will benefit by having easier access to the rules they are governed by. The Commonwealth will benefit because only one regulation will contain the program rules for TANF. Less time will have to be used for review and maintenance of the regulation.

Department of Planning and Budget's Economic Impact Analysis: The Department of Planning and Budget (DPB) has analyzed the economic impact of this proposed regulation in accordance with § 2.2-4007 G of the Administrative Process Act and Executive Order Number 25 (98). Section 2.2-4007 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, the projected costs to affected businesses or entities to implement or comply with the regulation, and the impact on the use and value of private property. The analysis presented below represents DPB's best estimate of these economic impacts.

Summary of the proposed regulation. The Board of Social Services proposes to amend this regulation by removing references to the now obsolete Aid to Families with Dependent Children (AFDC) program. The AFDC program has been replaced by the Temporary Assistance for Needy Families (TANF) program and all rules regarding this program have been consolidated into one regulation, 22 VAC 40-295, Temporary Assistance for Needy Families.

Estimated economic impact. The proposed change is not expected to have any economic impact since language regarding collection of overpayments to TANF recipients will be included in the new comprehensive TANF regulation. The

¹ Based on figures reported by Department of Social Services for June 2001.

Proposed Regulations

estimated economic impact of the consolidated regulation is presented in DPB's review of Temporary Assistance for Needy Families (22 VAC 40-295).

Businesses and entities affected. Since the provisions removed from this regulation will be included in the consolidated TANF regulations, this change should not affect any of the approximately 62,600 current TANF recipients in Virginia.¹

Localities particularly affected. The proposed regulation is not expected to uniquely affect any particular localities.

Projected impact on employment. The proposed regulation is not expected to have any impact on employment in Virginia.

Effects on the use and value of private property. The proposed regulation is not expected to have any impact on the use and value of private property in Virginia.

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

Summary:

The proposed amendments delete references to the AFDC program. Therefore it will only apply to the Refugee Other Assistance Program. Language from this regulation regarding collection of overpayments will be included in the comprehensive regulation for Temporary Assistance for Needy Families, 22 VAC 40-295-10 et seq., which is currently in the promulgation process.

CHAPTER 330.

COLLECTION OF OVERPAYMENTS IN THE ~~AID TO FAMILIES WITH DEPENDENT CHILDREN (AFDC) AND REFUGEE OTHER ASSISTANCE PROGRAMS~~ PROGRAM.

22 VAC 40-330-10. Definitions.

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

"Former recipient" means an individual who is not presently receiving an assistance payment through the ~~Aid to Families With Dependent Children (AFDC)~~ or Refugee Other Assistance Program.

"Overpayment" means an assistance payment made by a local department of social services which is incorrect because: (i) the assistance unit does not meet eligibility requirements and is ineligible for an assistance payment in a given month, or (ii) the payment is greater than the amount to which the assistance unit is entitled.

"Reasonable effort" means attempting to notify the former recipient of the amount of the overpayment, the reason the overpayment occurred and that repayment is required.

"Recoupment" means withholding all or part of an assistance payment to a current assistance unit for the purpose of repaying a prior overpayment.

"Recovery" means a voluntary or court ordered arrangement with a current or former recipient for repayment of all or a portion of an overpayment.

22 VAC 40-330-20. Collection process.

A local department of social services is to promptly recoup or recover any overpayment from a current recipient of ~~Aid to Families With Dependent Children (AFDC)~~ or Refugee Other Assistance, including overpayments ~~which that~~ are the result of assistance paid pending an appeal hearing decision in ~~which that~~ the adverse action taken by the agency is upheld by the hearing authority. All overpayments ~~which that~~ were made to former recipients ~~which that~~ are less than \$35 shall be waived after the local agency has notified the former recipient, in writing, that an overpayment has occurred ~~which that~~ must be repaid and the former recipient fails to respond to the initial request for repayment. No further action to collect the overpayment is to be taken. In cases where an overpayment to a former recipient is \$35, or more, the agency may elect to forego collection activity if, after reasonable efforts, it is determined that further action to collect the overpayment would not be cost effective. To ensure reasonable efforts have been made to collect the overpayment, the agency must: (i) have documentary evidence that they cannot locate the former recipient, or (ii) determine that the former recipient has no means by which to repay the overpayment, or (iii) secure a written statement from the former recipient that they refuse to repay the overpayment. The agency must maintain information for three years concerning former recipients who received an overpayment, including overpayments ~~which that~~ are less than \$35, and must initiate recoupment procedures should one or more of those individuals again be found eligible to receive assistance.

VA.R. Doc. No. R00-138; Filed September 10, 2001, 3:01 p.m.

* * * * *

Title of Regulation: **22 VAC 40-340-10 et seq. Protective Payments in the Refugee Other Assistance Program (amending 22 VAC 40-340-10).**

Statutory Authority: § 63.1-25 of the Code of Virginia.

Public Hearing Date: N/A - Public comments may be submitted until December 7, 2001.

(See Calendar of Events section for additional information)

Agency Contact: Mark L. Golden, TANF Program Consultant, 730 E. Broad St., Richmond, VA 23219, telephone (804) 692-1735 or FAX (804) 692-1704.

Basis: Section 63.1-25 of the Code of Virginia places responsibility on the State Board of Social Services to make rules and regulations necessary to carry out the purpose and intent of the sections of the Code related to social services.

Purpose: To reduce regulations, this regulation is being amended so that it does not apply to the TANF, formerly AFDC, Program. Simultaneously, a comprehensive TANF regulation is being promulgated. Up to this point, separate regulations have been promulgated that deal with different

¹ Based on figures reported by Department of Social Services for June 2001.

aspects of the TANF program. The result is that the eligibility rules are contained in many different regulations and it is difficult to access and understand the different regulations. The necessary language from this regulation will be contained in the comprehensive TANF regulation, 22 VAC 40-295-10 et seq.

Substance: This regulation will no longer apply to the TANF, formerly AFDC, program. However, the requirements of this regulation will be contained in the comprehensive TANF regulation, 22 VAC 40-295-10 et seq.

Issues: The public will benefit from the consolidation of TANF regulations because it will be easier to access all rules regarding TANF at one time, rather than having to research approximately 30 different regulations. The public will benefit by having easier access to the rules they are governed by. The Commonwealth will benefit because only one regulation will contain the program rules for TANF. Less time will have to be used for review and maintenance of the regulation.

Department of Planning and Budget's Economic Impact Analysis: The Department of Planning and Budget (DPB) has analyzed the economic impact of this proposed regulation in accordance with § 2.2-4007 G of the Administrative Process Act and Executive Order Number 25 (98). Section 2.2-4007 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, the projected costs to affected businesses or entities to implement or comply with the regulation, and the impact on the use and value of private property. The analysis presented below represents DPB's best estimate of these economic impacts.

Summary of the proposed regulation. The Board of Social Services proposes to amend this regulation by removing references to the now obsolete Aid to Families with Dependent Children (AFDC) program. The AFDC program has been replaced by the Temporary Assistance for Needy Families (TANF) program and all rules regarding this program have been consolidated into one regulation, 22 VAC 40-295, Temporary Assistance for Needy Families.

Estimated economic impact. The proposed change is not expected to have any economic impact since language regarding protective payments for TANF recipients will be included in the new comprehensive TANF regulation. The estimated economic impact of the consolidated regulation is presented in DPB's review of Temporary Assistance for Needy Families (22 VAC 40-295).

Businesses and entities affected. Since the provisions removed from this regulation will be included in the consolidated TANF regulations, this change should not affect any of the approximately 62,600 current TANF recipients in Virginia.¹

Localities particularly affected. The proposed regulation is not expected to uniquely affect any particular localities.

Projected impact on employment. The proposed regulation is not expected to have any impact on employment in Virginia.

Effects on the use and value of private property. The proposed regulation is not expected to have any impact on the use and value of private property in Virginia.

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

Summary:

The proposed amendments delete references to the AFDC program. Therefore, it will only apply to the Refugee Other Assistance Program. Language from this regulation regarding protective payments will be included in the comprehensive regulation for Temporary Assistance for Needy Families, 22 VAC 40-295-10 et seq., which is currently in the promulgation process.

CHAPTER 340.

PROTECTIVE PAYMENTS IN THE AID TO FAMILIES WITH DEPENDENT CHILDREN (AFDC) AND REFUGEE OTHER ASSISTANCE PROGRAMS PROGRAM.

22 VAC 40-340-10. Definitions.

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

"Caretaker relative" means the natural or adoptive parent or other relative of specified degree (i.e. aunt, uncle, grandparent, etc.) with whom the children reside who is responsible for supervision and care of the needy children and is the individual to whom the assistance payment is made.

"Employment Services Program" means a program operated by each locality which that is designed to enhance employment, education and training opportunities for Aid to Dependent Children and Refugee Other Assistance recipients.

"Payee" means the person to whom the assistance payment is made payable. In most situations, the caretaker relative is the payee.

"Protective payee" means an appropriate individual to act for the caretaker relative in receiving and managing the total assistance payment. The protective payee should be someone who is interested and concerned with the welfare of the caretaker relative and his children.

"Sanctioned caretaker relative" means a caretaker relative whose needs are removed from the grant and who is ineligible for an assistance payment because he failed to participate in the Employment Services Program, or who failed to assign rights to child/spousal support or cooperate in establishing paternity and securing such support.

VA.R. Doc. No. R00-137; Filed September 10, 2001, 3:02 p.m.

¹ Based on figures reported by Department of Social Services for June 2001.

GOVERNOR

EXECUTIVE ORDER NUMBER SEVENTY-EIGHT (01)

CREATING THE GOVERNOR'S ARMENIAN ADVISORY COMMISSION

By virtue of the authority vested in me as Governor under Article V of the Constitution of Virginia, including but not limited to Section 2.1-51.36 of the Code of Virginia, and subject to my continuing and ultimate authority and responsibility to act in such matters, I hereby create the Governor's Armenian Advisory Commission.

Duties:

The Commission is classified as a gubernatorial advisory commission in accordance with Sections 2.1-51.35 and 9-6.25 of the Code of Virginia. The Commission shall have the following specific duties:

- The Commission shall advise the Governor regarding the development of economic, professional, cultural, governmental, and educational links between the Commonwealth of Virginia and Armenia.
- The Commission shall undertake studies and gather information and data in order to formulate and present recommendations to the Governor.
- The Commission shall advise the Governor regarding the communication of findings to educate the public regarding the history and culture of Armenians.
- The Commission shall be able to apply for, accept, and expend gifts, grants, or donations from public, quasi-public or private sources to enable it to better carry out its purposes.
- The Commission shall report annually its findings and recommendations to the Governor. The Board may make interim reports to the Governor as it deems advisable.

Structure and Funding:

The Commission shall be composed of no more than 25 members, appointed by the Governor, and serving at his pleasure. The Governor shall designate a Commission Chairman who will direct the Commission's work.

Members of the Commission shall serve without compensation but shall receive reimbursement for expenses incurred in the discharge of their official duties.

The Governor will designate staff support as necessary for the conduct of the Commission's work during the term of its existence. An estimated 1,200 hours of staff support will be required to support the Commission. Necessary staff support for the conduct of the Commission's work shall be furnished by the Office of the Secretary of Education, the Office of the Secretary of Commerce and Trade, the Department of Education, and such other Executive agencies as the Governor shall designate. Funding necessary for the term of the Commission's existence shall be provided from sources, both public and private, as authorized by Section 2.1-51.37 of the Code of Virginia. Direct expenditures for the Commission's work are estimated to be \$20,000.

The Commission shall make an interim report to the Governor specifying the amount and costs of staff support provided and the sources of such staff support within the first six months of the Commission's work. The Commission shall issue other reports and recommendations at the request of the Governor.

This Executive Order shall be effective upon its signing and shall remain in force and effect until January 12, 2002, unless amended or rescinded by further executive order.

Given under my hand and the seal of the Commonwealth of Virginia this 23rd day of August, 2001.

/s/ James S. Gilmore, III, Governor

EXECUTIVE ORDER NUMBER SEVENTY-NINE (01)

CONTINUING THE VIRGINIA ENVIRONMENTAL EDUCATION ADVISORY COMMITTEE

By virtue of the authority vested in me under Article V of the Constitution of Virginia and under the laws of the Commonwealth, including but not limited to Sections 2.1-41.1 and 2.1-51.36 of the Code of Virginia, and subject always to my continuing and ultimate authority to act in such matters, I hereby continue the Virginia Environmental Education Advisory Committee.

The Committee was created under Executive Order Number Sixty-eight (00) issued by me on July 14, 2000, and was classified as a gubernatorial advisory commission in accordance with Section 2.1-51.35 and 9-6.25 of the Code of Virginia.

All aspects of the Commission's duties and responsibilities, membership and structure, funding source, costs, and staff remain as set forth in Executive Order Sixty-eight (00).

This Executive Order shall be effective retroactive to July 1, 2001, and shall remain in force and effect until June 30, 2002, unless amended or rescinded by further executive order, or as otherwise provided by law.

Given under my hand and under the Seal of the Commonwealth of Virginia, this 23rd day of August, 2001.

/s/ James S. Gilmore, III, Governor

EXECUTIVE ORDER NUMBER EIGHTY (01)

COMMONWEALTH OF VIRGINIA EMERGENCY RESPONSE TO THE VOLUNTARY RECALL OF FIRE SPRINKLERS WITH O-RINGS

By virtue of the authority vested in me as Governor under Article V of the Constitution of Virginia, and with due protection for the health and safety of Virginia citizens, I hereby promulgate and issue the Commonwealth of Virginia Emergency Response to the Voluntary Recall of Fire Sprinklers with O-Rings.

On July 19, 2001, the U.S. Consumer Products Safety Commission (CPSC) announced a voluntary recall of fire sprinkler heads containing O-rings and sold by Central Sprinkler Company (Central), an affiliate of Tyco Fire

Products LP, Gem Sprinkler Company, and Star Sprinkler, Inc. The voluntary recall follows a recent decision by the independent testing and certification organization Underwriters Laboratories Inc. to withdraw the approval of new installations relying on O-rings effective January 9, 2003. The CPSC and Central indicate that the voluntary recall was initiated because the performance of the O-ring seals in various models of "wet" or "dry" sprinklers can degrade over time. The seals in these sprinkler heads may corrode or react with materials in the water supply to affect their performance adversely, potentially causing them to fail to activate in a fire.

Under the provisions of the voluntary recall, Central has agreed to provide free of charge both replacement sprinkler heads and the labor needed to replace them. Central has stated that it will arrange for the installation of replacement sprinkler heads by its crews or those of professional sprinkler contractors hired by Central. Central has also indicated its intention to prioritize the installation of the replacements according to the age of the sprinklers, the type of occupancy (with hospitals and nursing homes receiving first priority), and the condition of the sprinklers.

It is believed that the sprinkler heads involved in the recall have been used extensively in state-owned facilities throughout the Commonwealth, including sites where they replaced Omega fire sprinklers that were subject to Executive Order Five (1998). To assure the effective and coordinated participation of all affected state agencies, departments, and institutions in the voluntary recall and because of the potential hazard to life and property in the event of a failure of any of the sprinklers subject to the recall, I hereby authorize the Division of Engineering and Buildings and the State Fire Marshal's Office, on behalf of the Governor, to direct and control this Emergency Response to the Voluntary Recall of Fire Sprinklers with O-rings. I further direct the Governor's Secretaries and all agencies, departments and institutions to cooperate in implementing this Emergency Response to the Voluntary Recall of Fire Sprinklers with O-rings.

The State Fire Marshal's Office shall be responsible for assembling an informational package that includes a copy of this Executive Order, identifies the sprinklers included in the voluntary recall, and outlines the procedure for filing claims with Central Sprinkler for the free replacement of heads. The Department of General Services' Division of Engineering and Buildings shall be responsible for providing a copy of this information to each agency, department, and institution. The State Fire Marshal's Office shall provide consultation to each agency, department, or institution affected by this Executive Order. All Governor's Secretaries and all agencies, departments, and institutions shall assist in disseminating this order and in implementing its provisions.

Inventory of fire sprinklers

All State agencies, departments, and institutions must, within 14 days of the date of this Order, provide the Division of Engineering and Buildings with a complete inventory of all fire sprinklers in their state-owned facilities, identifying them by manufacturer, model, and date of installation if known. Each agency, department, or institution shall determine the number of sprinklers by conducting a physical inspection, in

conjunction with its architect, builder, sprinkler contractor, plumber, or facility manager.

Each State agency, department, or institution that has no fire sprinklers in its state-owned facilities shall report this information, in writing, to the Division of Engineering and Buildings. The Division of Engineering and Buildings shall use this information to establish and maintain a database of all sprinkler installations in state-owned facilities.

Claims for replacement sprinklers

Within 21 days of the date of this order, each State agency, department and institution must, using the appropriate forms, complete the claims application to Central Sprinkler for replacement of the recalled sprinklers and provide it to the Division of Engineering and Buildings.

The State Fire Marshal's Office shall assist the Division of Engineering and Buildings in reviewing and prioritizing claims applications and conducting any negotiations with Central. The Division of Engineering and Buildings shall be responsible for submitting to Central Sprinkler the initial claims application for all State agencies, departments, and institutions.

Each State agency, department, or institution shall notify the Division of Engineering and Buildings and the State Fire Marshal's Office by e-mail prior to the commencement of a replacement project, regardless of whether a building permit is required, and will report the completion of the project in the same manner. Each State agency, department, or institution shall also, upon request and on the same day, report on the progress of each project to the State Fire Marshal's Office. The State Fire Marshal's Office shall provide services required for each replacement project, to include the review of construction documents and performance of construction and final inspections.

In addition, because of continuing concern about the reliability of both "wet" and "dry" sprinkler installations using O-ring seals, the State Fire Marshal's Office shall supplement the procedures of Section F-506.1 of the Virginia Statewide Fire Prevention Code (SFPC) by conducting tests on O-ring sprinkler installation sites sufficient to determine whether such installations are safe.

Leased facilities

Each department, agency, and institution housed in leased facilities shall review, with their attorney, the terms and conditions of their leases to determine whether the maintenance of the respective sprinkler systems is the responsibility of the Commonwealth or of the landlord. If maintenance of the system is the responsibility of the Commonwealth, the department, agency, or institution leasing the property shall follow the procedures set forth above for state-owned facilities.

For facilities in which the landlord is responsible for maintaining the sprinkler system, the department, agency, or institution should request that the landlord have the sprinkler heads examined and applications made for their replacement as appropriate.

Governor

This Executive Order shall be effective upon its signing and shall remain in full force and effect until June 30, 2002, unless sooner amended or rescinded by further executive order.

Given under my hand and under the Seal of the Commonwealth of Virginia this 4th day of September, 2001.

/s/ James S. Gilmore, III, Governor

GOVERNOR'S COMMENTS ON PROPOSED REGULATIONS

TITLE 9. ENVIRONMENT

STATE AIR POLLUTION CONTROL BOARD

Title of Regulation: 9 VAC 5-140-10 et seq. **Emissions Trading.**

Governor's Comment:

I have reviewed the proposed regulation on a preliminary basis. While I reserve the right to take action under the Administrative Process Act during the final adoption period, I have no objection to this regulation based on the information and public comment currently available.

/s/ James S. Gilmore, III
Governor
Date: September 6, 2001

VA.R. Doc. No. R99-149; Filed September 13, 2001, 3:43 p.m.

VIRGINIA WASTE MANAGEMENT BOARD

Title of Regulation: 9 VAC 20-60-12 et seq. **Hazardous Waste Management Regulations.**

Governor's Comment:

I have reviewed the proposed regulation on a preliminary basis. While I reserve the right to take action under the Administrative Process Act during the final adoption period, I have no objection to this regulation based on the information and public comment currently available.

/s/ James S. Gilmore, III
Governor
Date: September 6, 2001

VA.R. Doc. No. R00-253; Filed September 13, 2001, 3:43 p.m.

STATE WATER CONTROL BOARD

Title of Regulation: 9 VAC 25-650-10 et seq. **Closure Plans and Demonstration of Financial Responsibility.**

Governor's Comment:

I have reviewed the proposed regulation on a preliminary basis. While I reserve the right to take action under the Administrative Process Act during the final adoption period, I have no objection to this regulation based on the information and public comment currently available.

/s/ James S. Gilmore, III
Governor
Date: September 6, 2001

VA.R. Doc. No. R01-50; Filed September 13, 2001, 3:43 p.m.

TITLE 12. HEALTH

STATE BOARD OF HEALTH

Title of Regulation: 12 VAC 5-430-10 et seq. **Transient Lodging and Hotel Sanitation in Virginia (REPEALING).**

Title of Regulation: 12 VAC 5-431-10 et seq. **Sanitary Regulations of Hotels.**

Governor's Comment:

I have reviewed the proposed regulation on a preliminary basis. While I reserve the right to take action under the Administrative Process Act during the final adoption period, I have no objection to this regulation based on the information and public comment currently available.

/s/ James S. Gilmore, III
Governor
Date: September 6, 2001

VA.R. Doc. No. R94-256; Filed September 17, 2001, 11:42 a.m.

TITLE 16. LABOR AND EMPLOYMENT

VIRGINIA EMPLOYMENT COMMISSION

Title of Regulation: 16 VAC 5-20-10 et seq. **Unemployment Taxes.**

Governor's Comment:

I have reviewed the proposed regulation on a preliminary basis. While I reserve the right to take action under the Administrative Process Act during the final adoption period, I have no objection to this regulation based on the information and public comment currently available.

/s/ James S. Gilmore, III
Governor
Date: September 6, 2001

VA.R. Doc. No. R00-286; Filed September 17, 2001, 11:42 a.m.

Title of Regulation: 16 VAC 5-32-10 et seq. **Required Records and Reports.**

Governor's Comment:

I have reviewed the proposed regulation on a preliminary basis. While I reserve the right to take action under the Administrative Process Act during the final adoption period, I

have no objection to this regulation based on the information and public comment currently available.

/s/ James S. Gilmore, III
Governor
Date: September 6, 2001

VA.R. Doc. No. R00-287; Filed September 17, 2001, 11:42 a.m.

Title of Regulation: **16 VAC 5-60-10 et seq. Benefits.**

Governor's Comment:

I have reviewed the proposed regulation on a preliminary basis. While I reserve the right to take action under the Administrative Process Act during the final adoption period, I have no objection to this regulation based on the information and public comment currently available.

/s/ James S. Gilmore, III
Governor
Date: September 6, 2001

VA.R. Doc. No. R00-288; Filed September 17, 2001, 11:42 a.m.



TITLE 18. PROFESSIONAL AND OCCUPATIONAL LICENSING

BOARD OF MEDICINE

Title of Regulation: **18 VAC 85-20-10 et seq. Regulations Governing the Practice of Medicine, Osteopathy, Podiatry, and Chiropractic.**

Governor's Comment:

I have reviewed the proposed regulation on a preliminary basis. While I reserve the right to take action under the Administrative Process Act during the final adoption period, I have no objection to this regulation based on the information and public comment currently available.

/s/ James S. Gilmore, III
Governor
Date: September 6, 2001

VA.R. Doc. No. R01-28; Filed September 13, 2001, 3:43 p.m.

Title of Regulation: **18 VAC 85-110-10 et seq. Regulations Governing the Practice of Licensed Acupuncturists.**

Governor's Comment:

I have reviewed the proposed regulation on a preliminary basis. While I reserve the right to take action under the Administrative Process Act during the final adoption period, I have no objection to this regulation based on the information and public comment currently available.

/s/ James S. Gilmore, III
Governor

Date: September 6, 2001

VA.R. Doc. No. R01-52; Filed September 17, 2001, 11:42 a.m.

BOARD OF NURSING

Title of Regulation: **18 VAC 90-20-10 et seq. Regulations Governing the Practice of Nursing.**

Governor's Comment:

I have reviewed the proposed regulation on a preliminary basis. While I reserve the right to take action under the Administrative Process Act during the final adoption period, I have no objection to this regulation based on the information and public comment currently available.

/s/ James S. Gilmore, III
Governor
Date: September 6, 2001

VA.R. Doc. No. R01-17; Filed September 17, 2001, 11:42 a.m.

BOARD OF PHYSICAL THERAPY

Title of Regulation: **18 VAC 112-10-10 et seq. Public Participation Guidelines.**

Governor's Comment:

I have reviewed the proposed regulation on a preliminary basis. While I reserve the right to take action under the Administrative Process Act during the final adoption period, I have no objection to this regulation based on the information and public comment currently available.

/s/ James S. Gilmore, III
Governor
Date: September 6, 2001

VA.R. Doc. No. R01-35; Filed September 17, 2001, 11:42 a.m.

BOARD OF PSYCHOLOGY

Title of Regulation: **18 VAC 125-10-10 et seq. Public Participation Guidelines.**

Governor's Comment:

I have reviewed the proposed regulation on a preliminary basis. While I reserve the right to take action under the Administrative Process Act during the final adoption period, I have no objection to this regulation based on the information and public comment currently available.

/s/ James S. Gilmore, III
Governor
Date: September 6, 2001

VA.R. Doc. No. R00-264; Filed September 17, 2001, 11:42 a.m.



TITLE 22. SOCIAL SERVICES

**DEPARTMENT FOR THE BLIND AND VISION
IMPAIRED**

Title of Regulation: **22 VAC 45-70-10 et seq. Provision of Services in Rehabilitation Teaching.**

Governor's Comment:

I have reviewed the proposed regulation on a preliminary basis. While I reserve the right to take action under the Administrative Process Act during the final adoption period, I have no objection to this regulation based on the information and public comment currently available.

/s/ James S. Gilmore, III

Governor

Date: September 6, 2001

VA.R. Doc. No. R00-180; Filed September 17, 2001, 11:42 a.m.

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Title of Regulation: **22 VAC 45-90-10 et seq. Supervision of Administrative Regulations Governing Intake and Social Services (REPEALING).**

Governor's Comment:

I have reviewed the proposed regulation on a preliminary basis. While I reserve the right to take action under the Administrative Process Act during the final adoption period, I have no objection to the repeal of this regulation based on the information and public comment currently available.

/s/ James S. Gilmore, III

Governor

Date: September 6, 2001

VA.R. Doc. No. R00-182; Filed September 17, 2001, 11:42 a.m.

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Title of Regulation: **22 VAC 45-110-10 et seq. Regulations Governing Low Vision.**

Governor's Comment:

I have reviewed the proposed regulation on a preliminary basis. While I reserve the right to take action under the Administrative Process Act during the final adoption period, I have no objection to this regulation based on the information and public comment currently available.

/s/ James S. Gilmore, III

Governor

Date: September 6, 2001

VA.R. Doc. No. R00-177; Filed September 17, 2001, 11:42 a.m.



GENERAL NOTICES/ERRATA

DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES

Civil Penalties Matrix for the Agricultural Stewardship Act Program (Authority: Section 10.1-559.7 of the Code of Virginia)

VIOLATIONS

"Any person violating Section 10.1-559.4 or Section 10.1-559.5 shall be subject to a civil penalty not to exceed \$5,000 for every violation assessed by the Commissioner of Agriculture and Consumer Services. Each day the violation continues shall constitute a separate offense." (Section 10.1-559.7(A) of the Code of Virginia)

The following are violations of Section 10.1-559.4 of the Code of Virginia:

1. The owner or operator fails to submit an Agricultural Stewardship Plan after the Commissioner has issued a Corrective Order (Authority: Section 10.1-559.4(A) of the Code of Virginia);

(Base civil penalty—\$200)

2. The owner or operator fails to begin actively implementing an Agricultural Stewardship Plan after the Commissioner has issued a Corrective Order (Authority: Section 10.1-559.4(A) of the Code of Virginia);

(Base civil penalty—\$500)

3. The owner or operator fails to complete the implementation of an Agricultural Stewardship Plan after the Commissioner has issued a Corrective Order (Authority: Section 10.1-559.4(A) of the Code of Virginia);

(Base civil penalty—\$500)

4. The owner or operator fails to maintain the required stewardship measures after the Commissioner has issued a Corrective Order (Authority: Section 10.1-559.4(A) of the Code of Virginia);

(Base civil penalty—\$250) and

5. The owner or operator fails to comply with an Emergency Corrective Order (Authority: Section 10.1-559.4(D) of the Code of Virginia).

(Base civil penalty—\$500)

The following are violations of Section 10.1-559.5 of the Code of Virginia:

The owner or operator denies the Commissioner or his designee the right of entry (Authority: Section 10.1-559.5(A) of the Code of Virginia).

(Base civil penalty—\$500)

The following factors shall be considered in determining the amount of any civil penalty:

1. If there is willfulness of violation, add \$500 to the base civil penalty;

2. If there is history of noncompliance with Agricultural Stewardship Act, add \$1000 to the base civil penalty;

3. If there is failure of owner in notifying, containing and cleaning up any discharge, add \$1000 to the base civil penalty;

4. If there is damage or injury to state waters or the impairment of its uses, add \$1500 to the base civil penalty; and

5. When the injury is of such a nature and degree as to interfere with general health, welfare and property, add \$1500 to the base civil penalty.

STATE AIR POLLUTION CONTROL BOARD

Extension of Public Comment Period for Regulation Revision YY Concerning New and Modified Source Review

The Department of Environmental Quality, on behalf of the State Air Pollution Control Board, announced an additional public comment period and public hearing on proposed amendments to the Regulations for the Control and Abatement of Air Pollution concerning new and modified source review. The announcement appeared in the Register of Regulations on August 27, 2001, Volume 17, Issue 25, page 3653.

The department has decided to extend the public comment period from 45 days to 60 days, making the deadline for submittal of comments October 26, 2001. Comments are to be submitted to Mary E. Major, Environmental Program Manager, Office of Air Regulatory Development, Department of Environmental Quality, P.O. Box 10009, Richmond, VA 23240, telephone (804) 698-4423, FAX (804) 698-4510 or e-mail memajor@deq.state.va.us and in order to be considered must be received by 4:30 p.m. on October 26, 2001.

STATE CORPORATION COMMISSION

EDITOR'S NOTE: Appendices A, B and C referenced in the following order are not being published. However, these appendices are available for public inspection at the State Corporation Commission, Document Control Center, Tyler Building, 1st Floor, 1300 East Main Street, Richmond, VA from 8:15 a.m. to 5 p.m., Monday through Friday.

AT RICHMOND, AUGUST 29, 2001

PETITION OF

VIRGINIA TELECOMMUNICATIONS
INDUSTRY ASSOCIATION

CASE NO. PUC010172

For the establishment of formal
procedures for annual certification

General Notices/Errata

of use of federal universal service support in accordance with 47 C.F.R. §§ 54.313 and .314

PRELIMINARY ORDER

On August 14, 2001, the Virginia Telecommunications Industry Association ("VTIA"), on behalf of its incumbent local exchange carrier ("ILEC") members, filed a Petition requesting that the Virginia State Corporation Commission ("Commission") establish formal procedures for the annual certification of the use of federal universal high-cost support by rural and non-rural carriers in accordance with 47 C.F.R. §§ 54.313 and .314.

Pursuant to § 254(e) of the Telecommunications Act of 1996 ("the Act"), 47 U.S.C. § 254(e), only eligible telecommunications carriers designated under § 214(e)¹ shall be eligible for federal universal support, and any carrier that receives such federal universal service funds must use those funds "only for the provision, maintenance and upgrading of facilities and services for which the support is intended."

The Federal Communications Commission ("FCC") has adopted rules requiring states to file annual certification(s) with the FCC and the Universal Service Administrative Company ("USAC"), that all carriers, rural and non-rural that are designated as eligible to receive support under § 214(e) are, in fact, using any such support "only for the provision, maintenance, and upgrading of facilities and services for which the support is intended".² Absent this state certification, eligible carriers in a state will not receive universal support.

The VTIA has proposed a process for yearly self-certification. Under VTIA's recommended self-certification procedure, each rural and/or non-rural ILEC (or any other eligible carrier serving lines in the service area of the ILEC) would submit a sworn affidavit certifying that federal high-cost support funds to be received by that carrier during the next year will be used only for the provision, maintenance, and upgrading of facilities and services for which the support is intended under the Act. VTIA has included a proposed form of Affidavit to accomplish this self-certification, which is attached to this Order as Exhibit A.

VTIA notes that its proposed self-certification process is patterned after the self-certification process established by the FCC for rural and non-rural carriers not subject to a state commission's jurisdiction, which we note would include cooperatives in Virginia formed under the Telephone Cooperatives Act.³

The Commission finds that the proposed self-certification procedure proposed by VTIA is a reasonable procedure to accomplish the Commission's annual certification with the FCC and USAC in accordance with 47 C.F.R. §§ 54-313 and .314. The attached affidavit (Exhibit A), or one that includes all relevant information, may be used by the eligible carrier in its certification to the Commission.

On an ongoing basis, any eligible carriers seeking this certification shall submit its self-certification affidavit to the Commission by August 1 for the prospective calendar year as the Commission needs to submit its state certification to the FCC and USAC by October 1 of each year. However, for the year beginning January 1, 2002, any eligible carriers that seek such certification shall submit their affidavit to the Commission no later than September 14, 2001.

Accordingly, IT IS ORDERED THAT:

- (1) This case is docketed as Case No. PUC010172.
- (2) As set out above, any eligible carrier that seeks yearly certification by the Commission of the use of federal universal service support shall annually file an affidavit with the Clerk of the Commission. Such affidavit shall be signed by an appropriate company officer attesting that the federal high-cost support funds received for the next year will be used only for the provision, maintenance, and upgrading of facilities for which the support is intended.
- (3) For the year beginning January 1, 2002, any eligible carrier seeking annual Commission certification shall submit its affidavit by September 14, 2001. Thereafter, the eligible carrier shall submit an annual affidavit by August 1 of each year, consistent with the findings above.
- (4) This case is continued generally.

AN ATTESTED COPY hereof shall be sent by the Clerk of the Commission to: Richard D. Gary, Esquire, and Kristina E. Beard, Esquire, Hunton & Williams, Riverfront Plaza, East Tower, 951 East Byrd Street, Richmond, Virginia 23219-4074; all local exchange carriers as set out in Appendix A; all interexchange carriers as set out in Appendix B; all other telecommunications carriers as set out in Appendix C; John F. Dudley, Senior Assistant Attorney General, Division of Consumer Counsel, Office of Attorney General, 900 East Main Street, Second Floor, Richmond, Virginia 23219; and the Commission's Office of General Counsel and Division of Communications.

EXHIBIT A

Commonwealth of Virginia
State Corporation Commission

[In Re: annual certification of use)
of federal universal service support])

CASE NO. PUC _____

AFFIDAVIT OF [NAME] IN SUPPORT
OF [COMPANY NAME]'S USE OF

FEDERAL UNIVERSAL SERVICE SUPPORT

STATE OF VIRGINIA

¹ The Commission adopted procedures for the designation of eligible telecommunications carriers in its Order of November 27, 1997, in Case No. PUC970135.

² See FCC's Fourteenth Report and Order, Twenty-Second Order on Reconsideration, and Further Notice of Proposed Rulemaking in CC Docket No. 96-45, and Report and Order in CC Docket No. 00-256, FCC 01-157 (rel. May 23, 2001). The annual certification requirement for rural carriers has been codified at 47 C.F.R. § 54.314, effective July 1, 2001. The annual certification for non-rural carriers was adopted in the FCC's Ninth Report and Order and codified at 47 C.F.R. § 54.313.

³ §§ 56-485, et seq. Cooperatives are advised to consult 47 C.F.R. §§ 54-313(b), (c), .314(c), (d). These carriers are required to certify directly with the FCC.

[CITY/COUNTY] OF _____

DEPARTMENT OF ENVIRONMENTAL QUALITY

I, Name, declare as follows:

1. I am employed by Company Name as its Title. I am an officer of Company Name and am authorized to give this affidavit on its behalf. This affidavit is being given to support the Virginia State Corporation Commission's ("Commission") certification of the use of federal universal service funds for year as required by 47 C.F.R. [§ 54.313/ § 54.314].

2. Under 47 C.F.R. [§ 54.313/§ 54.314], the Commission is required to submit an annual certification to the Federal Communications Commission ("FCC") and the Universal Service Administrative Company ("USAC"), certifying that [non-rural/rural] incumbent local exchange carriers and/or eligible telecommunications carriers serving lines in the service area of a [non-rural/rural] incumbent local exchange carrier within the Commonwealth of Virginia will use federal high-cost universal service support in a manner consistent with section 254(e) of the Telecommunications Act of 1996 (the "Act"), 47 U.S.C. § 254(e). Absent such certification, such carriers will not receive universal service support. In order for carriers to receive federal support beginning January 1 of each year, the Commission's certification must be filed with the FCC and the USAC by October 1 of the preceding year.

3. In this Case No. PUC_____, the Commission established self-certification procedures under which each carrier in the Commonwealth of Virginia that is subject to the Commission's jurisdiction and eligible to receive federal high-cost universal service support, must certify to the Commission by July 1 of each year that federal universal service support funds to be received by that carrier for the succeeding year will be used only for the provision, maintenance and upgrading of facilities and services for which such support is intended.

4. Company Name hereby certifies that the federal high-cost universal service support Company Name will receive in year will be used for the services and functionalities outlined in 47 C.F.R. § 54.101(a), and that it will only use the federal high-cost support it receives for the provision, maintenance and upgrading of facilities and services for which such support is intended, consistent with section 254(e) of the Act.

FURTHER AFFIANT SAYETH NOT.

Name
Title
Company Name

Subscribed and sworn to before me this ____ day of _____, 200_.

Notary Public

My commission expires: _____.

Total Maximum Daily Load (TMDL) for Fecal Coliform Bacteria in Blacks Run

The Department of Environmental Quality (DEQ) and the Department of Conservation and Recreation (DCR) seek written and oral comments from interested persons on the development of a Total Maximum Daily Load (TMDL) for Fecal Coliform Bacteria in Blacks Run. The stream is located in Rockingham County and is part of the Shenandoah River Basin. The segment is 10.70 miles in length: it begins at Blacks Run's headwaters and continues downstream to its confluence with Cooks Creek. The segment is identified in Virginia's 1998 303(d) TMDL Priority List and Report as impaired due to violations of the state's water quality standard for Fecal Coliform.

Section 303(d) of the Clean Water Act and § 62.1-44.19:7 C of the Code of Virginia require DEQ to develop TMDLs for pollutants responsible for each impaired water contained in Virginia's 303(d) TMDL Priority List and Report.

The third public meeting on the development of the Fecal Coliform Bacteria TMDL for Blacks Run will be held on Thursday, November 1, 2001, 7 p.m. at the DEQ Valley Regional Office, 4411 Early Road, Harrisonburg, Virginia. The draft TMDL study will be presented at this meeting.

The public comment period will end on November 19, 2001. A copy of the draft TMDL document for Fecal Coliform Bacteria in Blacks Run is available upon request. Questions or information requests should be addressed to Sandra Mueller. Written comments should include the name, address, and telephone number of the person submitting the comments and should be sent to Sandra Mueller, Department of Environmental Quality, 4411 Early Road, Harrisonburg, Virginia 22801, telephone (540) 574-7801, FAX (540) 574-7878 or e-mail stmueller@deq.state.va.us.

Total Maximum Daily Loads (TMDLs) for Fecal Coliform Bacteria in the Catoctin Creek Watershed

The Department of Environmental Quality (DEQ) and the Department of Conservation and Recreation (DCR) seek written and oral comments from interested persons on the development of Total Maximum Daily Loads (TMDLs) to address multiple fecal coliform bacteria impairments in the Catoctin Creek Watershed. The stream segments include a 6.0-mile segment of South Fork Catoctin Creek, a 10.5-mile segment of North Fork Catoctin Creek, and a 7.4-mile segment of Catoctin Creek (all stream measurements are approximate).

The Catoctin Creek Watershed impairments are located in Loudoun County. These stream segments are identified in Virginia's 1998 303(d) TMDL Priority List and Report as impaired due to violations of the state's water quality standard for fecal coliform bacteria.

Section 303(d) of the Clean Water Act and § 62.1-44.19:7 C of the Code of Virginia, require DEQ to develop TMDLs for

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pollutants responsible for each impaired water contained in Virginia's 303(d) TMDL Priority List and Report.

The first public meeting on the development of the Catoctin Creek Watershed fecal coliform TMDLs will be held on Tuesday, October 23, 2001, at 7 p.m. at the Lovettsville Community Center located at 57 East Broadway, Lovettsville, Virginia.

The public comment period will begin on October 8, 2001, and end on November 7, 2001. A fact sheet on the development of the TMDLs for the multiple fecal coliform bacteria impairments in the Catoctin Creek Watershed is available upon request. Questions or information requests should be addressed to Bryant Thomas. Written comments should include the name, address, and telephone number of the person submitting the comments and should be sent to Mr. Bryant H. Thomas, Department of Environmental Quality, 13901 Crown Court, Woodbridge, Virginia, 22193, telephone (703) 583-3843, FAX (703) 583-3841 or e-mail bhthomas@deq.state.va.us.

Total Maximum Daily Load (TMDL) for Fecal Coliform Bacteria in Christians Creek

The Department of Environmental Quality (DEQ) and the Department of Conservation and Recreation (DCR) seek written and oral comments from interested persons on the development of a Total Maximum Daily Load (TMDL) for Fecal Coliform Bacteria in Christians Creek. The stream is located in Augusta County and is part of the Potomac and Shenandoah River Basin. The segment is 31.52 miles in length: it begins at Christians Creek's headwaters and continues downstream to its confluence with the Middle River. The segment is identified in Virginia's 1998 303(d) TMDL Priority List and Report as impaired due to violations of the State's water quality standard for Fecal Coliform.

Section 303(d) of the Clean Water Act and § 62.1-44.19:7 C of the Code of Virginia require DEQ to develop TMDLs for pollutants responsible for each impaired water contained in Virginia's 303(d) TMDL Priority List and Report.

The third public meeting on the development of the Fecal Coliform Bacteria TMDL will be held on Wednesday, November 7, 2001, 7 p.m. in the Beam Annex Building next to Expo Hall on Route 935, Fishersville, VA. The draft TMDL study will be presented at this meeting.

The public comment period will end on November 19, 2001. A fact sheet on the development of the TMDL for Fecal Coliform Bacteria on Christians Creek is available upon request. Questions or information requests should be addressed to Sandra Mueller. Written comments should include the name, address, and telephone number of the person submitting the comments and should be sent to Sandra Mueller, Department of Environmental Quality, PO Box 3000, 4411 Early Road, Harrisonburg, Virginia 22801, telephone (540) 574-7801, FAX (540) 574-7878 or e-mail stmueller@deq.state.va.us.

Total Maximum Daily Loads (TMDLs) for Fecal Coliform Bacteria in the Goose Creek Watershed

The Department of Environmental Quality (DEQ) and the Department of Conservation and Recreation (DCR) seek written and oral comments from interested persons on the development of Total Maximum Daily Loads (TMDLs) to address multiple fecal coliform bacteria and benthic community impairments in the Goose Creek Watershed. The subject stream segments include an approximate 8.7-mile segment of Goose Creek, an approximate 6.8-mile segment of Sycolin Creek, an approximate 6.3-mile segment of Little River, an approximate 6.4-mile segment of Beaverdam Creek, an approximate 4.5-mile segment of North Fork Goose Creek, and an approximate 3.8-mile segment of Cromwell's Run.

The impaired stream segments are located in Loudoun and Fauquier Counties. The subject stream segments are identified in Virginia's 1998 303(d) TMDL Priority List and Report as impaired due to violations of the state's water quality standard for fecal coliform bacteria and/or the general standard for state waters.

Section 303(d) of the Clean Water Act and § 62.1-44.19:7 C of the Code of Virginia, require DEQ to develop TMDLs for pollutants responsible for each impaired water contained in Virginia's 303(d) TMDL Priority List and Report.

The first public meeting on the development of the Goose Creek Watershed fecal coliform and benthic TMDLs will be held on Wednesday, October 17, 2001, at 7 p.m. in the 1st Floor Board Room of the Loudoun County Government Center located at 1 Harrison Street, S.E., Leesburg, Virginia.

The public comment period will begin on October 8, 2001, and end on November 7, 2001. A fact sheet on the development of the TMDLs for the multiple fecal coliform bacteria and benthic impairments in the Goose Creek Watershed is available upon request. Questions or information requests should be addressed to Bryant Thomas. Written comments should include the name, address, and telephone number of the person submitting the comments and should be sent to Mr. Bryant H. Thomas, Department of Environmental Quality, 13901 Crown Court, Woodbridge, Virginia, 22193, telephone (703) 583-3843, FAX (703) 583-3841 or e-mail bhthomas@deq.state.va.us.

Total Maximum Daily Load (TMDL) for Fecal Coliform Bacteria in Naked Creek

The Department of Environmental Quality (DEQ) and the Department of Conservation and Recreation (DCR) seek written and oral comments from interested persons on the development of a Total Maximum Daily Load (TMDL) for Fecal Coliform Bacteria in Naked Creek. The stream is located in Augusta County and is part of the Potomac and Shenandoah River Basin. The segment is 6.75 miles in length: it begins at Naked Creek's headwaters and continues downstream to its confluence with the North River. The segment is identified in Virginia's 1998 303(d) TMDL Priority List and Report as impaired due to violations of the State's water quality standard for Fecal Coliform.

Section 303(d) of the Clean Water Act and § 62.1-44.19:7 C of the Code of Virginia require DEQ to develop TMDLs for pollutants responsible for each impaired water contained in Virginia's 303(d) TMDL Priority List and Report.

The first public meeting on the development of the Fecal Coliform Bacteria TMDL for Naked Creek will be held on Thursday, October 25, 2001, at 7 p.m. in the Bethany United Methodist Church on Route 11 (3700 Lee Highway, Weyers Cave, 24486).

The public comment period will end on November 8, 2001. A fact sheet on the development of the TMDL for Fecal Coliform Bacteria on Naked Creek is available upon request. Questions or information requests should be addressed to Sandra Mueller. Written comments should include the name, address, and telephone number of the person submitting the comments and should be sent to Sandra Mueller, Department of Environmental Quality, 4411 Early Road, Harrisonburg, Virginia 22801, telephone (540) 574-7801, FAX (540) 574-7878 or e-mail stmueller@deq.state.va.us.

BOARD OF JUVENILE JUSTICE

Notice of Opportunity for Public Comment Regarding Length of Stay Guidelines

Notice is hereby given that the Board of Juvenile Justice is considering modifications to its Length of Stay Guidelines for juveniles indeterminately committed to the Department of Juvenile Justice, and invites comments from the public. The Length of Stay Guidelines may be obtained from the Policy Office at the Department of Juvenile Justice, 700 E. Franklin Street (4th Floor), P.O. Box 1110, Richmond, Virginia 23208-1110, or by calling (804) 371-0743, or via e-mail to carigndr@djj.state.va.us. The modifications are intended to update the Length of Stay Guidelines that were adopted in February 1998, and to formalize an "early release incentive program" that has been an effective behavioral incentive for committed juveniles. In addition to written public comments, the board will allow time at its October 24 meeting to receive comments from interested persons.

STATE WATER CONTROL BOARD

Proposed Consent Special Order Kaye Andrus Brandy Farm

The State Water Control Board (board) proposes to issue a Consent Special Order (order) to Kaye Andrus (permittee) regarding Brandy Farm located in Culpeper County, Virginia.

Brandy Farm is subject to Virginia Pollutant Abatement (VPA) General Permit for Confined Animal Feeding Operations Permit No. VPG130022. The order requires that the permittee empty the lagoons; backfill, grade, and seed; minimize surface runoff; and remove all silage and dairy cattle. The permittee has agreed to payment of a civil charge.

On behalf of the board, the Department of Environmental Quality's Northern Virginia Regional Office will receive written comments relating to the order through November 7, 2001. Please address comments to: Susan A. Oakes, Northern Virginia Regional Office, Department of Environmental Quality, 13901 Crown Court, Woodbridge, Virginia, 22193. Please address comments sent via e-mail to saoakes@deq.state.va.us. In order to be considered, comments provided by e-mail must include the commenter's name, address, and telephone number. Please write or visit the Woodbridge address, or call (703) 583-3863, in order to examine or to obtain a copy of the order.

Proposed Consent Special Order National Fruit Product Company, Incorporated

The State Water Control Board proposes to enter into a Consent Special Order with National Fruit Product Company, Incorporated (National Fruit). The Parties have agreed to the terms of a Consent Special Order for settlement of violations of State Water Control Law at the National Fruit facility.

National Fruit operates a fruit processing facility in Winchester, Virginia. Under the terms of a Virginia Pollution Abatement (VPA) permit, National Fruit land applies fruit processing wastewater on two spray field sites located in Frederick County, Virginia. Based on multiple inspections of the facility, DEQ found National Fruit to be in violation of its VPA permit. National Fruit has implemented measures to return the facility to compliance with the VPA permit. The proposed order includes additional corrective measures, including wastewater reduction measures designed to return the facility to full compliance with the VPA permit. The proposed order would also assess civil charges against National Fruit in settlement of the violations.

The board will receive written comments relating to the proposed order for 30 days from the date of publication of this notice. Comments should be addressed to Edward A. Liggett, Department of Environmental Quality, P.O. Box 3000, Harrisonburg, Va. 22801, and should refer to the order. The proposed order may be examined at the Department of Environmental Quality, Valley Regional Office, 4411 Early Road, Harrisonburg, Virginia. A copy of the order may be obtained in person or by mail from the DEQ office.

Comments may also be submitted via electronic mail to ealiggett@deq.state.va.us. In order to be considered, electronic comments must be received prior to the close of the comment period and must include the name, address and telephone number of the person making the comment.

VIRGINIA CODE COMMISSION

Notice Regarding The Legislative Record

The Legislative Record will no longer be published in the Virginia Register of Regulations beginning with Volume 18 of the Register. For information regarding subscriptions to The Legislative Record, please contact Special Projects, Division of Legislative Services, 910 Capitol Street, 2nd Floor,

General Notices/Errata

Richmond, VA 23219. The Legislative Record is also available on-line at <http://dls.state.va.us/pubs/legisrec/2001/>.

Notice to State Agencies

Mailing Address: Virginia Code Commission, 910 Capitol Street, General Assembly Building, 2nd Floor, Richmond, VA 23219, FAX (804) 692-0625.

Forms for Filing Material for Publication in *The Virginia Register of Regulations*

All agencies are required to use the appropriate forms when furnishing material for publication in *The Virginia Register of Regulations*. The forms may be obtained from: Virginia Code Commission, 910 Capitol Street, General Assembly Building, 2nd Floor, Richmond, VA 23219, telephone (804) 786-3591.



Internet: Forms and other Virginia Register resources may be printed or downloaded from the Virginia Register web page: <http://legis.state.va.us/codecomm/register/regindex.htm>

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


CALENDAR OF EVENTS

Symbol Key

-  Location accessible to persons with disabilities
 Teletype (TTY)/Voice Designation

NOTICE


Only those meetings which are filed with the Registrar of Regulations by the filing deadline noted at the beginning of this publication are listed. Since some meetings are called on short notice, please be aware that this listing of meetings may be incomplete. Also, all meetings are subject to cancellation and the *Virginia Register* deadline may preclude a notice of such cancellation. If you are unable to find a meeting notice for an organization in which you are interested, please check the Commonwealth Calendar at www.vipnet.org or contact the organization directly.

For additional information on open meetings and public hearings held by the standing committees of the legislature during the interim, please call Legislative Information at (804) 698-1500 or Senate Information and Constituent Services at (804) 698-7410 or (804) 698-7419/TTY , or visit the General Assembly web site's Legislative Information System (<http://leg1.state.va.us/lis.htm>) and select "Meetings."


VIRGINIA CODE COMMISSION


EXECUTIVE

BOARD OF ACCOUNTANCY


† **October 9, 2001 - 10 a.m.** -- Open Meeting
Department of Professional and Occupational Regulation,
3600 West Broad Street, Suite 696, 6th Floor, Richmond, VA
Virginia.  (Interpreter for the deaf provided upon request)

The Enforcement Committee will meet for training and review of pending complaints. Public comment will not be received.


Contact: Nancy Taylor Feldman, Executive Director, Board of Accountancy, 3600 W. Broad St., Suite 696, Richmond, VA 23230-4916, telephone (804) 367-8505, FAX (804) 367-2174, (804) 367-9753/TTY , e-mail accountancy@dpor.state.va.us.

October 24, 2001 - 10 a.m. -- Open Meeting
Department of Motor Vehicles, 2300 West Broad Street, Executive Conference Room, 7th Floor, Richmond, Virginia.  (Interpreter for the deaf provided upon request)

A meeting to conduct routine business. A public comment period will be held at the beginning of the meeting.

Contact: Nancy Taylor Feldman, Executive Director, Board of Accountancy, 3600 W. Broad St., Suite 696, Richmond, VA 23230-4916, telephone (804) 367-8505, FAX (804) 367-2174, (804) 367-9753/TTY , e-mail accountancy@dpor.state.va.us.

COMMONWEALTH COUNCIL ON AGING


October 14, 2001 - 1 p.m. -- Open Meeting
Radisson Fort Magruder Inn, 6945 Pocahontas Trail, Williamsburg, Virginia.  (Interpreter for the deaf provided upon request)

A regular business meeting. Public comments welcomed.

Contact: Marsha Mucha, Department for the Aging, 1600 Forest Ave., Suite 102, Richmond, VA 23229, telephone (804) 662-9312, e-mail mmucha@vdh.state.va.us.

DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES

Virginia Irish Potato Board

† **October 15, 2001 - 7 p.m.** -- Open Meeting
Aberdeen Barn Restaurant, 5805 Northampton Boulevard, Virginia Beach, Virginia. 

A meeting to discuss the board's annual plan of work to include promotion, research and education projects, and to conduct routine business. The board will entertain any other business that might come before it, and will entertain public comment at the conclusion of all other business for a period not to exceed 30 minutes. Any person needing accommodation in order to participate at the meeting should contact the person identified in this notice at least five days before the meeting date so that suitable arrangements can be made.

Contact: Butch Nottingham, Program Director, Department of Agriculture and Consumer Services, P.O. Box 26, Onley, VA 23418, telephone (757) 787-5867, FAX (757) 787-5973..

Pesticide Control Board

† **October 18, 2001 - 9 a.m.** -- Open Meeting
Department of Agriculture and Consumer Services, Washington Building, 1100 Bank Street, 2nd Floor, Board Room, Richmond, Virginia. 

A general business meeting. Portions of the meeting may be held in closed session, pursuant to § 2.2-3711 of the Code of Virginia. The public will have an opportunity to comment on any matter not on the board's agenda beginning at 9 a.m. The board will entertain public comment at the conclusion of all other business for a period not to exceed 30 minutes. Any person needing accommodation in order to participate at the meeting should contact the person identified in this notice at least five days before the meeting date so that suitable arrangements can be made.

Contact: Dr. Marvin A. Lawson, Program Manager, Office of Pesticide Services, Department of Agriculture and Consumer

Calendar of Events

Services, Washington Bldg., 1100 Bank St., Room 401, Richmond, VA 23219, telephone (804) 371-6559, FAX (804) 371-8598, e-mail mlawson@vdacs.state.va.us.

STATE AIR POLLUTION CONTROL BOARD

October 11, 2001 - Public comments may be submitted until this date.

A public hearing to receive comments on the proposed revision to the Regulations for the Control and Abatement of Air Pollution, concerning minor new and modified source review (9 VAC 5 Chapter 80, Revision YY) and the State Implementation Plan. On February 15, 1999, the board published a proposal (hereafter called the original proposal) to amend its regulations concerning new and modified new source review. In response to that request, comments were submitted that resulted in several changes being made to the original proposal. Because of the nature of the changes, the board is now seeking comment on the additional changes.

Contact: Mary Major, Department of Environmental Quality, P.O. Box 10009, Richmond, VA 23240, telephone (804) 698-4423, FAX (804) 698-4510, (804) 698-4021/TTY ☎, e-mail mlmajor@deq.state.va.us.

November 7, 2001 - 9:30 a.m. -- Open Meeting
Wyndham Garden, 4600 South Laburnum Avenue, Richmond, Virginia. ♿

A regular meeting of the board and joint meeting with the State Advisory Board on Air Pollution.

Contact: Cindy Berndt, Regulatory Coordinator, Department of Environmental Quality, P.O. Box 10009, Richmond, VA 23240, telephone (804) 698-4378, FAX (804) 698-4346, e-mail cmberndt@deq.state.va.us.

† **November 13, 2001 - 10 a.m.** -- Public Hearing
Department of Environmental Quality, Northern Regional Office, 13901 Crown Court, Conference Room, Woodbridge, Virginia.

† **January 7, 2002** - Public comments may be submitted this date.

Notice is hereby given in accordance with § 2.2-4007 of the Code of Virginia that the State Air Pollution Control Board intends to amend regulations entitled: **9 VAC 5-91-10 et seq. Regulation for the Control of Motor Vehicle Emissions in Northern Virginia.** The purpose of the proposed amendments is to conform the regulation to state law and federal Clean Air Act requirements for the testing of emissions from motor vehicles located or primarily operated in Northern Virginia.

Statutory Authority: § 46.2-1180 of the Code of Virginia.

Public comments may be submitted until November 13, 2001, to Director, Office of Air Regulatory Development, Department of Environmental Quality, P.O. Box 10009, Richmond, VA 23240.

Contact: Mary E. Major, Environmental Program Manager, Office of Air Regulatory Development, Department of Environmental Quality, P.O. Box 10009, Richmond, VA 23240, telephone (804) 698-4423, FAX (804) 698-4510, toll-free 1-800-592-5482 or (804) 698-4021/TTY ☎

BOARD FOR ARCHITECTS, PROFESSIONAL ENGINEERS, LAND SURVEYORS, CERTIFIED INTERIOR DESIGNERS AND LANDSCAPE ARCHITECTS

Certified Interior Designer Section

† **October 15, 2001 - 9 a.m.** -- Open Meeting
Department of Professional and Occupational Regulation, 3600 West Broad Street, Richmond, Virginia. ♿ (Interpreter for the deaf provided upon request)

A meeting to discuss educational requirements for certified interior designers, the use of seals by certified interior designers, to discuss any other board business as necessary. Persons desiring to participate in the meeting and requiring special accommodations or interpretative 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 23230-4917, telephone (804) 367-8514, FAX (804) 367-2475, (804) 367-9753/TTY ☎, e-mail apelsla@dpor.state.va.us.

ART AND ARCHITECTURAL REVIEW BOARD

November 2, 2001 - 10 a.m. -- Open Meeting
December 7, 2001 - 10 a.m. -- Open Meeting
Science Museum of Virginia, 2500 West Broad Street, Forum Room, Richmond, Virginia. ♿ (Interpreter for the deaf provided upon request)

A monthly meeting to review projects submitted by state agencies.

Contact: Richard L. Ford, AIA, Chairman, Art and Architectural Review Board, 1011 E. Main St., Room 221, Richmond, VA 23219, telephone (804) 643-1977, FAX (804) 643-1981, (804) 786-6152/TTY ☎

VIRGINIA BOARD FOR ASBESTOS, LEAD AND HOME INSPECTORS

October 30, 2001 - 10 a.m. -- Open Meeting
Department of Professional and Occupational Regulation, 3600 West Broad Street, Conference Room 5W, Richmond, Virginia. ♿

A routine business meeting. A public comment period will be held at the beginning of the meeting.

Contact: Christine Martine, Acting Assistant Director, Virginia Board for Asbestos, Lead and Home Inspectors, 3600

W. Broad St., Richmond, VA 23230, telephone (804) 367-2648, FAX (804) 367-6128, (804) 367-9753/TTY ☎, e-mail asbestos@dpor.state.va.us.

(800) 292-1034, (804) 236-3624/TTY ☎, e-mail toth@doav.state.va.us, homepage <http://doav.state.va.us>.

ASSISTIVE TECHNOLOGY LOAN FUND AUTHORITY

October 18, 2001 - 10 a.m. -- Open Meeting
Department of Rehabilitative Services, 8004 Franklin Farms Drive, Richmond, Virginia. ♿ (Interpreter for the deaf provided upon request)

A regular meeting of the Board of Directors. The board invites persons with disabilities, advocates or other interested parties to participate during the public comment session. Following the business meeting the board will meet in closed session to review loan applications.

Contact: Shilpa Joshi, Assistive Technology Loan Fund Authority, 8004 Franklin Farms Dr., Richmond, VA 23228, telephone (804) 662-9000, FAX (804) 662-9533, toll-free (800) 552-5019, (804) 662-9000/TTY ☎, e-mail loanfund@erols.com.

COMPREHENSIVE SERVICES FOR AT-RISK YOUTH AND FAMILIES

State Executive Council

October 31, 2001 - 9 a.m. -- Open Meeting
November 28, 2001 - 9 a.m. -- Open Meeting
December 19, 2001 - 9 a.m. -- Open Meeting
Department of Social Services, 730 East Broad Street, Lower Level, Training Room 1, Richmond, Virginia. ♿ (Interpreter for the deaf provided upon request)

A regular meeting. An agenda will be posted on the web (<http://www.csa.state.va.us>) a week prior to the meeting.

Contact: Alan G. Saunders, Director, Comprehensive Services for At-Risk Youth and Families, 1604 Santa Rosa Rd., Suite 137, Richmond, VA 23229, telephone (804) 662-9815, FAX (804) 662-9831, e-mail AGS992@central.dss.state.va.us.

VIRGINIA AVIATION BOARD

† **October 16, 2001 - 3 p.m.** -- Open Meeting
† **October 17, 2001 - 9 a.m.** -- Open Meeting
Wyndham Hotel, Richmond Airport, 4700 South Laburnum Avenue, Richmond, Virginia. ♿

A regular bimonthly meeting. Application 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 Carolyn Toth 10 days prior to the meeting if assistance is needed.

Contact: Carolyn Toth, Administrative Assistant, Virginia Aviation Board, 5702 Gulfstream Rd., Richmond, VA 23250, telephone (804) 236-3637, FAX (804) 236-3635, toll-free

AUCTIONEERS BOARD

† **October 18, 2001 - 10 a.m.** -- Open Meeting
Department of Professional and Occupational Regulation, 3600 West Broad Street, Richmond, Virginia. ♿ (Interpreter for the deaf provided upon request)

A meeting to discuss board business. Persons desiring to participate in the meeting and requiring special accommodations or interpretative 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 23230-4917, telephone (804) 367-8514, FAX (804) 367-2475, (804) 367-9753/TTY ☎, e-mail auctioneers@dpor.state.va.us.

BOARD FOR BARBERS AND COSMETOLOGY

† **October 22, 2001 - 10:30 a.m.** -- Open Meeting
Department of Professional and Occupational Regulation, 3600 West Broad Street, Richmond, Virginia. ♿ (Interpreter for the deaf provided upon request)

A meeting of the Regulatory Review Committee to complete work on the board's proposed regulations.

Contact: David E. Dick, Assistant Director, Department of Professional and Occupational Regulation, 3600 W. Broad St., Richmond, VA 23230-4917, telephone (804) 367-2785, FAX (804) 367-2474, (804) 367-9753/TTY ☎, e-mail barbercosmo@dpor.state.va.us.

DEPARTMENT FOR THE BLIND AND VISION IMPAIRED

October 16, 2001 - 1 p.m. -- Open Meeting
Department for the Blind and Vision Impaired, 397 Azalea Avenue, Richmond, Virginia. ♿ (Interpreter for the deaf provided upon request)

A meeting to review and comment on policies, the budget and requests for appropriations for the department, review information regarding department activities and operations, review expenditures from the board's endowment fund, and discuss other issues raised for the board members.

Contact: Katherine C. Proffitt, Administrative Staff Assistant, Department for the Blind and Vision Impaired, 397 Azalea Ave., Richmond, VA 23227, telephone (804) 371-3145, FAX (804) 371-3157, toll-free (800) 622-2155, (804) 371-3140/TTY ☎, e-mail proffikc@dbvi.state.va.us.

October 16, 2001 - 1 p.m. -- Open Meeting
Department for the Blind and Vision Impaired, 111 Commonwealth Avenue, Bristol, Virginia. ♿ (Interpreter for the deaf provided upon request)

Calendar of Events

October 17, 2001 - 7:30 p.m. -- Open Meeting
Lions Sight Foundation, 501 Elm Avenue S.W., Roanoke, Virginia. (Interpreter for the deaf provided upon request)

† **October 20, 2001 - 10:45 a.m.** -- Open Meeting
Department for the Blind and Vision Impaired, 401 Azalea Avenue, Richmond, Virginia. (Interpreter for the deaf provided upon request)

† **October 24, 2001 - 3:30 p.m.** -- Open Meeting
Department for the Blind and Vision Impaired, 620 Beverly Street, Staunton, Virginia. (Interpreter for the deaf provided upon request)

† **October 27, 2001 - 2 p.m.** -- Open Meeting
Radisson Hotel, 700 Monticello Avenue, Norfolk, Virginia. (Interpreter for the deaf provided upon request)

† **November 1, 2001 - 7 p.m.** -- Open Meeting
Summer's Restaurant, 1520 North Courthouse Road, Arlington, Virginia. (Interpreter for the deaf provided upon request)

A meeting to invite comments from the public regarding vocational rehabilitation services for people with visual disabilities. All comments will be considered in developing the state plan for this program.

Contact: James G. Taylor, Vocational Rehabilitation Program Director, Department for the Blind and Vision Impaired, 397 Azalea Ave., telephone (804) 371-3111, FAX (804) 371-3190, toll-free (800) 622-2155, (804) 371-3140/TTY, e-mail taylorjg@dbvi.state.va.us.

October 26, 2001 - 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 for the Blind and Vision Impaired intends to repeal regulations entitled: **22 VAC 45-60-10 et seq. Regulations Governing Provision of Services for the Infants, Children, and Youth Program.** The purpose of the proposed action is to repeal the regulations because the Office of the Attorney General has advised the Department for the Blind and Vision Impaired that it lacks the authority to promulgate this regulation.

Statutory Authority: § 22.1-217 of the Code of Virginia.

Contact: Glen R. Slonneger, Program Director, Education Services, Department for the Blind and Vision Impaired, 397 Azalea Ave., Richmond, VA 23227, telephone (804) 371-3113, FAX (804) 371-3351, toll-free 1-800-622-2155 or (804) 371-3140/TTY

CEMETERY BOARD

November 14, 2001 - 8:30 a.m. -- Open Meeting
Department of Professional and Occupational Regulation, 3600 West Broad Street, Richmond, Virginia.

A general meeting of the Regulatory Review Committee at 8:30 a.m. and the full board at 9:30 a.m.

Contact: Karen W. O'Neal, Assistant Director, Department of Professional and Occupational Regulation, 3600 W. Broad St., Richmond, VA, telephone (804) 367-2039, FAX (804) 367-2475.

CHILD DAY-CARE COUNCIL

† **October 11, 2001 - 9 a.m.** -- Open Meeting
Theater Row Building, 730 East Broad Street, Conference Room 1, Richmond, Virginia. (Interpreter for the deaf provided upon request)

A meeting to discuss issues and concerns that impact child day centers, camps, school age programs and preschools/nursery schools. A public comment period will begin at noon. Please call ahead for possible changes in meeting time.

Contact: Arlene Kasper, Program Development Consultant, Child Day-Care Council, 730 E. Broad St., Richmond, VA 23219-1849, telephone (804) 692-1791, FAX (804) 692-2370.

† **December 7, 2001** - Public comments may be submitted until this date.

Notice is hereby given in accordance with § 2.2-4007 of the Code of Virginia that the Child Day-Care Council intends to amend regulations entitled: **22 VAC 15-10-10 et seq. Public Participation Guidelines.** The purpose of the proposed amendments is to provide for electronic transmission of information and make changes for clarity, especially regarding the responsibilities of the Child Day-Care Council and Department of Social Services.

Statutory Authority: §§ 2.2-4007 and 63.1-202.1 of the Code of Virginia.

Contact: Arlene Kasper, Program Development Consultant, Division of Licensing Programs, Department of Social Services, 730 E. Broad St., Richmond, VA 23219, telephone (804) 692-1791 or FAX (804) 692-2370.

COMPENSATION BOARD


† **October 23, 2001 - 11 a.m.** -- Open Meeting
Compensation Board, 9th Street Office Building, 202 North 9th Street, 10th Floor, Richmond, Virginia.

A monthly board meeting.

Contact: Cindy Waddell, Administrative Assistant, Compensation Board, P.O. Box 710, Richmond, VA 23219, telephone (804) 786-0786, FAX (804) 371-0235, e-mail cwaddell@scb.state.va.us.

DEPARTMENT OF CONSERVATION AND RECREATION


Chippokes Plantation Farm Foundation

† **October 17, 2001 - 10 a.m.** -- Open Meeting
Chippokes Mansion, Chippokes Plantation State Park, Conference Room, Surry, Virginia.  (Interpreter for the deaf provided upon request)


A general business meeting of the Board of Trustees. Requests for interpreter for the deaf should be made two weeks prior to the meeting date.

Contact: Katherine R. Wright, Executive Secretary, Department of Conservation and Recreation, 203 Governor St., Suite 302, Richmond, VA 23219, telephone (804) 786-7950, e-mail kwright@dcr.state.va.us.


BOARD FOR CONTRACTORS

† **October 10, 2001 - 10 a.m.** -- Open Meeting
Department of Professional and Occupational Regulation, 3600 West Broad Street, Richmond, Virginia.  (Interpreter for the deaf provided upon request)

A regular meeting of the Tradesman Committee to consider items of interest relating to the tradesmen/backflow workers and other appropriate matters pertaining to the tradesman program.


Contact: David E. Dick, Assistant Director, Board for Contractors, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-6166, FAX (804) 367-2474, (804) 367-9753/TTY , e-mail dick@dpor.state.va.us.

STATE BOARD OF CORRECTIONS

† **October 16, 2001 - 10 a.m.** -- Open Meeting
Board of Corrections, 6900 Atmore Drive, Board Room, Richmond, Virginia. 


A meeting of the Correctional Services/Policy and Regulations Committee to discuss correctional services/policy and regulations matters for possible presentation to the full board.

Contact: Barbara Reyes, Executive Secretary, Board of Corrections, 6900 Atmore Dr., Richmond, VA 23225, telephone (804) 674-3288, FAX (804) 674-3509, e-mail reyesbb@vadoc.state.va.us.

† **October 17, 2001 - 8:30 a.m.** -- Open Meeting
Board of Corrections, 6900 Atmore Drive, Board Room, Richmond, Virginia. 

A meeting of the Administration Committee to discuss matters for possible presentation to the full board.


Contact: Barbara Reyes, Executive Secretary, Board of Corrections, 6900 Atmore Dr., Richmond, VA 23225, telephone (804) 674-3288, FAX (804) 674-3509, e-mail reyesbb@vadoc.state.va.us.

† **October 17, 2001 - 10 a.m.** -- Open Meeting
Board of Corrections, 6900 Atmore Drive, Board Room, Richmond, Virginia. 


A meeting of the full board. Public comment will be received.

Contact: Barbara Reyes, Executive Secretary, Board of Corrections, 6900 Atmore Dr., Richmond, VA 23225, telephone (804) 674-3288, FAX (804) 674-3509, e-mail reyesbb@vadoc.state.va.us.

BOARD OF COUNSELING

October 26, 2001 - 9 a.m. -- Open Meeting
Department of Health Professions, 6606 West Broad Street, 5th Floor, Conference Room 2, Richmond, Virginia. 

A meeting to begin the development of regulations for certification of substance abuse assistants and modification to regulation for substance abuse counselors. Public comment will be received at the beginning of the meeting.

Contact: Evelyn B. Brown, Executive Director, Board of Counseling, Southern States Bldg., 6606 W. Broad St., 4th Floor, Richmond, VA 23230-1717, telephone (804) 662-9912, FAX (804) 662-9943, (804) 662-7197/TTY , e-mail ebrown@dhp.state.va.us.

CRIMINAL JUSTICE SERVICES BOARD

December 13, 2001 - 9 a.m. -- Public Hearing
General Assembly Building, 9th and Broad Streets, House Room D, Richmond, Virginia.

November 23, 2001 - Written 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 Criminal Justice Services Board intends to amend regulations entitled: **6 VAC 20-60-10 et seq. Rules Relating to Compulsory Minimum Training Standards for Dispatchers.** Current minimum training standards were not developed with data from a job task analysis. In November 1998 a job task analysis was conducted statewide to gather data relevant to the job of dispatcher. Minimum training standards were revised based on this data and advisory input.

Statutory Authority: § 9-170 of the Code of Virginia.

Contact: Judith Kirkendall, Job Task Analysis Administrator, Department of Criminal Justice Services, 805 E. Broad St., Richmond, VA 23219, telephone (804) 786-8003 or FAX (804) 786-0410.

BOARD OF DENTISTRY

† **October 18, 2001 - 1 p.m.** -- Open Meeting
Department of Health Professions, 6606 West Broad Street, 5th Floor, Richmond, Virginia. 

Calendar of Events

A general business meeting including disciplinary actions and periodic review of regulations. Public comment will be received at the beginning of the meeting.

Contact: Sandra Reen, Executive Director, Board of Dentistry, Southern States Bldg., 6606 W. Broad St., 4th Floor, Richmond, VA 23230-1717, telephone (804) 662-9906, FAX (804) 662-9943, (804) 662-7197/TTY ☎, e-mail sandra_reen@dhp.state.va.us.

BOARD OF EDUCATION

October 22, 2001 - 9 a.m. -- Open Meeting
Virginia School For the Deaf and Blind, East Beverley Street, Staunton, Virginia.🗣️ (Interpreter for the deaf provided upon request)

November 28, 2001 - 9 a.m. -- Open Meeting
General Assembly Building, 9th and Broad Streets, Senate Room B, Richmond, Virginia.

A regular business meeting. Public comment will be received. Persons requesting the services of an interpreter for the deaf should do so in advance.

Contact: Dr. Margaret N. Roberts, Office of Policy, Board of Education, P.O. Box 2120, James Monroe Bldg., 101 N. 14th St., 25th Floor, Richmond, VA 23219, telephone (804) 225-2540, FAX (804) 225-2524, e-mail mroberts@mail.vak12ed.edu.

† **October 22, 2001 - 2:30 p.m.** -- Public Hearing
Virginia School For the Deaf and Blind, East Beverley Street, Staunton, Virginia.🗣️ (Interpreter for the deaf provided upon request)

† **December 7, 2001** - Public comments may be submitted until this date.

Notice is hereby given in accordance with § 2.2-4007 of the Code of Virginia that the State Board of Education intends to amend regulations entitled: **8 VAC 20-21-10 et seq. Licensure Regulations for School Personnel.** The purpose of the proposed amendments is to conform the regulations to several recent changes in the Code of Virginia, to add a fourth option for obtaining a division superintendent license, and to expand the licensure and license renewal requirements.

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

Contact: Dr. Thomas Elliott, Assistant Superintendent, Department of Education, P.O. Box 2120, Richmond, VA 23218-2120, telephone (804) 371-2522 or FAX (804) 225-2524.

November 9, 2001 - 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 State Board of Education

intends to amend regulations entitled: **8 VAC 20-21-10 et seq. Licensure Regulations for School Personnel.** The purpose of the amendments is to expand the teacher licensure provisions to persons from other professions, including military personnel, who wish to be licensed as a teacher in Virginia.

Statutory Authority: §§ 22-1-298 of the Code of Virginia.

Contact: Dr. Thomas Elliott, Assistant Superintendent of Teacher Education, Department of Education, P.O. Box 2120, Richmond, VA 23218-2120, telephone (804) 371-2522 or FAX (804) 225-2524.

October 12, 2001 - 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 State Board of Education intends to amend regulations entitled: **8 VAC 20-120-10 et seq. Regulations Governing Vocational Education (Career and Technical Education).** The purpose of the proposed action is to align the regulations with state and federal law and regulations.

Statutory Authority: §§ 22.1-16 and 22.1-227 of the Code of Virginia.

Contact: Dr. Neils Brooks, Director, Career and Technical Education, Department of Education, P.O. Box 2120, Richmond, VA 23218-2120, telephone (804) 225-2847 or FAX (804) 371-2456.

November 19, 2001 - 9:30 a.m. -- Open Meeting
Glen Allen Arts Center, 2880 Mountain Road, Glen Allen, Virginia.🗣️ (Interpreter for the deaf provided upon request)

A work session of the Advisory Board for Teacher Education and Licensure. No public comment will be received. Persons requesting the services of an interpreter for the deaf should do so in advance.


Contact: Dr. Margaret N. Roberts, Office of Policy, Board of Education, P. O. Box 2120, James Monroe Bldg., 101 N. 14th St., 25th Floor, Richmond, VA 23219, telephone (804) 225-2540, FAX (804) 225-2524, e-mail mroberts@mail.vak12ed.edu.

December 4, 2001 - 9:30 a.m. -- Open Meeting
Henrico County School Board Office, 3820 Nine Mile Road, Richmond, Virginia.🗣️ (Interpreter for the deaf provided upon request)


A working session of the Accountability Advisory Committee. Public comment will not be received. Persons requesting the services of an interpreter for the deaf should do so in advance.

Contact: Ms. Cam Harris, Department of Education, P.O. Box 2120, 101 N. 14th St., 25th Floor, Richmond, VA 23219, telephone (804) 225-2102, FAX (804) 225-2524.


STATE BOARD OF ELECTIONS

November 26, 2001 - 1 p.m. -- Open Meeting
State Capitol, House Room 1, Richmond, Virginia. 

Certification of November 6, 2001, election results.

Contact: Vanessa E. Archie, Executive Secretary Senior, State Board of Elections, 200 N. 9th St., Room 101, Richmond, VA 23219, telephone (804) 786-6551, FAX (804) 371-0194, toll-free (800) 552-9745, (804) 260-3466/TTY , e-mail varchie@sbe.state.va.us.


DEPARTMENT OF ENVIRONMENTAL QUALITY

† **October 29, 2001 - 7 p.m.** -- Public Hearing
Massanutten Regional Library, 174 South Main Street, Harrisonburg, Virginia. 

A public hearing to receive comments on the draft permit for operating a hazardous waste storage area at Merck and Co., Stonewall Plant in Elkton.


Contact: Dinesh Vithani, Department of Environmental Quality, P.O. Box 10009, Richmond, VA 23240, telephone (804) 698-4204, e-mail dkvithani@deq.state.va.us.

VIRGINIA FIRE SERVICES BOARD

October 11, 2001 - 8:30 a.m. -- Open Meeting
General Assembly Building, 9th and Broad Streets, 5th Floor Conference Room, Richmond, Virginia.  (Interpreter for the deaf provided upon request)

The Fire Education and Training Committee and Administration and Policy Committee will meet at 8:30. Immediately following the Administration and Policy Committee meeting, the Committee on Fire Prevention and Control will meet. Immediately following the Fire Prevention and Control Committee meeting the Finance Committee will meet. The Fallen Firefighter Memorial Service will be held at the State Capitol at 1 p.m. Committee meetings will resume following the service.


Contact: Christy L. King, Clerk, Virginia Fire Services Board, 101 N. 14th St., 18th Floor, Richmond, VA 23219, telephone (804) 371-0220, FAX (804) 371-0219, e-mail cking@vdfp.state.va.us.

October 12, 2001 - 9 a.m. -- Open Meeting
General Assembly Building, 9th and Broad Streets, House Room D, Richmond, Virginia.  (Interpreter for the deaf provided upon request)


Please contact Christy King for details.


Contact: Christy L. King, Clerk, Virginia Fire Services Board, 101 N. 14th St., 18th Floor, Richmond, VA 23219, telephone (804) 371-0220, FAX (804) 371-0219, e-mail cking@vdfp.state.va.us.

BOARD OF FUNERAL DIRECTORS AND EMBALMERS

October 17, 2001 - 9 a.m. -- Open Meeting
Department of Health Professions, 6606 West Broad Street, 5th Floor, Conference Room 1, Richmond, Virginia. 

The Task Force on Inspection Process will continue its work with inspectors on consistency and compliance to reduce the number of deficiencies. Public comment will be received at the beginning of the meeting.


Contact: Elizabeth Young Tisdale, Executive Director, Board of Funeral Directors and Embalmers, 6606 W. Broad St., 4th Floor, Richmond, VA 23230, telephone (804) 662-9907, FAX (804) 662-9523, (804) 662-7197/TTY , e-mail etisdale@dhp.state.va.us.

October 30, 2001 - 9 a.m. -- Open Meeting
Department of Health Professions, 6606 West Broad Street, 5th Floor, Conference Room 1, Richmond, Virginia. 

A meeting of the Special Conference Committee to hold informal hearings. There will not be a public comment period.

Contact: Cheri Emma-Leigh, Administrative Staff Assistant, Board of Funeral Directors and Embalmers, 6606 W. Broad St., 4th Floor, Richmond, VA, telephone (804) 662-9907, FAX (804) 662-9523, e-mail CEmma-Leigh@dhp.state.va.us.

BOARD OF GAME AND INLAND FISHERIES

October 17, 2001 - 3 p.m. -- Open Meeting
Hampton Inn, 7922 Plantation Road, Roanoke, Virginia.  (Interpreter for the deaf provided upon request)

October 18, 2001 - 10 a.m. -- Open Meeting
Big Walker Game and Fish Club, State Route 720, Whippoorwill Road, Wytheville, Virginia

The board will receive the Department of Game and Inland Fisheries' Fiscal Year 2001 year-end financial report, and staff will present and recommend a statewide bear management plan for board review and possible adoption. The board may discuss general and administrative issues, and it may hold a closed session before or at some point during the October 17 public session. The board will reconvene at 10 a.m., October 18, 2001, at the Big Walker Game and Fish Club, State Route 720, Whippoorwill Road, Wytheville, and hold a dedication ceremony for the Big Survey Wildlife Management Area, the Commonwealth's recently acquired wildlife management area. The board plans to adjourn its meeting following the dedication ceremony.

Contact: Phil Smith, Policy Analyst, Department of Game and Inland Fisheries, 4010 W. Broad St., Richmond, VA, telephone (804) 367-1000, FAX (804) 367-0488, e-mail dgifweb@dgif.state.va.us.

Calendar of Events

BOARD FOR GEOLOGY

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† **October 25, 2001 - 9 a.m.** -- Open Meeting
Department for Professional and Occupational Regulation,
3600 West Broad Street, Richmond, Virginia.

A general business meeting; regulatory review will be discussed.

Contact: William H. Ferguson, II, Regulatory Boards Administrator, Department of Professional and Occupational Regulation, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-2406, FAX (804) 367-2475, (804) 367-9753/TTY ☎, e-mail geology@dpor.state.va.us.

GEORGE MASON UNIVERSITY

October 24, 2001 - 9:30 a.m. -- Open Meeting
November 28, 2001 - 3 p.m. -- Open Meeting
George Mason University, Mason Hall, Room D23, Fairfax, Virginia. ☎

A meeting of the Board of Visitors to hear reports of the standing committees and to act on recommendations presented by the committees. An agenda will be available seven days prior to the meeting.

Contact: Mary Roper, Administrative Staff Assistant, Office of the President, 4400 University Dr., Fairfax, VA 22030, telephone (703) 993-8703 or FAX (703) 993-8707.

STATE BOARD OF HEALTH

October 12, 2001 - 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 State Board of Health intends to amend regulations entitled: **12 VAC 5-371-10 et seq. Regulations for Licensure of Hospitals** and **12 VAC 5-410-10 et seq. Regulations for the Licensure of Nursing Facilities**. Section 32.1-102.2 of the Code of Virginia requires the State Health Commissioner, through regulation, to condition a nursing facility or hospital license on whether the applicant has complied with any agreement as a result of the granting of a Certificate of Public Need (COPN) or upon the up-to-date payment of any civil penalties owned as a result of the willful failure to honor the condition of a COPN. This action is to finalize the emergency regulatory action that became effective on December 31, 1999.

Statutory Authority: §§ 32.1-12 and 32.1-102.2 of the Code of Virginia.

Contact: Carrie Eddy, Policy Analyst, Center for Quality Health Care Services, Department of Health, 3600 W. Broad St., Suite 216, Richmond, VA 23230, telephone (804) 367-2102 or FAX (804) 367-2149.

October 11, 2001 - 1 p.m. -- Public Hearing
Department of Health, 3600 West Broad Street, Suite 216, Richmond, Virginia.

November 9, 2001 - 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 State Board of Health intends to amend regulations entitled: **12 VAC 5-408-10 et seq. Certificate of Quality Assurance of Managed Care Health Insurance Plan Licensees**. The purpose of the proposed amendments are an effort to (i) continue meeting the agency's responsibility to protect public health by ensuring the quality of MCHIPs, and (ii) promote fairness by recognizing distinctions among MCHIPs and avoiding regulating MCHIPs in a homogenous manner.

Statutory Authority: § 32.1-137.3 of the Code of Virginia.

Contact: Rene Cabral-Daniels, Department of Health, 3600 W. Broad St., Suite 216, Richmond, VA 23230, telephone (804) 367-2100 or FAX (804) 367-2149.

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† **October 25, 2001 - 7 p.m.** -- Public Hearing
Lord Fairfax Community College, 173 Skirmisher Lane, Middletown, Virginia.

† **November 7, 2001 - 7 p.m.** -- Public Hearing
Roanoke County Administration Building, 5204 Bernard Drive, Roanoke, Virginia.

† **November 29, 2001 - 10 a.m.** -- Public Hearing
Henrico County Government Center, 4301 East Parham Road, Henrico County Complex, Richmond, Virginia.

† **December 7, 2001** - Public comments may be submitted until this date.

Notice is hereby given in accordance with § 2.2-4007 of the Code of Virginia that the State Board of Health intends to adopt regulations entitled: **12 VAC 5-615-10 et seq. Authorized Onsite Soil Evaluator Regulations**. These regulations will set forth a program by which the agency may accept private site evaluations and designs, in compliance with the board's regulations for onsite sewage systems, designed and certified by an authorized onsite soil evaluator (AOSE) or a licensed professional engineer (PE) in consultation with an AOSE.

Statutory Authority: §§ 32.1-163.5 and 32.1-164 of the Code of Virginia.

Contact: Donald J. Alexander, Director, Division Onsite Sewage Water Services, Department of Health, Office of Environmental Health Services, P.O. Box 2448, Room 115, Richmond, VA 23218, telephone (804) 786-1620 or FAX (804) 225-4003.

DEPARTMENT OF HEALTH PROFESSIONS

Health Practitioners' Intervention Program Committee

October 26, 2001 - 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 review reports, policies, and procedures. The committee will meet in open session for general discussion of the program, and may meet in executive session to consider specific requests from applicants or participants in the program.

Contact: John W. Hasty, Director, Department of Health Professions, 6606 W. Broad St., 4th Floor, Richmond, VA 23230-1717, telephone (804) 662-9424, FAX (804) 662-9114, (804) 662-9197/TTY

VIRGINIA HOUSING DEVELOPMENT AUTHORITY

† **October 16, 2001 - 9 a.m.** -- Open Meeting
Virginia Housing Development Authority, 601 South Belvidere Street, Richmond, Virginia.

A regular meeting to review and, if appropriate, (i) approve the minutes from the prior monthly meeting; (ii) consider for approval and ratification mortgage loan commitments under its various programs; (iii) review the authority's operations for the prior month; and (iv) consider such other matters and take such other actions as they may deem appropriate. Various committees of the Board of Commissioners, including the Programs Committee, the Operations Committee, the Policy Committee, and the Committee of the Whole, may also meet during the day preceding the regular meeting and before and after the regular meeting and may consider matters within their purview. The planned agenda of the meeting will be available at the offices of the authority one week prior to the date of the meeting.

Contact: J. Judson McKellar, Jr., General Counsel, Virginia Housing Development Authority, 601 S. Belvidere St., Richmond, VA 23220, telephone (804) 343-5540, FAX (804) 783-6701, toll-free (800) 968-7837, (804) 783-6705/TTY

STATEWIDE INDEPENDENT LIVING COUNCIL

October 11, 2001 - 1 p.m. -- Open Meeting
Blue Ridge Center for Independent Living, 1502 D Williamson Road, Roanoke, Virginia. (Interpreter for the deaf provided upon request)

A regular quarterly meeting.

Contact: Jim Rothrock, SILC Staff, Department of Rehabilitative Services, 1802 Marroit Rd., Richmond, VA 23229, telephone (804) 673-0119, FAX (804) 282-7118.

JAMESTOWN-YORKTOWN FOUNDATION

November 8, 2001 - 10 a.m. -- Open Meeting
November 9, 2001 - 8 a.m. -- Open Meeting
Williamsburg Hospitality House, 415 Richmond Road, Williamsburg, Virginia. (Interpreter for the deaf provided upon request)

A semi-annual meeting of the Board of Trustees. Specific schedules to be confirmed. Public comment will not be heard.

Contact: Laura W. Bailey, Executive Assistant to the Board, Jamestown-Yorktown Foundation, P.O. Box 1607, Williamsburg, VA 23187, telephone (757) 253-4840, FAX (757) 253-5299, (757) 253-7236/TTY , e-mail lwbailey@jyf.state.va.us.

STATE BOARD OF JUVENILE JUSTICE

† **October 24, 2001 - 9 a.m.** -- Open Meeting
Department of Juvenile Justice, 700 Centre Building, 700 East Franklin Street, 4th Floor, Richmond, Virginia.

Committees of the board will meet to receive certification of audit reports concerning residential and nonresidential programs. The full board will meet at 10 a.m. to take certification action on the reports and to receive comments from the public on proposed changes to "Length of Stay" Guidelines" governing juveniles who are indeterminately committed to the Department of Juvenile Justice.

Contact: Donald Carignan, Regulatory Coordinator, Department of Juvenile Justice, 700 Centre Bldg., 700 E. Franklin St., 4th Floor, Richmond, VA 23219, telephone (804) 371-0743 or FAX (804) 371-0773, e-mail carigndr@djj.state.va.us.

DEPARTMENT OF LABOR AND INDUSTRY

Virginia Migrant and Seasonal Farmworkers Board

October 24, 2001 - 10 a.m. -- Open Meeting
State Capitol, House Room 1, Richmond, Virginia. (Interpreter for the deaf provided upon request)

A regular quarterly meeting.

Contact: Betty B. Jenkins, Board Administrator, Department of Labor and Industry, 13 S. 13th Street, Richmond, VA 23219, telephone (804) 782-2391, FAX (804) 371-6524, (804) 786-2376/TTY , e-mail bbj@doli.state.va.us.

Safety and Health Codes Board

October 18, 2001 - 10 a.m. -- Open Meeting
General Assembly Building, 9th and Broad Streets, House Room C, Richmond, Virginia. (Interpreter for the deaf provided upon request)

A regular meeting.

Contact: Regina P. Cobb, Agency Management Analyst Senior, Department of Labor and Industry, Powers-Taylor

Calendar of Events

Bldg., 13 S. 13th St., Richmond, VA 23219, telephone (804) 786-0610, FAX (804) 786-8418, (804) 786-2376/TTY ☎, e-mail rlc@doli.state.va.us.

THE LIBRARY OF VIRGINIA

November 19, 2001 - 7:30 a.m. -- Open Meeting
The Library of Virginia, 800 East Broad Street, Richmond, Virginia. ♿

A meeting of the board to discuss matters pertaining to the Library of Virginia and the board. Committees of the board will meet as follows:

7:30 a.m. - Executive Committee, Conference Room B.

8:15 a.m. - Public Library Development Committee, Orientation Room;
Publications and Educational Services Committee, Conference Room B;

Records Management Committee, Conference Room C.

9:30 a.m. - Archival and Information Services Committee, Orientation Room;

Collection Management Services Committee, Conference Room B;

Legislative and Finance Committee, Conference Room C.

10:30 a.m. - Library Board, Conference Room 2M.

Contact: Jean H. Taylor, Executive Secretary to the Librarian, The Library of Virginia, 800 E. Broad St., Richmond, VA 23219-2000, telephone (804) 692-3535, FAX (804) 692-3594, (804) 692-3976/TTY ☎, e-mail jtaylor@lva.lib.va.us.

COMMISSION ON LOCAL GOVERNMENT

November 14, 2001 - 10 a.m. -- Open Meeting
Pocahontas Building, 900 East Main Street, Suite 103, Richmond, Virginia. ♿ (Interpreter for the deaf provided upon request)

A regular meeting to consider matters that may be presented.

Contact: Barbara Bingham, Administrative Assistant, Commission on Local Government, Pocahontas Building, 900 E. Main St., Suite 103, Richmond, VA 23219-3513, telephone (804) 786-6508, FAX (804) 371-7999, (800) 828-1120/TTY ☎, e-mail bbingham@clg.state.va.us.

MARINE RESOURCES COMMISSION

October 23, 2001 - 9:30 a.m. -- Open Meeting
† **November 27, 2001 - 9:30 a.m.** -- Open Meeting
† **December 18, 2001 - 9:30 a.m.** -- Open Meeting
Marine Resources Commission, 2600 Washington Avenue, 4th Floor, Newport News, Virginia. ♿

A monthly meeting.

Contact: Ginny Chappell, Commission Secretary, Marine Resources Commission, 2600 Washington Ave., Newport News, VA 23607, telephone (757) 247-2206, FAX (757) 247-2020, toll-free (800) 541-4646, (757) 247-2292/TTY ☎, e-mail gchappell@mrcc.state.va.us.

DEPARTMENT OF MEDICAL ASSISTANCE SERVICES

† **December 7, 2001** - Public comments may be submitted until this date.

Notice is hereby given in accordance with § 2.2-4007 of the Code of Virginia that the Department of Medical Assistance Services intends to amend regulations entitled: **12 VAC 30-110-10 et seq. Eligibility and Appeals (Married and Institutionalized Individuals Eligibility and Patient Pay).** The purpose of the proposed amendments is to amend the hardship rule definition used to determine Medicaid eligibility for institutionalized individuals who have spouses living in the community.

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

Public comments may be submitted until December 7, 2001, to Pat Sykes, Manager, Policy Division, Department of Medical Assistance Services, 600 East Broad Street, Suite 1300, Richmond, VA 23219.

Contact: Victoria P. Simmons, Regulatory Coordinator, Department of Medical Assistance Services, 600 E. Broad St., Suite 1300, Richmond, VA 23219, telephone (804) 786-7959 or FAX (804) 786-1680.

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† **December 7, 2001** - Public comments may be submitted until this date.

Notice is hereby given in accordance with § 2.2-4007 of the Code of Virginia that the Department of Medical Assistance Services intends to adopt regulations entitled: **12 VAC 30-150-10 et seq. Uninsured Medical Catastrophe Fund.** The purpose of the proposed regulation is to establish the requirements and criteria by which DMAS will administer the Uninsured Medical Catastrophe Fund.

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

Public comments may be submitted until December 7, 2001, to Jack Quigley, Division of Program Operations, Department of Medical Assistance Services, 600 East Broad Street, Suite 1300, Richmond, VA 23219.

Contact: Victoria P. Simmons, Regulatory Coordinator, Department of Medical Assistance Services, 600 E. Broad St., Suite 1300, Richmond, VA 23219, telephone (804) 786-7959 or FAX (804) 786-1680.

BOARD OF MEDICINE

October 11, 2001 - 8 a.m. -- Open Meeting
Department of Health Professions, 6606 West Broad Street, 5th Floor, Conference Room 2, Richmond, Virginia. ♿

A general business meeting including regulatory and disciplinary matters as may be presented on the agenda. Public comment may be received at the beginning of the meeting.

Contact: William L. Harp, M.D., Executive Director, Board of Medicine, Southern States Bldg., 6606 W. Broad St., 4th

Floor, Richmond, VA 23230-1717, telephone (804) 662-9908, FAX (804) 662-9943, (804) 662-7197/TTY ☎, e-mail wharp@dhp.state.va.us.

October 24, 2001 - 8:30 a.m. -- Open Meeting
Wyndham Hotel, 2801 Hershberger Road, Roanoke, Virginia.

A panel of the board will hold a formal hearing to inquire into allegations that a practitioner may have violated laws and regulations governing the practice medicine and other healing arts in Virginia. The panel will meet in open and closed sessions pursuant to the Code of Virginia. Public comment will not be received.

Contact: Peggy Sadler or Renee Dixson, Staff, Board of Medicine, 6606 W. Broad St., Richmond VA, telephone (804) 662-7332, FAX (804) 662-9517, (804) 662-7197/TTY ☎, e-mail psadler@dhp.state.va.us.

Informal Conference Committee

† **October 31, 2001 - 9:30 a.m.** -- Open Meeting
Wyndham Hotel, 2801 Hershberger Road, Roanoke, Virginia.

† **November 8, 2001 - 9:30 a.m.** -- Open Meeting
Holiday Inn Select, 2801 Plank Road, Fredericksburg, Virginia.

November 14, 2001 - 8:30 a.m. -- Open Meeting
Department of Health Professions, 6606 West Broad Street, Richmond, Virginia.

An 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 the Code of Virginia. Public comment will not be received.

Contact: Peggy Sadler/Renee Dixson, Staff, Board of Medicine, 6606 W. Broad St., Richmond, VA, telephone (804) 662-7332, FAX (804) 662-9517, (804) 662-7197/TTY ☎, e-mail PSadler@dhp.state.va.us.

STATE MILK COMMISSION

December 12, 2001 - 10:30 a.m. -- Open Meeting
Department of Forestry, 900 Natural Resources Drive, Room 3301, Charlottesville, Virginia ☎

A regular meeting to consider industry issues, distributor licensing, base transfers, and reports from staff. The commission will also review a request to repeal subdivisions b, c, and d of subsection 6 of 2 VAC 15-20-100, Regulations for the Control and Supervision of Virginia's Milk Industry.

Contact: Edward C. Wilson, Jr., Deputy Administrator, State Milk Commission, Ninth St. Office Bldg., 202 N. Ninth St., Room 915, Richmond, VA 23219, telephone (804) 786-2013, FAX (804) 786-3779, (804) 786-2013/TTY ☎, e-mail ewilson@smc.state.va.us.

DEPARTMENT OF MINES, MINERALS AND ENERGY

† **October 16, 2001 - 10 a.m.** -- Open Meeting
Department of Mines, Minerals and Energy, Buchanan-Smith Building, Route 23 South, Room 219, Big Stone Gap, Virginia. ☎ (Interpreter for the deaf provided upon request)

The Coal Mine Safety Board will meet to review the Board of Coal Mine Examiners Certification Requirements, 4 VAC 25-20. This is a periodic regulatory review as required under Executive Order 25 (98). The board will also review stockpile regulations currently under development.

Contact: Frank A. Linkous, Mine Chief, Department of Mines, Minerals and Energy, P.O. Drawer 900, Big Stone Gap, VA 24219, telephone (276) 523-8226, FAX (276) 523-8239, (800) 828-1120/TTY ☎, e-mail fal@mme.state.va.us.

MOTOR VEHICLE DEALER BOARD

† **November 5, 2001 - 8:30 a.m.** -- Open Meeting
Department of Motor Vehicles, 2300 West Broad Street, Room 702, Richmond, Virginia. ☎ (Interpreter for the deaf provided upon request)

Committees will meet as follows:

Dealer Practices Committee - 8:30 a.m.
Franchise Law Committee - Five minutes after Dealer Practices Committee
Licensing Committee - 9:30 a.m. or five minutes after Franchise Law
Advertising Committee - 10 a.m. or five minutes after Licensing Committee
Finance Committee - 10:30 a.m. or five to 45 minutes after Personnel Committee
Personnel Committee - Five minutes after Advertising Committee
Transaction Recovery Fund Committee - 11 a.m. or five to 45 minutes after Finance

The full board will meet at 1 p.m. Meetings may begin later, but not earlier than scheduled. Meeting end times are approximate. Any person who needs any accommodation in order to participate in the meeting should contact the board at least 10 days before the meeting so that suitable arrangements can be made.

Contact: Alice R. Weedon, Administrative Assistant, Motor Vehicle Dealer Board, 2201 W. Broad St., Suite 104, Richmond, VA 23220, telephone (804) 367-1100, FAX (804) 367-1053, toll-free (877) 270-0203, e-mail dboard@mvb.state.va.us.

BOARD OF NURSING

November 26, 2001 - 8:30 a.m. -- Open Meeting
November 28, 2001 - 8:30 a.m. -- Open Meeting
November 29, 2001 - 8:30 a.m. -- Open Meeting
Department of Health Professions, 6606 West Broad Street, 5th Floor, Conference Room 2, Richmond, Virginia. ☎

Calendar of Events

A panel of the board will conduct formal hearings with licensees and certificate holders. Public comment will not be received.

Contact: Nancy K. Durrett, R.N., Executive Director, Board of Nursing, 6606 W. Broad St., 4th Floor, Richmond, VA 23230, telephone (804) 662-9909, FAX (804) 662-9512, (804) 662-7197/TTY ☎, e-mail nursebd@dhp.state.va.us.

Special Conference Committee

October 9, 2001 - 8:30 a.m. -- Open Meeting
October 15, 2001 - 8:30 a.m. -- Open Meeting
October 16, 2001 - 8:30 a.m. -- Open Meeting
October 18, 2001 - 8:30 a.m. -- Postponed
October 22, 2001 - 8:30 a.m. -- Open Meeting
October 23, 2001 - 8:30 a.m. -- Open Meeting
December 4, 2001 - 8:30 a.m. -- Open Meeting
December 5, 2001 - 8:30 a.m. -- Open Meeting
December 6, 2001 - 8:30 a.m. -- Open Meeting
December 10, 2001 - 8:30 a.m. -- Open Meeting
December 11, 2001 - 8:30 a.m. -- Open Meeting
December 18, 2001 - 8:30 a.m. -- Open Meeting
Department of Health Professions, 6606 West Broad Street, 5th Floor, Conference Rooms 3 and 4, Richmond, Virginia. ♿

A Special Conference Committee, comprised of two or three members of the Virginia Board of Nursing, will conduct informal conferences with licensees or certificate holders. Public comment will not be received.

Contact: Nancy K. Durrett, R.N., Executive Director, Board of Nursing, 6606 W. Broad St., 4th Floor, Richmond, VA 23230, telephone (804) 662-9909, FAX (804) 662-9512, (804) 662-7197/TTY ☎, e-mail nursebd@dhp.state.va.us.

BOARD OF NURSING HOME ADMINISTRATORS

October 10, 2001 - 10:30 a.m. -- Open Meeting
Department of Health Professions, 6606 West Broad Street, 5th Floor, Conference Room 1, Richmond, Virginia. ♿

A general business meeting including regulatory and disciplinary issues. Public comment will be received at the beginning of the meeting.

Contact: Sandra Reen, Executive Director, Board of Nursing Home Administrators, Southern States Bldg., 6606 W. Broad St., 4th Floor, Richmond, VA 23230-1717, telephone (804) 662-7457, (804) 662-7197/TTY ☎, e-mail sandra_reen@dhp.state.va.us.

VIRGINIA OUTDOORS FOUNDATION

December 4, 2001 - 10 a.m. -- Open Meeting
December 5, 2001 - 9 a.m. -- Open Meeting
State Capitol, House Room 2, Richmond, Virginia. ♿

A regularly scheduled meeting of the Board of Trustees to discuss the business of the foundation and accept conservation easements. Public input will be accepted after the regular business meeting.

Contact: Tamara A. Vance, Executive Director, Virginia Outdoors Foundation, 203 Governor Street, Richmond, VA 23219, telephone (804) 225-2147.

BOARD OF PHARMACY

† **October 15, 2001 - 9 a.m.** -- Open Meeting
† **October 16, 2001 - 1 p.m.** -- Open Meeting
Department of Health Professions, 6606 West Broad Street, 5th Floor, Conference Room 2, Richmond, Virginia. ♿

A panel will discuss disciplinary matters. Public comments will not be received.

Contact: Elizabeth Scott Russell, Executive Director, Board of Pharmacy, 6606 W. Broad St., 4th Floor, Richmond, VA 23230, telephone (804) 662-9911, FAX (804) 662-9313.

October 16, 2001 - 9 a.m. -- Open Meeting
Department of Health Professions, 6606 West Broad Street, 5th Floor, Conference Rooms 3 and 4, Richmond, Virginia. ♿

The Regulatory Committee will continue its review of pharmacy regulations and consider requirements for registration of pharmacy technicians. Public comment may be received at the beginning of the meeting or if recognized by the chair.

Contact: Elizabeth Scott Russell, RPh, Executive Director, Board of Pharmacy, Southern States Bldg., 6606 W. Broad St., 4th Floor, Richmond, VA 23230-1717, telephone (804) 662-9911, FAX (804) 662-9313, (804) 662-7197/TTY ☎, e-mail erussell@dhp.state.va.us.

October 25, 2001 - 9 a.m. -- Open Meeting
Department of Health Professions, 6606 West Broad Street, 5th Floor, Conference Room 4, Richmond, Virginia. ♿

The Special Conference Committee will discuss disciplinary matters. Public comments will not be received.

Contact: Elizabeth Scott Russell, Executive Director, Board of Pharmacy, 6606 W. Broad St., 4th Floor, Richmond, Virginia 23230, telephone (804) 662-9911, FAX (804) 662-9313.

† **November 8, 2001 - 9 a.m.** -- Public Hearing
Department of Health Professions, 6606 West Broad Street, 5th Floor, Conference Room 2, Richmond, Virginia. ♿

The board will receive comment on proposed regulations establishing a process for approval of pilot programs in pharmacy.

Contact: Elizabeth Scott Russell, RPh, Executive Director, Board of Pharmacy, Southern States Bldg., 6606 W. Broad St., 4th Floor, Richmond, VA 23230-1717, telephone (804) 662-9911, FAX (804) 662-9313, (804) 662-7197/TTY ☎, e-mail erussell@dhp.state.va.us.

† **November 8, 2001 - 9:15 a.m.** -- Public Hearing
Department of Health Professions, 6606 West Broad Street, 5th Floor, Conference Room 2, Richmond, Virginia. ♿

The board will receive comment on a draft proposal to increase fees and on a draft proposal for registration of pharmacy technicians.

Contact: Elizabeth Scott Russell, RPh, Executive Director, Board of Pharmacy, Southern States Bldg., 6606 W. Broad St., 4th Floor, Richmond, VA 23230-1717, telephone (804) 662-9911, FAX (804) 662-9313, (804) 662-7197/TTY ☎, e-mail erussell@dhp.state.va.us.

BOARD OF PHYSICAL THERAPY

† **October 19, 2001 - 6:30 p.m.** -- Open Meeting
Williamsburg Marriott, 50 Kingsmill Road, Williamsburg, Virginia. ♿

A general business meeting including adoption of final regulations for public participation guidelines. Public comment will be received at the beginning of the meeting.

Contact: Elizabeth Young Tisdale, Executive Director, Board of Physical Therapy, Southern States Bldg., 6606 W. Broad St., 4th Floor, Richmond, VA 23230, telephone (804) 662-9924, FAX (804) 662-9523, (804) 662-7197/TTY ☎, e-mail etisdale@dhp.state.va.us.

BOARD OF PSYCHOLOGY

October 16, 2001 - 10 a.m. -- Open Meeting
Department of Health Professions, 6606 West Broad Street, 5th Floor, Conference Room 4, Richmond, Virginia 23230 ♿

A general business meeting including regulatory and disciplinary issues. Public comment will be received at the beginning of the meeting.

Contact: Evelyn Brown, Executive Director, Board of Psychology, 6606 W. Broad St., 4th Floor, Richmond, VA 23230-1717, telephone (804) 662-9913.

VIRGINIA RACING COMMISSION

October 17, 2001 - 9:30 a.m. -- Open Meeting
November 14, 2001 - 9:30 a.m. -- Open Meeting
December 19, 2001 - 9:30 a.m. -- Open Meeting
Tyler Building, 1300 East Main Street, Richmond, Virginia.
(Interpreter for the deaf provided upon request)

A monthly meeting with a segment for public participation. The commission will hear a report from Colonial Downs.

Contact: William H. Anderson, Policy Analyst Senior, Virginia Racing Commission, 10700 Horsemen's Rd., New Kent, VA 23214, telephone (804) 966-7404, FAX (804) 966-7418, e-mail Anderson@vrc.state.va.us

REAL ESTATE APPRAISER BOARD

October 23, 2001 - 10 a.m. -- Open Meeting
Department of Professional and Occupational Regulation, 3600 West Broad Street, Richmond, Virginia.

A general business meeting.

Contact: Karen W. O'Neal, Assistant Director, Department of Professional and Occupational Regulation, 3600 W. Broad

St., Richmond, VA 23230, telephone (804) 367-8552, FAX (804) 367-2475, e-mail reboard@dpor.state.va.us.

REAL ESTATE BOARD

† **October 11, 2001 - 9 a.m.** -- Open Meeting
Department of Professional and Occupational Regulation, 3600 West Broad Street, Richmond, Virginia.

A general meeting of the Regulatory Review Committee.

Contact: Karen W. O'Neal, Assistant Director, Department of Professional and Occupational Regulation, 3600 W. Broad St., Richmond, VA, telephone (804) 367-8552, FAX (804) 367-2475, e-mail reboard@dpor.state.va.us.

October 24, 2001 - 4 p.m. -- Open Meeting
Department of Professional and Occupational Regulation, 3600 West Broad Street, Richmond, Virginia.

A general business meeting of the Real Estate Education Committee.

Contact: Karen W. O'Neal, Assistant Director, Department of Professional and Occupational Regulation, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-8552, FAX (804) 367-2475, e-mail reboard@dpor.state.va.us.

† **October 25, 2001 - 8 a.m.** -- Open Meeting
Department of Professional and Occupational Regulation, 3600 West Broad Street, Richmond, Virginia.

A general meeting of the Fair Housing Committee.

Contact: Karen W. O'Neal, Assistant Director, Department of Professional and Occupational Regulation, 3600 W. Broad St., Richmond, VA, telephone (804) 367-8552, FAX (804) 367-2475, e-mail reboard@dpor.state.va.us.

October 25, 2001 - 9 a.m. -- Open Meeting
† **December 6, 2001 - 9 a.m.** -- Open Meeting
Department of Professional and Occupational Regulation, 3600 West Broad Street, Richmond, Virginia.

A general business meeting. At the December 6 meeting the board will consider the adoption of proposed regulations.

Contact: Karen W. O'Neal, Assistant Director, Department of Professional and Occupational Regulation, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-8552, FAX (804) 367-2475, e-mail reboard@dpor.state.va.us.

DEPARTMENT OF REHABILITATIVE SERVICES

October 19, 2001 - 1 p.m. -- Open Meeting
October 22, 2001 - 4 p.m. -- Open Meeting
Department of Rehabilitative Services, 8004 Franklin Farms Drive, Lee Building, 1st Floor, Conference Room, Richmond, Virginia. ♿ (Interpreter for the deaf provided upon request)

November 19, 2001 - 4 p.m. -- Open Meeting
Woodrow Wilson Rehabilitation Center, The William Caschette Chapel, Fishersville, Virginia. ♿ (Interpreter for the deaf provided upon request)

Calendar of Events

November 27, 2001 - 4 p.m. -- Open Meeting
Higher Education Center, Grand Hall Left, 1 Partnership Circle, Abingdon, Virginia. (Interpreter for the deaf provided upon request)

A public forum for Virginians to discuss vocational rehabilitation and supported employment planning.

Contact: Katherine Lawson, Planner, Department of Rehabilitative Services, 8004 Franklin Farms Dr., P.O. Box K-300, Richmond, VA 23288-0300, telephone (804) 662-7255, FAX (804) 662-7696, toll-free (800) 552-5019, (804) 662-9040/TTY, e-mail lawsonkw@drs.state.va.us.

VIRGINIA RESOURCES AUTHORITY

October 9, 2001 - 9 a.m. -- Open Meeting

November 13, 2001 - 9 a.m. -- Open Meeting

December 11, 2001 - 9 a.m. -- Open Meeting

Virginia Resources Authority, 707 East Main Street, 2nd Floor Conference Room, Richmond, Virginia.

A regular meeting of the Board of Directors to (i) review and, if appropriate, approve the minutes from the most recent monthly meeting; (ii) review the authority's operations for the prior month; (iii) review applications for loans submitted to the authority for approval; (iv) consider loan commitments for approval and ratification under its various programs; (v) approve the issuance of any bonds; (vi) review the results of any bond sales; and (vii) consider such other matters and take such other actions as it may deem appropriate. Various committees of the Board of Directors may also meet immediately before or after the regular meeting and consider matters within their purview. The planned agenda of the meeting and any committee meetings will be available at the offices of the authority one week prior to the date of the meeting. Any person who needs any accommodation in order to participate in the meeting should contact the authority at least 10 days before the meeting so that suitable arrangements can be made.

Contact: Benjamin Hoyle, Executive Assistant, Virginia Resources Authority, 707 E. Main St., Suite 1350, Richmond, VA 23219, telephone (804) 644-3100, FAX (804) 644-3109, e-mail bhoyle@vra.state.va.us.

SCIENCE MUSEUM OF VIRGINIA

† **October 25, 2001 - 3 p.m.** -- Open Meeting
Science Museum of Virginia, 2500 West Broad Street, Richmond, Virginia. (Interpreter for the deaf provided upon request)

A quarterly meeting of the Board of Trustees.

Contact: Karen Raham, Administrative Assistant, Science Museum of Virginia, 2500 W. Broad St., Richmond, VA telephone (804) 864-1499, FAX (804) 864-1560, toll-free (800) 659-1727, e-mail kraham@smv.org.

SEWAGE HANDLING AND DISPOSAL APPEAL REVIEW BOARD

October 24, 2001 - 10 a.m. -- Open Meeting
General Assembly Building, 9th and Broad Streets, Senate Room B, Richmond, Virginia.

A meeting to hear appeals of health department denials of septic tank permits.

Contact: Susan C. Sherertz, Secretary to the Appeals Board, Sewage Handling and Disposal Appeal Review Board, 1500 E. Main St., Richmond, VA, telephone (804) 371-4236, FAX (804) 225-4003, e-mail ssherertz@vdh.state.va.us.

VIRGINIA SMALL BUSINESS FINANCING AUTHORITY

† **October 23, 2001 - 10 a.m.** -- Open Meeting
Virginia Crossings Conference Center, 1000 Virginia Center Parkway, Glen Allen, Virginia.

A meeting to review applications for loans submitted to the authority for approval and general business of the board. Time is subject to change depending upon the agenda of the board.

Contact: Scott E. Parsons, Executive Director, Department of Business Assistance, P.O. Box 446, Richmond, VA 23218-0446, telephone (804) 371-8254, FAX (804) 225-3384, e-mail sparsons@dba.state.va.us.

DEPARTMENT OF SOCIAL SERVICES

October 15, 2001 - 1:30 p.m. -- Canceled
Department of Social Services, 730 East Broad Street, Richmond, Virginia.

The public hearing on the TANF State Plan has been canceled.

Contact: Carlyn Snook, TANF Program Consultant, Department of Social Services, 730 E. Broad St., Richmond, VA 23219, telephone (804) 692-1836, FAX (804) 692-1709.

October 19, 2001 - 10 a.m. -- Open Meeting
Department of Social Services, 730 East Broad Street, Richmond, Virginia.

A meeting regarding the Family and Children's Trust Fund.

Contact: Nan McKenney, Executive Director, Department of Social Services, 730 E. Broad St., Richmond, VA 23219, telephone (804) 692-1836, FAX (804) 692-1709.

† **October 16, 2001 - 9 a.m.** -- Open Meeting
† **October 17, 2001 - 9 a.m.** -- Open Meeting
Norfolk State University, Lawrence W. Wilder Performing Arts Center, 700 Park Avenue, Norfolk, Virginia.

A formal business meeting of the board. The meeting will continue on the 17th if necessary.

Contact: Pat Rengnerth, Board Liaison, State Board of Social Services, 730 E. Broad St., Suite 812, Richmond, VA 23219-1849, telephone (804) 692-1826, FAX (804) 692-1962.

November 23, 2001 - 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 State Board of Social Services intends to amend regulations entitled: **22 VAC 40-41-10 et seq. Neighborhood Assistance Tax Credit Program.** The purpose of the proposed action is to amend the regulation to reflect changes to the controlling statute. Changes include adding additional health professionals and building contractors to those able to donate services and allowing individuals to receive tax credits for cash donations to approved projects.

Statutory Authority: § 63.1-323 of the Code of Virginia.

Contact: Phyl Parrish, Program Consultant, Department of Social Services, 730 E. Broad St., Richmond, VA 23219, telephone (804) 692-1895 or FAX (804) 692-1869.

† **December 7, 2001** - Public comments may be submitted until this date.

Notice is hereby given in accordance with § 2.2-4007 of the Code of Virginia that the State Board of Social Services intends to repeal regulations entitled:

22 VAC 40-32-10 et seq. Aid to Families with Dependent Children (AFDC) Program - Determining AFDC Eligibility When Only Dependent Child Receives Foster Care Benefits.

22 VAC 40-290-10. Earned Income Disregards/Student Earnings in the Aid to Families with Dependent Children (AFDC) Program.

22 VAC 40-300-10 et seq. Lump Sum Ineligibility Period in the Aid to Families with Dependent Children (AFDC) Program.

22 VAC 40-310-10 et seq. Maximum Resource Limit in the Aid to Families with Dependent Children (AFDC) Program.

22 VAC 40-320-10 et seq. Disclosure of Information to Law-Enforcement Officers in the Aid to Families with Dependent Children (AFDC) Program.

22 VAC 40-350-10 et seq. Real Property Disposition Period in the Aid to Families with Dependent Children (AFDC) Program.

22 VAC 40-360-10 et seq. Definition of a Home in the Aid to Families with Dependent Children (AFDC) and General Relief (GR) Programs.

22 VAC 40-370-10 et seq. Job Training Partnership Act (JTPA) Income Disregards in the Aid to Families with Dependent Children (AFDC) Program.

22 VAC 40-380-10 et seq. Disregard of Certain Income Received by Indian Tribes in the Aid to Families with Dependent Children (AFDC) Program.

22 VAC 40-390-10 et seq. Persons and Income Required to be Considered When Evaluating Eligibility for Assistance in the Aid to Families with Dependent Children (AFDC) Program.

22 VAC 40-420-10 et seq. Aid to Families with Dependent Children: Unemployed Parent Demonstration (AFDC-UPDEMO) Project.

22 VAC 40-430-10 et seq. Treatment of Casual and Inconsequential Income in the Aid to Families with Dependent Children (AFDC) Program.

22 VAC 40-440-10 et seq. Aid to Families with Dependent Children (AFDC) Program Allocation of Income.

22 VAC 40-450-10 et seq. Lump Sum Payments in the Aid to Families with Dependent Children (AFDC) Program.

22 VAC 40-460-10 et seq. Deeming of Stepparent Income in the Aid to Families with Dependent Children (AFDC) Program.

22 VAC 40-490-10 et seq. Aid to Families with Dependent Children (AFDC) Program - Deprivation Due to the Incapacity of a Parent.

22 VAC 40-500-10 et seq. Work-Related Child Care Expenses Disregarded in the Aid to Families with Dependent Children (AFDC) Program.

22 VAC 40-510-10 et seq. Aid to Families with Dependent Children (AFDC) Program - Entitlement Date.

22 VAC 40-520-10 et seq. Aid to Families with Dependent Children (AFDC) Program - Disregarded Income and Resources.

22 VAC 40-530-10 et seq. Aid to Families with Dependent Children (AFDC) Program - Deprivation Due to Continued Absence.

22 VAC 40-550-10 et seq. Aid to Families with Dependent Children Program - Unemployed Parent (AFDC-UP) Program.

22 VAC 40-580-10 et seq. Aid to Families with Dependent Children (AFDC) - Elimination of Monthly Reporting.

22 VAC 40-590-10 et seq. Aid to Families with Dependent Children - Earned Income Tax Credit (EITC) Disregard.

22 VAC 40-610-10 et seq. Aid to Families with Dependent Children (AFDC) Program - Exclusion of Children Receiving Adoption Assistance and Foster Care Maintenance Payment.

22 VAC 40-620-10 et seq. Aid to Families with Dependent Children (AFDC) Program - Fifth Degree Specified Relative.

22 VAC 40-650-10 et seq. Aid to Families with Dependent Children (AFDC) Program - Disqualification for Intentional Program Violation.

22 VAC 40-750-10 et seq. Grant Diversion.

22 VAC 40-760-10 et seq. Employment Services Program Policy.

Calendar of Events

The Board of Social Services proposes to repeal 28 regulations that apply to the now obsolete Aid to Families with Dependent Children (AFDC) program. The Temporary Assistance for Needy Families (TANF) program has replaced the AFDC program and all rules regarding this program have been consolidated into one regulation, 22 VAC 40-295, Temporary Assistance for Needy Families, which is currently in the promulgation process.

Statutory Authority: § 63.1-25 of the Code of Virginia.

Contact: Mark L. Golden, TANF Program Consultant, 730 E. Broad St, Richmond, VA 23219, telephone (804) 692-1735 or FAX (804) 692-1704.

† **December 7, 2001** - Public comments may be submitted until this date.

Notice is hereby given in accordance with § 2.2-4007 of the Code of Virginia that the State Board of Social Services intends to amend regulations entitled: **22 VAC 40-330-10 et seq. Collection of Overpayments in the Refugee Other Assistance Programs.** This regulation provides rules for collecting payment of funds erroneously paid to recipients of AFDC and Refugee Other Assistance Programs. The regulation is being amended so that the regulation only applies to Refugee Other Assistance Programs and not AFDC.

Statutory Authority: § 63.1-25 of the Code of Virginia.

Contact: Mark L. Golden, TANF Program Consultant, 730 E. Broad St, Richmond, VA 23219, telephone (804) 692-1735 or FAX (804) 692-1704.


† **December 7, 2001** - Public comments may be submitted until this date.

Notice is hereby given in accordance with § 2.2-4007 of the Code of Virginia that the State Board of Social Services intends to amend regulations entitled: **22 VAC 40-340-10 et seq. Protective Payments in the Refugee Other Assistance Programs.** This regulation is being amended by removing references to AFDC. Provisions regarding protective payments will be included in the comprehensive regulation, Temporary Assistance for Needy Families, 22 VAC 40-295-10 et seq.


Statutory Authority: § 63.1-25 of the Code of Virginia.

Contact: Mark L. Golden, TANF Program Consultant, 730 E. Broad St, Richmond, VA 23219, telephone (804) 692-1735 or FAX (804) 692-1704.

BOARD OF SOCIAL WORK

† **November 9, 2001 - 9 a.m.** -- Open Meeting
Sheraton Oceanfront Hotel, 36th and Atlantic Avenue, Virginia Beach, Virginia. 

A general business meeting with such regulatory and disciplinary items as may be presented on the agenda. Public comment will be received at the beginning of the meeting.

Contact: Evelyn B. Brown, Executive Director, Board of Social Work, Southern States Bldg., 6606 W. Broad St., 4th Floor, Richmond, VA 23230-1717, telephone (804) 662-9914, FAX (804) 662-9943, (804) 662-7197/TTY , e-mail ebrown@dhp.state.va.us.


BOARD FOR PROFESSIONAL SOIL SCIENTISTS

October 12, 2001 - 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 Professional Soil Scientists intends to amend regulations entitled: **18 VAC 145-20-10 et seq. Board for Soil Scientists Rules and Regulations.** The proposed amendments make several changes necessary to reflect the intent of the board and to ensure that any unnecessary requirements are removed. The proposed amendments also reorganize and revise the regulations for clarity and ease of use.

Statutory Authority: §§ 54.1-201 and 54.1-2200 et seq. of the Code of Virginia.

Contact: Karen W. O'Neal, Assistant Director, Board for Professional Soil Scientists, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-8537.

† **November 13, 2001 - 9 a.m.** -- Open Meeting
Department of Professional and Occupational Regulation, 3600 West Broad Street, Richmond, Virginia. 

A regular business meeting to consider the adoption of final regulations.

Contact: Karen W. O'Neal, Regulatory Programs Coordinator, Board for Professional Soil Scientists, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-8537, FAX (804) 367-2475, (804) 367-9753/TTY , e-mail oneal@dpor.state.va.us.

DEPARTMENT OF TAXATION

October 12, 2001 - 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: **23 VAC 10-110-10 et seq. Individual Income Tax.** The purpose of the proposed action is to replace expired emergency regulations with permanent regulations for claiming the qualified equity and subordinated debt investments tax credit and for allocating tax credits if total credit requests exceed \$5 million in a calendar year.

Public comments may be submitted until October 12, 2001, to David T. Mason, Department of Taxation, P.O. Box 1880, Richmond, VA 23220-1880, e-mail dmason@tax.state.va.us.

Statutory Authority: § 58.1-203 of the Code of Virginia.

Contact: Michael M. Melson, Executive Assistant, Department of Taxation, P.O. Box 1880, Richmond, VA 23220-1880, telephone (804) 367-8010 or FAX (804) 367-0045.

COUNCIL ON TECHNOLOGY SERVICES

November 8, 2001 - 9 a.m. -- Open Meeting
VDOT Auditorium, 1221 East Broad Street, Richmond, Virginia. ♿

A full COTS meeting.

Contact: Jenny Wootton, Council on Technology Services, Washington Bldg., 1100 Bank St., Suite 901, Richmond, VA 23219, telephone (804) 786-0744, FAX (804) 371-7952, e-mail jwootton@egov.state.va.us.

DEPARTMENT OF TECHNOLOGY PLANNING

† **October 10, 2001 - 10 a.m.** -- Open Meeting
Crowne Plaza Hotel, 555 East Canal Street, Richmond, Virginia. ♿

A regular monthly meeting of the Wireless E-911 Services Board.

Contact: Steven Marzolf, Public Safety Communications Coordinator, Department of Technology Planning, 110 South 7th St., Suite 135, Richmond, VA 23219, telephone (804) 371-0015, FAX (804) 371-2795, e-mail smarzolf@ntp.state.va.us.

COMMONWEALTH TRANSPORTATION BOARD

† **October 17, 2001 - 2 p.m.** -- Open Meeting
Hampton Inn-Col Alto, 401 East Nelson Street, Lexington, Virginia. ♿

A monthly meeting to vote on proposals presented regarding bids, permits, additions and deletions to the highway system, and any other matters requiring board approval. Public comment will be received at the outset of the meeting on items on the meeting agenda for which the opportunity for public comment has not been afforded the public in another forum. Remarks will be limited to five minutes. Large groups are asked to select one individual to speak for the group. The board reserves the right to amend these conditions. Separate committee meetings may be held on call of the Chairman. Contact VDOT Public Affairs at (804) 786-2715 for schedule.

Contact: Cathy M. Ghidotti, Assistant Secretary to the Board, Commonwealth Transportation Board, 1401 E. Broad St., Richmond, VA 23219, telephone (804) 786-6675, FAX (804) 786-6683, e-mail ghidotti_cm@vdot.state.va.us.

BOARD OF VETERINARY MEDICINE

October 10, 2001 - 10 a.m. -- Open Meeting
October 18, 2001 - 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)

An informal conference and disciplinary hearing of the Special Conference Committee. This is a public meeting, but public comment will not be received.

Contact: Terri H. Behr, Administrative Assistant, Board of Veterinary Medicine, 6606 W. Broad St., 4th Floor, Richmond, VA 23230, telephone (804) 662-9915, FAX (804) 662-7098, (804) 662-7197/TTY ☎, e-mail terri.behr@dhp.state.va.us.

October 17, 2001 - 9 a.m. -- Open Meeting
Department of Health Professions, 6606 West Broad Street, 5th Floor, Conference Room 2, Richmond, Virginia. ♿

A general business meeting including regulatory and disciplinary matters as may be presented on the agenda. Public comment will be received at the beginning of the meeting.

Contact: Elizabeth A. Carter, Ph.D., Executive Director, Board of Veterinary Medicine, Southern States Bldg., 6606 W. Broad St., 4th Floor, Richmond, VA 23230-1717, telephone (804) 662-9915, FAX (804) 662-9504, (804) 662-7197/TTY ☎, e-mail ecarter@dhp.state.va.us.

VIRGINIA VOLUNTARY FORMULARY BOARD

October 16, 2001 - 10:30 a.m. -- Open Meeting
Washington Building, 1100 Bank Street, 2nd Floor, Conference Room, Richmond Virginia. ♿

A meeting to review public hearing comments and new product data for products being considered for inclusion in the Virginia Voluntary Formulary.

Contact: James K. Thomson, Director, Bureau of Pharmacy Services, Department of Health, 101 N. 14th St., Room S-45, Richmond, VA 23219, telephone (804) 786-4326.

VIRGINIA WASTE MANAGEMENT BOARD

† **October 11, 2001 - 9 a.m.** -- Open Meeting
Department of Environmental Quality, Piedmont Regional Office, 494-A Cox Road, Glen Allen, Virginia. ♿

A meeting of the advisory committee assisting in the development of amendments to the solid waste management regulations.

Contact: Michael J. Dieter, Virginia Waste Management Board, Department of Environmental Quality, P.O. Box 10009, Richmond, VA 23240, telephone (804) 698-4146, e-mail mjd Dieter@deq.state.va.us.


† **November 7, 2001 - 9 a.m.** -- Open Meeting
Department of Environmental Quality, Piedmont Regional Office, 4949-A Cox Road, Glen Allen, Virginia. ♿

Calendar of Events


Tentatively scheduled meeting of the advisory committee assisting in the development of amendments to the solid waste management regulations. Persons interested in attending should confirm that the meeting will be held by contacting the person listed below prior to the meeting.

Contact: Michael J. Dieter, Virginia Waste Management Board, Department of Environmental Quality, P.O. Box 10009, Richmond, VA 23240, telephone (804) 698-4146, e-mail mjdieter@deq.state.va.us.


VIRGINIA BOARD FOR WASTE MANAGEMENT FACILITY OPERATORS

† **October 22, 2001 - 10 a.m.** -- Open Meeting
Department of Professional and Occupational Regulation, 3600 West Broad Street, Conference Room 5W, Richmond, Virginia. 

A meeting to conduct routine business. A public comment period will be held at the beginning of the meeting.


Contact: Christine Martine, Acting Assistant Director, Department of Professional and Occupational Regulation, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-2648, FAX (804) 367-6128, (804) 367-9753/TTY , e-mail wastemgt@dpor.state.va.us.

STATE WATER CONTROL BOARD

† **October 10, 2001 - 9:30 a.m.** -- Open Meeting
† **November 5, 2001 - 9:30 a.m.** -- Open Meeting
Department of Environmental Quality, Piedmont Regional Office, 4949-A Cox Road, Glen Allen, Virginia. 

A meeting of the technical advisory committee assisting in the development of the draft regulation for wastewater reclamation and reuse.


Contact: Lily Choi, State Water Control Board, Department of Environmental Quality, P.O. Box 10009, Richmond, VA 23240, telephone (804) 698-4054, e-mail ychoi@deq.state.va.us.

November 13, 2001 - 10 a.m. -- Open Meeting
Department of Environmental Quality, 629 East Main Street, 10th Floor Conference Room, Richmond, Virginia. 


A meeting of the advisory committee assisting the department in the development of amendments to the storm water general VPDES permit for construction activities.

Contact: Burton Tuxford, State Water Control Board, Department of Environmental Quality, P.O. Box 10009, Richmond, VA 23240, telephone (804) 698-4086, FAX (804) 698-4032, e-mail brtuxford@deq.state.va.us.

VIRGINIA BOARD FOR WATERWORKS AND WASTEWATER WORKS OPERATORS

† **December 13, 2001 - 8:30 a.m.** -- Open Meeting
Department of Professional and Occupational Regulation, 3600 West Broad Street, Conference Room 5W, Richmond, Virginia. 

A meeting to conduct routine business. A public comment period will be held at the beginning of the meeting.


Contact: Christine Martine, Acting Assistant Director, Department of Professional and Occupational Regulation, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-2648, FAX (804) 367-6128, (804) 367-9753/TTY , e-mail waterwasteoper@dpor.state.va.us.

INDEPENDENT

VIRGINIA RETIREMENT SYSTEM


October 17, 2001 - 3 p.m. -- Open Meeting
Virginia Retirement System Headquarters, 1200 East Main Street, Richmond, Virginia. 


A special meeting of Benefits and Actuarial Committee and the VRS actuary, Watson Wyatt.

Contact: Darla K. Glazier, Office Manager, Virginia Retirement System, P.O. Box 2500, Richmond, VA 23218, telephone (804) 649-8059, FAX (804) 786-1541, toll-free (888) 827-3847, (804) 344-3190/TTY , e-mail dglazier@vrs.state.va.us.


October 18, 2001 - 9 a.m. -- Open Meeting
November 15, 2001 - 9 a.m. -- Open Meeting
December 20, 2001 - 9 a.m. -- Open Meeting
VRS Headquarters, 1200 East Main Street, Richmond, Virginia. 


A regular meeting of the Board of Trustees.

Contact: Darla K. Glazier, Office Manager, Virginia Retirement System, P.O. Box 2500, Richmond, VA 23218, telephone (804) 649-8059, FAX (804) 786-1541, toll-free (888) 827-3847, (804) 344-3190/TTY , e-mail dkestner@vrs.state.va.us.

November 14, 2001 - Noon -- Open Meeting
VRS Headquarters, 1200 East Main Street, Richmond, Virginia. 

A regular meeting of the Audit and Compliance Committee.

Contact: Darla K. Glazier, Office Manager, Virginia Retirement System, P.O. Box 2500, Richmond, VA 23218, telephone (804) 649-8059, FAX (804) 786-1541, toll-free (888) 827-3847, (804) 344-3190/TTY , e-mail dkestner@vrs.state.va.us.

November 14, 2001 - 1 p.m. -- Open Meeting
VRS Headquarters, 1200 East Main Street, Richmond, Virginia. 

The regular meeting of the Benefits and Actuarial Committee.

Contact: Darla K. Glazier, Office Manager, Virginia Retirement System, VRS, P.O. Box 2500, Richmond, VA 23218, telephone (804) 649-8059, FAX (804) 786-1541, toll-free (888) 827-3847, (804) 344-3190/TTY ☎, e-mail dglazier@vrs.state.va.us.

NOTE: CHANGE IN MEETING DATE

November 14, 2001 - 2:30 p.m. -- Open Meeting
VRS Headquarters, 1200 East Main Street, Richmond, Virginia. ♿

The regular meeting of the Administration and Personnel Committee.

Contact: Darla K. Glazier, Office Manager, Virginia Retirement System, P.O. Box 2500, Richmond, VA 23218, telephone (804) 649-8059, FAX (804) 786-1541, toll-free (888) 827-3847, (804) 344-3190/TTY ☎, e-mail dkestner@vrs.state.va.us.

November 14, 2001 - 3 p.m. -- Open Meeting
December 19, 2001 - 3 p.m. -- Open Meeting
VRS Headquarters, 1200 East Main Street, Richmond, Virginia. ♿

A regular meeting of the Investment Advisory Committee.

Contact: Darla K. Glazier, Office Manager, Virginia Retirement System, P.O. Box 2500, Richmond, VA 23218, telephone (804) 649-8059, FAX (804) 786-1541, toll-free (888) 827-3847, (804) 344-3190/TTY ☎, e-mail dglazier@vrs.state.va.us.

LEGISLATIVE

VIRGINIA CODE COMMISSION

November 15, 2001 - 10 a.m. -- Open Meeting
General Assembly Building, 9th and Broad Streets, 6th Floor, Speaker's Conference Room, Richmond, Virginia. ♿

A meeting to continue with the recodification of Title 63.1 of the Code of Virginia and to conduct any other business that may come before the commission. Public comment will be received at the end of the meeting.

Contact: Jane Chaffin, Registrar of Regulations, General Assembly Bldg., 910 Capitol St., Richmond, VA 23219, telephone (804) 786-3591 FAX (804) 692-0625, e-mail jchaffin@leg.state.va.us.

DISABILITY COMMISSION

October 16, 2001 - 9 a.m. -- Open Meeting
General Assembly Building, 9th and Broad Streets, House Room D, Richmond, Virginia.

A regular meeting. Questions about the agenda should be addressed to Brian Parsons, Virginia Board for People with Disabilities, (804) 786-0016.

Contact: Hudaidah F. Bhimdi, House Committee Operations, P.O. Box 406, Richmond, VA 23218, telephone (804) 698-1540 or (804) 786-2369/TTY ☎

LEGISLATIVE TRANSITION TASK FORCE OF THE VIRGINIA ELECTRICAL UTILITY RESTRUCTURING ACT

† **October 16, 2001 - 10 a.m.** -- Open Meeting
General Assembly Building, 9th and Broad Streets, Senate Room A, Richmond, Virginia.

A general meeting. Individuals requiring interpreter services or other accommodations should contact Senate Committee Operations.

Contact: Thomas C. Gilman, Senate Committee Operations, P.O. Box 396, Richmond, VA 23218, telephone (804) 698-7450 or (804) 698-7419/TTY ☎

JOINT COMMISSION ON PRESCRIPTION DRUG ASSISTANCE (HJR 810)

October 10, 2001 - 2 p.m. -- Open Meeting
† **October 24, 2001 - 10 a.m.** -- Open Meeting
† **November 13, 2001 - 2 p.m.** -- Open Meeting
General Assembly Building, 9th and Broad Streets, House Room D, Richmond, Virginia. ♿

A meeting of the joint commission to develop ways and means to provide prescription drug assistance to needy senior citizens and to coordinate state and federal programs providing such assistance. Questions about the agenda should be addressed to Gayle Vergara, Division of Legislative Services, (804) 786-3591.

Contact: Lois V. Johnson, House Committee Operations, P.O. Box 406, Richmond, VA 23218, telephone (804) 698-1540 or (804) 786-2369/TTY ☎

JOINT COMMISSION ON TECHNOLOGY AND SCIENCE

October 24, 2001 - 1 p.m. -- Open Meeting
General Assembly Building, 9th and Broad Streets, House Room C, Richmond, Virginia. ♿ (Interpreter for the deaf provided upon request)

Discussion of electronic government issues. Agenda will be posted on JCOTS website.

Contact: Mitchell Goldstein, Director, Joint Commission on Technology and Science, 910 Capitol St., Second Floor, Richmond, VA 23219, telephone (804) 786-3591, FAX (804) 371-0169, e-mail MGoldstein@leg.state.va.us

CHRONOLOGICAL LIST

OPEN MEETINGS

October 9
† Accountancy, Board of
- Enforcement Committee
Nursing, Board of
- Special Conference Committee
Resources Authority, Virginia
- Board of Directors

Calendar of Events

October 10

- † Contractors, Board for
 - Tradesman Committee
- Nursing Home Administrators, Board of
- Prescription Drug Assistance, Joint Commission on
- † Technology Planning, Department of
 - Wireless E-911 Services Board
- Veterinary Medicine, Board of
 - Special Conference Committee
- † Water Control Board, State
 - Advisory Committee on Wastewater Reclamation and Use

October 11

- † Child Day-Care Council
- Fire Services Board, Virginia
 - Administration and Policy Committee
 - Finance Committee
 - Fire Prevention and Control Committee
- Statewide Independent Living Council
- Medicine, Board of
- † Real Estate Board
 - Regulatory Review Committee
- † Waste Management Board, Virginia
 - Advisory Committee on Solid Waste Management Regulations

October 12

- Fire Services Board, Virginia

October 14

- Aging, Commonwealth Council on

October 15

- † Agriculture and Consumer Services, Department of
 - Virginia Irish Potato Board
- † Architects, Professional Engineers, Land Surveyors, Certified Interior Designers and Landscape Architects, Board for
- Nursing, Board of
 - Special Conference Committee
- † Pharmacy, Board of

October 16

- † Aviation Board, Virginia
- Blind and Vision Impaired, Department for the
- † Corrections, Board of
 - Correctional Services/Policy and Regulations Committee
- Disability Commission
- † Electrical Utility Restructuring Act, Legislative Transition Task Force of the Virginia
- † Housing Development Authority
 - Board of Commissioners
- † Mines, Minerals and Energy, Department of
 - Coal Mine Safety Board
- Nursing, Board of
 - Special Conference Committee
- † Pharmacy, Board of
 - Regulatory Committee
- Psychology, Board of
- † Social Services, State Board of
- Voluntary Formulary Board, Virginia

October 17

- † Aviation Board, Virginia
- Blind and Vision Impaired, Department for the
 - Vocational Rehabilitation Services

- † Conservation and Recreation, Department of
 - Chippokes Plantation Farm Foundation Board of Trustees

- † Corrections, Board of
 - Administration Committee
- Funeral Directors and Embalmers, Board of
 - Task Force on Inspection Process
- Game and Inland Fisheries, Board of
- Racing Commission, Virginia
- Retirement System, Virginia
 - Benefits and Actuarial Committee
- † Social Services, State Board of
- † Transportation Board, Commonwealth
- Veterinary Medicine, Board of

October 18

- † Agriculture and Consumer Services, Department of
 - Pesticide Control Board
- Assistive Technology Loan Fund Authority
 - Board of Directors
- † Auctioneers Board
- † Dentistry, Board of
- Game and Inland Fisheries, Board of
- Labor and Industry, Department of
 - Safety and Health Codes Board
- Retirement System, Virginia
 - Board of Trustees
- Veterinary Medicine, Board of
 - Special Conference Committee

October 19

- † Physical Therapy, Board of
- Rehabilitative Services, Department of
- Social Services, State Board of

October 20

- † Blind and Vision Impaired, Department for the

October 22

- † Barbers and Cosmetology, Board for
- Education, Board of
- Nursing, Board of
 - Special Conference Committee
- Rehabilitative Services, Department of
- † Waste Management Facility Operators, Virginia Board for

October 23

- † Compensation Board
- Marine Resources Commission
- Nursing, Board of
 - Special Conference Committee
- Real Estate Appraiser Board
- † Small Business Financing Authority, Virginia

October 24

- Accountancy, Board of
- † Blind and Vision Impaired, Department for the
- George Mason University
 - Board of Visitors
- † Juvenile Justice, Board of
- Labor and Industry, Department of
 - Migrant and Seasonal Farmworkers Board
- Medicine, Board of
- Real Estate Board
 - Real Estate Education Committee
- Sewage Handling and Disposal Appeal Review Board
- Technology and Science, Joint Commission on
 - E-Government Advisory Committee

October 25

- † Geology, Board of
- Pharmacy, Board of
 - Special Conference Committee
- † Real Estate Board
 - Fair Housing Committee
- † Science Museum of Virginia
 - Board of Trustees

October 26

- † Counseling, Board of
 - Ad Hoc Committee on Substance Abuse Assistants and Counselors
- Health Professions, Department of
 - Health Practitioners' Intervention Program Committee

October 27

- † Blind and Vision Impaired, Department for the
 - Vocational Rehabilitation Services

October 30

- Asbestos, Lead and Home Inspectors, Virginia Board for
- Funeral Directors and Embalmers, Board of
 - Special Conference Committee

October 31

- At-Risk Youth and Families, Comprehensive Services for
 - State Executive Council
- † Medicine, Board of
 - Informal Conference Committee

November 1

- † Blind and Vision Impaired, Department for the
 - Vocational Rehabilitation Services

November 2

- Art and Architectural Review Board

November 5

- † Motor Vehicle Dealer Board
 - Advertising Committee
 - Dealer Practices Committee
 - Finance Committee
 - Franchise Law Committee
 - Licensing Committee
 - Personnel Committee
 - Transaction Recovery Fund Committee
- † Water Control Board, State
 - Advisory Committee on Wastewater Reclamation and Reuse

November 7

- Air Pollution Control Board, State
- † Waste Management Board, Virginia
 - Advisory Committee on Solid Waste Management Regulations

November 8

- Jamestown-Yorktown Foundation
 - Board of Trustees
- † Medicine, Board of
 - Informal Conference Committee
- Technology Services, Council on

November 9

- Jamestown-Yorktown Foundation
 - Board of Trustees
- † Social Work, Board of

November 13

- Resources Authority, Virginia
 - Board of Directors
- † Soil Scientists, Board for Professional

Water Control Board, State

November 14

- Cemetery Board
 - Regulatory Review Committee
- Local Government, Commission on
- Medicine, Board of
 - Informal Conference Committee
- Racing Commission, Virginia
- Retirement System, Virginia
 - Administration and Personnel Committee
 - Audit and Compliance Committee
 - Benefits and Actuarial Committee
 - Investment Advisory Committee

November 15

- Code Commission, Virginia
- Retirement System, Virginia
 - Board of Trustees

November 19

- Education, Board of
 - Advisory Board for Teacher Education and Licensure
- The Library of Virginia
 - Archival and Information Services Committee
 - Collection Management Services Committee
 - Executive Committee
 - Legislative and Finance Committee
 - Publications and Educational Services Committee
 - Public Library Development Committee
 - Records Management Committee
- Rehabilitative Services, Department of

November 26

- Elections, State Board of
- Nursing, Board of

November 27

- † Marine Resources Commission
- Rehabilitative Services, Department of

November 28

- At-Risk Youth and Families, Comprehensive Services for
 - State Executive Council
- Education, Board of
- George Mason University
 - Board of Visitors
- Nursing, Board of

November 29

- Nursing, Board of

December 4

- Education, Board of
 - Accountability Advisory Committee
- Nursing, Board of
 - Special Conference Committee
- Outdoors Foundation, Virginia

December 5

- Nursing, Board of
 - Special Conference Committee
- Outdoors Foundation, Virginia

December 6

- Nursing, Board of
 - Special Conference Committee
- † Real Estate Board

December 7

- Art and Architectural Review Board

December 10

- Nursing, Board of

Calendar of Events

- Special Conference Committee

December 11

Nursing, Board of

- Special Conference Committee

Resources Authority, Virginia

December 12

Milk Commission, State

December 13

† Waterworks and Wastewater Works Operators, Virginia

Board for

December 18

† Marine Resources Commission

Nursing, Board of

- Special Conference Committee

December 19

At-Risk Youth and Families, Comprehensive Services for

- State Executive Council

Racing Commission, Virginia

Retirement System, Virginia

- Investment Advisory Committee

December 20

Retirement System, Virginia

- Board of Trustees

PUBLIC HEARINGS

October 11

Health, State Board of

October 19

Social Services, State Board of

October 22

† Education, Board of

October 25

† Health, State Board of

October 29

† Environmental Quality, Department of

November 7

† Health, State Board of

November 8

† Pharmacy, Board of

November 13

† Air Pollution Control Board

† **November 29**

† Health, State Board of

December 13

Criminal Justice Services Board