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SECTION NUMBER	ACTION	CITE	EFFECTIVE DATE
Title 4. Conservation and Natural Resources			
4 VAC 5-36-50	Amended	19:16 VA.R. 2370	5/21/03
4 VAC 5-36-60	Amended	19:16 VA.R. 2373	5/21/03
4 VAC 5-36-70	Amended	19:16 VA.R. 2375	5/21/03
4 VAC 5-36-90	Amended	19:12 VA.R. 1881	3/27/03
4 VAC 5-36-100	Amended	19:12 VA.R. 1883	3/27/03
4 VAC 5-36-110 through 4 VAC 5-36-140	Amended	19:16 VA.R. 2376-2379	5/21/03
4 VAC 5-36-170 through 4 VAC 5-36-210	Amended	19:16 VA.R. 2379-2392	5/21/03
4 VAC 15-30-50	Amended	19:19 VA.R. 2818	7/1/03
4 VAC 15-40-230	Amended	19:19 VA.R. 2818	7/1/03
4 VAC 15-40-282	Added	19:19 VA.R. 2818	7/1/03
4 VAC 15-40-283	Added	19:19 VA.R. 2818	7/1/03
4 VAC 15-40-284	Added	19:19 VA.R. 2819	7/1/03
4 VAC 15-50-10	Amended	19:19 VA.R. 2819	7/1/03
4 VAC 15-50-20	Amended	19:19 VA.R. 2819	7/1/03
4 VAC 15-50-25	Amended	19:19 VA.R. 2819	7/1/03
4 VAC 15-50-30	Repealed	19:19 VA.R. 2819	7/1/03
4 VAC 15-50-70	Amended	19:19 VA.R. 2819	7/1/03
4 VAC 15-50-71	Added	19:19 VA.R. 2820	7/1/03
4 VAC 15-50-80	Amended	19:19 VA.R. 2820	7/1/03
4 VAC 15-50-81	Added	19:19 VA.R. 2820	7/1/03
4 VAC 15-50-90	Amended	19:19 VA.R. 2820	7/1/03
4 VAC 15-50-91	Added	19:19 VA.R. 2820	7/1/03
4 VAC 15-50-110	Amended	19:19 VA.R. 2820	7/1/03
4 VAC 15-50-120	Amended	19:19 VA.R. 2820	7/1/03
4 VAC 15-60-20	Amended	19:19 VA.R. 2820	7/1/03
4 VAC 15-90-10	Amended	19:19 VA.R. 2821	7/1/03
4 VAC 15-90-20	Amended	19:19 VA.R. 2821	7/1/03
4 VAC 15-90-21	Amended	19:19 VA.R. 2821	7/1/03
4 VAC 15-90-70	Amended	19:19 VA.R. 2821	7/1/03
4 VAC 15-90-80	Amended	19:19 VA.R. 2822	7/1/03
4 VAC 15-90-90	Amended	19:19 VA.R. 2822	7/1/03
4 VAC 15-90-100	Amended	19:19 VA.R. 2822	7/1/03
4 VAC 15-90-110	Amended	19:19 VA.R. 2822	7/1/03
4 VAC 15-90-120	Amended	19:19 VA.R. 2822	7/1/03
4 VAC 15-90-121	Added	19:19 VA.R. 2822	7/1/03
4 VAC 15-90-141	Amended	19:19 VA.R. 2822	7/1/03
4 VAC 15-90-160	Amended	19:19 VA.R. 2822	7/1/03
4 VAC 15-90-170	Amended	19:19 VA.R. 2822	7/1/03
4 VAC 15-90-190	Amended	19:19 VA.R. 2822	7/1/03
4 VAC 15-90-195	Amended	19:19 VA.R. 2823	7/1/03
4 VAC 15-90-200	Amended	19:19 VA.R. 2823	7/1/03
4 VAC 15-90-210	Amended	19:19 VA.R. 2823	7/1/03
4 VAC 15-90-220	Amended	19:19 VA.R. 2823	7/1/03
4 VAC 15-90-230	Amended	19:19 VA.R. 2823	7/1/03

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4 VAC 15-90-231	Added	19:19 VA.R. 2823	7/1/03
4 VAC 15-90-240	Amended	19:19 VA.R. 2823	7/1/03
4 VAC 15-90-241	Added	19:19 VA.R. 2823	7/1/03
4 VAC 15-140-20	Amended	19:19 VA.R. 2823	7/1/03
4 VAC 15-140-40	Repealed	19:19 VA.R. 2823	7/1/03
4 VAC 15-160-10	Amended	19:19 VA.R. 2824	7/1/03
4 VAC 15-160-20	Repealed	19:19 VA.R. 2824	7/1/03
4 VAC 15-160-31	Amended	19:19 VA.R. 2824	7/1/03
4 VAC 15-200-10	Amended	19:19 VA.R. 2824	7/1/03
4 VAC 15-210-30	Amended	19:19 VA.R. 2824	7/1/03
4 VAC 15-210-40	Repealed	19:19 VA.R. 2824	7/1/03
4 VAC 15-210-51	Amended	19:19 VA.R. 2824	7/1/03
4 VAC 15-230-20	Amended	19:19 VA.R. 2824	7/1/03
4 VAC 15-230-30	Repealed	19:19 VA.R. 2824	7/1/03
4 VAC 15-230-60	Amended	19:19 VA.R. 2824	7/1/03
4 VAC 15-230-70	Repealed	19:19 VA.R. 2824	7/1/03
4 VAC 15-240-31	Amended	19:19 VA.R. 2825	7/1/03
4 VAC 15-240-40	Amended	19:19 VA.R. 2825	7/1/03
4 VAC 15-240-50	Amended	19:19 VA.R. 2825	7/1/03
4 VAC 15-240-80	Amended	19:19 VA.R. 2825	7/1/03
4 VAC 15-240-81	Added	19:19 VA.R. 2825	7/1/03
4 VAC 15-240-90	Amended	19:19 VA.R. 2825	7/1/03
4 VAC 15-240-91	Added	19:19 VA.R. 2825	7/1/03
4 VAC 15-260-120	Amended	19:19 VA.R. 2826	7/1/03
4 VAC 15-290-115	Amended	19:19 VA.R. 2826	7/1/03
4 VAC 15-430-40	Erratum	19:14 VA.R. 2176	--
4 VAC 15-430-210	Erratum	19:14 VA.R. 2177	--
4 VAC 20-252-130 emer	Amended	19:12 VA.R. 1905	1/31/03-2/28/03
4 VAC 20-252-130	Amended	19:14 VA.R. 2086	3/1/03
4 VAC 20-252-150 emer	Amended	19:12 VA.R. 1906	1/31/03-2/28/03
4 VAC 20-252-150	Amended	19:14 VA.R. 2087	3/1/03
4 VAC 20-380-10	Amended	19:14 VA.R. 2087	3/1/03
4 VAC 20-380-30	Amended	19:14 VA.R. 2087	3/1/03
4 VAC 20-380-50	Amended	19:14 VA.R. 2087	3/1/03
4 VAC 20-380-60	Amended	19:14 VA.R. 2088	3/1/03
4 VAC 20-563-10 through 4 VAC 20-563-50 emer	Added	19:16 VA.R. 2417	3/26/03-4/24/03
4 VAC 20-620-50	Amended	19:14 VA.R. 2088	3/1/03
4 VAC 20-620-70	Amended	19:14 VA.R. 2089	3/1/03
4 VAC 20-720-20 emer	Amended	19:12 VA.R. 1906	2/1/03-3/3/03
4 VAC 20-720-40 emer	Amended	19:12 VA.R. 1907	2/1/03-3/3/03
4 VAC 20-720-50 emer	Amended	19:12 VA.R. 1907	2/1/03-3/3/03
4 VAC 20-720-70 emer	Amended	19:12 VA.R. 1908	2/1/03-3/3/03
4 VAC 20-720-80	Erratum	19:12 VA.R. 1915	--
4 VAC 20-720-80 emer	Amended	19:12 VA.R. 1909	2/1/03-3/3/03
4 VAC 20-910-45 emer	Amended	19:12 VA.R. 1911	1/31/03-2/28/03
4 VAC 20-910-45	Amended	19:14 VA.R. 2089	3/1/03
4 VAC 20-950-30	Amended	19:14 VA.R. 2090	3/1/03
4 VAC 20-950-45	Amended	19:14 VA.R. 2090	3/1/03
4 VAC 20-1050-10	Added	19:16 VA.R. 2392	3/26/03
4 VAC 20-1050-20	Added	19:16 VA.R. 2392	3/26/03
4 VAC 20-1050-30	Added	19:16 VA.R. 2392	3/26/03
4 VAC 20-1060-10	Added	19:16 VA.R. 2393	3/26/03
4 VAC 20-1060-20	Added	19:16 VA.R. 2393	3/26/03
4 VAC 20-1060-30	Added	19:16 VA.R. 2393	3/26/03
4 VAC 25-40 (Forms)	Amended	19:17 VA.R. 2589	--
4 VAC 25-150-120	Amended	19:18 VA.R. 2663	7/1/03

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SECTION NUMBER	ACTION	CITE	EFFECTIVE DATE
4 VAC 25-160-30	Amended	19:18 VA.R. 2664	7/1/03
Title 6. Criminal Justice and Corrections			
6 VAC 20-210-10 through 6 VAC 20-210-110 emer	Added	19:10 VA.R. 1511-1512	1/7/03-1/6/04
Title 8. Education			
8 VAC 20-440-10	Amended	19:12 VA.R. 1886	3/28/03
8 VAC 20-440-90	Amended	19:12 VA.R. 1886	3/28/03
8 VAC 20-440-110	Amended	19:12 VA.R. 1886	3/28/03
8 VAC 20-440-120	Amended	19:12 VA.R. 1886	3/28/03
8 VAC 20-440-140	Amended	19:12 VA.R. 1886	3/28/03
8 VAC 20-440-150	Amended	19:12 VA.R. 1886	3/28/03
8 VAC 20-440-160	Amended	19:12 VA.R. 1886	3/28/03
8 VAC 20-440 Appendix A	Amended	19:12 VA.R. 1887	3/28/03
8 VAC 20-440 Appendix B	Amended	19:12 VA.R. 1890	3/28/03
Title 9. Environment			
9 VAC 5-20-204	Amended	19:17 VA.R. 2486	6/4/03
9 VAC 5-20-310	Amended	19:17 VA.R. 2486	6/4/03
9 VAC 5-40-6000 through 9 VAC 5-40-6150	Amended	19:17 VA.R. 2487-2494	7/1/03
9 VAC 5-40-6180	Amended	19:17 VA.R. 2494	7/1/03
9 VAC 5-40-6190	Amended	19:17 VA.R. 2499	7/1/03
9 VAC 5-40-6220	Amended	19:17 VA.R. 2500	7/1/03
9 VAC 5-40-7950	Amended	19:17 VA.R. 2501	7/1/03
9 VAC 5-40-7960	Amended	19:17 VA.R. 2502	7/1/03
9 VAC 5-40-8090	Amended	19:17 VA.R. 2505	7/1/03
9 VAC 5-40-8100	Amended	19:17 VA.R. 2505	7/1/03
9 VAC 5-40-8110 through 9 VAC 5-40-8160	Amended	19:17 VA.R. 2507-2519	7/1/03
9 VAC 5-40-8180	Amended	19:17 VA.R. 2519	7/1/03
9 VAC 20-60-17	Amended	19:18 VA.R. 2665	7/1/03
9 VAC 20-60-18	Amended	19:12 VA.R. 1891	3/26/03
9 VAC 20-60-40	Amended	19:18 VA.R. 2665	7/1/03
9 VAC 20-60-70	Amended	19:18 VA.R. 2665	7/1/03
9 VAC 20-60-124	Amended	19:18 VA.R. 2665	7/1/03
9 VAC 20-60-261	Amended	19:18 VA.R. 2665	7/1/03
9 VAC 20-60-262	Amended	19:18 VA.R. 2665	7/1/03
9 VAC 20-60-264	Amended	19:18 VA.R. 2665	7/1/03
9 VAC 20-60-265	Amended	19:18 VA.R. 2668	7/1/03
9 VAC 20-60-270	Amended	19:18 VA.R. 2670	7/1/03
9 VAC 20-60-305	Amended	19:18 VA.R. 2670	7/1/03
9 VAC 20-60-315	Amended	19:18 VA.R. 2670	7/1/03
9 VAC 20-60-328	Amended	19:18 VA.R. 2670	7/1/03
9 VAC 20-60-420	Amended	19:18 VA.R. 2670	7/1/03
9 VAC 20-60-440	Amended	19:18 VA.R. 2670	7/1/03
9 VAC 20-60-450	Amended	19:18 VA.R. 2670	7/1/03
9 VAC 20-60-490	Amended	19:18 VA.R. 2670	7/1/03
9 VAC 20-60-1260	Amended	19:18 VA.R. 2670	7/1/03
9 VAC 20-60-1280	Amended	19:18 VA.R. 2670	7/1/03
9 VAC 20-60-1285	Amended	19:18 VA.R. 2670	7/1/03
9 VAC 20-60-1370	Amended	19:18 VA.R. 2672	7/1/03
9 VAC 20-60-1380	Amended	19:18 VA.R. 2672	7/1/03
9 VAC 20-60-1390	Amended	19:18 VA.R. 2672	7/1/03
9 VAC 20-60-1420	Amended	19:18 VA.R. 2672	7/1/03
9 VAC 20-90-10	Amended	19:18 VA.R. 2672	7/1/03
9 VAC 20-90-20	Repealed	19:18 VA.R. 2672	7/1/03
9 VAC 20-90-30 through 9 VAC 20-90-100	Amended	19:18 VA.R. 2672-2675	7/1/03
9 VAC 20-90-110	Added	19:18 VA.R. 2675	7/1/03
9 VAC 20-90-120	Added	19:18 VA.R. 2675	7/1/03

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9 VAC 20-110-10 through 9 VAC 20-110-40	Amended	19:19 VA.R. 2826-2827	7/2/03
9 VAC 20-110-90	Amended	19:19 VA.R. 2827	7/2/03
9 VAC 20-110-100	Amended	19:19 VA.R. 2828	7/2/03
9 VAC 20-110-110	Amended	19:19 VA.R. 2828	7/2/03
9 VAC 20-110-115	Repealed	19:19 VA.R. 2828	7/2/03
9 VAC 20-110-121	Amended	19:19 VA.R. 2828	7/2/03
9 VAC 20-110-122	Amended	19:19 VA.R. 2828	7/2/03
9 VAC 20-130 (Forms)	Amended	19:12 VA.R. 1912	--
9 VAC 20-170-10 through 9 VAC 20-170-60	Added	19:19 VA.R. 2829-2833	7/2/03
9 VAC 20-170-70	Added	19:18 VA.R. 2678	¹
9 VAC 20-170-80 through 9 VAC 20-170-190	Added	19:19 VA.R. 2833-2839	7/2/03
9 VAC 20-170-195	Added	19:18 VA.R. 2679	¹
9 VAC 20-170-270 through 9 VAC 20-170-420	Added	19:19 VA.R. 2842-2862	7/2/03
9 VAC 25-20-10	Amended	19:18 VA.R. 2680	7/1/03
9 VAC 25-20-110	Amended	19:18 VA.R. 2681	7/1/03
9 VAC 25-20-120	Amended	19:18 VA.R. 2681	7/1/03
9 VAC 25-20-130	Amended	19:18 VA.R. 2681	7/1/03
9 VAC 25-70	Repealed	19:14 VA.R. 2090	4/23/03
9 VAC 25-71-10 through 9 VAC 25-71-70	Added	19:14 VA.R. 2090	4/23/03
9 VAC 25-120 (Forms)	Amended	19:18 VA.R. 2739	--
9 VAC 25-210 (Forms)	Amended	19:12 VA.R. 1912	--
9 VAC 25-210 (Forms)	Added	19:16 VA.R. 2418	--
9 VAC 25-260-140	Amended	18:24 VA.R. 3289	²
9 VAC 25-260-155	Amended	18:24 VA.R. 3289	²
9 VAC 25-260-310	Amended	18:20 VA.R. 2659	²
9 VAC 25-260-390	Amended	18:20 VA.R. 2661	²
9 VAC 25-420	Repealed	19:14 VA.R. 2091	4/24/03
9 VAC 25-430	Repealed	19:14 VA.R. 2091	4/24/03
9 VAC 25-440	Repealed	19:14 VA.R. 2091	4/24/03
9 VAC 25-450	Repealed	19:14 VA.R. 2091	4/24/03
9 VAC 25-452	Repealed	19:14 VA.R. 2091	4/24/03
9 VAC 25-460	Repealed	19:14 VA.R. 2091	4/24/03
9 VAC 25-470	Repealed	19:14 VA.R. 2091	4/24/03
9 VAC 25-480	Repealed	19:14 VA.R. 2091	4/24/03
9 VAC 25-490	Repealed	19:14 VA.R. 2091	4/24/03
9 VAC 25-500	Repealed	19:14 VA.R. 2091	4/24/03
9 VAC 25-510	Repealed	19:14 VA.R. 2091	4/24/03
9 VAC 25-520	Repealed	19:14 VA.R. 2091	4/24/03
9 VAC 25-530	Repealed	19:14 VA.R. 2091	4/24/03
9 VAC 25-540	Repealed	19:14 VA.R. 2091	4/24/03
9 VAC 25-550	Repealed	19:14 VA.R. 2091	4/24/03
9 VAC 25-560	Repealed	19:14 VA.R. 2091	4/24/03
9 VAC 25-570	Repealed	19:14 VA.R. 2091	4/24/03
9 VAC 25-572	Repealed	19:14 VA.R. 2091	4/24/03
9 VAC 25-660 (Forms)	Amended	19:12 VA.R. 1912	--
9 VAC 25-660 (Forms)	Added	19:16 VA.R. 2418	--
9 VAC 25-670 (Forms)	Amended	19:12 VA.R. 1912	--
9 VAC 25-680 (Forms)	Amended	19:12 VA.R. 1912	--
9 VAC 25-680 (Forms)	Added	19:16 VA.R. 2418	--
9 VAC 25-690 (Forms)	Amended	19:12 VA.R. 1912	--
9 VAC 25-690 (Forms)	Added	19:16 VA.R. 2418	--
9 VAC 25-720	Erratum	19:20 VA.R. 2999	--
9 VAC 25-720-10 through 9 VAC 25-720-140	Added	19:14 VA.R. 2091-2138	4/24/03

¹ Section suspended in 19:18 VA.R. 2680.

² Effective 30 days after notice in the Virginia Register of EPA approval.

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SECTION NUMBER	ACTION	CITE	EFFECTIVE DATE
9 VAC 25-720-50	Erratum	19:18 VA.R. 2746-2747	--
9 VAC 25-720-80	Erratum	19:18 VA.R. 2747	--
9 VAC 25-720-120	Erratum	19:18 VA.R. 2747	--
9 VAC 25-720-130	Erratum	19:18 VA.R. 2747	--
9 VAC 25-730	Repealed	19:14 VA.R. 2090	4/23/03
Title 11. Gaming			
11 VAC 5-10-10 through 11 VAC 5-10-70	Amended	19:15 VA.R. 2264	5/7/03
11 VAC 5-10-80	Added	19:15 VA.R. 2264	5/7/03
11 VAC 5-20-10	Amended	19:15 VA.R. 2265	5/7/03
11 VAC 5-20-60	Amended	19:15 VA.R. 2265	5/7/03
11 VAC 5-20-70	Amended	19:15 VA.R. 2265	5/7/03
11 VAC 5-20-80	Amended	19:15 VA.R. 2265	5/7/03
11 VAC 5-20-90	Repealed	19:15 VA.R. 2265	5/7/03
11 VAC 5-20-100	Repealed	19:15 VA.R. 2265	5/7/03
11 VAC 5-20-110	Repealed	19:15 VA.R. 2265	5/7/03
11 VAC 5-20-120 through 11 VAC 5-20-180	Amended	19:15 VA.R. 2265	5/7/03
11 VAC 5-20-420	Amended	19:15 VA.R. 2265	5/7/03
11 VAC 5-30	Repealed	19:15 VA.R. 2265	5/7/03
11 VAC 5-31-10 through 11 VAC 5-31-200	Added	19:15 VA.R. 2266	5/7/03
11 VAC 5-40	Repealed	19:15 VA.R. 2266	5/7/03
11 VAC 5-41-10 through 11 VAC 5-41-340	Added	19:15 VA.R. 2266-2269	5/7/03
Title 12. Health			
12 VAC 5-31-610	Added	19:3 VA.R. 493	³
12 VAC 5-31-620	Added	19:3 VA.R. 494	³
12 VAC 5-31-730	Added	19:3 VA.R. 516	³
12 VAC 5-31-940	Added	19:3 VA.R. 503	³
12 VAC 5-31-1030	Added	19:3 VA.R. 504	5/6/03 ⁴
12 VAC 5-31-1140	Added	19:3 VA.R. 505	5/6/03 ⁴
12 VAC 5-90-80 emer	Amended	19:22 VA.R. 3220	6/24/03-6/23/04
12 VAC 5-90-80 emer	Amended	19:13 VA.R. 1971	2/11/03-2/10/04
12 VAC 5-90-80 emer	Amended	19:18 VA.R. 2737	4/24/03-4/23/04
12 VAC 5-120-50	Amended	19:22 VA.R. 3215	8/13/03
12 VAC 5-200-10	Amended	19:22 VA.R. 3215	8/13/03
12 VAC 5-585-10	Amended	19:14 VA.R. 2138	4/23/03
12 VAC 5-585-40	Amended	19:14 VA.R. 2140	4/23/03
12 VAC 5-585-50	Amended	19:14 VA.R. 2141	4/23/03
12 VAC 5-585-270	Amended	19:14 VA.R. 2141	4/23/03
12 VAC 5-585-660 through 12 VAC 5-585-750	Added	19:14 VA.R. 2141-2145	4/23/03
12 VAC 5-590-10	Amended	19:17 VA.R. 2520	6/4/03
12 VAC 5-590-370	Amended	19:17 VA.R. 2526	6/4/03
12 VAC 5-590-420	Amended	19:17 VA.R. 2549	6/4/03
12 VAC 5-590-420	Amended	19:20 VA.R. 2982	7/16/03
12 VAC 5-590-440	Amended	19:17 VA.R. 2565	6/4/03
12 VAC 5-590-530	Amended	19:17 VA.R. 2568	6/4/03
12 VAC 5-590-530	Amended	19:20 VA.R. 2982	7/16/03
12 VAC 5-590-550	Amended	19:20 VA.R. 2982	7/16/03
12 VAC 5-590-990, Appendix F and Appendix G	Amended	19:20 VA.R. 2983-2984	7/16/03
12 VAC 5-590 Appendix M	Amended	19:17 VA.R. 2575	6/4/03
12 VAC 30-20-80	Amended	19:18 VA.R. 2682	7/1/03
12 VAC 30-20-150	Amended	19:18 VA.R. 2682	7/1/03
12 VAC 30-20-160	Amended	19:18 VA.R. 2683	7/1/03
12 VAC 30-40-220 emer	Amended	19:22 VA.R. 3222	7/1/03-6/30/04
12 VAC 30-40-235 emer	Added	19:21 VA.R. 3076	8/1/03-7/31/04

³ Section withdrawn in 19:16 VA.R. 2393.

⁴ Section readopted in 19:16 VA.R. 2393.

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SECTION NUMBER	ACTION	CITE	EFFECTIVE DATE
12 VAC 30-40-345 emer	Amended	19:22 VA.R. 3224	7/1/03-6/30/04
12 VAC 30-50-10 emer	Amended	19:21 VA.R. 3078	7/1/03-6/30/04
12 VAC 30-50-20 emer	Amended	19:21 VA.R. 3078	7/1/03-6/30/04
12 VAC 30-50-50 emer	Amended	19:21 VA.R. 3079	7/1/03-6/30/04
12 VAC 30-50-60 emer	Amended	19:21 VA.R. 3079	7/1/03-6/30/04
12 VAC 30-50-120 emer	Amended	19:21 VA.R. 3080	7/1/03-6/30/04
12 VAC 30-50-140	Amended	19:18 VA.R. 2684	7/1/03
12 VAC 30-50-140 emer	Amended	19:21 VA.R. 3080	7/1/03-6/30/04
12 VAC 30-50-150	Amended	19:18 VA.R. 2685	7/1/03
12 VAC 30-50-160	Amended	19:18 VA.R. 2686	7/1/03
12 VAC 30-50-460	Repealed	19:18 VA.R. 2686	7/1/03
12 VAC 30-50-530 emer	Amended	19:21 VA.R. 3081	7/1/03-6/30/04
12 VAC 30-60-70	Amended	19:18 VA.R. 2687	7/1/03
12 VAC 30-70-201	Amended	19:21 VA.R. 3058	8/1/03
12 VAC 30-70-221	Amended	19:18 VA.R. 2699	7/1/03
12 VAC 30-70-271 emer	Amended	19:22 VA.R. 3225	7/1/03-6/30/04
12 VAC 30-70-281	Amended	19:18 VA.R. 2699	7/1/03
12 VAC 30-70-351	Amended	19:18 VA.R. 2699	7/1/03
12 VAC 30-70-351 emer	Amended	19:21 VA.R. 3082	7/1/03-6/30/04
12 VAC 30-70-391 emer	Amended	19:22 VA.R. 3226	7/1/03-6/30/04
12 VAC 30-80-20	Amended	19:18 VA.R. 2699	7/1/03
12 VAC 30-80-40	Amended	19:18 VA.R. 2701	7/1/03
12 VAC 30-80-200 emer	Added	19:21 VA.R. 3085	7/1/03-6/30/04
12 VAC 30-90-41	Amended	19:18 VA.R. 2702	7/1/03
12 VAC 30-90-41.2 emer	Added	19:22 VA.R. 3226	7/1/03-6/30/04
12 VAC 30-90-257	Added	19:18 VA.R. 2702	7/1/03
12 VAC 30-110-1210	Repealed	19:18 VA.R. 2689	7/1/03
12 VAC 30-110-1350 through 12 VAC 30-110-1410	Added	19:18 VA.R. 2703	6/19/03
12 VAC 30-120-50	Amended	19:18 VA.R. 2690	7/1/03
12 VAC 30-120-140 emer	Amended	19:15 VA.R. 2270	3/17/03-3/16/04
12 VAC 30-120-150 emer	Amended	19:15 VA.R. 2273	3/17/03-3/16/04
12 VAC 30-120-160 emer	Amended	19:15 VA.R. 2274	3/17/03-3/16/04
12 VAC 30-120-165 emer	Added	19:15 VA.R. 2276	3/17/03-3/16/04
12 VAC 30-120-170 emer	Amended	19:15 VA.R. 2281	3/17/03-3/16/04
12 VAC 30-120-180 emer	Amended	19:15 VA.R. 2282	3/17/03-3/16/04
12 VAC 30-120-190 emer	Amended	19:15 VA.R. 2284	3/17/03-3/16/04
12 VAC 30-120-490	Amended	19:18 VA.R. 2692	7/1/03
12 VAC 30-120-500	Amended	19:18 VA.R. 2693	7/1/03
12 VAC 30-120-520 through 12 VAC 30-120-550	Amended	19:18 VA.R. 2694-2699	7/1/03
12 VAC 30-130-50	Amended	19:18 VA.R. 2699	7/1/03
12 VAC 30-130-620 emer	Amended	19:21 VA.R. 3077	8/1/03-7/31/04
12 VAC 30-141-10 through 12 VAC 30-141-660	Added	19:21 VA.R. 3058-3071	8/1/03
12 VAC 35-11-10 through 12 VAC 35-11-90	Amended	19:19 VA.R. 2864-2865	7/2/03
12 VAC 35-11-15	Added	19:19 VA.R. 2864	7/2/03
12 VAC 35-11-100	Repealed	19:19 VA.R. 2864	7/2/03
12 VAC 35-11-110	Added	19:19 VA.R. 2865	7/2/03
12 VAC 35-40-10 through 12 VAC 35-40-340	Repealed	19:19 VA.R. 2865	8/1/03
12 VAC 35-45-10 through 12 VAC 35-45-200	Added	19:19 VA.R. 2865-2866	8/1/03
Title 13. Housing			
13 VAC 10-40-110	Amended	19:12 VA.R. 1892	1/24/03
13 VAC 10-40-220	Amended	19:12 VA.R. 1892	1/24/03
13 VAC 10-40-230	Amended	19:12 VA.R. 1892	1/24/03
13 VAC 10-180-10	Amended	19:16 VA.R. 2394	4/2/03
13 VAC 10-180-50	Amended	19:16 VA.R. 2394	4/2/03
13 VAC 10-180-60	Amended	19:16 VA.R. 2394	4/2/03
13 VAC 10-180-60	Amended	19:16 VA.R. 2404	1/1/04

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SECTION NUMBER	ACTION	CITE	EFFECTIVE DATE
Title 14. Insurance			
14 VAC 5-71-70	Erratum	19:22 VA.R. 3230	--
14 VAC 5-71-80	Erratum	19:22 VA.R. 3231	--
14 VAC 5-71-90	Erratum	19:22 VA.R. 3231	--
14 VAC 5-71-91	Erratum	19:22 VA.R. 3232	--
14 VAC 5-71-92	Erratum	19:22 VA.R. 3233	--
14 VAC 5-200-20	Amended	19:12 VA.R. 1893	4/1/03
14 VAC 5-200-30	Amended	19:12 VA.R. 1893	4/1/03
14 VAC 5-200-40	Amended	19:12 VA.R. 1893	4/1/03
14 VAC 5-200-60	Amended	19:12 VA.R. 1893	4/1/03
14 VAC 5-200-75	Amended	19:12 VA.R. 1893	4/1/03
14 VAC 5-200-77	Added	19:12 VA.R. 1894	4/1/03
14 VAC 5-200-150	Amended	19:12 VA.R. 1894	4/1/03
14 VAC 5-200-153	Added	19:12 VA.R. 1894	4/1/03
14 VAC 5-200-200	Amended	19:12 VA.R. 1894	4/1/03
14 VAC 5-260 (Forms)	Amended	19:14 VA.R. 2169	--
14 VAC 5-270-40	Amended	19:21 VA.R. 3071	7/1/03
14 VAC 5-270-80	Amended	19:21 VA.R. 3071	7/1/03
Title 15. Judicial			
15 VAC 5-80-50	Amended	19:17 VA.R. 2579	4/11/03
Title 16. Labor and Employment			
16 VAC 15-10-10	Amended	19:19 VA.R. 2867	7/2/03
16 VAC 15-10-20	Amended	19:19 VA.R. 2867	7/2/03
16 VAC 15-10-40	Amended	19:19 VA.R. 2867	7/2/03
16 VAC 15-10-50	Amended	19:19 VA.R. 2867	7/2/03
16 VAC 15-10-80	Amended	19:19 VA.R. 2867	7/2/03
16 VAC 15-10-90	Amended	19:19 VA.R. 2867	7/2/03
16 VAC 15-10-100	Amended	19:19 VA.R. 2867	7/2/03
16 VAC 15-40-50	Amended	19:21 VA.R. 3072	8/1/03
16 VAC 25-50-20	Amended	19:19 VA.R. 2867	7/2/03
16 VAC 25-50-150	Amended	19:19 VA.R. 2867	7/2/03
16 VAC 25-50-340	Amended	19:19 VA.R. 2867	7/2/03
16 VAC 25-50-440	Amended	19:19 VA.R. 2868	7/2/03
16 VAC 25-50-445	Added	19:19 VA.R. 2868	7/2/03
16 VAC 30-50-30	Amended	19:18 VA.R. 2703	7/1/03
Title 18. Professional and Occupational Licensing			
18 VAC 5-21-20	Amended	19:12 VA.R. 1895	3/26/03
18 VAC 15-40-10 through 18 VAC 15-40-190	Added	19:18 VA.R. 2706-2712	7/1/03
18 VAC 25-10-10 through 18 VAC 25-10-50	Amended	19:19 VA.R. 2868	7/3/03
18 VAC 25-10-90	Amended	19:19 VA.R. 2868	7/3/03
18 VAC 41-20-10 through 18 VAC 41-20-280	Added	19:18 VA.R. 2712-2714	7/1/03
18 VAC 60-20-10	Amended	19:20 VA.R. 2984	7/16/03
18 VAC 60-20-90	Amended	19:18 VA.R. 2714	6/18/03
18 VAC 60-20-106	Added	19:18 VA.R. 2714	6/18/03
18 VAC 60-20-200	Amended	19:20 VA.R. 2985	7/16/03
18 VAC 60-20-210	Amended	19:20 VA.R. 2985	7/16/03
18 VAC 60-20-220	Amended	19:20 VA.R. 2985	7/16/03
18 VAC 65-20-70	Amended	19:19 VA.R. 2869	7/2/03
18 VAC 65-20-130	Amended	19:19 VA.R. 2869	7/2/03
18 VAC 65-20-140	Amended	19:19 VA.R. 2869	7/2/03
18 VAC 65-20-150	Repealed	19:19 VA.R. 2869	7/2/03
18 VAC 65-20-151	Added	19:19 VA.R. 2869	7/2/03
18 VAC 65-20-152	Added	19:19 VA.R. 2869	7/2/03
18 VAC 65-20-153	Added	19:19 VA.R. 2869	7/2/03
18 VAC 65-20-154	Added	19:19 VA.R. 2869	7/2/03

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18 VAC 65-20-500	Amended	19:19 VA.R. 2869	7/2/03
18 VAC 76-30-10 through 18 VAC 76-30-120	Added	19:19 VA.R. 2869-2870	7/2/03
18 VAC 85-20-122	Amended	19:21 VA.R. 3073	7/30/03
18 VAC 85-20-210	Amended	19:21 VA.R. 3074	7/30/03
18 VAC 85-20-225	Added	19:18 VA.R. 2715	6/18/03
18 VAC 85-20-280	Amended	19:19 VA.R. 2870	7/2/03
18 VAC 85-20-280	Amended	19:21 VA.R. 3074	7/30/03
18 VAC 85-20-285	Added	19:19 VA.R. 2871	7/2/03
18 VAC 85-20-290	Amended	19:19 VA.R. 2871	7/2/03
18 VAC 85-20-300	Amended	19:19 VA.R. 2871	7/2/03
18 VAC 85-20-310 through 18 VAC 85-20-390	Added	19:18 VA.R. 2719-2720	6/18/03
18 VAC 85-40-10	Amended	19:19 VA.R. 2873	7/2/03
18 VAC 85-40-35	Added	19:19 VA.R. 2873	7/2/03
18 VAC 85-40-40	Amended	19:19 VA.R. 2873	7/2/03
18 VAC 85-40-45	Amended	19:19 VA.R. 2873	7/2/03
18 VAC 85-40-50	Amended	19:19 VA.R. 2873	7/2/03
18 VAC 85-40-55	Added	19:18 VA.R. 2717	6/18/03
18 VAC 85-40-60	Amended	19:19 VA.R. 2873	7/2/03
18 VAC 85-40-61	Amended	19:19 VA.R. 2873	7/2/03
18 VAC 85-40-65	Amended	19:19 VA.R. 2873	7/2/03
18 VAC 85-40-66	Added	19:19 VA.R. 2873	7/2/03
18 VAC 85-40-80	Repealed	19:19 VA.R. 2873	7/2/03
18 VAC 85-50-10	Amended	19:18 VA.R. 2722	6/18/03
18 VAC 85-50-40	Amended	19:18 VA.R. 2722	6/18/03
18 VAC 85-50-59	Added	19:18 VA.R. 2722	6/18/03
18 VAC 85-50-101	Amended	19:18 VA.R. 2722	6/18/03
18 VAC 85-50-110	Amended	19:18 VA.R. 2722	6/18/03
18 VAC 85-50-115	Amended	19:18 VA.R. 2722	6/18/03
18 VAC 85-80-65	Added	19:18 VA.R. 2717	6/18/03
18 VAC 85-101-10	Amended	19:19 VA.R. 2873	7/2/03
18 VAC 85-101-25	Added	19:19 VA.R. 2873	7/2/03
18 VAC 85-101-30 through 18 VAC 85-101-60	Amended	19:19 VA.R. 2873	7/2/03
18 VAC 85-101-61	Added	19:19 VA.R. 2873	7/2/03
18 VAC 85-101-80	Repealed	19:19 VA.R. 2873	7/2/03
18 VAC 85-101-90	Repealed	19:19 VA.R. 2873	7/2/03
18 VAC 85-101-100	Amended	19:19 VA.R. 2873	7/2/03
18 VAC 85-101-130	Amended	19:19 VA.R. 2873	7/2/03
18 VAC 85-101-140	Amended	19:19 VA.R. 2873	7/2/03
18 VAC 85-101-150	Amended	19:19 VA.R. 2873	7/2/03
18 VAC 85-101-151	Amended	19:19 VA.R. 2873	7/2/03
18 VAC 85-101-160	Repealed	19:19 VA.R. 2873	7/2/03
18 VAC 85-101-145	Added	19:18 VA.R. 2717	6/18/03
18 VAC 85-110-145	Added	19:18 VA.R. 2718	6/18/03
18 VAC 85-120-85	Added	19:18 VA.R. 2718	6/18/03
18 VAC 90-20-271	Added	19:18 VA.R. 2722	6/18/03
18 VAC 90-20-360	Amended	19:13 VA.R. 1967	4/9/03
18 VAC 90-20-361	Added	19:13 VA.R. 1967	4/9/03
18 VAC 90-20-362	Added	19:13 VA.R. 1967	4/9/03
18 VAC 90-20-363	Added	19:13 VA.R. 1968	4/9/03
18 VAC 90-20-364	Added	19:13 VA.R. 1968	4/9/03
18 VAC 90-30-10	Amended	19:19 VA.R. 2874	7/2/03
18 VAC 90-30-70	Amended	19:19 VA.R. 2874	7/2/03
18 VAC 90-30-90	Amended	19:19 VA.R. 2874	7/2/03
18 VAC 95-20-10	Amended	19:19 VA.R. 2874	7/2/03
18 VAC 95-20-175	Amended	19:19 VA.R. 2875	7/2/03
18 VAC 95-20-200	Amended	19:19 VA.R. 2875	7/2/03

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SECTION NUMBER	ACTION	CITE	EFFECTIVE DATE
18 VAC 95-20-220	Amended	19:19 VA.R. 2876	7/2/03
18 VAC 95-20-230	Amended	19:19 VA.R. 2876	7/2/03
18 VAC 95-20-290	Repealed	19:19 VA.R. 2876	7/2/03
18 VAC 95-20-300	Amended	19:19 VA.R. 2876	7/2/03
18 VAC 95-20-310	Amended	19:19 VA.R. 2876	7/2/03
18 VAC 95-20-330	Amended	19:19 VA.R. 2877	7/2/03
18 VAC 95-20-340	Amended	19:19 VA.R. 2877	7/2/03
18 VAC 95-20-380	Amended	19:19 VA.R. 2877	7/2/03
18 VAC 95-20-390	Amended	19:19 VA.R. 2877	7/2/03
18 VAC 105-20-75	Added	19:19 VA.R. 2877	7/2/03
18 VAC 110-20-75	Added	19:19 VA.R. 2878	7/2/03
18 VAC 110-20-170	Amended	19:19 VA.R. 2878	7/2/03
18 VAC 110-20-240	Amended	19:20 VA.R. 2986	7/16/03
18 VAC 110-20-255	Added	19:20 VA.R. 2986	7/16/03
18 VAC 110-20-275	Added	19:20 VA.R. 2986	7/16/03
18 VAC 110-20-320	Amended	19:20 VA.R. 2986	7/16/03
18 VAC 110-20-330	Amended	19:19 VA.R. 2878	7/2/03
18 VAC 110-20-400	Amended	19:20 VA.R. 2986	7/16/03
18 VAC 110-20-411	Amended	19:19 VA.R. 2878	7/2/03
18 VAC 110-20-430	Repealed	19:20 VA.R. 2986	7/16/03
18 VAC 110-20-530	Amended	19:20 VA.R. 2986	7/16/03
18 VAC 110-20-730	Added	19:20 VA.R. 2986	7/16/03
18 VAC 115-30-10	Amended	19:18 VA.R. 2724	6/18/03
18 VAC 115-30-30	Amended	19:18 VA.R. 2724	6/18/03
18 VAC 115-30-40	Amended	19:18 VA.R. 2724	6/18/03
18 VAC 115-30-45	Amended	19:18 VA.R. 2724	6/18/03
18 VAC 115-30-50	Amended	19:18 VA.R. 2724	6/18/03
18 VAC 115-30-60	Amended	19:18 VA.R. 2724	6/18/03
18 VAC 115-30-61	Added	19:18 VA.R. 2724	6/18/03
18 VAC 115-30-62	Added	19:18 VA.R. 2724	6/18/03
18 VAC 115-30-70	Repealed	19:18 VA.R. 2724	6/18/03
18 VAC 115-30-90	Amended	19:18 VA.R. 2724	6/18/03
18 VAC 115-30-110	Amended	19:18 VA.R. 2724	6/18/03
18 VAC 115-30-140	Amended	19:18 VA.R. 2724	6/18/03
18 VAC 130-20-10	Amended	19:18 VA.R. 2724	7/1/03
18 VAC 130-20-30	Amended	19:18 VA.R. 2728	7/1/03
18 VAC 130-20-40	Amended	19:18 VA.R. 2729	7/1/03
18 VAC 130-20-50	Amended	19:18 VA.R. 2729	7/1/03
18 VAC 130-20-60	Amended	19:18 VA.R. 2730	7/1/03
18 VAC 130-20-70	Amended	19:18 VA.R. 2730	7/1/03
18 VAC 130-20-110	Amended	19:18 VA.R. 2730	7/1/03
18 VAC 130-20-170	Amended	19:18 VA.R. 2731	7/1/03
18 VAC 130-20-180	Amended	19:18 VA.R. 2731	7/1/03
18 VAC 130-20-200	Amended	19:18 VA.R. 2733	7/1/03
18 VAC 130-20-210	Amended	19:18 VA.R. 2733	7/1/03
18 VAC 130-20-220	Amended	19:18 VA.R. 2733	7/1/03
18 VAC 130-20-230	Amended	19:18 VA.R. 2734	7/1/03
18 VAC 135-20-10 through 18 VAC 135-20-80	Amended	19:12 VA.R. 1899-1901	4/1/03
18 VAC 135-20-30	Erratum	19:14 VA.R. 2177	--
18 VAC 135-20-60	Erratum	19:14 VA.R. 2177	--
18 VAC 135-20-100	Amended	19:12 VA.R. 1901	4/1/03
18 VAC 135-20-105	Added	19:12 VA.R. 1901	4/1/03
18 VAC 135-20-110 through 18 VAC 135-20-150	Amended	19:12 VA.R. 1901	4/1/03
18 VAC 135-20-155	Added	19:12 VA.R. 1901	4/1/03
18 VAC 135-20-160 through 18 VAC 135-20-180	Amended	19:12 VA.R. 1901	4/1/03
18 VAC 135-20-185	Added	19:12 VA.R. 1901	4/1/03

Cumulative Table of VAC Sections Adopted, Amended, or Repealed

SECTION NUMBER	ACTION	CITE	EFFECTIVE DATE
18 VAC 135-20-190	Amended	19:12 VA.R. 1901	4/1/03
18 VAC 135-20-200	Repealed	19:12 VA.R. 1903	4/1/03
18 VAC 135-20-220	Amended	19:12 VA.R. 1903	4/1/03
18 VAC 135-20-230	Repealed	19:12 VA.R. 1903	4/1/03
18 VAC 135-20-240 through 18 VAC 135-20-300	Amended	19:12 VA.R. 1903-1904	4/1/03
18 VAC 135-20-260	Erratum	19:14 VA.R. 2177	--
18 VAC 135-20-320	Repealed	19:12 VA.R. 1904	4/1/03
18 VAC 135-20-330	Amended	19:12 VA.R. 1904	4/1/03
18 VAC 135-20-340	Amended	19:12 VA.R. 1904	4/1/03
18 VAC 135-20-360	Amended	19:12 VA.R. 1904	4/1/03
18 VAC 135-20-370	Amended	19:12 VA.R. 1904	4/1/03
18 VAC 135-20-410	Amended	19:12 VA.R. 1904	4/1/03
18 VAC 135-40-10	Repealed	19:19 VA.R. 2880	7/2/03
18 VAC 135-40-20	Amended	19:19 VA.R. 2880	7/2/03
18 VAC 135-40-30	Repealed	19:19 VA.R. 2880	7/2/03
18 VAC 135-40-40	Repealed	19:19 VA.R. 2880	7/2/03
18 VAC 135-40-50	Amended	19:19 VA.R. 2880	7/2/03
18 VAC 135-40-60	Amended	19:19 VA.R. 2880	7/2/03
18 VAC 135-40-70	Repealed	19:19 VA.R. 2880	7/2/03
18 VAC 135-40-80	Amended	19:19 VA.R. 2880	7/2/03
18 VAC 135-40-90	Repealed	19:19 VA.R. 2880	7/2/03
18 VAC 135-40-110	Amended	19:19 VA.R. 2880	7/2/03
18 VAC 135-40-120	Repealed	19:19 VA.R. 2880	7/2/03
18 VAC 135-40-130	Repealed	19:19 VA.R. 2880	7/2/03
18 VAC 135-40-140	Amended	19:19 VA.R. 2880	7/2/03
18 VAC 135-40-150	Amended	19:19 VA.R. 2880	7/2/03
18 VAC 135-40-160	Amended	19:19 VA.R. 2881	7/2/03
18 VAC 135-40-170 through 18 VAC 135-40-410	Repealed	19:19 VA.R. 2881	7/2/03
18 VAC 135-40-420	Amended	19:19 VA.R. 2881	7/2/03
18 VAC 135-40-430	Amended	19:19 VA.R. 2881	7/2/03
18 VAC 135-40-440 through 18 VAC 135-40-530	Repealed	19:19 VA.R. 2882	7/2/03
18 VAC 140-20-30	Amended	19:14 VA.R. 2145	4/23/03
18 VAC 150-20-135	Added	19:22 VA.R. 3217	8/13/03
Title 20. Public Utilities and Telecommunications			
20 VAC 5-200	Erratum	19:20 VA.R. 2999	--
20 VAC 5-312-20	Amended	19:17 VA.R. 2579	4/10/03
20 VAC 5-400-180	Repealed	19:17 VA.R. 2583	4/10/03
20 VAC 5-417	Erratum	19:20 VA.R. 2999	--
20 VAC 5-417-10 through 20 VAC 5-417-80	Added	19:17 VA.R. 2583-2587	4/10/03
20 VAC 5-429-10 through 20 VAC 5-429-60	Added	19:17 VA.R. 2587-2588	4/10/03
Title 21. Securities and Retail Franchising			
21 VAC 5-120-50	Erratum	19:22 VA.R. 3233	--
Title 22. Social Services			
22 VAC 30-20-10 through 22 VAC 30-20-40	Amended	19:14 VA.R. 2147-2154	4/24/03
22 VAC 30-20-60	Amended	19:14 VA.R. 2154	4/24/03
22 VAC 30-20-80	Amended	19:14 VA.R. 2154	4/24/03
22 VAC 30-20-90	Amended	19:14 VA.R. 2155	4/24/03
22 VAC 30-20-90	Amended	19:18 VA.R. 2736	6/18/03
22 VAC 30-20-95	Added	19:14 VA.R. 2155	4/24/03
22 VAC 30-20-100 through 22 VAC 30-20-130	Amended	19:14 VA.R. 2155-2164	4/24/03
22 VAC 30-20-150	Amended	19:14 VA.R. 2164	4/24/03
22 VAC 30-20-160	Amended	19:14 VA.R. 2164	4/24/03
22 VAC 30-20-170	Amended	19:14 VA.R. 2165	4/24/03
22 VAC 30-20-181	Amended	19:14 VA.R. 2166	4/24/03
22 VAC 30-20-200	Amended	19:14 VA.R. 2167	4/24/03

Cumulative Table of VAC Sections Adopted, Amended, or Repealed

SECTION NUMBER	ACTION	CITE	EFFECTIVE DATE
22 VAC 40-90-10	Amended	19:22 VA.R. 3218	9/19/03
22 VAC 40-220-10	Repealed	19:19 VA.R. 2882	7/2/03
22 VAC 40-220-20	Repealed	19:19 VA.R. 2882	7/2/03
22 VAC 40-293-10 emer	Added	19:19 VA.R. 2883	7/1/03-6/30/04
22 VAC 40-293-20 emer	Added	19:19 VA.R. 2883	7/1/03-6/30/04
Title 24. Transportation and Motor Vehicles			
24 VAC 30-280-20	Amended	19:16 VA.R. 2414	3/24/03
24 VAC 30-280-40	Amended	19:16 VA.R. 2415	3/24/03
24 VAC 30-280-50	Amended	19:16 VA.R. 2415	3/24/03
24 VAC 30-280-60	Amended	19:16 VA.R. 2416	3/24/03
24 VAC 30-480	Repealed	19:22 VA.R. 3219	8/13/03

NOTICES OF INTENDED REGULATORY ACTION

Symbol Key

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

TITLE 2. AGRICULTURE

STATE BOARD OF AGRICULTURE AND CONSUMER 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 Agriculture and Consumer Services intends to consider promulgating regulations entitled **2 VAC 5-206, Regulation for Scrapie Eradication**. The purpose of the proposed regulation is to eradicate scrapie from Virginia sheep and goats. The agency invites comment on whether there should be an advisor appointed.

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

Statutory Authority: §§ 3.1-724, 3.1-726, and 3.1-730 of the Code of Virginia.

Public comments may be submitted until September 30, 2003.

Contact: David Cardin, DVM, Program Manager, Office of Veterinary Services, Department of Agriculture and Consumer Services, 1100 Bank St., Suite 608, Richmond, VA 23219, telephone (804) 786-4560, FAX (804) 371-2380 or e-mail dcardin@vdacs.state.va.us.

VA.R. Doc. No. R03-237; Filed June 26, 2003, 1:30 p.m.

TITLE 6. CRIMINAL JUSTICE AND CORRECTIONS

BOARD OF CRIMINAL JUSTICE SERVICES

Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 2.2-4007 of the Code of Virginia that the Board of Criminal Justice Services intends to consider amending regulations entitled **6 VAC 20-180, Crime Prevention Specialists**. The purpose of the proposed action is to amend eligibility and certification requirements for crime prevention specialists.

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

Statutory Authority: §§ 9.1-102 and 9.1-161 of the Code of Virginia.

Public comments may be submitted until August 13, 2003.

Contact: Dan Gilmore, Criminal Justice Program Manager, Department of Criminal Justice Services, 805 E. Broad St.,

Richmond, VA 23219, telephone (804) 371-0635, FAX (804) 692-0948 or e-mail dgilmore@dcjs.state.va.us.

VA.R. Doc. No. R03-232; Filed June 12, 2003, 10:50 a.m.

TITLE 12. HEALTH

DEPARTMENT OF MEDICAL ASSISTANCE SERVICES

Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 2.2-4007 of the Code of Virginia that the Department of Medical Assistance Services intends to consider amending regulations entitled **12 VAC 30-40, Eligibility Conditions and Requirements, and 12 VAC 30-130, Amount, Duration, and Scope of Selected Services**. The purpose of the proposed action is to establish upper payment limits for noncovered, medically necessary items and services allowed as adjustments to Medicaid enrolled nursing facility residents. Medicaid will permit expenditures up to the maximum amount reimbursed by Medicare or Medicaid for the same items or services.

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

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

Public comments may be submitted until July 30, 2003, to James P. Cohen, Director, Division of Medical Support, 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, FAX (804) 787-1680 or e-mail vsimmons@dmass.state.va.us.

VA.R. Doc. No. R03-219; Filed June 11, 2003, 11:26 a.m.

† Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 2.2-4007 of the Code of Virginia that the Department of Medical Assistance Services intends to consider amending regulations entitled **12 VAC 30-50, Amount, Duration, and Scope of Medical and Remedial Care Services, and 12 VAC 30-80, Methods and Standards for Establishing Payment Rates; Other Types of Care**. The purpose of the proposed action is to expand school health services and modify the fee-for-service payments to school divisions by incorporating school division costs into the fee-for-services amounts paid to them.

Notices of Intended Regulatory Action

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

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

Public comments may be submitted until August 27, 2003, to Jeff Nelson, Policy and Planning Specialist, 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 (8904) 786-7959, FAX (804) 787-1680 or e-mail vsimmons@dmas.state.va.us.

VA.R. Doc. No. R03-251; Filed July 1, 2003, 3:49 p.m.

† Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 2.2-4007 of the Code of Virginia that the Department of Medical Assistance Services intends to consider amending regulations entitled **12 VAC 30-60, Standards Established and Methods Used to Assure High Quality Care**, and **12 VAC 30-90, Methods and Standards for Establishing Payment Rates for Long-Term Care**. The purpose of the proposed action is to repeal provisions that provide special additional reimbursement to certain nursing facilities for adult specialized care services. Reimbursement for these services is now incorporated into the Nursing Home Payment System RUGs methodology.

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

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

Public comments may be submitted until August 27, 2003, to Paula Margolis, Reimbursement Analyst, Division of Reimbursement, 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 (8904) 786-7959, FAX (804) 787-1680 or e-mail vsimmons@dmas.state.va.us.

VA.R. Doc. No. R03-250; Filed July 1, 2003, 3:51 p.m.

Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 2.2-4007 of the Code of Virginia that the Department of Medical Assistance Services intends to consider amending regulations entitled **12 VAC 30-70, Methods and Standards for Establishing Payment Rates; Inpatient Hospital Services**. The purpose of the proposed action is to amend the reimbursement methodology for inpatient hospitals with two separate changes: (i) inpatient capital costs are to be paid at 80% of allowable cost and (ii) reimbursement rates for freestanding psychiatric hospitals are to remain unchanged for FY 2004.

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

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

Public comments may be submitted until August 13, 2003, to Scott Crawford, Director, Division of Reimbursement, 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 (8904) 786-7959, FAX (804) 787-1680 or e-mail vsimmons@dmas.state.va.us.

VA.R. Doc. No. R03-231; Filed June 13, 2003, 2:56 p.m.

Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 2.2-4007 of the Code of Virginia that the Department of Medical Assistance Services intends to consider amending regulations entitled **12 VAC 30-80, Methods and Standards for Establishing Payment Rates; Other Types of Care**. The purpose of the proposed action is to amend the reimbursement of hospitals for outpatient services providing that, effective July 1, 2003, allowable costs shall be limited to 80% of costs. State teaching hospitals are excluded from this action. It also proposes to establish a prospective reimbursement methodology for private rehabilitation agencies. Public rehabilitation agencies, those affiliated with community services boards, will continue to be reimbursed retrospectively.

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

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

Public comments may be submitted until July 30, 2003, to Scott Crawford, Director, Division of Reimbursement, 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 (8904) 786-7959, FAX (804) 787-1680 or e-mail vsimmons@dmas.state.va.us.

VA.R. Doc. No. R03-220; Filed June 11, 2003, 11:25 a.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 10-20, Board for Architects, Professional Engineers, Land Surveyors, Certified Interior Designers and Landscape Architects Rules and Regulations**. The purpose of the proposed action is to make general clarifying changes to the regulation as well as clarify the board's requirements relating to "responsible charge" and "direct control and personal supervision." Other changes that may be necessary pursuant to the board's periodic review of its regulation, and any other changes, will also be considered.

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

Statutory Authority: §§ 54.1-201, 54.1-404, and 54.1-411 of the Code of Virginia.

Public comments may be submitted until August 27, 2003.

Contact: Mark N. Courtney, Executive Director, Department of Professional and Occupational Regulation, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-8514, FAX (804) 367-2475 or e-mail APELSCIDLA@dpor.state.va.us.

VA.R. Doc. No. R03-257; Filed July 2, 2003, 12:58 p.m.

BOARD FOR BARBERS AND COSMETOLOGY

† Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 2.2-4007 of the Code of Virginia that the Board for Barbers and Cosmetology intends to consider promulgating regulations entitled **18 VAC 41-30, Hair Braiding Regulations**. The purpose of the proposed action is to promulgate regulations to govern the licensure and practice of hair braiding as directed by Chapter 600 of the 2003 Acts of the Assembly.

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

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

Public comments may be submitted until August 27, 2003.

Contact: William H. Ferguson, II, Executive Director, Board for Barbers and Cosmetology, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-8590, FAX (804) 367-6295 or e-mail barbercosmo@dpor.state.va.us.

VA.R. Doc. No. R03-267; Filed July 8, 2003, 12:02 p.m.

BOARD FOR CONTRACTORS

Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 2.2-4007 of the Code of Virginia that the Board for Contractors intends to consider amending regulations entitled **18 VAC 50-22, Board for Contractors Regulations**, and **18 VAC 50-30, Tradesman Rules and Regulations**. The purpose of the proposed action is to adjust the licensing fees for contractors and tradesmen regulated by the Board for Contractors.

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

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

Public comments may be submitted until August 13, 2003.

Contact: Eric L. Olson, Assistant Director, Department of Professional and Occupational Regulation, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-2785, FAX (804) 367-2474 or e-mail olson@dpor.state.va.us.

VA.R. Doc. No. R03-241; Filed June 24, 2003, 1:40 p.m.

BOARD OF HEALTH PROFESSIONS

Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 2.2-4007 of the Code of Virginia that the Board of Health Professions intends to consider adopting regulations entitled **18 VAC 75-40, Regulations Governing the Certification of Dialysis Care Technicians**. The purpose of the proposed action is to promulgate regulations to establish approval of certain certifying bodies that certify dialysis care technicians by training and examination.

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

Statutory Authority: § 54.1-2400 and Chapter 27.01 (§ 54.1-2729.1 et seq.) of Title 54.1 of the Code of Virginia.

Public comments may be submitted until August 13, 2003.

Contact: Elizabeth A. Carter, Ph.D., Executive Director, Board of Health Professions, 6603 W. Broad St., Richmond, VA 23230-1712, telephone (804) 662-7691, FAX (804) 662-9504 or e-mail elizabeth.carter@dhp.state.va.us.

VA.R. Doc. No. R03-236; Filed June 20, 2003, 9:21 a.m.

BOARD OF MEDICINE

† Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 2.2-4007 of the Code of Virginia that the Board of Medicine intends to consider amending regulations entitled **18 VAC 85-20, Regulations Governing the Practice of Medicine, Osteopathy, Podiatry and Chiropractic**. The purpose of the proposed action is to increase fees as necessary to address

Notices of Intended Regulatory Action

the additional cost associated with compliance and implementation of HB1441 by the promulgation of permanent regulations to replace emergency regulations that are effective until July 14, 2004.

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

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

Public comments may be submitted until 5 p.m. on August 27, 2003.

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

VA.R. Doc. No. R03-264; Filed July 8, 2003, 10:40 a.m.

† Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 2.2-4007 of the Code of Virginia that the Board of Medicine intends to consider amending regulations entitled **18 VAC 85-20, Regulations Governing the Practice of Medicine, Osteopathy, Podiatry and Chiropractic, 18 VAC 85-40, Regulations Governing the Practice of Respiratory Care Practitioners, 18 VAC 85-50, Regulations Governing the Practice of Physician Assistants, 18 VAC 85-80, Regulations for Licensure of Occupational Therapists, 18 VAC 85-101, Regulations Governing the Licensure of Radiologic Technologists and Radiologic Technologists-Limited, 18 VAC 85-110, Licensed Acupuncturists, and 18 VAC 85-120, Regulations Governing the Certification of Athletic Trainers.** The purpose of the proposed action is to establish the standards of ethics by which practitioners of the healing arts must conduct their practice. The intent is to set forth by regulation the code of ethics, either by incorporation by reference or by adoption of a code assimilated from all professions of the healing arts.

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

Statutory Authority: Chapter 24 (§ 54.1-2400 et seq.) of Title 54.1 of the Code of Virginia.

Public comments may be submitted until 5 p.m. on August 27, 2003.

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

VA.R. Doc. No. R03-263; Filed July 8, 2003, 10:40 a.m.

† Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 2.2-4007 of the Code of Virginia that the Board of Medicine intends to consider amending regulations entitled **18 VAC 85-120, Regulations Governing the Certification of Athletic Trainers.** The purpose of the proposed action is to expand the current provisional certification to include persons who have

applied for state certification and are otherwise qualified by virtue of holding certification from the National Athletic Trainers Association Board of Certification (NATABOC) but who are awaiting verifications of professional education, professional activity and licensure or certification in another state, if applicable.

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

Statutory Authority: §§ 54.1-2400 and 54.1-2957.4 of the Code of Virginia.

Public comments may be submitted until 5 p.m. on August 27, 2003.

Contact: William Harp, M.D., Executive Director, Board of Medicine, 6603 W. Broad St., Richmond, VA 23230-1712, telephone (804) 662-9908, FAX (804) 662-9512 or e-mail william.harp@dhp.state.va.us.

VA.R. Doc. No. R03-259; Filed July 3, 2003, 9:25 a.m.

BOARD OF NURSING

† 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 intends to consider amending regulations entitled **18 VAC 90-20, Regulations Governing the Practice of Nursing.** The purpose of the proposed action is to increase the fee for initial licensure or renewal or reinstatement of licensure in order to have sufficient funding to implement legislation that made changes to the reporting and disciplinary requirements for nursing and legislation mandating the board's participation in the Nurse Licensure Compact beginning January 2005.

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

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

Public comments may be submitted until August 27, 2003.

Contact: Jay P. Douglas, R.N., Executive Director, Board of Nursing, 6603 W. Broad St., Richmond, VA 23230-1712, telephone (804) 662-9909, FAX (804) 662-9943 or e-mail jay.douglas@dhp.state.va.us.

VA.R. Doc. No. R03-260; Filed July 3, 2003, 9:25 a.m.

BOARD OF OPTICIANS

† Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 2.2-4007 of the Code of Virginia that the Board for Opticians intends to consider amending regulations entitled **18 VAC 100-20, Board for Opticians Regulations.** The purpose of the proposed action is to amend regulations to increase fees in accordance with the Callahan Act (§ 54.1-113 of the Code of Virginia).

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

Notices of Intended Regulatory Action

Statutory Authority: §§ 54.1-113, 54.1-201 and 54.1-304 of the Code of Virginia.

VA.R. Doc. No. R03-269; Filed July 9, 2003, 11:32 a.m.

Public comments may be submitted until August 27, 2003.

DEPARTMENT OF PROFESSIONAL AND OCCUPATIONAL REGULATION

Contact: William H. Ferguson, II, Executive Director, Board for Opticians, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-8590, FAX (804) 367-6295 or e-mail opticians@dpor.state.va.us.

† Notice of Intended Regulatory Action

VA.R. Doc. No. R03-265; Filed July 8, 2003, 12:01 p.m.

† Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 2.2-4007 of the Code of Virginia that the Department of Professional and Occupational Regulation intends to consider amending regulations entitled **18 VAC 120-40, Professional Boxing and Wrestling Event Regulations**. The purpose of the proposed action is to raise fees in accordance with the Callahan Act (§ 54.1-113 of the Code of Virginia).

Notice is hereby given in accordance with § 2.2-4007 of the Code of Virginia that the Board for Opticians intends to consider amending regulations entitled **18 VAC 100-20, Board for Opticians Regulations**. The purpose of the proposed action is to amend regulations for registration for voluntary practice by out-of-state licensees in accordance with § 54.1-1701 of the Code of Virginia.

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

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

Statutory Authority: § 54.1-831 of the Code of Virginia.

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

Public comments may be submitted until August 27, 2003.

Public comments may be submitted until August 27, 2003.

Contact: Karen W. O'Neal, Deputy Director for Regulatory Programs, Department of Professional and Occupational Regulation, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-8537, FAX (804) 367-2475 or e-mail oneal@dpor.state.va.us.

Contact: William H. Ferguson, II, Executive Director, Board for Opticians, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-8590, FAX (804) 367-6295 or e-mail opticians@dpor.state.va.us.

VA.R. Doc. No. R03-266; Filed July 8, 2003, 12:03 p.m.



PROPOSED REGULATIONS

For information concerning Proposed Regulations, see Information Page.

Symbol Key

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

TITLE 4. CONSERVATION AND NATURAL RESOURCES

BOARD OF GAME AND INLAND FISHERIES

REGISTRAR'S NOTICE: The Board of Game and Inland Fisheries is exempt from the Administrative Process Act pursuant to subdivision A 3 of § 2.2-4002 of the Code of Virginia when promulgating regulations regarding the management of wildlife. The department is required by § 2.2-4031 of the Code of Virginia to publish all proposed and final wildlife management regulations, including length of seasons and bag limits allowed on the wildlife resources within the Commonwealth of Virginia.

Title of Regulation: **4 VAC 15-30. Definitions and Miscellaneous: Importation, Possession, Sale, Etc., of Animals (amending 4 VAC 15-30-40).**

Statutory Authority: §§ 29.1-501 and 29.1-502 of the Code of Virginia.

Agency Contact: Phil Smith, Policy Analyst and Regulatory Coordinator, Department of Game and Inland Fisheries, 4010 West Broad Street, Richmond, VA 23230, telephone (804) 367-1000, FAX (804) 367-0488, or e-mail regcomments@dgif.state.va.us.

Public Notice:

The Board of Game and Inland Fisheries has ordered to be published, pursuant to §§ 29.1-501 and 29.1-502 of the Code of Virginia, the following proposed amendment to board regulations. A public comment period on the proposed regulation opened June 27, 2003, and remained open through July 26, 2003. Comments submitted were required to be in writing accompanied by the name, address and telephone number of the party offering the comments, and to state the regulatory action desired, and the justification for the desired action. Comments were sent to Phil Smith, Policy Analyst and Regulatory Coordinator, Department of Game and Inland Fisheries, 4016 West Broad Street, Richmond, Virginia 23230.

If the director is satisfied that the proposed regulation, or any parts thereof, is advisable in the form in which published or as amended after receipt of the public's comments, under the authority delegated by the board the director may adopt regulation amendments as final on or after July 27, 2003. The regulation or regulation amendment adopted may be either more liberal or more restrictive than that proposed and being advertised under this notice.

Summary:

The proposed regulation limits the importation, possession, and sale of all rodent species native to Africa by adding them to the department's list of predatory or undesirable nonnative (exotic) animals. Persons currently in possession of these species would be required to obtain a permit to maintain them in captivity, and they would not be able to sell them without a permit as required by the proposed regulation. Captive African rodents could not be transferred from one person to another unless the recipient obtained a permit as well. The proposal also removes prairie dogs and all African rodents from the exception that allows certain nonnative mammals to be imported into the Commonwealth under license or registration from the U.S. Department of Agriculture without a Virginia Department of Game and Inland Fisheries permit.

4 VAC 15-30-40. Importation requirements, possession and sale of nonnative (exotic) animals.

A. Permit required. A special permit is required and may be issued by the department, if consistent with the department's fish and wildlife management program, to import, possess, or sell those nonnative (exotic) animals listed below that the board finds and declares to be predatory or undesirable within the meaning and intent of § 29.1-542 of the Code of Virginia, in that their introduction into the Commonwealth will be detrimental to the native fish and wildlife resources of Virginia:

AMPHIBIANS:			
Order	Family	Genus/Species	Common Name
Anura	Bufoiidae	Bufo marinus	Giant or marine toad*
	Pipidae	Xenopus spp.	Tongueless or African clawed frog
Caudata	Ambystomatidae	Ambystoma tigrinum mavortium	Barred tiger salamander
		A. t. diabolii	Gray tiger salamander
		A. t. melanostictum	Blotched tiger salamander

BIRDS:			
Order	Family	Genus/Species	Common Name
Psittaciformes	Psittacidae	Myiopsitta monachus	Monk parakeet*

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FISH:					
Order	Family	Genus/Species	Common Name		
Cypriniformes	Catostomidae	Ictiobus bubalus	Smallmouth buffalo*		
		I. cyprinellus	Bigmouth buffalo*		
		I. niger	Black buffalo*		
	Characidae	Pygopristis spp. Pygocentrus spp. Rooseveltiella spp. Serrasalmo spp. Serrasalmus spp. Taddyella spp.		Piranhas	
			Cyprinidae	Aristichyhs noblis	Bighead carp*
				Ctenopharynogodon idella	Grass carp or white amur
				Cyprinella lutrensis	Red shiner
				Hypophthalmichthys molitrix	Silver carp*
		Mylopharynogodom piceus	Black carp*		
		Scardinius erythrophthalmus	Rudd		
		Tinca tinca	Tench*		
	Gobiesociformes	Gobiidae	Proterorhinus marmoratus	Tubenose goby	
			Neogobius melanostomus	Round goby	
Perciformes	Channidae	Channa spp. Parachanna spp.	Snakeheads		
		Cichlidae	Tilapia spp.	Tilapia	
			Gymnocephalus cernuum	Ruffe*	
Siluriformes	Clariidae	All species	Air-breathing catfish		
Synbranchiformes	Synbranchidae	Monopterus albus	Swamp eel		

MAMMALS:			
Order	Family	Genus/Species	Common Name
Artiodactyla	Suidae	All Species	Pigs or Hogs*
	Cervidae	All Species	Deer*
Carnivora	Canidae	All Species	Wild Dogs*, Wolves, Coyotes or Coyote hybrids, Jackals and Foxes
			Ursidae
	Procyonidae	All Species	Raccoons and* Relatives
	Mustelidae	All Species (except Mustela putorius furo)	Weasels, Badgers,* Skunks and Otters, Ferret
			Viverridae
	Herpestidae	All Species	Mongoose*
	Hyaenidae	All Species	Hyenas*
	Protelidae	Proteles cristatus	Aardwolf*
	Felidae	All Species	Cats*
	Chiroptera		All Species
Lagomorpha	Leporidae	Lepus europeaeous	European hare
		Oryctolagus cuniculus	European rabbit
Rodentia	<i>Families of all species native to Africa</i>	<i>All species native to Africa</i>	<i>All species native to Africa</i>
			Sciuridae

MOLLUSKS:			
Order	Family	Genus/Species	Common Name
Veneroida	Dreissenidae	Dreissena polymorpha	Zebra Mussel

REPTILES:			
Order	Family	Genus/Species	Common Name
Squamata	Alligatoridae	All Species	Alligators, caimans*
	Colubridae	Boiga illeularis	Brown tree snake*
	Crocodylidae	All Species	Crocodiles*
	Gavialidae	All Species	Gavials*

B. Temporary possession permit for certain animals. Notwithstanding the permitting requirements of subsection A, a person, company or corporation possessing any nonnative

(exotic) animal, designated with an asterisk (*) in subsection A, prior to July 1, 1992, must declare such possession in writing to the department by January 1, 1993. This written declaration shall serve as a permit for possession only, is not transferable, and must be renewed every five years. This written declaration must include species name, common name, number of individuals, date or dates acquired, sex (if possible), estimated age, height or length, and other characteristics such as bands and band numbers, tattoos, registration numbers, coloration, and specific markings. Possession transfer will require a new permit according to the requirements of this subsection.

C. Exception for certain monk parakeets. A permit is not required for monk parakeets (quakers) that have been captive bred and are closed-banded with a seamless band.

D. Exception for parts or products. A permit is not required for parts or products of those nonnative (exotic) animals listed in subsection A that may be used for personal use, in the manufacture of products, or used in scientific research, provided that such parts or products be packaged outside the Commonwealth by any person, company, or corporation duly licensed by the state in which the parts originate. Such packages may be transported into the Commonwealth, consistent with other state laws and regulations, so long as the original package remains unbroken, unopened and intact until its point of destination is reached. Documentation concerning the type and cost of the animal parts ordered, the purpose and date of the order, point and date of shipping, and date of receiving shall be kept by the person, business or institution ordering such nonnative (exotic) animal parts. Such documentation shall be open to inspection by a representative of the Department of Game and Inland Fisheries.

E. Exception for certain mammals. Nonnative (exotic) mammals listed in subsection A, except members of the Cervidae family, *African rodents*, and *prairie dogs*, that are imported or possessed by dealers, exhibitors, transporters, and researchers who are licensed or registered by the United States Department of Agriculture under the Animal Welfare Act (7 USC §§2131 et seq.) will be deemed to be permitted pursuant to this section, provided that those individuals wanting to import such animals notify the department 24 hours prior to importation with a list of animals to be imported, a schedule of dates and locations where those animals will be housed while in the Commonwealth, and a copy of the current license or licenses or registration or registrations from the U.S. Department of Agriculture, and further provided that such animals shall not be liberated within the Commonwealth.

F. Exception for prairie dogs. The effective date of listing of prairie dogs under subsection A of this section shall be January 1, 1998. Prairie dogs possessed in captivity in Virginia on December 31, 1997, may be maintained in captivity until the animals' deaths, but they may not be sold on or after January 1, 1998, without a permit.

G. All other nonnative (exotic) animals. All other nonnative (exotic) animals not listed in subsection A of this section may be possessed, purchased, and sold; provided, that such animals shall be subject to all applicable local, state, and federal laws and regulations, including those that apply to

threatened/endangered species, and further provided, that such animals shall not be liberated within the Commonwealth.

VA.R. Doc. No. R03-270; Filed July 9, 2003, 10:59 a.m.

DEPARTMENT OF MINES, MINERALS AND ENERGY

Title of Regulation: 4 VAC 25-10. Public Participation Guidelines (amending 4 VAC 25-10-10 through 4 VAC 25-10-80).

Statutory Authority: §§ 2.2-4007, 45.1-161.3, 45.1-361.15, 45.1-161.28, and 45.1-161.292:19 of the Code of Virginia.

Public Hearing Date: September 23, 2003 - 9:30 a.m.

Public comments may be submitted until 5 p.m. on September 28, 2003.

(See Calendar of Events section for additional information)

Agency Contact: Stephen A. Walz, Regulatory Coordinator, Department of Mines, Minerals and Energy, 202 N. Ninth Street, 8th Floor, Richmond, VA 23219-3402, telephone (804) 692-3211, FAX (804) 692-3237, or e-mail saw@mme.state.va.us.

Basis: The director of the department is authorized to promulgate this regulation pursuant to the following Code of Virginia sections: (i) § 2.2-4007 D, which mandates that agencies adopt public participation guidelines for soliciting the input of interested parties in the formation and development of its regulations, (ii) § 45.1-161.3, which provides the director of the department the authority to promulgate regulations necessary to perform its duties, (iii) § 45.1-361.15, which provides the Virginia Gas and Oil Board with the authority to issue rules, regulations or orders pursuant to the provisions of the Administrative Process Act, (iv) § 45.1-161.28 C, which provides the Board of Coal Mining Examiners with the authority to promulgate regulations necessary to perform its duties under the provisions of the Coal Mine Safety Act, and (v) § 45.1-161.292:19 C which provides the authority to the Board of Mineral Mining Examiners to promulgate regulations necessary to perform its duties under the provisions of the Mineral Mine Safety Act.

Purpose: The purpose of the proposed regulation is to amend the Department of Mines, Minerals and Energy's Public Participation Guidelines. This regulation states how the department, the Board of Coal Mining Examiners, the Board of Mineral Mining Examiners and the Virginia Gas and Oil Board will (i) respond to petitions for rulemaking; (ii) maintain a regulatory mailing list; (iii) notify and include interested persons in the regulatory development process; and (iv) comply with the requirements for adopting regulations under the Administrative Process Act. The proposed amendments to the regulation will enhance participation from the public in the regulatory process. This will result in regulations that better protect public health, safety and welfare.

Substance: The proposed amendments:

1. Delete the definition of "promulgating authority" consistent with changes to other sections that clarify which entity, the director, Division of Mines Chief, or one of the department boards, is initiating the regulatory action.

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2. Change code references to keep them consistent with the Code of Virginia amendments, add provisions to reference the fast-track rulemaking process, specify documents that govern the regulatory process, and amend language to be consistent with changes to the Code of Virginia.
3. Include the use of e-mail and the Commonwealth's Regulatory Town Hall website as a means for interested parties to receive electronic notices of regulatory actions.
4. Clarify those newspapers that media releases must be sent to regarding regulatory changes and provide that the Notice of Regulatory Action be posted on the Regulatory Town Hall website.
5. Remove redundant administrative language.
6. Address the treatment of ex parte communications.

Issues: The department and the regulatory work committee that developed the proposed regulation believe that the regulation will be advantageous to the public because it makes clear which entity is initiating regulatory actions. The proposed regulation also provides for expanded opportunities for public notice via e-mail and the Regulatory Town Hall website.

The department and the regulatory work committee that developed the proposed regulation believe that there are no disadvantages to the proposed regulation. Advantages to the Department of Mines, Minerals and Energy include a smoother and more efficient regulatory process through use of electronic notifications of interested parties and creation of a clear guidance on treatment of ex parte communications

Department of Planning and Budget's Economic Impact Analysis: The Department of Planning and Budget (DPB) has analyzed the economic impact of this proposed regulation in accordance with § 2.2-4007 H of the Administrative Process Act and Executive Order Number 21 (02). Section 2.2-4007 H requires that such economic impact analyses include, but need not be limited to, the projected number of businesses or other entities to whom the regulation would apply, the identity of any localities and types of businesses or other entities particularly affected, the projected number of persons and employment positions to be affected, the projected costs to affected businesses or entities to implement or comply with the regulation, and the impact on the use and value of private property. The analysis presented below represents DPB's best estimate of these economic impacts.

Summary of the proposed regulation. The General Assembly mandates in § 2.2-4007 of the Code of Virginia that all agencies adopt public participation guidelines in order to solicit the input of interested parties in the formulation and development of regulations.

The proposed regulation amends the public participation guidelines that govern how the Department of Mines, Minerals, and Energy (DMME), the Virginia Gas and Oil Board, the Board of Coal Mining Examiners, and the Board of Mineral Mining Examiners respond to petitions for rulemaking, maintain a regulatory mailing list, notify and include interested individuals in the regulatory development process, and comply with requirements for adopting regulations.

The proposed regulation expands the ways DMME can notify and include interested parties in the regulatory developments process to include the use of email and the Regulatory Town Hall website as a means for interested parties to receive electronic notices of regulatory actions. The proposed regulation also incorporates amendments to the Code of Virginia, removes redundant language, makes corrections, and clarifies aspects of the existing regulation.

Estimated economic impact. The proposed regulation amends the existing regulation to include email and the Internet as ways of keeping interested parties abreast of developments in the regulatory process. Currently, the regulation only requires that DMME maintain a mailing list of individuals and organizations that have expressed an interest in commenting on regulatory actions. The proposed regulation expands this requirement to include the maintenance of lists containing the email addresses of interested parties and the use of email in notifying interested parties of regulatory developments. The regulation also incorporates the use of Virginia's Regulatory Town Hall website in disseminating information. It requires that DMME post the Notice of Intended Regulatory Action on the Town Hall website. It also requires that DMME submit any proposed regulations to the Town Hall website for a public comment period of at least 60 days. Interested parties can then visit the town hall website and/or sign up to receive electronic notices of regulatory actions in order to keep up with any developments.

The proposed change is not likely to have a significant economic impact. The use of email and the Town Hall website in notifying and keeping interested parties posted about regulatory developments has been done for several years. The proposed change is intended to formalize current practice. Some cost savings may result from the change as interested parties who request to be notified via email will no longer receive notifications from DMME through regular mail. Moreover, to the extent that the proposed change makes more people aware of the use of email and the Internet in keeping track of regulatory developments, it may facilitate public participation and have a small positive economic impact.

Businesses and entities affected. The proposed regulation may affect some individuals and businesses with an interest in DMME regulations. To the extent that the regulation makes these individuals and businesses more aware of the use of email and the Regulatory Town Hall website in keeping up to date with regulatory developments, it is likely to increase public participation and have a small positive economic impact.

Localities particularly affected. The proposed regulation affects all localities in the Commonwealth. Localities dependent on the mineral extraction operations will be particularly affected.

Projected impact on employment. The proposed regulation is not likely to have a significant impact on employment.

Effects on the use and value of private property. Improved flow of information and increased public participation will allow DMME to develop regulations that better reflect the views of

all affected parties. To that extent the proposed regulation may raise asset values of businesses involved in the mineral extraction operations.

Agency's Response to the Department of Planning and Budget's Economic Impact Analysis: The Department of Mines, Minerals and Energy concurs with the Department of Planning and Budget's Economic Impact Analysis statement for the DMME Public Participation Guidelines, 4 VAC 25-10.

Summary:

The proposed amendments: (i) expand the departments means of notification for regulatory changes to include the use of e-mail and the Internet; (ii) incorporate statutory changes to the Code of Virginia including code reference changes, amendments to the petitions for rulemaking provisions, and the new fast-track rulemaking provisions; (iii) remove redundant language that restates statutory provisions; (iv) add a provision regarding ex parte communications; and (v) clarify that the entity initiating a regulatory action, i.e., the department director, Division of Mines chief, or one of the department boards, shall finalize the adoption of the new regulations according to the appropriate acts.

4 VAC 25-10-10. Definitions.

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

"Chief" means the Chief of the Division of Mines of the Department of Mines, Minerals and Energy.

"Department" means the Department of Mines, Minerals and Energy as distinguished from the director, who is authorized to promulgate regulations.

"Director" means the Director of the Department of Mines, Minerals and Energy.

~~"Promulgating authority" means the individual or body authorized by law to initiate and carry out the process of adopting regulations.~~

4 VAC 25-10-20. Purpose and authority.

A. These guidelines are designed to ~~allow~~ facilitate participation by the public in the formulation of regulations that are written to carry out the legislative mandates of the Virginia Department of Mines, Minerals and Energy, of the Virginia Gas and Oil Board, the Board of Mineral Mining Examiners, and of the Board of Coal Mining Examiners. Although required by law, these rulemaking procedures also reflect the department's commitment to an open forum for all points of view, and to a thorough analysis of many possible courses of action in regulatory development. These guidelines actually are true regulations themselves, as required by § ~~9-6-14-7-4~~ 2.2-4007 of the Code of Virginia. They have been adopted under the rulemaking authority of the director, the Virginia Gas and Oil Board, the Board of Mineral Mining Examiners, and the Board of Coal Mining Examiners, as prescribed in Title 45.1 of the Code of Virginia, and are subject to the same provisions of the Virginia Administrative Process Act (APA) as are all regulations. The Public Participation Guidelines apply

to all actions to promulgate, amend or repeal any regulations except emergency regulations, which are covered by separate provisions, ~~and~~ certain exempt activities specified in ~~Article~~ Articles 1 and 2 of the APA (§ ~~9-6-14-4-4~~ 2.2-4000 et seq. of the Code of Virginia), ~~and promulgation of regulations under the fast-track rulemaking process specified in § 2.2-4012.1 of the APA.~~

B. Depending on the nature of the regulation, the Director of the Department, the Chief of the Division of Mines, the Virginia Gas and Oil Board, the Board of Mineral Mining Examiners or the Board of Coal Mining Examiners may be authorized to promulgate regulations.

4 VAC 25-10-30. Initiating the rulemaking process.

A. ~~The promulgating authority~~ director, chief, or board may initiate rulemaking at any time. However, he shall do so according to the provisions of these regulations ~~and~~, applicable executive orders, the Administrative Process Act, the Virginia Register Act, and the Regulations of the Virginia Code Commission for Implementing the Virginia Register Act.

B. ~~The promulgating authority~~ director, chief, or board shall consider all written requests for regulatory change. Any individual or group may petition the ~~promulgating authority~~ director, chief, or board to promulgate, amend or repeal any regulation. The ~~promulgating authority~~ director, chief, or board shall consider all petitions and other written requests, but after careful consideration, may choose not to initiate rulemaking. To be considered, a petition shall contain:

1. The name, address and telephone number of the petitioner.
2. The new regulation, amendment or repeal action proposed by the petitioner.
3. The reasons for requesting the rulemaking.
4. The anticipated effects of making the requested regulatory changes, including costs to various parties.
5. The anticipated effects of not making the requested regulatory changes.

~~The promulgating authority~~ director, chief, or board shall receive, consider, and respond to the petition ~~within 180 days~~ in accordance with the provisions of § 2.2-4007 of the Code of Virginia.

C. ~~The promulgating authority~~ director, chief, or board recommends that all petitioners include documentation to support their requests for rulemaking.

4 VAC 25-10-40. Identifying interested parties.

The department shall maintain a current regulatory mailing list ~~list~~ composed of the names and addresses of parties who have expressed an interest in commenting on regulatory actions proposed by the ~~promulgating authority~~ director, chief, or board. The department may also maintain listings of e-mail addresses of interested parties. The department may periodically request those persons on a regulatory mailing list to indicate whether they wish to continue to be notified electronically or by regular mail, or be deleted from the list. When an e-mail notification is returned as undeliverable over

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more than one day, that person or organization will be deleted from the list. When regular mail is returned as undeliverable, that individual or organization will be deleted from the list. Parties may also sign up for the Commonwealth's Regulatory Town Hall website (<http://www.townhall.state.va.us>) to receive electronic notices of regulatory actions.

4 VAC 25-10-50. Notifying interested parties.

Whenever the ~~promulgating authority~~ department intends to consider a regulatory change, he shall notify interested parties, *either electronically or in writing*, of the intention to make such regulatory changes, using the following procedures:

1. The ~~promulgating authority~~ department shall compose a Notice of Intended Regulatory Action ~~in the format prescribed by the Registrar of Regulations~~, and a media release containing the information in the notice. Both documents shall specify a deadline for submitting written comments regarding the intended regulatory action. If the ~~promulgating authority~~ director, chief, or board decides to conduct a public meeting, then the notice and the media release shall specify the date, time and location of that public meeting.

2. The ~~promulgating authority~~ director, chief, or board shall submit the Notice of Intended Regulatory Action to the Registrar of Regulations to be published in The Virginia Register on a date not less than 30 days prior to the end of the comment period.

3. *The department shall post the Notice of Intended Regulatory Action on the Commonwealth's Regulatory Town Hall website.*

~~3.~~ 4. Not less than 30 days prior to the end of the comment period, the department shall:

a. Deliver a copy of the Notice of Intended Regulatory Action to all parties on the regulatory mailing list who have expressed an interest in the type of regulations being considered;

b. Deliver a copy of the media release to at least one general circulation newspaper published in ~~the state capital, to at least one general circulation newspaper published in~~ any area that is particularly affected by the regulation ~~to the exclusion of other geographical areas~~, and to any other news media the department director, chief, or board deems appropriate *based on the subject matter of the regulation. These additional news media may include daily, semi-weekly, or weekly newspapers in areas particularly affected by the proposed regulatory action.*

4 VAC 25-10-60. ~~Drafting regulatory changes~~ Regulatory work committees.

Whenever the ~~promulgating authority~~ director, chief, or board initiates rulemaking, he shall solicit public participation in the development of regulations. The ~~promulgating authority~~ director, chief, or board may form a work committee to consider regulatory issues and advise the ~~promulgating authority~~ director, chief, or board and staff. Any work committee so formed may consist of (i) parties invited by the

director, chief, or board who have agreed to serve on committees to develop regulations of the type being considered; or (ii) in cases where the ~~promulgating authority~~ director, chief, or board determines the proposed action does not warrant formation of a new committee, a statutorily created committee or advisory board of the department. In such cases, the ~~promulgating authority~~ department shall determine that the committee or board chosen has the expertise to review the type of regulation being considered. The Virginia Coal Mine Safety Board shall be the work committee for coal mine safety regulations under the conditions prescribed in ~~§ 95.1-161.400~~ 45.1-161.100 of the Code of Virginia.

4 VAC 25-10-70. Formal review.

A. After consideration of comments received from the public, the department shall prepare a final draft of the proposed regulatory changes and submit this draft to the ~~promulgating authority~~ director, chief, or board for review.

B. ~~When the promulgating authority decides to proceed with rulemaking, he shall submit the proposed regulation to a comment period of at least 60 days, according to the provisions of the Virginia Administrative Process Act and the Virginia Register Act. B. In accordance with the provisions of the Administrative Process Act, applicable executive orders, the Virginia Register Act, and Regulations of the Virginia Code Commission for Implementing the Virginia Register Act, the director, chief, or board shall submit the proposed regulation to, at a minimum, a 60-day public comment period by forwarding the appropriate documents to the Registrar of Regulations and the Commonwealth's Regulatory Town Hall website (<http://www.townhall.state.va.us>). The director, chief, or board will hold a public hearing during the public comment period~~

~~1. The department shall forward to the Registrar of Regulations a notice of the comment period and public hearing. The notice shall state the legal authority for the promulgating authority to act; the deadline for comments on the proposed regulation; the date, time and location of the public hearing; and the name, address and telephone number of a person to contact for further information about the proposed regulation. The department shall include with the notice the full text of the proposed regulation, statements of the basis, purpose, substance, issues and impact of the proposed regulation, and a summary of the regulation.~~

~~2.~~C. The department director, chief, or board shall send a copy or summary notice of the proposed regulation to all parties on the regulatory mailing list who have expressed an interest in the type of regulation being considered, ~~and to all others who have commented on the proposed regulatory changes. This draft notice shall be accompanied by a letter explaining explain the deadlines and procedures for submitting formal public comments under the Administrative Process Act and from where the public can obtain copies of the materials.~~

D. *Ex parte communications outside of the time periods provided for public comment will not be accepted by the department. However, the department may request*

clarification of comments it received during the public comment periods.

~~3. The department shall request the Registrar of Regulations to publish the public hearing notice in The Virginia Register, in a Richmond area newspaper, in at least one general circulation newspaper published in any area that is particularly affected by the regulation to the exclusion of other geographical areas, and in other newspapers as requested by the department, at least 60 days before the end of the comment period.~~

~~4. A draft of the department's summary description of public comment shall be sent by the department to all public commenters on the proposed regulation at least five days before the final adoption of the regulation.~~

~~5. During the final comment period, the proposed regulations shall be submitted for review concurrently by the public, the Governor, the General Assembly, the Department of Planning and Budget, and the Secretary of Commerce and Trade.~~

4 VAC 25-10-80. Adoption.

Upon expiration of the public comment period, the ~~promulgating authority~~ *director, chief, or board* shall carry out the remaining steps to adopt the regulations according to the provisions of the Administrative Process Act, *applicable executive orders, the Virginia Register Act, and Regulations of the Virginia Code Commission for Implementing the Virginia Register Act.*

VA.R. Doc. No. R02-293; Filed July 2, 2003, 11:34 a.m.

Board of Mineral Mining Examiners

Title of Regulation: **4 VAC 25-35. Certification Requirements for Mineral Miners (amending 4 VAC 25-35-10 through 4 VAC 25-35-40, 4 VAC 25-35-80, 4 VAC 25-35-100, 4 VAC 25-35-110, and 4 VAC 25-35-120).**

Statutory Authority: § 45.1-161.292:19 of the Code of Virginia.

Public Hearing Date: September 25, 2003 - 10 a.m.

Public comments may be submitted until 5 p.m. on September 28, 2003.

(See Calendar of Events section for additional information)

Agency Contact: Stephen A. Walz, Regulatory Coordinator, Department of Mines, Minerals and Energy, 202 N. Ninth Street, 8th Floor, Richmond, VA 23219-3402, telephone (804) 692-3211, FAX (804) 692-3237, or e-mail saw@mme.state.va.us.

Basis: The Certification Requirements for Mineral Miners are promulgated at the discretion of Board of Mineral Mining Examiners and are not federally mandated. However, the federal Mine Safety and Health Administration (MSHA) accepts state certificates in lieu of establishing federal certifications.

The Board of Mineral Mining Examiners derives its authority to promulgate this regulation from § 45.1-161.292:19 of the Code of Virginia. Section 45.1-161.292:19 A specifies eight certifications that must be issued by the board. Section 45.1-

161.292:12 B provides the board the authority to require certification for additional tasks by regulation. Section 45.1-161.292:19 C gives the Board of Mineral Mining Examiners the authority to promulgate regulations necessary or incidental to the performance of duties or execution of powers conferred under this title, which regulations shall be promulgated in accordance with the provisions of Article 2 of the Administrative Process Act.

Purpose: These regulations are being amended as a result of periodic review. During this review, the Board of Mineral Mining Examiners, with input from industry representatives as well as the DMME, found that minor edits were needed to bring the regulation up to date with the Code of Virginia.

The goals of the agency are to ensure through proper examination and certification of persons working on mineral mines the safest environment for workers employed at mineral mines without restricting productivity or efficiency. The regulation is necessary in that it establishes procedures and standards of certification for miners and workers working in areas of specific responsibilities at mineral mines.

Substance: Changes made to the regulation include administrative changes that will allow different forms of payment for certification. Another change requires that applicants take a written examination for certification as electrician, regardless of experience. This would not include electricians previously certified with an electrical journeyman's card.

The transition provision for Board of Examiners (BOE) certificates to be replaced with Board of Mineral Mining Examiners certificates is being removed; it is no longer required. Lastly, surface blasters will be required to possess a valid record of three hours of first aid training from an organization using nationally recognized standards or training that meets federal 30 CFR Part 48 requirements. Presently, the certificate holder is only required to possess a valid MSHA 5000-23 form.

Issues: As amended, this regulation presents no new advantages or disadvantages to the public or the Commonwealth. The amended regulation updates administrative requirements and makes the regulation consistent with the Code of Virginia. There are no substantive provisions added or made that are of consequence to the community, government officials, or the public.

Department of Planning and Budget's Economic Impact

Analysis: The Department of Planning and Budget (DPB) has analyzed the economic impact of this proposed regulation in accordance with § 2.2-4007 H of the Administrative Process Act and Executive Order Number 21 (02). Section 2.2-4007 H requires that such economic impact analyses include, but need not be limited to, the projected number of businesses or other entities to whom the regulation would apply, the identity of any localities and types of businesses or other entities particularly affected, the projected number of persons and employment positions to be affected, the projected costs to affected businesses or entities to implement or comply with the regulation, and the impact on the use and value of private property. The analysis presented below represents DPB's best estimate of these economic impacts.

Proposed Regulations

Summary of the proposed regulation. The General Assembly allows the Board of Mineral Mining Examiners (BMME) in § 45.1-161.292:19 of the Code of Virginia to promulgate regulations requiring certification of persons who work in mineral mines and persons whose duties and responsibilities in relation to mineral mining require competency, skill, or knowledge in order to perform their task in a manner that protects the health and safety of persons and property.

The proposed regulation (i) removes a provision in the existing regulation that allows applicants for certification as mineral mining electricians to get certified based solely on experience and (ii) requires surface blasters to have either taken first-aid training that meets federal standards or attended three hours of first-aid training from an organization using nationally recognized standards, instead of the Mine Safety and Health Administration (MSHA) 5000-23 form currently required.

The regulation also proposes an administrative change that allows for alternative forms of payment for the replacement of lost or destroyed certificates. It also removes redundant language, makes corrections, adds clarifying language, and makes the existing regulation consistent with the Code of Virginia.

Estimated economic impact.

1. In order to be certified as a mineral mining electrician, the proposed regulation requires that applicants either (i) hold a valid electrical journeyman certification issued by the Department of Professional and Occupational Regulation or (ii) have work experience equivalent to that required for a journeyman card and take the mineral mining electrician certification examination. Under the existing regulation, individuals could be certified based solely on work experience as long as the Department of Mines, Minerals, and Energy (DMME) ruled that the work experience they possessed was adequate. The proposed regulation deletes language that allows DMME to consider work experience in lieu of a valid electrical journeyman card and in lieu of taking the certification examination.

According to DMME, work experience was considered in lieu of a journeyman card and in lieu of the examination in order to facilitate the transition from certificates issued by the Board of Examiners (BOE) to certificates issued by BMME. Prior to 1994 mineral mining certifications were issued by BOE. Between 1994 and 1999, BOE certification was replaced by new BMME certification. During the transition period, applicants for mineral mining certification that did not hold a valid electrical journeyman card but had 10 years work experience were granted certification without having to take the certification examination. Since the transition period ended in 1999, the work experience clause is no longer relevant and is thus being removed.

Certifying individuals without adequate qualifications as mineral mining electricians could create hazardous working conditions in mineral mines. Moreover, apart from endangering the health of fellow mine workers, these individuals could also pose a threat to public health and safety and/or environment through their activities. The aim of the certification process is to enforce certain compulsory minimum standards for mineral mining electricians and

reduce the risk to the public and the environment from their activities. The certification requirements can be viewed as the compliance cost incurred by mineral mining electricians to ensure that they do not jeopardize public health and safety and the environment. In addition, most mining businesses will probably find it in their interest to have highly qualified individuals working in areas where hazards from electric fires can be catastrophic. These minimum standards may not be binding in most cases since firms would choose to use journeyman electricians or electricians who have taken and passed the certification examination even if they were not required.

In this instance, the proposed change is not likely to have a significant economic impact. According to DMME, no certifications have been issued to individuals based solely on work experience since 1999. The proposed change is intended to make the regulation consistent with current practice.

2. The proposed regulation requires that all individuals applying to be certified as surface blasters have either taken first-aid training that meets federal standards or attended three hours of first-aid training from an organization using nationally recognized standards. This would replace the existing first-aid requirement that all applicants possess a valid MSHA 5000-23 form that indicates that the applicant has completed first-aid training.

Under current policy, applicants for certification as surface blasters could submit the MSHA 5000-23 form under 30 CFR Part 46 (Training and Retraining of Miners Engaged in Shell Dredging or Employed at Sand, Gravel, Surface Stone, Surface Clay, Colloidal Phosphate, or Surface Limestone Mines) or under 30 CFR Part 48 (Training and retraining of miners). While Part 48 specifies two hours of first aid training, there are no such specifications under Part 46. Moreover, while Part 48 covers first-aid training requirements needed in order to operate at coal mine sites, Part 46 does not. Under the proposed regulation, individuals applying for certification as surface blasters would need to get first aid training under Part 48 or three hours of training at an organization using nationally recognized standards.

The change is being proposed in order to ensure that individuals certified as surface blasters have adequate first-aid training. The extent of first-aid training taken by individuals holding a valid MSHA 5000-23 form under Part 46 is not clear. On the other hand, individuals holding a valid MSHA 5000-23 form under Part 48 are required to have at least two hours of first-aid training. Moreover, the change is being proposed in order to allow certified surface blasters to operate at coal and non-coal mine sites. Currently, individuals holding a valid MSHA 5000-23 form under Part 46 are not allowed to work at coal mine sites.

There are no studies available at this time on the benefits of providing first-aid training and/or different levels of first-aid training to surface blasters. Assuming that there are some health and safety benefits from having surface blasters better qualified to provide first-aid, the proposed change is likely to produce some economic benefits. However, to the extent that the proposed change makes it harder to be

certified as a surface blaster, it will also impose additional costs on firms and individuals seeking certification. Individuals certified as surface blasters, regardless of whether they seek to work at coal mine sites or not, would be required to meet the new first-aid requirements and get at least two hours of training. The net economic impact will depend on whether there are any benefits of requiring surface blasters to meet additional first-aid training requirements and whether these benefits outweigh the additional costs associated with getting certified.

Businesses and entities affected. The proposed regulation will affect businesses and individuals involved in the mineral mining industry. Applicants for certification as surface blasters will now be required to meet additional first-aid training requirements. Consequently, businesses hiring surface blasters may find it more expensive to do so. Allowing alternative forms of payment for the replacement of lost or destroyed certificates is likely to make it easier for businesses and individuals to apply for a replacement certificate.

Localities particularly affected. The proposed regulation will affect all localities in the Commonwealth. However, it is particularly relevant to localities dependent on the mineral mining industry.

Projected impact on employment. The proposed regulation may have a small negative impact on employment. Some applicants for certification as surface blasters might find it more difficult to get certified since the proposed regulation requires them to meet more stringent first-aid training standards than under the existing regulation.

Effects on the use and value of private property. The proposed regulation will affect businesses involved in mineral mining. To the extent that more stringent requirements make it more expensive for firms to hire surface blasters, it will raise costs and lower the asset value of these businesses.

Agency's Response to the Department of Planning and Budget's Economic Impact Analysis: The Department of Mines Minerals and Energy in general concurs with the Department of Planning and Budget's Economic Impact Analysis statement for DMME's Certification Requirements for Mineral Miners, 4 VAC 25-35.

DMME believes that the finding in the Estimated Economic Impact section that the new requirements increasing first aid training for blasters from 2 hours to 3 hours would make it harder for an individual to become certified is based on economic theory and that in practice any impact to blasters will be negligible. In fact, it is felt the benefit of a blaster having additional first aid training makes the individual a more valuable employee, thus adding value to the company.

In addition, DMME believes that by adding to the quality of the training that a miner receives, an individual will be a better trained and thus, a safer employee. Consequently, well-trained employees have increased value to their employers. The amended regulation increases the flexibility that blasters will have to find employment by streamlining training requirements that make it easier to work on coal as well as mineral mines.

In conclusion, the economic impact report projects that this one hour of added first aid training will make it more difficult for a blaster to become certified. It is unlikely that requirements that are insignificantly different will impact training by making it more difficult. Lastly, the EIA does not reflect the positive impact that having safer mines and controlling risks can positively affect the health and safety of mine workers, thus leading to increased value and use of private property.

Summary:

The proposed changes include administrative changes to allow different forms of payment for mineral mining certification. Substantive changes include requiring applicants to take a written examination for certification as an electrician, regardless of experience. However, this new requirement does not apply to electricians with an electrical journeyman's card. The Board of Examiners (BOE) certificates are not valid after July 1, 1999. Lastly, surface blasters will be required to possess a valid record of three hours of first aid training from an organization using nationally recognized standards or training that meets the federal requirements found in 30 CFR Part 48. Presently, the certificate holder is only required to possess a valid MSHA 5000-23 form.

4 VAC 25-35-10. Initial certification requirements.

A. Applicants shall submit:

1. The Application for Certification Examination form (BMME-1).
2. A copy of all degrees required for certification and a valid first aid certificate or card or as noted in Part II, Minimum Certification Requirements (4 VAC 25-35-50 et seq.). When not otherwise specified, first aid cards shall be issued by an organization that uses nationally recognized standards and is approved by the Division of Mineral Mining (DMM), e.g., American Red Cross and National Safety Council.
3. A \$10 fee for each examination application received at least five working days prior to an examination. Cash will be accepted if paying in person at a Department of Mines, Minerals and Energy (DMME) office.
4. A Verification of Work Experience form (BMME-2) and documentation of equivalent work experience for approval by DMM, if required for the certification. This form shall be signed by a company official who is knowledgeable of the experience of the applicant and shall be notarized.

B. Applicants shall fulfill the requirements of 4 VAC 25-35-10 and accumulate the required years of experience within five years of taking the examination or start the process over including payment of fee.

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

D. Persons requesting replacement of a lost or destroyed certificate shall submit a letter to DMM with a \$1.00 fee. ~~The fee shall be in the form of a certified check, cashier's check or money order made payable to the Treasurer of Virginia per §~~

Proposed Regulations

~~45.1-161.50 of the Code of Virginia.~~ Cash will be accepted if paying in person at a DMME office.

4 VAC 25-35-20. Examination requirements.

A. All applicants for certification shall take a written examination except candidates for the general mineral miner certification and electrical certification applicants who hold a journeyman card ~~or those applicants with comparable work experience acceptable to DMM under 4 VAC 25-35-100 A.~~ Applicants for the foreman certification shall score at least 85% and applicants for other certifications shall score at least 80% on each section of the written examination.

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

4 VAC 25-35-30. Reciprocity requirements.

Reciprocity shall be available for certified persons in other states as provided for in ~~§ 45.1-161.54~~ ~~45.1-161.292:24~~ of the Code of Virginia. Applicants for reciprocity must submit a current copy of their pocket card or certificate, examination grades, and documentation of equivalent work experience for review and approval by the Board of Mineral Mining Examiners (BMME).

4 VAC 25-35-40. Renewal requirements.

A. Certificates issued by the Board of Examiners (BOE) ~~prior to July 1, 1994,~~ shall *not* be accepted as valid ~~until the BMME issues a certificate to replace the BOE certificate. The BMME will issue replacement certificates with expiration dates spread between 1996 until 1999. No BOE certificate shall be valid after July 1, 1999.~~

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

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

D. Certified persons shall take the examination described in 4 VAC 25-35-20 if their certificate has expired, they have not worked in the area for which they are certified for a cumulative

minimum of 24 months in the last five years, or DMM has issued the individual violations ~~which~~ *that* have not been corrected.

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

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

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

4 VAC 25-35-80. Surface blaster.

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

B. Applicants shall possess a valid ~~Mine Safety and Health Administration (MSHA) 5000-23~~ form showing training in *record of three hours of training in first aid from an organization that uses nationally recognized standards or a valid record of training to meet the requirements in 30 CFR Part 48 that includes first aid.*

4 VAC 25-35-100. Mineral mining electrician (electrical repairman).

A. Applicants for certification as a mineral mining electrician shall ~~hold~~ *possess work experience as demonstrated by a valid journeyman electrical certification issued under by the Department of Professional and Occupational Regulation, Tradesmen Certification Section,—criteria or possess equivalent work experience as approved by DMM as equivalent to that required for a journeyman certification.*

B. Applicants shall submit documentation of training as required by *30 CFR Part 46 or 30 CFR Part 48* or provide evidence of their knowledge of safe working practices on the mine site as approved by DMM.

4 VAC 25-35-110. Mine inspector.

In addition to the requirements set forth in ~~§ 45.1-161.19~~ ~~45.1-161.292:11~~ of the Code of Virginia, mine inspector applicants shall demonstrate knowledge and competence in those areas specified in ~~§ 45.1-161.20~~ ~~45.1-161.292:12~~ of the Code of Virginia through the examination process. A certificate will not be issued until an applicant is employed by DMME.

4 VAC 25-35-120. General mineral miner.

A. As set forth in ~~§ 45.1-161.55~~ ~~45.1-161.292:28~~ of the Code of Virginia, miners commencing work after January 1, ~~1996~~ *1997*, shall have a general mineral miner certification. For the purposes of these regulations, "commencing work" means after employment but before beginning job duties. Persons excluded from the general mineral miner certification are those involved in delivery, office work, maintenance, service and construction work, other than the extraction and processing of minerals, who are contracted by the mine operator. Hazard training as required by *30 CFR Part 46 or 30 CFR Part 48* shall be provided to these persons.

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

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

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

C. The trainer will certify to the BMME that the training and demonstrations required by § ~~45-1-161.55~~ 45.1-161.292:28 B of the Code of Virginia and this section have occurred by completing the BMME-4 form.

D. Applicants who hold a valid first aid card or certificate as noted in 4 VAC 25-35-10 shall be considered to have met the first aid requirements.

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

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

G. The mine operator shall maintain the following records for those miners required to obtain a general mineral miner certification and those who qualify for exemption, starting January 1, ~~1996~~ 1997:

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

VA.R. Doc. No. R02-267; Filed July 2, 2003, 11:33 a.m.



TITLE 22. SOCIAL SERVICES

DEPARTMENT OF REHABILITATIVE SERVICES

Title of Regulation: 22 VAC 30-30. Provision of Independent Living Services (amending 22 VAC 30-30-10, 22 VAC 30-30-20, 22 VAC 30-30-50 through 22 VAC 30-30-120, 22 VAC 30-30-160, 22 VAC 30-30-220, and 22 VAC 30-30-250; adding 22 VAC 30-30-31, 22 VAC 30-30-131, 22 VAC 30-30-141, 22 VAC 30-30-171, 22 VAC 30-30-181, 22 VAC 30-30-191, 22 VAC 30-30-201, 22 VAC 30-30-211, 22 VAC 30-30-241, 22 VAC 30-30-260, 22 VAC 30-30-270, 22 VAC 30-30-280; repealing 22 VAC 30-30-30, 22 VAC 30-30-40, 22 VAC 30-30-130, 22 VAC 30-30-140, 22 VAC 30-30-170 through 22 VAC 30-30-210, 22 VAC 30-30-230, and 22 VAC 30-30-240).

Statutory Authority: § 51.5-14 of the Code of Virginia.

Public Hearing: N/A - Public comments may be submitted until September 26, 2003.

(See Calendar of Events section for additional information)

Agency Contact: Theresa Preda, Program Manager, Independent Living, Department of Rehabilitative Services, 8004 Franklin Farms Drive, P.O. Box K300, Richmond, VA 23288-0300, telephone (804) 662-7078, FAX (804) 662-7122, toll-free 1-800-552-5019, or e-mail predaTR@drs.state.va.us.

Basis: Section 51.5-14 of the Code of Virginia empowers the Commissioner of the Department of Rehabilitative Services to promulgate regulations necessary to carry out the provisions of the laws administered by the department.

Purpose: This action will update the department's regulations for Independent Living Services and Virginia's federally funded Centers for Independent Living to comply with federal regulations. This action will regulate state-funded centers in a manner similar to the federally funded centers, which is currently being accomplished through state contract. In addition, this action will reduce consumer cost for services and enhance consumer rights.

Substance: The amendments update all sections regarding federally funded Centers for Independent Living to make Virginia's implementation of the federal program comply with the federal Independent Living regulation. This action revises sections on eligible applicant agencies, funded activities, allocation of funds among centers, scope of services, evaluation standards, periodic review, and appeal. The amendment adds similar sections for state-funded centers to make the state program consistent with the federal program.

The amendments add those receiving workers' compensation or veterans' disability benefits to the list of groups not required to pay for services. The amendments make most services, but not goods, free, regardless of income. For cost services, if the consumer is aged 18 or older, the amendment revises the financial needs test to consider only the consumer's income, even if the consumer is living with parents, spouse, etc. The consumer's written consent is required to release medical or psychological information to third parties. The consumer has the right to have a written service plan if determined eligible.

Proposed Regulations

If determined ineligible, the service provider must review the decision within 12 months and thereafter whenever the applicant's status has materially changed.

Issues: This action was initiated as a result of the 1998 amendments to the federal Rehabilitation Act, the 1994 amendments to the federal Independent Living Services regulation, and the growth of the Independent Living Program in Virginia. The current agency regulation was promulgated in 1987. These amendments will conform the state Independent Living regulation to the federal Independent Living regulation. There are several advantages to individuals with disabilities, Centers for Independent Living, and the agency in conforming the state regulation to the federal regulation.

Currently the agency relies on contracts with the state-funded centers, rather than the existing outdated state regulation, to administer the program. Accordingly, the amendments will bring the state regulations into compliance with the contracts, which are mirrored on the federal regulations. This will eliminate inconsistencies, thereby avoiding possible legal issues and potential confusion among centers in implementing, and the agency in enforcing, the state regulation and contracts with the centers. It also will allow for service provision consistency among all of the centers. In addition, from a legal standpoint, the Office of the Attorney General has advised that the state regulation will provide a state court forum in the event of an appeal or legal challenge. From a consumer standpoint, making the state-funded program consistent with the federally funded program will encourage consistency of services across the state for consumers.

The federal regulation gives states the option to charge consumers for services and consider the consumer's ability to pay for these services. The amendments update the financial needs test for consumers accessing independent living services. By placing the financial needs test in state regulation, there is an opportunity for public comment on the provisions of the needs test. In the amendments, disabled workers/veterans will be exempt from the needs test. This action is consistent with some other kinds of financial needs tests for people with disabilities and provides a benefit to these two groups. In addition, the amendments exempt more services (but not goods) from the financial needs test. The amendments also will consider only consumer (not family) income for consumers 18 years or older, which should provide greater access to youth transition services to increase self awareness and esteem, self advocacy and self empowerment skills for young adults with significant disabilities still residing with parents after high school.

The proposed amendment will give state-funded centers an administrative avenue to appeal agency decisions to withhold funding for noncompliance with assurances and evaluation standards. No administrative avenue exists under current agency regulation -- only the legal avenue under the state contract.

From the agency's standpoint, consistency across the state-funded and federally funded Centers for Independent Living Program will ensure consistent statewide services for consumers and will reduce the agency's administrative oversight burden. In addition, there was public comment at

the national level when the federal regulation was promulgated. The proposed amendments "mirror" the federal regulation and reflect the national philosophy for independent living (self-help, self-advocacy, and peer counseling) and for the Independent Living Program (eligibility for funding, core services, periodic review, standards and compliance indicators, appeal, etc.).

There are no apparent disadvantages to the public, individuals with significant disabilities, Centers for Independent Living, or the Commonwealth.

Fiscal Impact: The agency provides programmatic and fiduciary oversight for the Centers for Independent Living. Centers are community-based, cross-disability, nonresidential, nonprofit organizations designed and operated within a local community by individuals with disabilities, and provides an array of Independent Living Services. All 16 of Virginia's centers and two satellite centers receive, via state contract, State General Fund dollars to provide direct services. Five of the centers receive additional federal funds for the same purpose. The centers are located in Norfolk, Hampton, the Eastern Shore, Richmond, Fredericksburg, Arlington, Manassas, Charlottesville, Winchester, Danville, Roanoke, Lynchburg, Abingdon, Grundy, Harrisonburg and Big Stone Gap.

In Fiscal Year 2002, the centers provided comprehensive services to over 5,800 individuals with significant disabilities and provided local communities with over 27,000 hours of systems advocacy and community education. All centers provide the following four core services to individuals with significant disabilities information and referral, peer counseling, independent living skills training, and individual and systems change advocacy. Based on funding level and local need, each center also may offer other services and goods to improve the ability of the individual to function independently in the family or community or to continue in employment. Other services to consumers may include: psychological counseling, life skills training, interpreter/reader services for individuals with cognitive or sensory disabilities, attendant care, assistance with transportation and finding accessible housing, and preventive services to decrease the need for similar services in the future. Goods purchased for consumers may include rehabilitation technology, such as wheelchairs, prostheses, hearing aids, or home and vehicle modifications. Systems advocacy and community education services to the community at large may include disability awareness, technical assistance regarding accessibility and legal issues, as well as general disability related information

State General Fund dollars for center services currently exceed \$4.3 million. Over the past five years, a portion of the State General Fund dollars was used to establish six new centers. Part C of Title VII of the Rehabilitation Act provides general operations money for Centers in Virginia in the amount of over \$1.3 million. Operational funds are used for direct services and pay for Peer Counselors, Independent Living Skills Trainers, etc. Additional funds under Title VII, Part B of the Act are granted to centers under the State Plan for Independent Living. The State Plan is jointly developed and signed by the Statewide Independent Living Council, the Department of Rehabilitative Services, and Department of the

Blind and Vision Impaired. The State Plan provides Part B funds to centers for systems change activities in the amount of over \$450,000. Centers also solicit local and private funding to meet service needs identified at the local level.

There will be no fiscal impact to the federal funds, because the amendments replicate the federal regulation and the current state contracts.

There will be no fiscal impact to state funds, because the agency is already enforcing compliance with the federal regulation via state contract. This includes the amendments requiring the core services, a consumer service record, a written record of each consumer's service plan, and protection of confidential consumer information. The administrative oversight provisions are also currently enforced by state contract.

There will be no fiscal impact to consumers, centers, or the agency resulting from adding workers' compensation and Veterans' Disability recipients to the list of groups not required to pay for services. In practice, they are not being required to pay for services. Therefore, the centers and the agency already have absorbed implementation and enforcement costs.

There will be no fiscal impact to consumers, centers, or the agency resulting from exempting most services (but not goods) from the financial needs test. Operational funds and existing staff are sufficient to serve all consumers. In the event that resources are insufficient to serve all eligible individuals, the agency may implement an order of selection (see 22 VAC 30-30-60). The financial need test will be continue to be used for tangible goods. However, funding is no longer available to purchase goods, and there will continue to be no agency expenditures for goods.

Department of Planning and Budget's Economic Impact Analysis: The Department of Planning and Budget (DPB) has analyzed the economic impact of this proposed regulation in accordance with § 2.2-4007 H of the Administrative Process Act and Executive Order Number 21 (02). Section 2.2-4007 H requires that such economic impact analyses include, but need not be limited to, the projected number of businesses or other entities to whom the regulation would apply, the identity of any localities and types of businesses or other entities particularly affected, the projected number of persons and employment positions to be affected, the projected costs to affected businesses or entities to implement or comply with the regulation, and the impact on the use and value of private property. The analysis presented below represents DPB's best estimate of these economic impacts.

Summary of the Proposed Regulation. The proposed regulations will establish operational standards for centers for independent living that are currently enforced under a state contract and update the regulations to reflect the current practices related to categorical eligibility for free services, types of services provided free of charge, and consideration of family income in eligibility determinations.

Estimated Economic Impact. The proposed regulations contain requirements for provision of independent living services to people with disabilities. These services promote the ability of an individual to function independently in many

ways. The core services include information and referral, peer counseling, independent living skills training, and individual and systems change advocacy. The Department of Rehabilitative Services (the department) through centers for independent living (CILs) also provides other services such as physical counseling, life skills training, interpreter/reading services, attendant care, assistance with transportation, finding accessible housing, and preventive services to reduce the need for similar services in the future. In addition to the services, rehabilitation technology including wheelchairs, prostheses, hearing aids, and home/vehicle modifications are sometimes provided to consumers.

In 2002, approximately 5,800 consumers were provided independent living services and goods through 16 CILs. CILs are nonprofit, nonresidential, community-based organizations operated by individuals with disabilities. The Commonwealth and the federal government are the sources of funding for CILs. All 16 CILs receive state funding for general operations, which amounts to about \$4.5 million per year. In addition to the state funding, five CILs receive about \$1.3 million from federal government. Delivery of services and goods funded by the federal government is accomplished through federal regulations. However, the state funds are expended through contracts between CILs and the department rather than state regulations. The state contracts contain the same requirements as those included in federal regulations.

The proposed amendments will add the same operational requirements for CILs enforced under the state contract to the current regulations. The proposed changes will accomplish conformity between the provisions of the state contract and these regulations and conformity between the state and federal regulations. Since the operational requirements will not change, no change in current practice and consequently no fiscal effect is expected. However, reinforcing the consistency of the Commonwealth's regulations with the federal regulations and the state contracts is expected to provide some benefits. According to the department, the Attorney General has expressed an opinion indicating that having regulations will provide a state court forum in the event of an appeal or a legal challenge. This could avert additional litigation costs associated with a defense in a federal court. Having regulations will also provide an administrative avenue to CILs to appeal and resolve decisions to withhold funding for non-compliance with the standards. The appeals procedure is believed to be less costly than the standard court procedure and may provide some costs savings to CILs and the department in the event of a disagreement.

The main purpose of the remaining proposed changes is to update the regulations to reflect the practices followed by the department. Two of the proposed changes have been enforced in practice, but not reflected in current regulations. These changes are recognizing the practice of not requiring individuals receiving workers' compensation or veterans' disability benefits to pay for services and specifying an expanded list of services provided free of charge. Since these two changes have already been followed in practice, no significant economic impact is expected upon promulgation of these regulations.

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Additionally, the department proposes to update the financial needs test for consumers 18 years old or older, which was recently revised to consider only the consumer's income even if the consumer is living with parents, spouse, etc. Similar to the other two changes, this more recent change is already implemented and no significant immediate economic impact is expected. Neither the number of recipients who may benefit from excluding family income nor the amount of expenditures spent for additional recipients is known. Although there is no data to assess the fiscal effect of this change, the likely effects include increasing the publicly funded independent living expenditures, increasing the department's administrative costs, and promoting independent living by improving access of adult individuals with disabilities who live with family members to such services as self advocacy and self empowerment skills and/or youth transition services. The additional funds spent on these recipients could also result in crowding out of some of the other recipients should resources become scarce enough to trigger the order of selection process specified in 22 VAC 30-30-60.

The potential effects of the last three changes also include providing consistency between the rules followed in practice and the rules contained in the regulations, which were last updated in 1987. This consistency may be beneficial in reducing the likelihood of potential litigation and the likelihood of potential confusion among CILs in provision of services and among the department's enforcement staff, both of which may be costly.

Businesses and Entities Affected. The proposed regulations apply to 16 centers for independent living that serve approximately 5,800 consumers annually.

Localities Particularly Affected. The proposed regulations apply throughout the Commonwealth.

Projected Impact on Employment. No significant effect on employment is expected.

Effects on the Use and Value of Private Property. No significant effect on the use and value of private property is expected.

Agency's Response to the Department of Planning and Budget's Economic Impact Analysis: The Department of Rehabilitative Services concurs with the Economic Impact Analysis Statement submitted by the Department of Planning and Budget.

Summary:

The proposed amendments update all sections regarding federally funded Centers for Independent Living to make Virginia's implementation of the federal program comply with the federal Independent Living regulation. This action revises sections on eligible applicant agencies, funded activities, allocation of funds among centers, scope of services, evaluation standards, periodic review, and appeal. The amendments add similar sections for state-funded centers to make the state program consistent with the federal program. The proposed amendments (i) add those receiving workers' compensation or veterans' disability benefits to the list of groups not required to pay for services and (ii) make most services (but not goods) free, regardless

of income. For cost services, if the consumer is 18 years old or older, the amendments revise the financial needs test to consider only the consumer's income, even if the consumer is living with parents, spouse, etc. The consumer's written consent is required to release medical or psychological information to third parties. The consumer has the right to have a written service plan if determined eligible. If determined ineligible, the service provider must review the decision within 12 months and thereafter whenever the applicant's status has materially changed.

PART I.

**INDEPENDENT LIVING SERVICES PROGRAM AND
CENTERS FOR INDEPENDENT LIVING PROGRAM:
GENERAL PROVISIONS.**

22 VAC 30-30-10. Definitions.

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

"Act" means the federal Rehabilitation Act of 1973 (29 USC § 701 et seq.), as amended.

"Advocacy" means pleading an individual's cause or speaking or writing in support of an individual. To the extent permitted by state law or the rules of the agency before which an individual is appearing, a nonlawyer may engage in advocacy on behalf of another individual. Advocacy may:

1. Involve representing an individual:

a. Before private entities or organizations, government agencies (whether state, local, or federal), or in a court of law (whether state or federal); or

b. In negotiations or mediation, in formal or informal administrative proceedings before government agencies (whether state, local, or federal), or in legal proceedings in a court of law; and

2. Be on behalf of:

a. A single individual, in which case it is individual advocacy;

b. A group or class of individuals, in which case it is systems (or systemic) advocacy; or

c. Oneself, in which case it is self-advocacy.

"Attendant care" means a personal assistance service provided to an individual with significant disabilities in performing a variety of tasks required to meet essential personal needs in areas such as bathing, communicating, cooking, dressing, eating, homemaking, toileting, and transportation.

"Center for independent living (CIL)" means a community based, nonprofit, usually nonresidential program which is controlled by persons with disabilities, provides directly or coordinates indirectly through referral those services which assist severely disabled individuals to increase personal self-determination and to minimize dependency upon others consumer-controlled, community-based, cross-disability, nonresidential, private nonprofit agency that is designed and

operated within a local community by individuals with disabilities and provides an array of IL services.

"Consumer control" means, with respect to a center or eligible agency, that the center or eligible agency vests power and authority in individuals with disabilities, including individuals who are or have been recipients of IL services.

"Cross-disability" means, with respect to a center, that a center provides IL services to individuals representing a range of significant disabilities and does not require the presence of one or more specific significant disabilities before determining that an individual is eligible for IL services.

"Designated state agency" or "state agency" means the sole state agency designated to administer (or supervise local administration of) the state plan for the State Vocational Rehabilitation (VR) Services program.

"Designated state unit" or "DSU" means the state agency or the bureau, division, or other organizational unit within a state agency that is primarily concerned with the vocational rehabilitation, or vocational and other rehabilitation, of individuals with disabilities and that is responsible for the administration of the State Vocational Rehabilitation (VR) Services program of the state agency; or the independent state commission, board, or other agency that has the vocational rehabilitation, or vocational or other rehabilitation, of individuals with disabilities as its primary function.

"Developmental disability" means a disability attributable to mental retardation, cerebral palsy, epilepsy, hearing impairment or another neurological condition of an individual, which disability originates before such individual attains age 18, which has continued or can be expected to continue indefinitely, and which constitutes a substantial handicap to such individual.

"Eligible agency" means a consumer-controlled, community-based, cross-disability, nonresidential, private, nonprofit agency.

"Habilitation" is the term used to refer to the education, training and care required by developmentally disabled individuals to reach their maximum potential.

"Independent living (IL)" means control over one's life based on the choice of acceptable options that minimize reliance on others in making decisions and performing every day activities. This includes managing one's affairs, participating in day-to-day life in community, fulfilling range of social roles, making decisions that lead to self-determination, and the minimalization of physical and psychological dependency on others.

"Individual with a disability" means an individual who (i) has a physical, mental, cognitive, or sensory impairment that substantially limits one or more of the individual's major life activities; (ii) has a record of such an impairment; or (iii) is regarded as having such an impairment.

"Individual with a severe significant disability" means an individual with a severe physical, mental, cognitive, or sensory impairment whose ability to function independently in the family or community, or whose ability to engage or continue obtain, maintain, or advance in employment is so limited by

the severity of his physical or mental disability that independent living rehabilitation services are required in order to achieve a greater level of independence in functioning substantially limited and for whom the delivery of IL services will improve the ability to function, continue functioning, or move toward functioning independently in family or community or engaging or continuing in employment. Independent living rehabilitation services needed by an individual with a severe disability generally are appreciably more costly and of appreciably greater duration than vocational rehabilitation services that might be provided under 34 CFR 361 to continue in employment.

"Individualized independent living plan (IILP)" means a written rehabilitation plan developed jointly by the department or CIL and the individual with a severe disability, and signed by both parties. The IILP indicates the goals established, the services to be provided, and the anticipated duration of the service program and each component service. The IILP is reviewed as often as necessary, but at least on an annual basis, to determine whether services should be continued, modified, discontinued, or whether the individual should be referred to a program of vocational rehabilitation services.

"Legally authorized advocate or representative" means an individual who is authorized under state law to act or advocate on behalf of another individual.

"Minority group" means Alaskan Natives, American Indians, Asian Americans, Blacks (African Americans), Hispanic Americans, Native Hawaiians, and Pacific Islanders.

"Nonresidential" means, with respect to a center, that the center, as of October 1, 1994, does not operate or manage housing or shelter for individuals as an IL service on either a temporary or long-term basis unless the housing or shelter is:

1. Incidental to the overall operation of the center;
2. Necessary so that the individual may receive an IL service; and
3. Limited to a period not to exceed eight weeks during any six-month period.

"Peer relationships" mean relationships involving mutual support and assistance among individuals with significant disabilities who are actively pursuing IL goals.

"Peer role models" mean individuals with significant disabilities whose achievements can serve as a positive example for other individuals with significant disabilities.

"Personal assistance services" mean a range of IL services, provided by one or more persons, designed to assist an individual with a significant disability to perform daily living activities on or off the job that the individual would typically perform if the individual did not have a disability. These IL services must be designed to increase the individual's control in life and ability to perform everyday activities on or off the job.

"Service provider" means:

1. A DSU that directly provides IL services to individuals with significant disabilities;

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2. A center that receives financial assistance under Parts B or C of Chapter 1 (29 USC § 796 et seq.) of Title VII of the Act; or

3. Any other entity or individual that meets the requirements of subsection D of 22 VAC 30-30-20 and provides IL services under a grant or contract from the DSU in response to subsection A of 22 VAC 30-30-270.

“Significant disability” means a severe physical, mental, cognitive, or sensory impairment that substantially limits an individual's ability to function independently in the family or community or to obtain, maintain, or advance in employment.

“State plan” means the state IL plan required under § 704 of Title VII (29 USC § 796 et seq.) of the Act.

“Transportation” means travel and related expenses that are necessary to enable an individual with a significant disability to benefit from another IL service and travel and related expenses for an attendant or aide if the services of that attendant or aide are necessary to enable an individual with a significant disability to benefit from that IL service.

“Unserved and underserved groups or populations” include, but are not limited to, groups or populations of individuals with significant disabilities who:

1. Have cognitive and sensory impairments;
2. Are members of racial and ethnic minority groups;
3. Live in rural areas; or
4. Have been identified by the eligible agency as unserved or underserved within a center's project area.

22 VAC 30-30-20. Eligibility for independent living (IL) services.

~~A. Eligibility requirements shall be applied without regard to sex, race, creed, color, national origin or religion. No group or individuals shall be excluded or found ineligible solely on the basis of the type of disability. No upper or lower age limit shall be applied which shall in and of itself result in a determination of ineligibility. No residence requirement shall be imposed which excludes from services any individual who is presently in the Commonwealth.~~

~~B. An evaluation by the Department of Rehabilitative Services (DRS) or its designee is required of each severely disabled person who applies for independent living services. The evaluation is limited to that information necessary to determine whether the individual is eligible to be provided independent living services, and to determine which independent living services are needed.~~

~~C. All applicants for independent living services shall be apprised of the services of the Client Assistance Program within the Department for the Rights of the Disabled.~~

A. An individual with a significant disability is eligible for IL services under the Independent Living Services program and Centers for Independent Living Program authorized under Chapter 1 (29 USC § 796 et seq.) of Title VII of the Act. Regarding information and referral services, anyone may seek information about IL services under these programs and may

request referral to other services and programs for individuals with significant disabilities, as appropriate.

B. The service provider shall apply eligibility requirements without regard to age, color, creed, gender, national origin, race, religion, or type of significant disability of the individual applying for IL services. The service provider shall not impose any state or local residence requirement that excludes under the state plan any individual who is present in Virginia and who is otherwise eligible for IL services from receiving IL services.

C. Before or at the same time as an applicant for IL services may begin receiving IL services funded under this part, the service provider shall determine the applicant's eligibility and shall maintain documentation that the applicant has met the basic eligibility requirements. The documentation must be dated and signed by an appropriate staff member of the service provider.

D. If the state contracts with or awards a grant to a center for the general operation of the center, the state shall delegate to the center the determination of an individual's eligibility for services from that center. If the state contracts with or awards a grant to a third party to provide specific IL services, the state may choose to delegate to the IL service provider the determination of eligibility for these services and the development of an IL plan for individuals who receive these services.

22 VAC 30-30-30. Basic eligibility criteria. (Repealed.)

~~The following set forth criteria for basic eligibility:~~

- ~~1. The presence of a severe physical or mental disability;~~
- ~~2. The presence of a severe limitation in ability to function independently in family or community, or to engage or continue in employment; and~~
- ~~3. A reasonable expectation that independent living rehabilitation services will significantly assist the individual to improve his ability to function independently in family or community, or to engage or continue in employment.~~

22 VAC 30-30-31. Consumer service record.

A DSU may carry out the functions and responsibilities described in this section, except as otherwise provided, or may delegate them to the appropriate service provider with which the DSU subgrants or contracts to provide IL services. The service provider shall maintain a consumer service record for each applicant for, and each individual receiving, IL services other than information and referral services. A consumer service record may be maintained either electronically or in written form, except that the IL plan and waiver must be in writing. The consumer service record shall include:

1. Documentation concerning eligibility or ineligibility for services;
2. The services requested by the consumer;
3. Either the IL plan developed with the consumer or a waiver signed by the consumer stating that an IL plan is unnecessary;

- 4. The services actually provided to the consumer;
- 5. The IL goals or objectives established with the consumer, whether or not in the consumer's IL plan, and the goals or objectives achieved by the consumer; and
- 6. The individual's participation in the cost of any IL services, including the individual's financial need.

22 VAC 30-30-40. Certification of eligibility. (Repealed.)

~~A. Before or at the same time as acceptance of an individual with a severe disability for independent living rehabilitation services, there shall be a certification that the individual has met the basic requirements specified in 22 VAC 30-30-20.~~

~~B. The certification is approved, dated and signed by an appropriate staff member of the department.~~

22 VAC 30-30-50. Ineligibility.

~~A. Certification of ineligibility. When it is determined that independent living services cannot be expected to assist an individual to engage or continue in employment, or to function more independently in family or community, a certification of ineligibility shall be signed and dated by an appropriate staff member of the department. A copy shall be promptly provided to the individual.~~

~~Such determination shall be made only after full consultation with the individual or as appropriate, his parents, guardian or other representative, or after giving a clear opportunity for this consultation. The department shall ensure notification in writing of the action taken and inform the individual of his rights and the means by which he may express and seek remedy for any dissatisfaction, with such notification including the procedures for administrative reviews and fair hearings. The individual shall be provided a detailed explanation of the availability of the resources within the Client Assistance Program, Department for the Rights of the Disabled; and when appropriate, referral shall be made to other agencies and facilities, including when appropriate, the vocational rehabilitation program.~~

~~A. A DSU may carry out the functions and responsibilities described in this section, except as otherwise provided, or may delegate them to the appropriate service provider with which the DSU subgrants or contracts to provide IL services. If a determination is made that an applicant for IL services is not an individual with a significant disability, the service provider shall provide documentation of the ineligibility determination that is dated and signed by an appropriate staff member.~~

- 1. The service provider may determine an applicant to be ineligible for IL services only after full consultation with the applicant or, if the applicant chooses, the applicant's parent, guardian, or other legally authorized advocate or representative, or after providing a clear opportunity for this consultation.
- 2. The service provider shall notify the applicant in writing of the action taken and inform the applicant or, if the applicant chooses, the applicant's parent, guardian, or other legally authorized advocate or representative, of the applicant's rights and the means by which the applicant may appeal the action taken.

3. The service provider shall provide a detailed explanation of the availability and purposes of the Client Assistance Program established within Virginia under § 112 of the Act, including information on how to contact the program.

4. If appropriate, the service provider shall refer the applicant to other agencies and facilities, including the state's vocational rehabilitation program under Title 1 (29 USC § 701 et seq.) of the Act.

~~B. Review of ineligibility determination. When the department has certified the ineligibility of an applicant for independent living services because of a determination that those services cannot be expected to assist the individual to engage in or continue employment or to function more independently in family or community, the individual's current status will be reviewed within 12 months. When the individual has received CIL services, the review may be conducted jointly by department and CIL staff. If an applicant for IL services has been found ineligible, the service provider shall review the applicant's ineligibility at least once within 12 months after the ineligibility determination has been made and whenever the service provider determines that the applicant's status has materially changed. The review need not be conducted in situations where the individual applicant has refused the review, the individual applicant is no longer present in the Commonwealth Virginia, or the individual's applicant's whereabouts are unknown.~~

22 VAC 30-30-60. Order for of selection for services.

In the event independent living rehabilitation (IL) services cannot be provided due to limited resources to all eligible persons who apply, the department may implement an order of selection is implemented. Under order of selection, applicants determined eligible will be assigned to a priority category and served in the following order.

PRIORITY 1. Persons eligible and presently receiving services under an ILLP IL plan.

PRIORITY II. Persons whose impairments are so severe significant that they do not presently have the potential for employment, but whose ability to live and function independently within their family setting, communities or institutions or community may be improved by the services.

PRIORITY III. Persons who need independent living services in order to engage in or maintain employment.

22 VAC 30-30-70. The individualized Independent living plan (IILP) (IL plan).

~~A. General requirements.~~

~~1. The IILP shall be initiated and periodically updated for individually provided independent living rehabilitation services.~~

~~2. Independent living services shall be provided in accordance with the IILP, which shall be developed jointly with the individual or his parents, guardian, CIL or other representative, and approved by the department's designee.~~

~~A. A DSU may carry out the functions and responsibilities described in this section, except as otherwise provided, or~~

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may delegate them to the appropriate service provider with which the DSU subgrants or contracts to provide IL services. Unless the individual who is to be provided IL services under this part knowingly and voluntarily signs a waiver stating that an IL plan is unnecessary, an IL plan shall be developed and periodically reviewed. The service provider shall provide each IL service in accordance with the IL plan.

1. Development of an individual's IL plan must be initiated after documentation of eligibility. The IL plan must indicate the goals or objectives established, the services to be provided, and the anticipated duration of the service program and each component service.

2. The IL plan must be developed jointly and signed by an appropriate staff member of the service provider and the individual with a significant disability or, if consistent with state law and the individual chooses, the individual's guardian, parent, or other legally authorized advocate or representative.

3. A copy of the ILLP IL plan and any amendments shall must be provided in an accessible format to the individual with a severe significant disability, or his parents, guardian or other representative , if consistent with state law and the individual chooses, the individual's guardian, parent, or other legally authorized advocate or representative.

4. The ILLP shall be initiated after certification of eligibility for independent living services.

B. ILLP review. The ILLP shall IL plan must be reviewed as often as necessary, but at least on an annual basis, to determine whether services should be continued, modified, or discontinued, or whether the individual should be referred to a program of vocational rehabilitation services under 34 CFR Part 361 or to any other program of assistance. Each individual with a severe significant disability, or his parents, guardian, or other representative shall , if consistent with state law and the individual chooses, the individual's guardian, parent, or other legally authorized advocate or representative, must be given an opportunity to review the ILLP IL plan and, if necessary, jointly modify the ILLP redevelop and agree by signature to its terms.

C. Determination on ineligibility under ILLP. If services are to be terminated under an ILLP for any reason, the following conditions and procedures shall be met and carried out:

1. The decision shall be made only with the full participation of the individual with a severe disability, or his parents, guardian, or other representative, unless the individual has refused to participate, the individual is no longer residing in the Commonwealth, or his whereabouts are unknown. When the full participation of the individual or a representative of the individual has been secured in making the decision, the reviews of the individual shall be recorded in the ILLP;

2. The rationale for the ineligibility decision shall be recorded as an amendment to the ILLP certifying that the provision of independent living services has demonstrated that the individual is not capable of functioning more independently in family or community, or engaging or

continuing in employment. A certification of ineligibility is then executed; and

3. There shall be a periodic review at least annually of the ineligibility decision in which the individual is given the opportunity for full consideration in the reconsideration of the decision, except in situations where a periodic review would be precluded because the individual has refused services, has refused a periodic review, the individual is no longer residing in the Commonwealth, or his whereabouts are unknown. The first review of the ineligibility decision shall be initiated by the department or its designee. Any subsequent reviews shall be undertaken at the request of the individual.

C. If the service provider intends to terminate services to an individual receiving IL services under an IL plan, the service provider shall:

1. Notify the applicant in writing of the action taken and inform the applicant or, if the applicant chooses, the applicant's parent, guardian, or other legally authorized advocate or representative, of the applicant's rights and the means by which the applicant may appeal the action taken.

2. Provide a detailed explanation of the availability and purposes of the Client Assistance Program established within Virginia under § 112 of the Act, including information on how to contact the program.

3. Review the applicant's ineligibility at least once within 12 months after the ineligibility determination has been made and whenever the service provider determines that the applicant's status has materially changed. The review need not be conducted in situations where the applicant has refused the review, the applicant is no longer present in Virginia, or the applicant's whereabouts are unknown.

4. If appropriate, refer the individual to other agencies and facilities, including the state's vocational rehabilitation program under Title I (29 USC § 701 et seq.) of the Act.

D. Coordination with vocational rehabilitation, development disabilities and education programs. The development of the ILLP IL plan and the provision of these IL services will must be coordinated to the maximum extent possible with the individualized any written rehabilitation plan program for vocational rehabilitation services for that individual, if there is such a program. This will be coordinated also with any individualized written habilitation program for the individual prepared under the federal Developmental Disabilities Assistance and Bill of Rights Act (42 USC § 6000 et seq.), or with any individualized and education program for the individual prepared under Part B of the federal Individuals with Disabilities Education Act. (20 USC § 1461 et seq.)

22 VAC 30-30-80. Scope of independent living rehabilitation (IL) services for individuals.

The following independent living rehabilitation services shall be provided if deemed necessary to the independence of the individual:

1. Counseling services, including psychological counseling, psychotherapeutic counseling, advocacy services and related services;

~~2. Housing incidental to the provision of any independent living rehabilitation service, and including appropriate accommodations to, and modifications of, any space utilized to serve severely disabled individuals;~~

~~3. Physical and mental restoration services, including:~~

~~a. Physical and mental medical rehabilitation services;~~

~~b. Dentistry services;~~

~~c. Nursing services;~~

~~d. Therapeutic treatment, such as physical therapy, occupational therapy, speech language and hearing therapy, therapeutic recreation, drama therapy, music therapy, dance therapy and art therapy;~~

~~e. Health maintenance;~~

~~f. Eyeglasses and visual services; and~~

~~g. Prosthetic, orthotic and other assistive appliances and devices.~~

~~4. Attendant care;~~

~~5. Transportation;~~

~~6. Interpreter services for deaf individuals, including tactile interpretation for deaf blind individuals;~~

~~7. Reading services, rehabilitation teaching services, and orientation and mobility services for blind individuals;⁷~~

~~8. Recreation activities;~~

~~9. Services to family members of an individual with a severe disability when necessary for improving the individual's ability to live and function more independently, or the individual's ability to engage or continue in employment;~~

~~10. Vocational and other training services, including personal and vocational adjustment when necessary for improving an individual's ability to live with a severe disability and function more independently, or his ability to engage or continue in employment;~~

~~11. Job placement services;~~

~~12. Referral services;~~

~~13. Telecommunications, sensory and other technological aids and devices;~~

~~14. Services for children of preschool age including physical therapy, development of language and communication skills, and child development services;~~

~~15. Any other vocational rehabilitation services available under the State Plan for Vocational Rehabilitation Services are appropriate to the independent living rehabilitation needs of an individual with a severe disability; and~~

~~16. Any appropriate preventive services necessary to decrease the future needs of an individual with a severe disability assisted under the program for similar services.~~

A. In providing independent living (IL) services as required under § 704(e) of the Act and 34 CFR 364.43(b), a state may use Independent Living Services Program funds to provide

directly, or through grants or contracts, the following IL core services:

1. Information and referral services. These services may be provided independently of the other IL core services and without regard to evaluation standards in 22 VAC 30-30-181.

2. IL skills training;

3. Peer counseling, including cross-disability peer counseling; and

4. Individual and systems advocacy.

B. In addition to the independent living (IL) core services, the state may also use Independent Living Services Program funds to provide other IL services. "Other IL services" means:

1. Counseling services, including psychological counseling, psychotherapeutic counseling, and related services;

2. Services related to securing housing or shelter, including services related to community group living, that are supportive of the purposes of the Act, and adaptive housing services, including appropriate accommodations to and modifications of any space used to serve, or to be occupied by, individuals with significant disabilities;

3. Rehabilitation technology;

4. Mobility training;

5. Services and training for individuals with cognitive and sensory disabilities, including life skills training and interpreter and reader services;

6. Personal assistance services, including attendant care and the training of personnel providing these services;

7. Surveys, directories, and other activities to identify appropriate housing, recreation opportunities, and accessible transportation, and other support services;

8. Consumer information programs on rehabilitation and IL services available under the Act, especially for minorities and other individuals with significant disabilities who have traditionally been unserved or underserved by programs under the Act;

9. Education and training necessary for living in a community and participating in community activities;

10. Supported living;

11. Transportation, including referral and assistance for transportation;

12. Physical rehabilitation;

13. Therapeutic treatment;

14. Provision of needed prostheses and other appliances and devices;

15. Individual and group social and recreational services;

16. Training to develop skills specifically designed for youths who are individuals with significant disabilities to promote self-awareness and esteem, develop advocacy and self-empowerment skills, and explore career options;

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17. Services for children;

18. Services under other federal, state, or local programs designed to provide resources, training, counseling, or other assistance of substantial benefit in enhancing the independence, productivity, and quality of life of individuals with significant disabilities;

19. Appropriate preventive services to decrease the need of individuals with significant disabilities assisted under the Act for similar services in the future;

20. Community awareness programs to enhance the understanding and integration into society of individuals with significant disabilities; and

21. Any other services that may be necessary to improve the ability of an individual with a significant disability to function, continue functioning, or move toward functioning independently in the family or community or to continue in employment and that are not inconsistent with any other provisions of the Act.

C. The service provider may not impose any uniform durational limitations on the provision of IL services, except as otherwise provided by federal law or regulation.

22 VAC 30-30-90. Participation by the individuals with a disability in the cost of independent living rehabilitation services.

~~A. An economic need test is established because of the limited resources of the department.~~

~~B. An economic need test will be utilized to determine the extent of client participation in the cost of independent living rehabilitation services. Services exempt from consideration for financial participation will be diagnostic and evaluation, counseling, guidance and referral, job placement, on-the-job training and unpaid work experience. Also excluded from financial participation will be services necessary to assist in the diagnostic and evaluation process such as transportation, maintenance and interpreter service for the deaf.~~

~~C. Groups exempt are:~~

~~A. The service provider shall apply consideration of consumer financial participation uniformly so that all individuals who are eligible for IL services are treated equally. The service provider shall maintain written policies covering the specific types of IL services for which a financial needs test will be applied. The service provider shall document in the consumer service record the individual's participation in the cost of any IL services, including the individual's financial need.~~

~~B. Consumer financial participation shall apply only to the following services:~~

~~1. Rehabilitation technology goods and services but not the needs assessment;~~

~~2. Prostheses and other appliances and devices;~~

~~3. Accommodations to or modifications of vehicle or home or any space used to serve or be occupied by individuals with significant disabilities; and~~

~~4. Other tangible goods.~~

~~C. The consumer is exempt from financially participating in the cost of IL services in any year the consumer's income includes:~~

~~1. Recipients of General Relief.~~

~~2. Recipients of Aid to Families with Dependent Children by the client or family in which the client is dependent. Temporary Assistance for Needy Families (TANF).~~

~~3. Recipients of Supplemental Security Income (SSI).~~

~~4. Recipients of Social Security Disability Income (SSDI).~~

~~5. Workers' compensation benefits.~~

~~6. Veterans' disability benefits.~~

~~D. The Department of Rehabilitative Services will make an assessment of similar benefits available to pay for independent living rehabilitation services. The Department of Rehabilitative Services will not pay program costs which could otherwise be provided by similar benefits unless it is documented that the delay in securing such benefits would be detrimental to the rehabilitation program.~~

~~E. Income and resources of the family are to be used when the client is less than 18 years of age, has not been emancipated, and is a part of the family unit. The client is a part of the parent or legal guardian family unit upon occurrence of either:~~

~~1. Residence with the parent or legal guardian;~~

~~2. Dependency of support evidenced on the last federal income tax return of the parent or legal guardian regardless of residency; or~~

~~3. When temporarily absent from the home due to illness, school, vacation or military leave.~~

~~The family unit may include persons in residence with the parent or legal guardian, other than the client, who were declared as a dependent on the last federal income tax return of the parent or legal guardian.~~

~~F. The financial need test will consider the following income:~~

~~1. Annual taxable income (gross income).~~

~~2. Annual nontaxable income such as social security, retirement benefits, workmen's compensation, veteran's benefits, etc.~~

~~3. Total cash assets, including checking and savings accounts, certificates, stocks and bonds, etc.~~

~~The financial need test will provide for the following allowances and exclusions:~~

~~a. The gross income will be adjusted by the percentage indicated in the table below:~~

Gross Income	Allowance
Under \$10,000	15%
\$10,000 to \$14,999	20%
\$15,000 to \$24,999	25%
\$25,000 to \$34,999	30%
Over \$34,999	35%

~~b. Income will be excluded from consideration based upon family size using the table below:~~

Size of Family	Income Exclusion
1	\$10,608
2	13,143
3	15,678
4	18,213
5	20,748
6	23,283
7	25,818
8	28,353

~~For each additional dependent, add \$2,535.~~

~~The table above is based upon the federal low income for a family of four. It shall be updated annually by the department.~~

~~c. Excluded from income will be the estimated client costs specifically related to the client's disability and not covered by similar benefits.~~

~~d. Excluded from cash assets is \$5,000.~~

~~e. Individual retirement account shall be excluded from income considerations.~~

~~Determination of the annual client financial contribution results from an examination of (i) the number of persons in the family unit; (ii) annual taxable income minus allowances; (iii) annual nontaxable income; (iv) cash assets minus exclusions and; (v) exceptional exclusions based on client cost specifically related to client's disability.~~

~~The financial resources to be considered will be tabulated using the method noted herein. The positive balance (resources exceeding exclusions) will be determined to be available for participation in the rehabilitation program.~~

D. The consumer's annual financial participation amount is determined by the financial needs test. The financial needs test is the annual taxable income less income taxes paid, FICA withholdings, dependent allowance, cost of living allowance, tax-deferred retirement account contributions, health insurance premiums, alimony paid, and disability-related expenses.

1. For consumers under age 18, income of the parents/legal guardian is to be considered only if the consumer was claimed as a dependent on the parent/legal guardian's most recent federal income tax return. For other consumers, only the income of the consumer, and not other family members, shall be considered.

2. A dependent allowance is allowed for each person (including the consumer) claimed on the tax return. The department must update the dependent allowance annually and notify the service providers. The allowance is the amount for each additional family member in the Table of Poverty Guidelines for the 48 Contiguous States and the District of Columbia, which is published annually by the U.S. Department of Health and Human Services.

3. The department will determine the cost of living allowance and notify the service providers.

4. Retirement contributions, insurance premiums, and disability-related expenses paid or reimbursed by the employer or another resource may not be deducted from income.

22 VAC 30-30-100. Consideration of similar benefits.

~~A. Consideration shall be given, in all cases, to any similar benefits available to an individual with a disability, or to family members of an individual with a disability, under any program to meet, in whole or in part, the cost of any independent living rehabilitation (IL) services, except the following IL core services.~~

- ~~1. Intake counseling to determine the client's need for specific rehabilitation services;~~
- ~~2. Referral and counseling services with respect to attendant care;~~
- ~~3. Counseling and advocacy services with respect to legal and economic rights and benefits;~~
- ~~4. Referral for housing and transportation;~~
- ~~5. Surveys, directories, and other activities to identify appropriate housing and accessible transportation and other support services;~~
- ~~6. Peer counseling;~~
- ~~7. Individual and group social and recreational activities; and~~
- ~~8. Services which will significantly delay achieving the Independent Living Rehabilitation objective of the individual.~~

~~B. An appropriate staff member of the department shall be responsible for making a determination as to how a program of services is to be financed. The department shall consider the availability of third party resources to cover part or all of the cost; the availability of the individual's resources or the individual's family resources to cover part or all of the cost; and the availability of department resources to cover part or all of the cost when other resources are insufficient.~~

22 VAC 30-30-110. Consumer appeal procedures.

~~Appeal procedures for independent living services adhere to the department's appeal procedures, as set forth in 22 VAC 30-20-180 of the department's Vocational Rehabilitation Regulations.~~

A. Each service provider shall establish policies and procedures that an individual may use to obtain review of decisions made by the service provider concerning the individual's request for IL services or the provision of IL services to the individual. The service provider shall use formats that are accessible to inform each individual who seeks or is receiving IL services from the service provider about the procedures required by this section.

B. All service providers shall use formats that are accessible to notify individuals seeking or receiving IL services under Chapter 1 (29 USC § 796 et seq.) of Title VII of the Act about the availability of the Client Assistance Program (CAP) authorized by § 112 of the Act, the purposes of the services provided under the CAP, and how to contact the CAP.

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22 VAC 30-30-120. Protection, use and release of personal information.

~~Independent living services will adhere to the department's protection, use, and release of personal information, as set forth in 22 VAC 30-20-190 of the department's Vocational Rehabilitation Regulations.~~

A. A DSU may carry out the functions and responsibilities described in this section, except as otherwise provided, or may delegate them to the appropriate service provider with which the DSU subgrants or contracts to provide IL services. The service provider shall adopt and implement policies and procedures to safeguard the confidentiality of all personal information, including photographs and lists of names. These policies and procedures must ensure that:

1. Specific safeguards protect current and stored personal information;

2. All applicants for, or recipients of, IL services and, as appropriate, those individuals' legally authorized representatives, service providers, cooperating agencies, and interested persons are informed of the confidentiality of personal information and the conditions for gaining access to and releasing this information;

3. All applicants or their legally authorized representatives are informed about the service provider's need to collect personal information and the policies governing its use, including:

a. Identification of the authority under which information is collected;

b. Explanation of the principal purposes for which the service provider intends to use or release the information;

c. Explanation of whether providing requested information to the service provider is mandatory or voluntary and the effects to the individual of not providing requested information;

d. Identification of those situations in which the service provider requires or does not require informed written consent of the individual or his legally authorized representative before information may be released; and

e. Identification of other agencies to which information is routinely released;

4. Persons who are unable to communicate in English or who rely on alternative modes of communication must be provided an explanation of service provider policies and procedures affecting personal information through methods that can be adequately understood by them;

5. At least the same protections are provided to individuals with significant disabilities as provided by the state laws and regulations; and

6. Access to records is governed by rules established by the service provider and any fees charged for copies of records are reasonable and cover only extraordinary costs of duplication or making extensive searches.

B. All personal information in the possession of the service provider may be used only for the purposes directly connected

with the provision of IL services and the administration of the IL program under which IL services are provided.

1. Information containing identifiable personal information may not be shared with advisory or other bodies that do not have official responsibility for the provision of IL services or the administration of the IL program under which IL services are provided.

2. In the provision of IL services or the administration of the IL program under which IL services are provided, the service provider may obtain personal information from other service providers and cooperating agencies under assurances that the information may not be further divulged, except as provided under subsections C, D, and E of this section.

C. Except as provided in subdivisions 1 and 2 of this subsection, if requested in writing by a recipient of IL services, the service provider shall release all information in that individual's record of services to the individual or the individual's legally authorized representative in a timely manner.

1. Medical, psychological, or other information that the service provider determines may be harmful to the individual may not be released directly to the individual, but must be provided through a qualified medical or psychological professional or the individual's legally authorized representative.

2. If personal information has been obtained from another agency or organization, it may be released only by, or under the conditions established by, the other agency or organization.

D. Personal information may be released to an organization, agency, or individual engaged in audit, evaluation, or research activities only for purposes directly connected with the administration of an IL program, or for purposes that would significantly improve the quality of life for individuals with significant disabilities and only if the organization, agency, or individual ensures that:

1. The information will be used only for the purposes for which it is being provided;

2. The information will be released only to persons officially connected with the audit, evaluation, or research;

3. The information will not be released to the involved individual;

4. The information will be managed in a manner to safeguard confidentiality; and

5. The final product will not reveal any personally identifying information without the informed written consent of the involved individual or the individual's legally authorized representative.

Human research to be conducted or authorized by a center for independent living may be subject to approval and continuing review from a review board established under state-mandated regulations to protect human research participants.

E. Upon receiving the informed written consent of the individual or, if appropriate, the individual's legally authorized representative, the service provider may release personal information to another agency or organization for the latter's program purposes only to the extent that the information may be released to the involved individual and only to the extent that the other agency or organization demonstrates that the information requested is necessary for the proper administration of its program.

1. Medical or psychological information may be released if the other agency or organization assures the service provider that the information will be used only for the purpose for which it is being provided and will not be further released to the individual.
2. The service provider shall release personal information if required by federal laws or regulations.
3. The service provider shall release personal information in response to investigations in connection with law enforcement, fraud, or abuse, unless expressly prohibited by federal or state laws or regulations, and in response to judicial order.
4. The service provider also may release personal information to protect the individual or others if the individual poses a threat to his safety or to the safety of others.

PART II.

CENTERS FOR INDEPENDENT LIVING (CIL) PROGRAM.

22 VAC 30-30-130. Grants or contracts for independent living centers. (Repealed.)

~~Grants or contracts may be awarded to any county, city or combination thereof, or any local public or private nonprofit agency, organization or facility. The criteria contained herein shall be followed in the establishment and operation of Centers for Independent Living (CILs).~~

22 VAC 30-30-131. Agencies eligible for CIL program.

A. Regarding both federally and state-funded centers for independent living (CILs), the state plan must include a design for the establishment of a statewide network of centers that comply with the standards and assurances in § 725(b) and (c) of the Act, 22 VAC 30-30-171, and 22 VAC 30-30-181. The design must identify unserved and underserved areas and must provide an order of priority for serving these areas.

B. This subsection is applicable to federally funded CILs. In any state in which the Secretary of the U.S. Department of Education has approved the state plan required by § 704 of the Act, an applicant may receive a grant under subsection C or D of this section, as applicable, if:

1. The applicant demonstrates in its application that it has the power and authority to:
 - a. Carry out the purpose of Part C of Chapter 1 (29 USC § 796 et seq.) of Title VII of the Act and perform the functions listed in § 725(b) and (c) of the Act, 22 VAC 30-30-171, and 22 VAC 30-30-181 within a community located within the state or in a bordering state, including Washington, D.C.;

b. Receive and administer funds under 34 CFR Part 366 Centers for Independent Living Program funds and contributions from private or public sources that may be used in support of a center, and funds from other public and private programs; and

c. Plan, conduct, administer, and evaluate a center consistent with the standards and assurances in § 725(b) and (c) of the Act, 22 VAC 30-30-171, and 22 VAC 30-30-181.

2. To apply for a grant as a new center, an eligible agency shall meet the requirements of this subdivision, except that the award of a grant to a new center is subject to the order of priorities in subsection B of 22 VAC 30-30-141. An applicant that meets the requirements of 34 CFR 366.2(a) is eligible to apply as a new center under subsection C or D of this section, as applicable, if it:

a. Is not receiving funds under Part C of Chapter 1 of Title VII of the Act; or

b. Proposes the expansion of an existing center through the establishment of a separate and complete center (except that the governing board of the existing center may serve as the governing board of the new center) at a different geographical location; and

c. Submits an application at the time, in the manner, and containing the information that is required; an assurance that the eligible agency meets the requirements of this section; the assurances required by § 725(c) of the Act and 22 VAC 30-30-171.

3. Subject to the order of priorities established in 34 CFR 366.22 and 22 VAC 30-30-141, a grant for a new center may be awarded to the most qualified eligible agency that applies for funds if:

a. No center serves a geographic area of the state (or a geographic area of the state is underserved by centers serving other areas of the state);

b. The eligible agency proposes to serve the geographic area that is unserved or underserved in the state;

c. The increase in the allotment of the state under § 721 of the Act for a fiscal year, as compared with the immediately preceding fiscal year, is sufficient to support an additional center in the state; and

d. The establishment of a new center is consistent with the design included in the state plan for establishing a statewide network of centers. An applicant may satisfy this requirement by submitting appropriate documentation demonstrating that the establishment of a new center is consistent with the design in the state plan.

4. Except for the requirement that the center be a private nonprofit agency, a center that is operated by a state that receives assistance under this section shall comply with all of the requirements of Part C of Title VII of the Act and the requirements in subsection C or D, as applicable, of this section and 22 VAC 30-30-171. A state that received assistance in fiscal year 1993 to directly operate a center in accordance with § 724(a) of the Act is eligible to continue to

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receive assistance under this section to directly operate that center for fiscal year 1994 or a succeeding fiscal year if, for the fiscal year for which assistance is sought:

a. No nonprofit private agency submits and obtains approval of an acceptable application under § 722 or 723 of the Act or 34 CFR 366.21 or 366.24 to operate a center for that fiscal year before a date specified by the Secretary of the U.S. Department of Education; or

b. After funding all applications so submitted and approved, the secretary determines that funds remain available to provide that assistance.

5. In accordance with the order of priorities established in 22 VAC 30-30-141, an existing eligible agency may receive a grant under subsection C or D, as applicable, if the eligible agency demonstrates in its application that it:

a. Meets the requirements in subdivision 2 c of this subsection;

b. Is receiving funds under Part C of Title VII of the Act; and

c. Is in compliance with the program and fiscal standards and assurances in § 725(b) and (c) of the Act, 22 VAC 30-30-171, and 22 VAC 30-30-181. (The indicators of minimum compliance in 22 VAC 30-30-181 are used to determine compliance with the evaluation standards in § 725(b) of the Act.)

C. This subsection is applicable to federally funded CILs. The Secretary of the U.S. Department of Education awards grants to centers in a state in a fiscal year if (i) the amount of federal funds allotted to the state under § 721(c) and (d) of the Act to support the general operation of centers is greater than the amount of state funds earmarked for the same purpose, as determined in response to subdivisions D 1 and 3 of this section, or (ii) the director of a DSU does not submit to the secretary and obtain approval of an application to award grants under § 723 of the Act and subdivision D 4 of this section.

1. In selecting from among applicants for a grant for a new center, the Secretary of the U.S. Department of Education considers comments regarding the application, if any, by the Statewide Independent Living Council in the state in which the applicant is located.

2. The Secretary of the U.S. Department of Education may use funds from the allotment of one state to award a grant to a center located in a bordering state if the secretary determines that the proposal of the out-of-state center to serve individuals with significant disabilities who reside in the bordering state is consistent with the state plan of the state in which these individuals reside. An applicant shall submit documentation demonstrating that the arrangements described in the preceding sentence are consistent with the state plan of the state in which the individuals reside.

D. This subsection is applicable to federally funded CILs. The director of the DSU may award grants under § 723 of the Act and this subsection to centers located within the state or in a bordering state in a fiscal year if (i) the director submits to the Secretary of the U.S. Department of Education and obtains

approval of an application to award grants for that fiscal year under § 723 of the Act and subdivision 1 of this subsection; and (ii) the secretary determines that the amount of state funds that were earmarked by the state to support the general operation of centers meeting the requirements of Part C of Chapter 1 (29 USC § 796 et. seq.) of Title VII of the Act in the second fiscal year preceding the fiscal year for which the application is submitted equaled or exceeded the amount of funds allotted to the state under § 721(c) and (d) of the Act for that preceding year. For purposes of this subsection, "director" means the director of the general DSU if the state has both a DSU responsible for providing IL services to the general population and a DSU responsible for providing IL services for individuals who are blind. These DSUs shall periodically consult with each other with respect to the provision of services for individuals who are blind.

1. To be eligible to award grants under this subsection and to carry out § 723 of the Act for a fiscal year, the director of the DSU must submit to the Secretary of the U.S. Department of Education for approval an application at the time and in the manner that the secretary may require and that includes, at a minimum (i) information demonstrating that the amount of funds earmarked by the state for the general operation of centers meets the requirements, and (ii) a summary of the annual performance reports submitted to the director from centers in accordance with 22 VAC 30-30-171.

a. If the amount of funds earmarked meets the requirements, the secretary approves the application and designates the director to award the grants and carry out § 723 of the Act.

b. If a state submits an application to administer the Centers for Independent Living Program under § 723 of the Act and this subsection for a fiscal year, but did not earmark the amount of state funds required by this subsection in the preceding fiscal year, the state shall be ineligible to make grants under § 723 of the Act and this subsection after the end of the fiscal year succeeding the preceding fiscal year and for each succeeding fiscal year.

c. For purposes of this subsection, "earmarked" means funds appropriated by the state and expressly or clearly identified as state expenditures in the relevant fiscal year for the sole purpose of funding the general operation of centers. The amount of state funds that were earmarked by a state to support the general operation of centers does not include: (i) federal funds used for the general operation of centers; (ii) state funds used to purchase specific services from a center, including state funds used for grants or contracts to procure or purchase personal assistance services or particular types of skills training; (iii) state personal attendant care funds; or (iv) Social Security Administration reimbursement funds.

2. If the secretary designates the director to award grants and carry out § 723 of the Act, the director makes grants to eligible agencies in a state for a fiscal year from the amount of funds allotted to the state under § 721(c) and (d) of the Act.

a. The director may enter into assistance contracts with centers to carry out § 723 of the Act. For purposes of this subsection, an assistance contract is an instrument whose principal purpose is to transfer funds allocated to the state under § 721(c) and (d) of the Act and this subsection, to an eligible agency to carry out § 723 of the Act. Under an assistance contract, the DSU shall assume a role consistent with that of the Secretary of the U.S. Department of Education under § 722 of the Act. If the DSU uses an assistance contract to award funds under § 723 of the Act, the DSU may not add any requirements, terms, or conditions to the assistance contract other than those that would be permitted if the assistance contract were a grant rather than an assistance contract. Under an assistance contract, the role of the DSU is to ensure that the terms of the assistance contract, which are established by Chapter 1 of Title VII of the Act and the implementing regulations in 34 CFR Parts 364 and 366, are satisfied. In the enforcement of any breach of the terms and conditions of an assistance contract, the DSU shall follow the procedures established in 22 VAC 30-30-211 and 22 VAC 30-30-220.

b. The director may not enter into procurement contracts with centers to carry out § 723 of the Act. For purposes of this subsection, a procurement contract is an instrument whose principal purpose is to acquire (by purchase, lease, or barter) property or services for the direct benefit or use of the DSU. Under a procurement contract, the DSU prescribes the specific services it intends to procure and the terms and conditions of the procurement.

3. In selecting from among applicants for a grant for a new center, the director and the chairperson of the Statewide Independent Living Council, or other individual designated by the council to act on behalf of and at the direction of the council, shall jointly appoint a peer review committee that shall rank applications in accordance with the standards and assurances in § 725(b) and (c) of the Act, 22 VAC 30-30-171, and 22 VAC 30-30-181. The director shall award the grant on the basis of the recommendations of the peer review committee if the actions of the committee are consistent with federal and state law. The peer review committee shall consider the ability of each applicant to operate a center and shall recommend an applicant to receive a grant, based on either the selection criteria in 34 CFR 366.27 or the following:

- a. Evidence of the need for a center, consistent with the state plan.
- b. Any past performance of the applicant in providing services comparable to IL services.
- c. The plan for complying with, or demonstrated success in complying with, the standards and the assurances in § 725(b) and (c) of the Act, 22 VAC 30-30-171, and 22 VAC 30-30-181.
- d. The quality of key personnel of the applicant and the involvement of individuals with significant disabilities by the applicant.
- e. The budget and cost-effectiveness of the applicant.

f. The evaluation plan of the applicant.

g. The ability of the applicant to carry out the plan for complying with the standards and assurances and the evaluation plan.

4. In a state in which state funding for centers equals or exceeds the amount of funds allotted to the state under Part C of Title VII of the Act, as determined in response to subdivision 1 of this subsection, and in which the state elects to administer the Centers for Independent Living Program as provided in § 723 of the Act, the state plan must include policies, practices, and procedures, including the order of priorities that the state may establish, that are consistent with § 723 of the Act to govern the awarding of grants to centers and the oversight of these centers.

E. This subsection is applicable to federally funded CILs. Entities that have experience in the operation of centers are eligible to apply for grants to provide training and technical assistance under section 721(b) of the Act to eligible agencies, centers, and Statewide Independent Living Councils (councils).

1. From funds, if any, reserved under § 721(b)(1) of the Act, to carry out the purposes of under 34 CFR Part 366, Subpart B, Training and Technical Assistance, the Secretary of the U.S. Department of Education makes grants to, and enters into contracts, cooperative agreements, and other arrangements with, entities that have experience in the operation of centers. An entity receiving assistance in accordance with this subdivision shall provide training and technical assistance to eligible agencies, centers, and councils to plan, develop, conduct, administer, and evaluate centers.

2. To be eligible to receive a grant or enter into a contract or other arrangement under § 721(b) of the Act and subdivision 1 of this subsection, an applicant shall submit an application to the Secretary of the U.S. Department of Education containing a proposal to provide training and technical assistance to eligible agencies, centers, and councils and any additional information at the time and in the manner that the secretary may require. The secretary provides for peer review of grant applications by panels that include persons who are not federal government employees and who have experience in the operation of centers.

3. In making awards, the secretary determines funding priorities in accordance with the training and technical assistance needs identified by the survey of councils and centers required by § 721(b)(3) of the Act.

F. This subsection is applicable to both federally and state-funded CILs. Any currently existing center in Virginia that meets the definition in 22 VAC 30-30-10 is eligible to apply for a grant from the department to operate the center.

1. The applicant demonstrates in its application that it has the power and authority to:

- a. Carry out the purpose of Part C of Title VII of the Act and perform the functions listed in § 725(b) and (c) of the Act, 22 VAC 30-30-171, and 22 VAC 30-30-181 within a community located within Virginia;

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b. Receive and administer funds and contributions from private or public sources that may be used in support of a center and funds from other public and private programs; and

c. Plan, conduct, administer, and evaluate a center consistent with the standards and assurances in § 725(b) and (c) of the Act, 22 VAC 30-30-171, and 22 VAC 30-30-181.

2. In accordance with the order of priorities established in 22 VAC 30-30-141, an existing eligible agency may receive a grant if the eligible agency demonstrates in its application that it:

a. Is receiving state general funds; and

b. Is in compliance with the program and fiscal standards and assurances in 22 VAC 30-30-171 and 22 VAC 30-30-181.

3. The director of the DSU awards the grants based on the demonstrated:

a. Compliance with the standards and assurances as defined by the Act and 22 VAC 30-30-171 and 22 VAC 30-30-181;

b. Cooperation with the department and Statewide Independent Living Council (council) in collection and exchange of information, including evaluation of its program, determination of the level of consumer satisfaction with its program; disclosure of necessary records, reports, policies, and other documents for the purpose of evaluation; and the use of established data collection methods;

c. Ability to address local personal assistance services issues, including cooperation with DRS in the administration of the Personal Assistance Services (PAS) program;

d. Cooperation with the council and department in the administration of the Title VII, Part B program in accordance with the current State Plan for Independent Living, the DRS CIL Title VII, Part B Procedures Manual, department and state policies, and any other state and federal regulations.

G. This subsection is applicable to both federally and state-funded CILs. To apply for a grant from the department as a new center, an eligible agency shall meet the requirements of subsection F of this section, except that the award of a grant to a new center is subject to the order of priorities in the state plan and is subject to the availability of funds.

1. In selecting from among applicants for a grant for a new center, the department considers comments regarding the application, if any, by the Statewide Independent Living Council (council).

2. In selecting from among applicants for a grant for a new center, the director and the chairperson of the council, or other individual designated by the council to act on behalf of and at the direction of the council, shall jointly appoint a peer review committee that shall rank applications in accordance with the standards and assurances in § 725(b)

and (c) of the Act, 22 VAC 30-30-171, and 22 VAC 30-30-181. The director shall award the grant on the basis of the recommendations of the peer review committee if the actions of the committee are consistent with federal and state law. The peer review committee shall consider the ability of each applicant to operate a center and shall recommend an applicant to receive a grant, based on the following:

a. Evidence of the need for a center, consistent with the state plan;

b. Any past performance of the applicant in providing services comparable to IL services;

c. The plan for complying with, or demonstrated success in complying with, the standards and the assurances in § 725(b) and (c) of the Act, 22 VAC 30-30-171, and 22 VAC 30-30-181;

d. The quality of key personnel of the applicant and the involvement of individuals with significant disabilities by the applicant;

e. The budget and cost-effectiveness of the applicant;

f. The evaluation plan of the applicant; and

g. The ability of the applicant to carry out the plan for complying with the standards and assurances and the evaluation plan.

22 VAC 30-30-140. Approval of grants or contracts for independent living centers. (Repealed.)

~~No applicant shall be eligible for a grant to establish independent living services or to develop independent living centers unless its plan and budget have been approved (i) by the governing body or bodies of each political subdivision of which it is an agency or by the governing board, if any, of the private nonprofit agency, organization or facility, making such application and (ii) by the Department of Rehabilitative Services.~~

22 VAC 30-30-141. Order of priorities for centers for independent living.

A. This subsection is applicable to federally funded CILs. For grants under subsection C of 22 VAC 30-30-131, in accordance with a state's allotment and to the extent funds are available, the order of priorities for allocating funds among centers within a state is as follows:

1. Existing centers as described in 34 CFR 366.23 that comply with the standards and assurances in § 725(b) and (c) of the Act, 22 VAC 30-30-171, and 22 VAC 30-30-181 first receive the level of funding each center received in the previous year. However, any funds received by an existing center to establish a new center at a different geographical location in response to subdivision B 2 b of 22 VAC 30-30-131 are not included in determining the level of funding to the existing center in any fiscal year that the new center applies for and receives funds as a separate center.

2. Existing centers that meet the requirements of subdivision 1 of this subsection then receive a cost-of-living

increase in accordance with procedures consistent with § 721(c)(3) of the Act.

3. New centers that comply with the standards and assurances in § 725 (b) and (c) of the Act, 22 VAC 30-30-171, and 22 VAC 30-30-181 are considered next. If, after meeting the priorities in subdivisions 1 and 2 of this subsection, there are insufficient funds under the state's allotment under § 721(c) and (d) of the Act to fund a new center, the Secretary of the U.S. Department of Education may (i) use the excess funds in the state to assist existing centers consistent with the state plan or (ii) reallocate these funds in accordance with § 721(d) of the Act.

B. This subsection is applicable to federally funded CILs. For grants under subsection D of 22 VAC 30-30-131, unless the director of the DSU and the chairperson of the Statewide Independent Living Council (council), or other person designated by the council to act on behalf of and at the direction of the council, jointly agree on another order of priorities, the director shall follow the order of priorities in subsection A of this section for allocating funds among centers within a state, to the extent funds are available. If the order of priorities in subsection A is followed and, after meeting the priorities in subdivision A 1 of this section, there are insufficient funds under the state's allotment under § 721(c) and (d) of the Act to fund a new center under subdivision A 3 of this section, the director may (i) use the excess funds in the state to assist existing centers consistent with the state plan, or (ii) return these funds to the Secretary of the U.S. Department of Education for reallocation in accordance with § 721(d) of the Act.

C. This subsection is applicable to state-funded CILs. With guidance from the Statewide Independent Living Council and other entities as appropriate, the department will fund CILs based on documented need.

22 VAC 30-30-150. Governing board of centers for independent living.

A. Each center shall be governed by a board consisting of no less than seven persons, established for the sole purpose of operating a center for independent living. The board shall consist of no fewer than seven persons and shall contain a majority number of individuals with significant disabilities who shall provide a cross-disability representation. The center will be designed and operated within local communities by individuals with disabilities, including an assurance that the center will have a board that is the principle governing body of the center and a majority of which must be composed of individuals with significant disabilities. This governing board shall be established prior to the submission of a grant proposal to fund such a CIL. Only the board established for the purpose of operating a CIL is eligible to receive grants and contracts from the department.

~~B. The governing board shall contain a majority number of persons with disabilities who shall provide a cross-disability representation.~~

22 VAC 30-30-160. Staff.

A. ~~CIL~~ The majority of the center for independent living (CIL) staff shall include as large a proportion of persons with

~~disabilities as is practicable and individuals with decision-making positions shall be individuals with disabilities.~~

B. ~~CILs~~ The staff of the service provider shall be staffed by persons skilled or trained to assist individuals with disabilities, achieve social and economic independence include personnel who are specialists in the development and provision of IL services and in the development and support of centers.

C. CILs shall meet all relevant licensure, certification, bonding, and insurance requirements of the Department of Rehabilitative Services.

D. To the maximum extent feasible, the service provider must make available personnel able to communicate (i) with individuals with significant disabilities who rely on alternative modes of communication, such as manual communication, nonverbal communication devices, Braille, or audio tapes, and who apply for or receive IL services under Title VII of the Act, and (ii) in the native languages of individuals with significant disabilities whose English proficiency is limited and who apply for or receive IL services under Title VII of the Act.

E. Staff at centers will receive training on how to serve unserved and underserved populations, including minority groups and urban and rural populations.

F. The service provider shall establish and maintain a program of staff development for all classes of positions involved in providing IL services and, if appropriate, in administering the CIL program. The staff development program must emphasize improving the skills of staff directly responsible for the provision of IL services, including knowledge of and practice in the IL philosophy.

22 VAC 30-30-170. Eligibility for those persons served by centers for independent living. (Repealed.)

~~A. Eligibility requirements shall be applied without regard to gender, race, age, creed, types of disability, color, religion or national origin. No residence requirement, durational or other, shall be imposed which excludes from services any individual who is present in the Commonwealth.~~

~~B. Basic eligibility criteria. A person may be eligible to become a participant in an independent living center when there is the presence of a severe disability, there is a stated need or request for services, and receipt of services can reasonably be expected to benefit the person's independence in the family, community or work.~~

~~C. Certification of eligibility. For independent living services, before or at the time the person is accepted for services, the CIL center staff shall document eligibility.~~

22 VAC 30-30-171. CIL assurances.

To be eligible for assistance under the Centers for Independent Living Program, an eligible agency shall provide satisfactory assurances that:

1. The applicant is an eligible agency;
2. The center will be designed and operated within local communities by individuals with disabilities, including an assurance that the center will have a board that is the principal governing body of the center and a majority of

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which will be composed of individuals with significant disabilities;

3. The applicant will comply with the standards in 22 VAC 30-30-181;

4. The applicant will establish clear priorities through:

a. Annual and three-year program and financial planning objectives for the center, including overall goals or a mission for the center;

b. A work plan for achieving the goals or mission, specific objectives, service priorities, and types of services to be provided; and

c. A description that demonstrates how the proposed activities of the applicant are consistent with the most recent three-year State Plan under § 704 of the Act;

5. The applicant will use sound organizational and personnel assignment practices, including taking affirmative action to employ and advance in employment qualified individuals with significant disabilities on the same terms and conditions required with respect to the employment of individuals with disabilities under § 503 of the Act;

6. The applicant will ensure that the majority of the staff and individuals in decision-making positions of the applicant are individuals with disabilities;

7. The applicant will practice sound fiscal management, including making arrangements for an annual independent fiscal audit;

8. The applicant will conduct an annual self-evaluation, prepare an annual performance report, and maintain records adequate to measure performance with respect to the standards in 22 VAC 30-30-181.

9. The annual performance report and the records of the center's performance will each contain information regarding, at a minimum:

a. The extent to which the center is in compliance with the standards in § 725(b) of the Act and 22 VAC 30-30-181;

b. The number and types of individuals with significant disabilities receiving services through the center;

c. The types of services provided through the center and the number of individuals with significant disabilities receiving each type of services;

d. The sources and amounts of funding for the operation of the center;

e. The number of individuals with significant disabilities who are employed by, and the number who are in management and decision-making positions in, the center;

f. The number of individuals from minority populations who are employed by, and the number who are in management and decision-making positions in, the center; and

g. A comparison, if appropriate, of the activities of the center in prior years with the activities of the center in most recent years;

10. Individuals with significant disabilities who are seeking or receiving services at the center will be notified by the center of the existence of, the availability of, and how to contact the client assistance program;

11. Aggressive outreach regarding services provided through the center will be conducted in an effort to reach populations of individuals with significant disabilities that are unserved or underserved by programs under Title VII of the Act, especially minority groups and urban and rural populations;

12. Staff at centers will receive training on how to serve unserved and underserved populations, including minority groups and urban and rural populations;

13. The center will submit to the Statewide Independent Living Council a copy of its approved grant application and the annual performance report;

14. The center will prepare and submit to the DSU if the center received a grant from the DSU director, or to the secretary if the center received a grant from the Secretary of the U.S. Department of Education, within 90 days of the end of each fiscal year, the annual performance report; and

15. An IL plan as described in § 704(e) of the Act will be developed for each individual who will receive services under 34 CFR Part 366 and the Centers for Independent Living Program unless the individual signs a waiver stating that an IL plan is unnecessary.

22 VAC 30-30-180. Ineligibility. (Repealed.)

~~When it is determined by CIL staff that independent living services cannot be expected to assist an individual to function more independently in family or community, or to engage or continue in employment, and after consultation with the individual, a certification of ineligibility shall be developed by CIL staff, approved and dated by an appropriate department staff member and notification promptly provided to the applicant. The notification shall state the reason for the decision and offer opportunity for consultation by the applicant or his designee. The person shall be notified in writing of his rights and the means by which he may seek remedy, including administrative review and fair hearing. The applicant shall be provided a detailed explanation of the availability of the services of the Client Assistance Program, Department for the Rights of the Disabled.~~

22 VAC 30-30-181. Evaluation standards.

To be eligible to receive funds under the Centers for Independent Living Program an applicant must agree to comply with the following evaluation standards:

1. Evaluation standard 1, Philosophy. The center shall promote and practice the IL philosophy of:

a. Consumer control of the center regarding decisionmaking, service delivery, management, and establishment of the policy and direction of the center;

- b. *Self-help and self-advocacy;*
- c. *Development of peer relationships and peer role models;*
- d. *Equal access of individuals with significant disabilities to all of the center's services, programs, activities, resources, and facilities, whether publicly or privately funded, without regard to the type of significant disability of the individual; and*
- e. *Promoting equal access of individuals with significant disabilities to all services, programs, activities, resources, and facilities in society, whether public or private, and regardless of funding source, on the same basis that access is provided to other individuals with disabilities and to individuals without disabilities.*

2. *Evaluation standard 2, Provision of services. The center shall provide IL services to individuals with a range of significant disabilities. The center shall provide IL services on a cross-disability basis (i.e., for individuals with all different types of significant disabilities, including individuals with significant disabilities who are members of populations that are unserved or underserved by programs under Title VII of the Act). The center shall determine eligibility for IL services. The center may not base eligibility on the presence of any one specific significant disability.*

3. *Evaluation standard 3, Independent living goals. The center shall facilitate the development and achievement of IL goals selected by individuals with significant disabilities who seek assistance in the development and achievement of IL goals from the center.*

4. *Evaluation standard 4, Community options. The center shall conduct activities to increase the availability and improve the quality of community options for IL to facilitate the development and achievement of IL goals by individuals with significant disabilities.*

5. *Evaluation standard 5, Independent living core services. The center shall provide IL core services and, as appropriate, a combination of any other IL services specified in § 7(30)(B) of the Act and 22 VAC 30-30-80.*

6. *Evaluation standard 6, Activities to increase community capacity. The center shall conduct activities to increase the capacity of communities within the service area of the center to meet the needs of individuals with significant disabilities.*

7. *Evaluation standard 7, Resource development activities. The center shall conduct resource development activities to obtain funding from sources other than Chapter 1 (29 USC § 796 et seq.) of Title VII of the Act.*

22 VAC 30-30-190. Order of selection for those served by centers for independent living. (Repealed.)

~~If funding prohibits provision of services in centers for independent living to all eligible applicants, an order of selection will be implemented.~~

~~PRIORITY I. Persons eligible and presently receiving services under an ILP.~~

~~PRIORITY II. Persons whose impairments are so severe that they do not presently have the potential for employment, but whose ability to live and function independently within their family setting, communities or institutions may be improved by the services.~~

~~PRIORITY III. Persons who need independent living services in order to engage in or maintain employment.~~

22 VAC 30-30-191. Compliance indicators.

A. *The compliance indicators establish the activities that a center for independent living shall carry out to demonstrate minimum compliance with the evaluation standards in 22 VAC 30-30-181. If a center fails to satisfy any one of the indicators, the center is out of compliance with the evaluation standards.*

B. *To be eligible to receive a continuation award for the third or any subsequent year of a grant, a center shall have complied fully during the previous project year with all of the terms and conditions of its grant; provide adequate evidence in its most recent annual performance report that the center is in minimum compliance with the evaluation standards in 22 VAC 30-30-181, and meets the requirements in 34 CFR Part 366. If a recipient receives funding for more than one center, each individual center shall meet these requirements.*

C. *Evidence a center must present to demonstrate that it is in minimum compliance with the evaluation standards is:*

1. *Compliance indicator 1, Philosophy. The center shall provide evidence in its most recent annual performance report that:*

a. *Individuals with significant disabilities constitute more than 50% of the center's governing board;*

b. *Individuals with disabilities constitute more than 50% of the center's employees in decision-making positions and employees in staff positions. A center may exclude personal assistants, readers, drivers, and interpreters employed by the center from this requirement. The determination that over 50% of a center's employees in decision-making and staff positions are individuals with disabilities must be based on the total number of hours (excluding any overtime) for which employees are actually paid during the last six-month period covered by the center's most recent annual performance report. However, a center must include in this determination its employees who are on unpaid family or maternity leave during this six-month period;*

c. *The center promotes self-help and self-advocacy among individuals with significant disabilities (e.g., by conducting activities to train individuals with significant disabilities in self-advocacy);*

d. *The center promotes the development of peer relationships and peer role models among individuals with significant disabilities (e.g., by using individuals with significant disabilities who have achieved IL goals (whether the goals were achieved independently or through assistance and services provided by a center) as instructors (volunteer or paid) in its training programs or as peer counselors);*

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e. The center ensures equal access of individuals with significant disabilities, including communication and physical access, to the center's services, programs, activities, resources, and facilities, whether publicly or privately funded. Equal access, for purposes of this subdivision, means that the same access is provided to any individual with a significant disability regardless of the individual's type of significant disability;

f. The center advocates for and conducts activities that promote the equal access to all services, programs, activities, resources, and facilities in society, whether public or private, and regardless of funding source, for individuals with significant disabilities; and

g. The center makes available in alternative formats, as appropriate, all of its written policies and materials and IL services.

2. Compliance indicator 2, Provision of services on a cross-disability basis. The center shall provide evidence in its most recent annual performance report that:

a. Provides IL services to eligible individuals or groups of individuals without restrictions based on the particular type or types of significant disability of an individual or group of individuals, unless the restricted IL services (other than the IL core services) are unique to the significant disability of the individuals to be served;

b. Provides IL services to individuals with a diversity of significant disabilities and individuals who are members of populations that are unserved or underserved by programs under Title VII of the Act; and

c. Provides IL core services to individuals with significant disabilities in a manner that is neither targeted nor limited to a particular type of significant disability.

3. Compliance indicator 3, Independent living goals. The center shall provide evidence in its most recent annual performance report that it:

a. Maintains a consumer service record that meets the requirements of 22 VAC 30-30-31 for each consumer;

b. Facilitates the development and achievement of IL goals selected by individuals with significant disabilities who request assistance from the center;

c. Provides opportunities for consumers to express satisfaction with the center's services and policies in facilitating their achievement of IL goals and provides any results to its governing board and the appropriate Statewide Independent Living Council;

d. Notifies all consumers of their right to develop or waive the development of an IL plan; and

e. Maintains records on the IL goals that consumers receiving services at the center believe they have achieved, the number of IL plans developed by consumers receiving services at the center, and the number of waivers signed by consumers receiving services at the center stating that an IL plan is unnecessary.

4. Compliance indicator 4, Community options and community capacity. The center shall provide evidence in its most recent annual performance report that, during the project year covered by the center's most recent annual performance report, the center promoted the increased availability and improved quality of community-based programs that serve individuals with significant disabilities and promoted the removal of any existing architectural, attitudinal, communication, environmental, or other type of barrier that prevents the full integration of these individuals into society. This evidence must demonstrate that the center performed at least one activity in each of the following categories:

a. Community advocacy;

b. Technical assistance to the community on making services programs, activities, resources, and facilities in society accessible to individuals with significant disabilities;

c. Public information and education;

d. Aggressive outreach to members of populations of individuals with significant disabilities that are unserved or underserved by programs under Title VII of the Act in the center's service area; and

e. Collaboration with service providers, other agencies, and organizations that could assist in improving the options available for individuals with significant disabilities to avail themselves of the services, programs, activities, resources, and facilities in the center's service area.

5. Compliance indicator 5, IL core services and other IL services. The center shall provide evidence in its most recent annual performance report that it provides:

a. Information and referral services to all individuals who request this type of assistance or services from the center in formats accessible to the individual requesting these services; and

b. As appropriate in response to requests from individuals with significant disabilities who are eligible for IL services from the center, the following services:

(1) IL skills training;

(2) Peer counseling (including cross-disability peer counseling);

(3) Individual and systems advocacy; and

(4) A combination, as appropriate, of any two or more of the IL services defined in § 7(30)(B) of the Act and 22 VAC 30-30-80.

6. Compliance indicator 6, Resource development activities. The center shall provide evidence in its most recent annual performance report that it has conducted resource development activities within the period covered by the performance report to obtain funding from sources other than Chapter 1 (29 USC § 796 et seq.) of Titles VII of the Act.

22 VAC 30-30-200. ~~Scope of services for center for independent living. (Repealed.)~~

~~Services provided through grants or contracts with independent living centers may include:~~

- ~~1. Intake counseling to determine the individual's need for specific independent living services;~~
- ~~2. Peer counseling;~~
- ~~3. Independent living skills counseling and training, including equipment maintenance, job seeking skills, counseling related to therapy needs and programs, and special programs for persons with hearing disabilities;~~
- ~~4. Advocacy for persons with disabilities;~~
- ~~5. Counseling and advocacy services regarding legal and economic rights and benefits for the individual and their families;~~
- ~~6. Education and training necessary for living in the community and participating in community activities;~~
- ~~7. Referral and counseling services regarding attendant care;~~
- ~~8. Attendant care and the training of such personnel to provide such care;~~
- ~~9. Housing and transportation referral;~~
- ~~10. Surveys, directories and other activities to identify appropriate housing, accessible transportation and other support services;~~
- ~~11. Individual and group social and recreational activities;~~
- ~~12. Health maintenance programs;~~
- ~~13. Job development;~~
- ~~14. Community group living arrangements;~~
- ~~15. Other programs designed to provide resources, training, counseling services, or other assistance of substantial benefit, including but not limited to systems advocacy, community education, and technical assistance which do not conflict with federal or state laws and which promote the independence, productivity and quality of life of person with disabilities.~~

22 VAC 30-30-201. Funded activities under CIL program.

A. This subsection is applicable to federally funded CILs. An eligible agency may use funds awarded under Subpart B of 34 CFR Part 366 and subsection E of 22 VAC 30-30-131 to provide training and technical assistance to eligible agencies, centers, and the Statewide Independent Living Council to plan, develop, conduct, administer, and evaluate centers.

B. This subsection is applicable to federally funded CILs. An eligible agency may use funds awarded under subsections C and D of 22 VAC 30-30-131 to:

- 1. Plan, conduct, administer, and evaluate centers that comply with the standards and assurances in § 725(b) and (c) of the Act;*

2. Promote and practice the independent living (IL) philosophy in accordance with Evaluation Standard 1 (Philosophy) in 22 VAC 30-30-181;

3. Provide IL services (including IL core services and, as appropriate, a combination of any other IL services specified in § 7(30)(B) of the Act) to individuals with a range of significant disabilities in accordance with Evaluation Standards 2 and 5 (Provision of services and Independent living core services, respectively) in 22 VAC 30-30-181;

4. Facilitate the development and achievement of IL goals selected by individuals with significant disabilities who seek assistance in the development and achievement of IL goals from the center in accordance with Evaluation Standard 3 (Independent living goals) in 22 VAC 30-30-181;

5. Increase the availability and improve the quality of community options for independent living in order to facilitate the development and achievement of IL goals by individuals with significant disabilities in accordance with Evaluation Standard 4 (Community options) in 22 VAC 30-30-181;

6. Increase the capacity of communities within the service area of the center to meet the needs of individuals with significant disabilities in accordance with Evaluation Standard 6 (Activities to increase community capacity) in 22 VAC 30-30-181;

7. Conduct resource development activities to obtain funding from sources other than Chapter 1 (29 USC § 796 et seq.) of Title VII of the Act in accordance with Evaluation Standard 7 (Resource development activities) in 22 VAC 30-30-181; and

8. Conduct activities necessary to comply with the assurances in § 725(c) of the Act, including, but not limited to, the following:

a. Aggressive outreach regarding services provided through the center in an effort to reach populations of individuals with significant disabilities that are unserved or underserved by programs under Title VII of the Act, especially minority groups and urban and rural populations; and

b. Training for center staff on how to serve unserved and underserved populations, including minority groups and urban and rural populations.

22 VAC 30-30-210. ~~Participation by individuals in cost of services. (Repealed.)~~

~~A. Each public or private agency awarded a grant or contract in accordance with § 51.5-23 of the Code of Virginia shall utilize the board's regulations to maximize the financial participation of persons receiving services.~~

~~B. Groups exempt are:~~

- ~~1. Recipients of General Relief.~~
- ~~2. Recipients of Aid to Families with Dependent Children by the client or family in which the client is dependent.~~
- ~~3. Recipients of Supplemental Security Income (SSI).~~

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4. Recipients of Social Security Disability Income (SSDI).

~~C. The department's economic need test shall be used to determine the individual's participation in the cost of services received in the CILs. Services to individuals exempt from consideration for financial participation shall be evaluation, intake, peer counseling, advocacy, information and referral, independent living skills training, interpreter services for the deaf and job development.~~

~~Services which require an economic need test are: (i) equipment maintenance; (ii) education and training necessary for living in the community; (iii) attendant care and training of such personnel to provide such care; (iv) individual and group social and recreational activities; (v) health maintenance programs; and (vi) community group living arrangements.~~

22 VAC 30-30-211. Periodic review of centers for independent living (CILs).

A. This subsection is applicable to state-funded CILs and CILs receiving funds under § 723 of the Act and subsection D of 22 VAC 30-30-131. The director of the DSU shall periodically review each center to determine whether the center is in compliance with the standards and assurances in § 725(b) and (c) of the Act, 22 VAC 30-30-171, and 22 VAC 30-30-181. For purposes of this section, in the case of a state in which there is both a DSU responsible for providing IL services to the general population and a DSU responsible for providing IL services for individuals who are blind, the "director" shall be the director of the general DSU. These state units shall periodically consult with each other with respect to the provision of services for individuals who are blind.

1. For state-funded CILs, the periodic review shall include annual on-site compliance reviews of at least 15 percent of the centers.

2. For CILs receiving funds under § 723 of the Act and subsection D of 22 VAC 30-30-131, the periodic review shall include annual on-site compliance reviews of at least 15% of the centers.

3. Each team that conducts an on-site compliance review shall include at least one person who is not an employee of the designated state agency, who has experience in the operation of centers, and who is jointly selected by the director of the DSU and the chairperson of the Statewide Independent Living Council (council), or other individual designated by the council to act on behalf of and at the direction of the council.

4. A copy of each review shall be provided to the council. For centers receiving funds under § 723 of the Act and subsection D of 22 VAC 30-30-131, a copy shall also be provided to the Secretary of the U.S. Department of Education.

B. This subsection is applicable to federally and state-funded CILs. For state-funded CILs and CILs receiving funds under § 723 of the Act and subsection D of 22 VAC 30-30-131 if the director of the DSU determines that the center is not in compliance with the standards and assurances in § 725(b) and (c) of the Act, 22 VAC 30-30-171, and 22 VAC 30-30-181, the director shall immediately notify the center in writing that the center is out of compliance. For CILs receiving funds

under § 721 of the Act and subsection C of 22 VAC 30-30-131, if the Secretary of the U.S. Department of Education determines that the center is not in compliance with the standards and assurances in § 725(b) and (c) of the Act, 22 VAC 30-30-171, and 22 VAC 30-30-181, the secretary shall immediately notify the center in writing that the center is out of compliance. The director or secretary, as appropriate, shall provide technical assistance to the center to develop a corrective action plan to comply with the standards and assurances. The director's or secretary's, as appropriate, initial written notice must:

1. Include, at a minimum, (i) the name of the center, (ii) the reason or reasons for proposing the termination of funds or other significant adverse action against the center, including any evidence that the center has failed to comply with any of the evaluation standards or assurances, and (iii) the effective date of the proposed termination of funds or other significant adverse action against the center;

2. Be given 90 days in advance of the date the director or secretary, as appropriate, intends to terminate a center's funds or take any other significant adverse action against the center;

3. Inform the center that it has 90 days from the date the center receives the notice to submit a corrective action plan;

4. For centers receiving federal funds under § 723 or 725 of the Act, inform the center that (i) it may seek mediation and conciliation in accordance with this subsection to resolve any dispute within the 90 days before the proposed action against the center and (ii) if mediation and conciliation are not successful and the director does not issue a final written decision under subdivision C 3 of this section, the center may appeal to the Secretary of the U.S. Department of Education the decision described in the director's initial written notice on or after the 90th day, but not later than the 120th day, after the center receives the director's initial decision; and

5. Be sent by certified mail, return receipt requested, or by other means that provide proof of receipt.

C. This subsection is applicable to state-funded CILs and CILs receiving funds under § 723 of the Act and subsection D of 22 VAC 30-30-131.

1. Unless the center receiving funds under § 723 of the Act and subsection D of 22 VAC 30-30-131 submits, within 90 days after receiving the initial written notice, a corrective action plan to achieve compliance that is approved by the director or, if appealed, is approved by the Secretary of the U.S. Department of Education, the director shall terminate all funds under § 723 of the Act and subsection D of 22 VAC 30-30-131 to the center. Funds shall be terminated 90 days after the later of: (i) the date that the center receives the initial written notice, or (ii) the date that the center receives the secretary's final decision, if the center appeals under 22 VAC 30-30-220 the director's decision described in the initial written notice, or the director's decision not to approve the corrective action plan.

2. For centers receiving state general funds, the director shall terminate all state general funds to the center 90 days

after the date the center receives the director's initial written notice, unless the center submits, within 90 days after receiving the initial written notice, a corrective action plan to achieve compliance that is approved by the director.

3. If the center submits a corrective action plan within the 90-day period, the director shall provide to the center, not later than the 120th day after the center receives the director's initial written notice, a final written decision approving or disapproving the center's corrective action plan and informing the center, if appropriate, of the termination of the center's funds or any other proposed significant adverse action against the center.

a. The director's final written decision to disapprove a center's corrective action plan must (i) address any response from the center to the director's initial written notice, (ii) include a statement of the reasons why the director could not approve the corrective action plan, and (iii) inform a center receiving funds under § 723 of the Act of its right to appeal to the Secretary of the U.S. Department of Education, within 30 days from receipt, the director's final written decision to terminate funds or take other significant adverse action against the center.

b. A director's final written decision to terminate funds or take any other adverse action against a center may not take effect until 30 days after the date that the center receives it.

c. If a center receiving funds under § 723 of the Act and subsection D of 22 VAC 30-30-131 appeals under subsection A of 22 VAC 30-30-220, the director's final written decision to terminate funds or take any other adverse action against a center does not take effect until the Secretary of the U.S. Department of Education issues a final decision.

d. The director shall send the final written decision to the center by registered or certified mail, return receipt requested, or other means that provide a record that the center received the director's final written decision.

22 VAC 30-30-220. Appeal procedures for CILs.

~~Appeal Procedures for Independent Living Rehabilitation Services provided by Independent Living Rehabilitation Centers shall adhere to a department approved appeal procedure.~~

A. This subsection is applicable to centers receiving funds under § 723 of the Act. To obtain the Secretary of the U.S. Department of Education review of a director's final written decision to disapprove a center's corrective action plan submitted under subdivision C 1 of 22 VAC 30-30-211, the center shall file, within 30 days from receipt of the director's final written decision, a formal written appeal with the secretary giving the reasons why the center believes that the director should have approved the center's corrective action plan. For purposes of this section, in the case of a state in which there is both a DSU responsible for providing IL services to the general population and a DSU responsible for providing IL services for individuals who are blind, the "director" shall be the director of the general DSU. These

DSUs shall periodically consult with each other with respect to the provision of services for individuals who are blind.

B. This subsection is applicable to centers receiving funds under § 723 of the Act. To obtain the Secretary of the U.S. Department of Education's review of a decision described in a director's initial written notice, a center that does not submit a corrective action plan to a director shall file, in accordance with subdivision C 1 a (1) of this section, a formal written appeal with the secretary giving the reasons why the center believes that the director should have found the center in compliance with the standards and assurances in § 725(b) and (c) of the Act, 22 VAC 30-30-171, and 22 VAC 30-30-181.

C. This subsection is applicable to centers receiving funds under § 723 of the Act and subsection D of 22 VAC 30-30-131. To appeal to the Secretary of the U.S. Department of Education a decision described in a director's initial written notice or a director's final written decision to disapprove a center's corrective action plan and to terminate or take other significant adverse action:

1. A center shall file with the secretary:

a. A formal written appeal:

(1) On or after the 90th day but not later than the 120th day following a center's receipt of a director's initial written notice; or

(2) On or before the 30th day after a center's receipt of the director's final written decision to disapprove a center's corrective action plan and to terminate or take other significant adverse action;

b. A copy of the corrective action plan, if any, submitted to the director; and

c. One copy each of any other written submissions sent to the director in response to the director's initial written notice to terminate funds or take other significant adverse action against the center.

2. The date of filing a formal written appeal to the secretary is determined in a manner consistent with the requirements of 34 CFR 81.12.

3. If the center files a formal written appeal with the secretary, the center shall send a separate copy of the appeal to the director by registered or certified mail, return receipt requested, or other means that provide a record that the director received a separate copy of the center's written appeal.

4. The center's formal written appeal to the secretary must state why:

a. The director has not met the burden of showing that the center is not in compliance with the standards and assurances in § 725(b) and (c) of the Act, 22 VAC 30-30-171, and 22 VAC 30-30-181; and

b. The corrective action plan, if any, should have been approved; or

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c. The director has not met the procedural requirements of subsection B of 22 VAC 30-30-211 and subsections A through E of this section.

5. As part of its submissions, the center may request an informal meeting with the secretary at which representatives of both parties will have an opportunity to present their views on the issues raised in the appeal.

D. This subsection is applicable to centers receiving funds under § 723 of the Act and subsection D of 22 VAC 30-30-131. A director's decision to terminate funds that is described in an initial written notice or final written decision is stayed as of the date (determined under subdivision C 2 of this section) that the center files a formal written appeal with the secretary.

E. This subsection is applicable to centers receiving funds under § 723 of the Act and subsection D of 22 VAC 30-30-131. If the center files a formal written appeal in accordance with subsection C of this section, the director shall, within 15 days of receipt of the center's appeal, submit to the secretary one copy each of the following:

1. The director's initial written notice to terminate funds or take any other significant adverse action against the center sent to the center.

2. The director's final written decision, if any, to disapprove the center's corrective action plan and to terminate the center's funds or take any other significant adverse action against the center.

3. Any other written documentation or submissions the director wishes the secretary to consider.

4. Any other information requested by the secretary.

5. As part of its submissions, the director may request an informal meeting with the secretary at which representatives of both parties will have an opportunity to present their views on the issues raised in the appeal.

F. This subsection is applicable to centers receiving funds under § 723 of the Act and subsection D of 22 VAC 30-30-131. If either party requests a meeting under subdivisions C 4 d or E 5 of this section, the meeting is to be held within 30 days of the date of the secretary's receipt of the submissions from the director that are required by subsection E of this section. The secretary promptly notifies the parties of the date and place of the meeting.

1. Within 30 days of the informal meeting or, if neither party has requested an informal meeting, within 60 days of the date of receipt of the submissions required from the director by subsection E of this section, the secretary issues to the parties the secretary's decision.

2. The secretary reviews a decision included in a director's initial written notice or a director's final written decision to disapprove the center's corrective action plan and to terminate the center's funds or take any other significant adverse action against the center based on the record submitted under subsections C and E of this section and may affirm or, if the secretary finds that the decision included in a director's initial written notice or a director's

final written decision is not supported by the evidence or is not in accordance with the law, may:

a. Remand the appeal for further findings; or

b. Reverse the decision described in the director's initial written notice or the director's final written decision.

3. The secretary sends copies of the decision to the parties by registered or certified mail, return receipt requested, or other means that provide a record of receipt by both parties.

4. If the secretary affirms the decision described in a director's initial written notice or the director's final written decision, the director's decision takes effect on the date of the secretary's final decision to affirm.

22 VAC 30-30-230. ~~Protections, use and release of personal information. (Repealed.)~~

~~The CILs will adhere to the department's regulations as set forth in 22 VAC 30-20-190 of the Virginia Rehabilitative Regulations.~~

22 VAC 30-30-240. ~~Cooperative agreements. (Repealed.)~~

~~No services funded by the department to the CILs shall be provided to:~~

~~1. Persons whose primary impairment is mental illness, mental retardation or substance abuse, except by cooperative agreement with the local community service board established pursuant to § 37.1-19.4 et seq. of the Code of Virginia, when the board is currently offering the same services; or~~

~~2. Public school aged persons, except by cooperative agreement with that person's school, unless the services are not otherwise available.~~

PART III.

INDEPENDENT LIVING SERVICES (ILS) PROGRAM.

22 VAC 30-30-241. Agencies eligible for ILS program.

A. Any DSU identified by the state under 34 CFR 364.22 is eligible to apply for assistance under 34 CFR Part 365 and this part.

B. To receive a grant under 34 CFR Part 365 and this part, a state shall submit to the Secretary of the U.S. Department of Education and obtain approval of a state plan that meets the requirements of Part A of Title VII of the Act and Subparts B and C of 34 CFR Part 264.

22 VAC 30-30-250. Referrals.

A. Department of Rehabilitative Services clients referred to ~~CIL~~ a center for independent living by department counselors for specific services related to the vocational objective under the ~~WRP~~ Individualized Employment Plan (IEP) may have those services funded by the department based upon approved vendor arrangements between the department and the respective center.

B. The DSU shall develop, establish, and maintain written standards and procedures to be applied by service providers to assure expeditious and equitable handling of referrals and

applications for IL services from individuals with significant disabilities.

C. The service provider shall apply the standards and procedures established by the DSU to assure expeditious and equitable handling of referrals and applications for IL services from individuals with significant disabilities.

D. A DSU may handle referrals and applications for IL services or, except as otherwise provided, may delegate these functions and responsibilities to the appropriate service provider with which the DSU subgrants or contracts to provide IL services.

22 VAC 30-30-260. Authorized use of ILS funds.

A. The Secretary of the U.S. Department of Education provides financial assistance to states under the Independent Living Services program authorized by Part B of Chapter 1 (29 USC § 796 et seq.) of Title VII of the Act to:

1. Provide the resources described in the resource plan required by § 705(e) of the Act and 34 CFR 364.21(d) relating to the Statewide Independent Living Council. A majority of the voting members of the Statewide Independent Living Council must be individuals with disabilities and not employed by any state agency or center for independent living;
2. Provide to individuals with significant disabilities the independent living services required by section 704(e) of the Act;
3. Demonstrate ways to expand and improve IL services;
4. Support the operation of centers for independent living that are in compliance with the standards and assurances in § 725(b) and (c) of the Act, 22 VAC 30-30-171, and 22 VAC 30-30-181;
5. Support activities to increase the capacities of public or nonprofit agencies and organizations and other entities to develop comprehensive approaches or systems for providing IL services;
6. Conduct studies and analyses, gather information, develop model policies and procedures, and present information, approaches, strategies, findings, conclusions, and recommendations to federal, state, and local policy makers in order to enhance IL services for individuals with significant disabilities;
7. Train individuals with significant disabilities, individuals with disabilities, individuals providing services to individuals with significant disabilities, and other persons regarding the IL philosophy; and
8. Provide outreach to populations that are unserved or underserved by programs under Title VII of the Act, including minority groups and urban and rural populations.

B. The state may use funds received under 34 CFR Part 365 to support the activities listed in subsection A of this section and to meet its obligation under § 704(e) of the Act and 34 CFR 364.43(b) and subsection A of 22 VAC 30-30-270.

22 VAC 30-30-270. Grants or contracts for IL services.

A. The state plan must provide that the state directly, or through grants or contracts, will provide IL services with federal, state, or other funds.

B. A state may not condition the award of a grant, subgrant, or contract under § 713 of the Act or a grant, subgrant, or assistance contract under § 723 of the Act and subsection D of 22 VAC 30-30-131 on the requirement that the applicant for the grant or subgrant make a cash or in-kind contribution of any particular amount or value to the state.

C. An individual, entity, or organization that is a grantee or subgrantee of the state, or has a contract with the state, may not condition the award of a subgrant or subcontract under § 713 of the Act or § 723 of the Act and subsection D of 22 VAC 30-30-131 on the requirement that the applicant for the subgrant or subcontract make a cash or in-kind contribution of any particular amount or value to the state or to the grantee or contractor of the state.

D. If a state makes a subgrant or enters into a contract to provide IL services to meet its obligation under § 704(e) of the Act:

1. The provisions of 34 CFR Part 365 apply to both the state and the entity or individual to whom it awards a subgrant or with whom it enters into a contract; and
2. The provisions concerning the administration of subgrants and contracts in 34 CFR Parts 76 and 80 apply to the state.

22 VAC 30-30-280. Standards for service providers.

A. In providing IL services to individuals with significant disabilities, service providers shall comply with:

1. The written standards for IL service providers established by the DSU required by subsections B and C of this section; and
2. All applicable state or federal license or certification requirements.

B. The DSU shall develop, establish, make available to the public, maintain, and implement written minimum standards for the provision of:

1. IL services to be met by service providers that are not centers; and
2. Specialized IL services to individuals with significant disabilities by centers under a contract with the DSU. These minimum standards may differ from the standards and assurances in § 725 of the Act, 22 VAC 30-30-171, and 22 VAC 30-30-181.

C. The DSU shall assure that participating service providers meet all applicable state licensure or certification requirements.

VA.R. Doc. No. R03-36; Filed July 7, 2003, 4:03 p.m.



FINAL REGULATIONS

For information concerning Final Regulations, see Information Page.

Symbol Key

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

TITLE 4. CONSERVATION AND NATURAL RESOURCES

MARINE RESOURCES COMMISSION

REGISTRAR'S NOTICE: The following regulations filed by the Marine Resources Commission are exempt from the Administrative Process Act in accordance with § 2.2-4006 A 12 of the Code of Virginia; however, the commission is required to publish the full text of final regulations.

Title of Regulation: 4 VAC 20-490. Pertaining to Sharks (amending 4 VAC 20-490-40 and 4 VAC 20-490-60).

Statutory Authority: § 28.2-201 of the Code of Virginia.

Effective Date: July 1, 2003.

Agency Contact: Deborah Cawthon, Regulatory Coordinator, Marine Resources Commission, 2600 Washington Avenue, 3rd Floor, Newport News, VA 23607, telephone (757) 247-2248, FAX (757) 247-2002 or e-mail dcawthon@mrc.state.va.us.

Summary:

The amendments provide for the commercial harvesting of spiny dogfish.

4 VAC 20-490-40. Catch limitations.

A. It shall be unlawful for any person to take or catch by hook and line, rod and reel, or spear and retain possession of more than one shark at any time.

1. Any shark taken after the possession limit has been reached shall be returned to the water immediately.
2. When fishing from any boat or vessel where the entire catch is held in a common hold or container, the possession limit shall be for the boat or vessel and shall be equal to the number of persons on board legally eligible to fish. The captain or operator of the boat or vessel shall be responsible for any boat or vessel possession limit.

B. It shall be unlawful for any commercial fishing vessel to have on board or to land more than 7,500 pounds of shark carcasses per day, *except as provided by subsection F of this section*. The vessel captain or operator is responsible for compliance with the provisions of this subsection.

C. Except as provided in subsection D of this section, it shall be unlawful for any person to land in Virginia or to possess for commercial purposes any shark less than 58 inches in fork length or any shark carcass less than 31 inches in carcass length.

D. Any person may harvest and land for commercial purposes from Virginia's portion of the Territorial Sea within the three

nautical mile line only up to 200 pounds of shark carcasses less than the 31-inch minimum carcass length.

E. It shall be unlawful for any person to take, possess *aboard any vessel* or land in Virginia any spiny dogfish *harvested from federal waters (Exclusive Economic Zone, 3-200 miles)* for commercial purposes after it has been announced that the federal quota for spiny dogfish has been taken.

F. It shall be unlawful for any person to take, possess aboard any vessel or land in Virginia more than 7,000 pounds of spiny dogfish per day for commercial purposes.

G. It shall be unlawful for any person to harvest any spiny dogfish for commercial purposes from state waters after it has been announced that the interstate quota for spiny dogfish has been taken.

H. All spiny dogfish harvested from state waters or federal waters for commercial purposes must be sold to a federally permitted dealer.

4 VAC 20-490-60. Exceptions.

Nothing in 4 VAC 20-490-40 or 4 VAC 20-490-50 shall pertain to the taking or possession of the smooth dogfish, and nothing in 4 VAC 20-490-40 A through D ~~or 4 VAC 20-490-50~~ shall pertain to the taking or possession of the spiny dogfish.

VA.R. Doc. No. R03-253; Filed July 1, 2003, 3:38 p.m.

Title of Regulation: 4 VAC 20-910. Pertaining to Scup (Porgy) (amending 4 VAC 20-910-45).

Statutory Authority: § 28.2-201 of the Code of Virginia.

Effective Date: July 1, 2003.

Agency Contact: Deborah Cawthon, Regulatory Coordinator, Marine Resources Commission, 2600 Washington Avenue, 3rd Floor, Newport News, VA 23607, telephone (757) 247-2248, FAX (757) 247-2002 or e-mail dcawthon@mrc.state.va.us.

Summary:

The amendment increases the commercial harvest and landing of scup from 4,987 pounds to 7,721 pounds from May 1 to October 31 annually. This modification of the summer quota maintains Virginia's compliance with the Atlantic States Marine Fisheries Commission's Fishery Management Plan.

4 VAC 20-910-45. Possession limits and harvest quotas.

A. During the period January 1 through April 30 of each year, it shall be unlawful for any person to do any of the following:

1. Possess aboard any vessel in Virginia more than 15,000 pounds of scup.

2. Land in Virginia more than a total of 15,000 pounds of scup during each consecutive seven-day landing period, with the first seven-day period beginning on February 1.

B. When it is projected and announced that 85% of the coastwide quota for this period has been attained, it shall be unlawful for any person to do any of the following:

1. Possess aboard any vessel in Virginia more than a total of 1,000 pounds of scup.

2. Land in Virginia more than a total of 1,000 pounds of scup during each seven-day landing period, with the first seven-day landing period beginning upon the announcement that 85% of the coastwide quota has been projected to be attained.

C. During the period November 1 through December 31 of each year, it shall be unlawful for any person to possess aboard any vessel or to land in Virginia more than 2,000 pounds of scup; except when it is announced that 70% of the coastwide quota for this period has been taken, it shall be unlawful for any person to possess aboard any vessel or land in Virginia more than 500 pounds of scup, until such time that the coastwide quota for this period has been reached.

D. During the period May 1 through October 31 of each year, the commercial harvest and landing of scup in Virginia shall be limited to ~~4,987~~ 7,721 pounds.

E. For each of the time periods set forth in this section, the Marine Resources Commission will give timely notice to the industry of calculated poundage possession limits and quotas and any adjustments thereto. It shall be unlawful for any person to possess or to land any scup for commercial purposes after any winter period coastwide quota or summer period Virginia quota has been attained and announced as such.

F. It shall be unlawful for any buyer of seafood to receive any scup after any commercial harvest or landing quota has been attained and announced as such.

G. It shall be unlawful for any person fishing with hook and line, rod and reel, spear, gig or other recreational gear to possess more than 50 scup. When fishing is from a boat or vessel where the entire catch is held in a common hold or container, the possession limit shall be for the boat or vessel and shall be equal to the number of persons on board legally eligible to fish multiplied by 50. The captain or operator of the boat or vessel shall be responsible for any boat or vessel possession limit. Any scup taken after the possession limit has been reached shall be returned to the water immediately.

VA.R. Doc. No. R03-255; Filed July 1, 2003, 3:38 p.m.

Title of Regulation: 4 VAC 20-950. Pertaining to Black Sea Bass (amending 4 VAC 20-950-47).

Statutory Authority: § 28.2-201 of the Code of Virginia.

Effective Date: July 1, 2003.

Agency Contact: Deborah Cawthon, Regulatory Coordinator, Marine Resources Commission, 2600 Washington Avenue,

3rd Floor, Newport News, VA 23607, telephone (757) 247-2248, FAX (757) 247-2002 or e-mail dcawthon@mrc.state.va.us.

Summary:

The amendment adjusts the quota for commercial harvesting of black sea bass. The directed commercial fishery quota is reduced from 619,703 pounds to 558,334 pounds, and the bycatch commercial fishery quota is reduced from 46,697 to 42,073 pounds.

4 VAC 20-950-47. Commercial harvest quotas.

A. The 2003 directed commercial fishery black sea bass quota is ~~619,703~~ 558,334 pounds. When it has been announced that the directed fishery quota has been projected as reached and the directed fishery has been closed, it shall be unlawful for any directed commercial black sea bass fishery permittee to possess aboard any vessel or land in Virginia any black sea bass.

B. The 2003 bycatch commercial fishery black sea bass quota is ~~46,697~~ 42,073. When it has been announced that the bycatch fishery quota has been projected as reached and the bycatch fishery has been closed, it shall be unlawful for any bycatch commercial black sea bass fishery permittee to possess aboard any vessel or land in Virginia any black sea bass. In the event the bycatch fishery quota is exceeded, the amount the quota is exceeded shall be deducted from the following year's bycatch fishing quota.

VA.R. Doc. No. R03-256; Filed July 1, 2003, 3:38 p.m.

TITLE 6. CRIMINAL JUSTICE AND CORRECTIONS

STATE BOARD OF JUVENILE JUSTICE

Title of Regulation: **6 VAC 35-20. Regulations Governing the Monitoring, Approval, and Certification of Juvenile Justice Programs (amending 6 VAC 35-20-10, 6 VAC 35-20-30, 6 VAC 35-20-50, 6 VAC 35-20-60, [6 VAC 35-20-80,] 6 VAC 35-20-90, 6 VAC 35-20-100, 6 VAC 35-20-110, and 6 VAC 35-20-120; adding 6 VAC 35-20-35, 6 VAC 35-20-37, 6 VAC 35-20-63, 6 VAC 35-20-65, 6 VAC 35-20-67, 6 VAC 35-20-69, 6 VAC 35-20-75, 6 VAC 35-20-92, [6 VAC 35-20-93,] 6 VAC 35-20-94, and 6 VAC 35-20-150; repealing 6 VAC 35-20-20, 6 VAC 35-20-40, 6 VAC 35-20-70, [~~6 VAC 35-20-80,~~] 6 VAC 35-20-130, and 6 VAC 35-20-140).**

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

Effective Date: September 1, 2003.

Agency Contact: Donald Carignan, Regulatory Coordinator, Department of Juvenile Justice, 700 Centre, 700 E. Franklin St., 4th Floor, Richmond, VA 23219, telephone (804) 371-0743, FAX (804) 371-0773 or e-mail carigndr@djj.va.state.us.

Final Regulations

Summary:

The regulation provides the process by which the board and the Department of Juvenile Justice will monitor and approve residential and nonresidential programs that are part of the Commonwealth's juvenile justice system. Changes are required to the existing regulation because many procedural steps required in the regulation are no longer practical or in some cases even possible due to organizational changes in the Department of Juvenile Justice.

Changes made since the proposed stage include (i) replacing the table in 6 VAC 35-20-100 with a narrative explanation of the certification actions that the board may take under various circumstances; (ii) adding mandatory standards designated in 6 VAC 35-20-150; (iii) providing in 6 VAC 35-20-93 for waiver of nonmandatory standards pending board action on an appeal by a program; (iv) changing the time frame for filing an appeal of an audit finding in 6 VAC 35-20-94 from 30 days to 15 days, to be consistent with the timeframe established at 6 VAC 35-20-90 B for developing a plan of action to address noncompliance findings.

Summary of Public Comments and Agency's Response: A summary of comments made by the public and the agency's response may be obtained from the promulgating agency or viewed at the office of the Registrar of Regulations.

REGISTRAR'S NOTICE: The proposed regulation was adopted as published in 19:3 VA.R. 412-424 October 21, 2002, with the additional changes shown below. Therefore, pursuant to § 2.2-4031 A of the Code of Virginia, the text of the final regulation is not set out at length; however, the changes from the proposed regulation are printed below.

CHAPTER 20.

REGULATIONS GOVERNING THE MONITORING, APPROVAL, AND CERTIFICATION PROCESS OF JUVENILE JUSTICE PROGRAMS.

PART I.

GENERAL PROVISIONS.

6 VAC 35-20-10. Definitions.

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

["*Administrative probation*" means the status granted to a program or facility in an emergency situation at the discretion of the director pending the next regularly scheduled board meeting.

"*Administrative review*" means the audit of the administrative records of a local jurisdiction or governing commission. The administrative review involves only a review of documentation housed at a central office.

"*Appeal*" means the action taken by a unit, facility or program administrator after an audit when there is disagreement with a team finding of noncompliance.]

~~"Appropriate regional administrator" or "chief" means the regional administrator, Chief of Operations for Learning~~

~~Centers or Chief of Operations for Community Funding responsible for planning, implementing, coordinating, monitoring and evaluating the program in question.~~

~~"Board" means the Virginia Board of Youth and Family Services (BYFS) Juvenile Justice.~~

~~"Certification" means the board's formal finding that a program meets (i) all mandatory standards; (ii) an acceptable percentage of all other standards as indicated in the chart at 6 VAC 35-20-100; and (iii) the requirements of applicable board policies; and is consequently approved to operate for a specific period of time.~~

~~["*Certification audit*" means an on-site visit by designated personnel to assess a program's compliance with applicable board standards and policies, the results of which are reported to the board for certification audit.]~~

~~["*Certification audit report*" or "*audit report*" means the report prepared for review by the board.]~~

~~"*Certification inspector*" means a staff member of the DYFS Certification Unit who serves as the chairperson of the certification team. This person is referred to as team leader.~~

~~["*Certification status*" means the type of certification approved by the board for a given program, including the] three-year [period of time specified in the certificate during which the program must maintain its standards compliance levels and have acceptable plans of action.]~~

~~"*Certification team*" means those persons designated by the Department of Youth and Family Services to conduct compliance audits, including the Certification Inspector.~~

~~"*Certification training*" means training provided by the certification unit for prospective team members or facility staff in need of audit preparation assistance.~~

~~"*Certification unit*" means the organizational unit of the Department of Youth and Family Services responsible for organizing and facilitating inspections of programs funded by the department.~~

~~"*Certification unit manager*" means that person employed by the Department of Youth and Family Services responsible for the administration of the certification unit.~~

~~["*Certified*" means that the board has approved a program] has achieved an acceptable level of compliance with standards promulgated by the board [to operate under the conditions set out in 6 VAC 35-20-100.]~~

~~"*Chief of Operations for Community Funding*" means the individual responsible for the planning, implementing, coordinating, monitoring and evaluating of the DYFS funding of locally or privately operated community programs.~~

~~"*Chief of Operations for Information and Evaluation*" means that individual employed by the Department of Youth and Family Services accountable for the administration of information and evaluation.~~

~~"*Chief of Operations for Learning Centers*" means that individual employed by the Department of Youth and Family Services accountable for the administration and operation of learning centers.~~

~~"Complaint" means a report of a problem or concern made by staff, clients, parents or guardians, other agencies or the general public about a facility or program certified by the Board of Youth and Family Services.~~

[~~"Compliance" means meeting the requirements of a standard or an applicable board policy.]~~

[~~"Compliance Certification audit" means an on-site review investigation by a certification team of designated personnel to assess a program's compliance with applicable board standards promulgated by the board and policies, the results of which are reported to the board for certification action.]~~

~~"Compliance documentation" means those records, reports, pictures, blueprints, observations and interviews required to verify a program's adherence to standards.~~

~~"Decertification Decertified" means the Board of Youth and Family Services has determined that a previously certified program has does not meet a minimum acceptable level of compliance with standards meet the requirements to be certified and is no longer approved to operate.~~

~~"Deficiency" and "noncompliance" means that the program does not meet, or has not demonstrated that it meets, the requirements of a board standard or policy or does not comply with the Virginia Juvenile Community Crime Control Act local plan approved by the board.~~

~~"Department" means the Virginia Department of Youth and Family Services (DYFS) Juvenile Justice.~~

~~"Deputy Director for Programs" means the individual employed by the Department of Youth and Family Services, and designated by the director as the administrator of program operations and funding.~~

~~"Deputy Director for Administration and Finance" means the individual employed by the Department of Youth and Family Services, and designated by the director as responsible for the management of administrative and financial operations.~~

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

~~"Interim audit" means an audit that occurs by special order of the board or the director.~~

~~"Interim certification report" means the program's verification of continued compliance with the standards.~~

~~"Life, health, safety standards (LHS) violation" means those standards related any action or omission that results in noncompliance with a board standard or policy and causes an immediate and potentially serious threat to the life, health or safety of the youth and or staff in residential programs as defined by the board that must be maintained in 100% compliance at all times.~~

~~"Mandatory standards" means those standards of performance for nonresidential programs as defined by the board which must be maintained in 100% compliance at all times.~~

~~"Monitoring visit" means an on-site review by designated personnel to assess a program's compliance with board-~~

~~approved standards, policies and, when applicable, Virginia Juvenile Community Crime Control Act local plan.~~

~~"Newly opened facility" means both (i) a facility that is newly constructed and (ii) an existing facility that is being placed in service as a residential program.~~

~~"Not applicable standards" means standards which are not relevant to the program because of the structure of the program or the services it provides.~~

~~"Plan of action" means a written document which that explicitly states what has been or will be done to bring all deficiencies into compliance with board standards and policies.~~

~~"Preparatory audit" means an on-site review of a new program by regional office staff prior to an audit by a certification unit staff member to provide guidance in audit documentation and standards compliance.~~

~~"Probationary status" ["Probation" means the temporary status granted to a program by the board] of Youth and Family Services [to provide a period of time in which to come into compliance with standards.]~~

~~"Program" means a juvenile residential facility [, court service unit,] or a nonresidential service subject to standards or policies of the board.~~

[~~"Program administrator" means the staff member responsible for the operation of a program, facility or institution.]~~

~~"Quality of life and services statement" means the portion of the audit report to the board which describes issues regarding staff (such as motivation, commitment to the program, personal development, interaction between staff and clients and team work), the building (such as suitability of building and furnishings for program and population, provisions for privacy, maintenance, safety); and program (such as use of community resources, community interaction, interagency cooperation, individualized treatment).~~

~~"Random sampling" means a system for selecting programs for monitoring visits, by which all programs in a given category have a similar likelihood of being selected for a visit, but which may not result in any given program receiving a monitoring visit during any given period of time.~~

~~"Regional administrator" means the individual responsible for the direction of activities in a designated area in the Commonwealth to include planning, implementing, coordinating, monitoring, and evaluating DYFS and DYFS utilized programs.~~

~~"Regional office staff" means those individuals assigned to a particular regional office responsible for assisting the regional administrator in the duties described above.~~

~~"Related professional agencies" means any unit within the Department of Youth and Family Services or any public or private agency, which serves a similar clientele or provides services similar to those of the program to be certified.~~

~~"Substantial compliance" means that the program meets all applicable mandatory standards and at least 90% of all other applicable standards.~~

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~~"Standard Systemic deficiency" means that the performance of a unit, facility or program, or evidence supporting this performance, is insufficient to meet the requirements of a standard deficiencies have been found in three or more separate but related standards and have been cited by certification personnel as indicating that a program may have significant problems in a given area [such as recordkeeping, training, health services, social services, security, etc].~~

~~"Suggested compliance determination list" means a list of suggested documents or information sources which can be used to verify compliance with a standard.~~

~~"Unannounced interim visits" means periodic visits to a facility to monitor compliance with standards.~~

~~["Unresolved life, health or safety violation" means a life, health or safety violation that is not corrected in an approved corrective plan of action or that has recurred after the life, health or safety violation was noted during an interim monitoring visit.]~~

~~"Variance" means a decision by the board of Youth and Family Services to relieve action that relieves a program of from having to meet a specific standard or develop a plan of action for a specified that standard, either permanently or for a determined period of time, when (i) waiving these requirements will not result in a threat to the life, health or safety of juveniles or staff; (ii) enforcement will create an undue hardship; (iii) the standard is not specifically required by statute or by the regulations of another government agency; (iv) the standard is not designated as mandatory by the board; and (v) juveniles' care or services would not be adversely affected.~~

~~[Waiver" means a formal statement from the department temporarily excusing a program from meeting a nonmandatory standard pending board action on a formal variance request.]~~

6 VAC 35-20-20. [No change from proposed.]

PART II. ADMINISTRATION.

6 VAC 35-20-30. [No change from proposed.]

6 VAC 35-20-35. [No change from proposed.]

6 VAC 35-20-37. Director's authority to take immediate administrative action.

Nothing in this regulation shall be construed to limit the director's authority to take immediate administrative action in accordance with law whenever (i) evidence is found of any life, health or safety violation or (ii) a program is not in substantial noncompliance with board-approved standards, policies, or local plan for Virginia [Juvenile] Community Crime Control Act programs. Such administrative action may include, but is not limited to (a) withholding funds; (b) removing juveniles from the program; or (c) placing the program on administrative probation for up to six months pending certification action by the board. In taking such action, the department shall notify both the program [, the administrative entity that the program reports to,] and the board, in writing, of the reason for the administrative action, and the action the program must take to correct the situation.

6 VAC 35-20-40. [No change from proposed.]

6 VAC 35-20-50. Preaudit process.

~~A. The certification unit manager shall develop a compliance audit schedule to cover a one-year period for dissemination to affected programs and staff.~~

~~Requests for rescheduling the compliance audit may be granted by the certification unit manager, provided the program requests the schedule change 90 days prior to the scheduled audit. Audits must occur before the expiration of the current certification.~~

~~B. Certification team members shall be appointed and notified of their appointment in writing by the appropriate regional administrator or the chief. Team members shall have completed certification training and shall be approved by the certification unit manager and the director or designee. The appropriate regional administrator or the chief shall be informed at least 10 days prior to the audit of any unacceptable team members. The appropriate regional administrator or chief shall be responsible for finding a replacement within five days of the audit and notifying the certification unit manager of that replacement.~~

~~C. The program administrator of the agency to be audited shall receive a list of team members and shall have the right to request alternate team members. The request shall be in writing and shall be approved by the appropriate regional administrator or chief assigning the team member. The appropriate regional administrator or chief shall be responsible for finding a replacement for the team member if approved.~~

~~D. The certification unit inspector shall notify the program administrator in writing at least 60 days in advance of the audit.~~

~~E. The certification inspector shall visit the program administrator prior to the audit to discuss the compliance audit process and procedures. Exceptions to this previsit shall be approved by the certification unit manager.~~

~~F. In instances where several programs are operated under the administration of a single commission, the certification unit manager and the program administrator may agree to an administrative review audit.~~

~~A. At least six months in advance of an audit, personnel designated by the director shall notify each program to be audited of the scheduled audit date.~~

~~B. Up until 90 days before the scheduled audit, the program administrator may request that the audit be rescheduled. Except as provided in 6 VAC 35-20-100, audits, even if rescheduled, must occur before the expiration of the current certification.~~

~~[C. Audit team members shall be appointed and notified of their appointment at least 30 days prior to the scheduled audit. The program administrator of the agency to be audited shall receive a list of the team members.]~~

~~[~~C. D.~~] At least 10 days prior to the scheduled audit, the program administrator may, for just cause, request that one or more members of the audit team be replaced. Every reasonable effort will be made to comply with the request.~~

[E. In instances where several programs are operated under the administration of a single commission, the certification team and the program administrator may agree to an administrative review audit.]

6 VAC 35-20-60. Frequency of audits Monitoring visits.

A. All state and local facilities, programs and units operated by or affiliated with the Department of Youth and Family Services shall be audited every three years by the certification unit or a designee of the unit. More frequent audits may occur as required by the board subject to periodic monitoring visits, scheduled and conducted in accordance with written department procedures. Whenever deemed necessary, the board may require that a monitoring visit be conducted of any program.

B. All programs referenced in subsection A shall receive announced or unannounced documented interim audits by regional office staff or staff of the appropriate chief at least once every six months. More frequent audits may occur as required. The department shall annually submit to the board a plan for monitoring programs, which shall provide for at least the following:

1. All residential programs, court service units and offices on youth [that are currently receiving state funding] shall receive at least one announced monitoring visit per year. A certification audit may satisfy the requirement of a scheduled monitoring visit. In addition, all residential programs and court service units shall receive at least one unannounced monitoring visit per year.
2. All nonresidential programs established under the Virginia Juvenile Community Crime Control Act (Article 12.1 of Title 16.1 of the Code of Virginia) shall be reviewed at least once every two years to determine compliance with the approved local plans and standards promulgated by the board.
3. Individual nonresidential programs shall receive monitoring visits according to the department's annual plan, which may provide for random sampling of programs in various categories. However, during each calendar year at least one nonresidential program in each Virginia Juvenile Community Crime Control Act (VJCCCA) plan shall receive a monitoring visit.

C. Exceptions to the frequency of audits as stated above shall be granted for the following reasons:

1. When a new program opens it shall undergo a documented preparatory audit by regional office staff or staff of the appropriate chief during the first six months of operation. A compliance audit shall be conducted between the sixth and twelfth month of operation as arranged by the certification unit manager and every three years thereafter. More frequent audits may occur as required by the board.
2. Exceptions to the required frequency of audits may be granted when circumstances beyond the control of the program staff prohibit compliance with the standards (for example, natural disaster). In no case shall the audit be postponed for more than six months after the original audit date.

6 VAC 35-20-63. Reports of monitoring visits.

[~~At each regular meeting of the board,~~] The department shall report to the board in writing [~~all programs receiving any significant deficiencies identified through~~] monitoring visits [~~since the last report and any significant areas where or other means when~~] a program has failed to [~~address take~~] needed corrective action.

6 VAC 35-20-65. Reports required of life, health and safety violations.

A. Whenever department personnel become aware of a life, health or safety violation, the department shall [take immediate action to correct the situation if the program has not already done so. Such action may include but is not limited to reporting the situation to Child Protective Services, the State Police, or other enforcement authorities as appropriate, administrative probation, removal of residents or suspension of funding. The department shall] report to the board no later than its next regularly scheduled meeting: (i) the nature and scope of the violation, and (ii) the action taken by the department or the program to correct the deficiency [~~which may include but is not limited to administrative probation, removal of residents, or suspension of funding~~].

B. When a life, health or safety violation has not been adequately corrected, the board may take certification action up to and potentially including decertification.

6 VAC 35-20-67. [No change from proposed.]

6 VAC 35-20-69. New construction, expansion or renovation of residential programs.

A. New construction, expansions and renovations in all juvenile residential programs, whether or not the facility or its sponsor is seeking reimbursement for construction or operations, shall conform to applicable provisions in the board's Regulations for Local Juvenile Residential Facility Construction and Reimbursement of Local Construction Costs (6 VAC 35-30), and Standards for Interagency Regulation of Children's Residential Facilities (22 VAC 42-10). In addition, the department shall consider the facility's degree of compliance with the Guidelines for Minimum Standards in Design and Construction of Juvenile Facilities.

B. The department shall not approve the housing of juveniles in a newly opened facility if the facility does not meet the requirements for a conditional certification as provided in [~~the table at~~] 6 VAC 35-20-100.

C. The department shall not approve the housing of juveniles in any portion of a facility that has been modified through expansion or renovation, until designated department staff visit the facility and verify that:

1. The facility or applicable portion thereof complies with all applicable mandatory standards and physical plant standards; and
2. The current certification issued by the board is appropriate to the status of its program and construction.

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6 VAC 35-20-70. [No change from proposed.]

6 VAC 35-20-75. Certification of individual programs.

A. The board shall individually certify all juvenile residential facilities, court service units and offices on youth [that are currently receiving state funding].

B. The department shall schedule and conduct certification audits in sufficient time for the board to take action on the audit report before a program's current certification expires. The department shall publish procedures for naming audit team members, conducting on-site audits, determining compliance, conducting exit interviews, reviewing and approving corrective plans of action, and instructing programs how to request variances or appeal findings.

C. Upon the completion of the audit, the certification audit findings shall be reported to the program's administrator and sponsor and to appropriate department personnel. The program administrator or sponsor may appeal any of the certification audit findings in accordance with department procedures that shall specify (i) the timeframes for filing the appeal and for the department's response; and (ii) the department personnel responsible for considering the appeal.

D. Appeals of audit findings that cannot be resolved by the department shall be forwarded to the board for resolution as provided in 6 VAC 35-20-94.

E. Designated department personnel shall review and approve plans of action to address deficiencies identified in the audit report, and summaries of the approved plans of action shall be forwarded to the board along with the audit report.

F. Requests for variances shall be forwarded to the board along with the department's recommendation to approve or disapprove the variance.

6 VAC 35-20-80. [On-site audit procedures. (~~Repealed.~~)]

A. ~~On-site audit procedures shall include the following:~~

- ~~1. Program administrator interview.~~
- ~~2. Facility tour.~~
- ~~3. Team orientation.~~
- ~~4. Data gathering.~~
- ~~5. Team voting on standards compliance.~~
- ~~6. Assessment and discussion of quality of life issues.~~
- ~~7. Prebriefing with the program administration to discuss audit findings.~~
- ~~8. Debriefing to inform program staff of audit findings.~~

B. ~~Evidence of proof of compliance:~~

- ~~4. [A. The burden of providing] evidence of [proof of compliance with standards rests with the program staff. Documentation created once the audit has begun shall not be accepted.]~~
- ~~2. [B. It is permissible to provide additional documentation should the certification team request it; however, such documentation] shall [must already exist when the audit~~

~~begins. Once the audit is concluded, any changes made by an agency] cannot bring itself into compliance with a standard for the purpose of changing [will not change the compliance] rating [determination for] that [a given standard but instead]. The changes [become part of the program's plan of action.]~~

~~3. The certification unit manager, the appropriate regional administrator or the chief where appropriate, and the director or designee shall be informed immediately of any serious problems or issues revealed to the team.~~

6 VAC 35-20-90. Certification audit reports.

A. ~~Post reporting process:~~

~~4. [A. A report of the team's findings shall be submitted to the program administrator within 10 working days following the compliance audit] to the program administrator and the appropriate regional administrator or the chief of operations for learning centers where appropriate [.]~~

~~2. The program administrator may respond to the findings described in the report in one of three ways:~~

- ~~a. Submit a plan of action as described below.~~
- ~~b. Request a variance as described in subsection C.~~
- ~~c. Appeal the findings as described in subsection D.~~

~~3. [B. The program administrator] with assistance from the appropriate regional office or chief [shall develop a plan of action to correct all noncompliance findings. The plan of action shall be submitted to the] appropriate regional administrator or chief [department personnel as designated in department procedures within 15 days of receipt of the report of the team's findings. In exceptional situations, the] certification unit manager [designated department personnel may grant a 30-day extension to a program administrator for the development of an action plan.]~~

~~4. Each plan of action shall identify:~~

- ~~a. The deficiency or deficiencies.~~
- ~~b. The tasks required to correct each deficiency, including the steps necessary to prevent its recurrence.~~
- ~~c. The responsible agency and staff position, which may include the regional office.~~
- ~~d. The deadlines for the accomplishment of tasks.~~

~~5. Acceptable plans of action. Within five working days of receipt the appropriate regional administrator or chief shall review and upon finding the plan acceptable, approve the plan of action and forward it to the certification unit manager. Within five working days the certification unit manager shall review, and forward the plan of action to the director or designee with recommendations regarding certification and recommendations to deny or approve variance requests. Within five working days the director or designee shall sign the plan of action indicating review and approval and return it to the certification unit for inclusion in the audit report to the board.~~

~~6. Unacceptable plans of action:~~

a. ~~Regional office or appropriate chief level. Within five working days of receipt, the regional administrator shall review the plan of action and upon finding the plan unacceptable, return it to the program administrator with a cover letter clearly stating what areas are unacceptable and suggestions for appropriate corrective action. The program administrator shall have five working days in which to resubmit an acceptable action plan. If the resubmitted action plan is unacceptable, the appropriate regional administrator or chief shall forward it to the director or designee for referral to the board for action with a copy to the certification unit manager.~~

b. ~~Certification unit level. If a plan of action approved by the appropriate regional administrator or chief is unacceptable to the certification unit manager, the certification unit manager within five working days shall return the plan of action to the appropriate regional administrator or chief with a cover letter clearly stating what areas are unacceptable and suggestions for appropriate corrective action. The appropriate regional administrator or chief shall return the plan of action to the program administrator within five working days for revision. If the program administrator fails to submit an acceptable action plan within five working days, or the appropriate regional administrator or chief does not agree with the certification unit manager, the matter shall be referred to the director or designee for a decision or referral to the board for action.~~

e. ~~Director or designee level. If a plan of action is unacceptable to the director or designee, it shall be returned within five working days to the appropriate regional administrator or chief with a cover letter clearly stating what areas are unacceptable and suggestions for appropriate corrective action. The certification unit manager shall receive a copy. The appropriate regional administrator or chief shall then have three working days to return the plan of action to the program administrator for revision. The program administrator shall have five working days to resubmit an acceptable plan of action. If an acceptable plan of action is not submitted within the required time frame, the director or designee shall refer the matter to the board for action.~~

~~B. Failure to submit an acceptable action plan. When a program administrator fails to submit an acceptable plan of action within the time frame specified in subsection A, the department shall refer the matter to the Board of Youth and Family Services with recommendations for action.~~

~~C. Variance request.~~

~~1. A variance may be requested in those instances where a facility is unable to comply with a standard or a portion of a standard.~~

~~2. A variance shall state:~~

- ~~a. The standard for which a variance is requested;~~
- ~~b. The justification for the request;~~
- ~~c. Any actions taken to come into compliance;~~
- ~~d. The person and agency responsible for such action;~~

~~e. The date at which time compliance is expected; and~~

~~f. The specific number of months requested for this variance.~~

~~3. Variance requests approved by the appropriate regional administrator or chief reviewed by the certification unit manager and approved by the director or designee shall be forwarded to the board for final approval. The board shall be made aware of any denied requests.~~

~~4. Should the program be subject to a compliance audit during the period of the variance, a copy of the approved variance shall be provided to the certification team during the on-site audit.~~

~~D. Appeal process.~~

~~1. If an appeal of any audit findings is being made, the program administrator shall attach the appeal request to any plan of action.~~

~~2. A plan to correct the deficiency should the appeal be denied shall be included in the plan of action.~~

~~3. Appeals shall be forwarded to the certification unit manager by the appropriate regional administrator or the chief along with the plan of action. The certification unit manager shall prepare a report on the appeal for review by the appropriate levels of appeal. The levels of appeal review are as follows:~~

~~a. The appropriate regional administrator or chief, upon review of plan of action, shall make every effort to resolve the appeal with the program administrator. If the program administrator is not satisfied, the appeal must be forwarded to the certification unit manager;~~

~~b. Chief of operations for information and evaluation;~~

~~c. Deputy director of administration and finance and the deputy director for programs;~~

~~d. Director for the Department of Youth and Family Services; and~~

~~e. Board of Youth and Family Services.~~

~~4. The certification unit manager shall distribute required documents within three working days of receipt of appeal documents. The administrators cited above shall complete required reviews or appeal decisions within five working days from receipt of the appeals.~~

~~5. Upon completion of each appeal level, the certification unit manager shall notify all parties involved of the appeal decisions within three workdays. The parties involved shall then have five working days from receipt of each decision notification to decide whether or not to appeal to the next level and to inform the certification unit manager of that decision in writing.~~

~~6. If the appeal is granted at the administrative level, the certification unit manager shall note this decision on the plan of action and the deficiency shall be removed from the audit report.~~

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~~E. Board review of audit report. The certification unit manager shall submit audit reports at the first regular board meeting which occurs 75 days or more after the audit. The board shall be notified of any extensions granted.~~

~~Audit reports shall be distributed to the regional offices, and to the appropriate chief, after official board action for distribution to the applicable programs.~~

~~[C. The department shall issue guidelines, including timeframes, that provide a process for reviewing and approving plans of corrective action, including those that are initially deemed unacceptable and in need of refinement, in time for the plans to be included in the audit report to the board. If an acceptable plan of action is not submitted within the required time frame, the director or designee shall refer the matter to the board for action.~~

~~D.] Each certification audit report submitted to the board shall contain:~~

- ~~1. The program's name, administrator, sponsor, location and purpose;~~
- ~~2. A summary of the program's target audience, its relation to other entities in the community and in the juvenile justice system, and other information relevant to its operation;~~
- ~~3. The date of the certification audit and the names of the audit team members;~~
- ~~4. Notation of all standards and policies for which noncompliance was found, including especially notation of any life, health or safety violations; a brief description of the circumstances, including extenuating and aggravating factors; and supplemented, when appropriate, with photographic evidence or other documentation; and~~
- ~~5. For each deficiency cited, a plan of corrective action that states:
 - ~~a. The action taken or required to correct the deficiency and prevent its recurrence;~~
 - ~~b. The person or agency responsible for the action; and~~
 - ~~c. The deadline for taking the action.~~~~

6 VAC 35-20-92. [No change from proposed.]

[6 VAC 35-20-93. Waivers.

A. When a program has submitted a formal variance request to the board concerning a nonmandatory standard, the director may, but is not required to, grant a waiver temporarily excusing a program from meeting the requirements of the standard when (i) the standard is not required by statute or by federal or state regulations other than those issued by the board of juvenile justice; (ii) noncompliance with the standard will not result in a threat to the life, health or safety of residents or staff; (iii) enforcement will create an undue hardship; and (iv) juveniles' care or services would not be adversely affected.

B. The waiver shall be in effect only until such time as the board acts on the variance request. The board will act on the matter at its first meeting following notice from the department that a waiver has been granted.

C. The director shall promptly notify the board by first class mail of waivers granted, and the rationale for so doing.

D. A program will not be cited for noncompliance with the requirements of a standard during the time it operates pursuant to a waiver approved by the director.]

6 VAC 35-20-94. Appeal process.

If an appeal of any audit findings is being made, the program administrator shall attach the appeal request to any plan of action and submit the appeal to department personnel as designated in agency procedures within [~~30~~ 15] days of written notification of the audit findings.

Department staff as designated in agency procedures shall make every effort to resolve the appeal with the program administrator within 15 days of receiving the appeal. If the program administrator is not satisfied, he may submit a written request to department staff as designated in department procedures within five days to have the matter reviewed by the Board of Juvenile Justice at its next scheduled meeting. The matter will be placed on the board's agenda pursuant to timeframes adopted by the board for submission of agenda items.

6 VAC 35-20-100. Board certification action on—audit results.

A. The board may extend a current certification for a specified period of time, pending a certification audit and the completion of administrative reviews, provided the program meets all mandatory standards and the board and the department are not aware of any life, health or safety violations.

B. If a program's certification expires during a period when the board does not meet, the program's current certification status shall continue in effect until the board meets and takes certification action.

C. Once the board takes certification action, the board will issue a certificate or letter clearly identifying the program, the certification status, and the period of time during which the certification will be effective unless the certificate is revoked or surrendered sooner.

D. ~~[Based upon the certification audit report and supplementary information submitted by the department and the program, the board] shall make one of the following findings: [will take certification action in accordance with Table 1 of this section. Depending on the program's status as identified in Column I and the conditions described in Column II, the board will take the certification action listed in Column III. For purposes of calculating percentage of compliance, a standard will be identified either as a section of the Virginia Administrative Code or a subsection identified by an uppercase letter (A, B, C, etc.). Thus, whenever a section of a 6 VAC 35 regulation contains one or more subsections, each subsection constitutes a distinct standard. Subdivisions (identified by numerals (1, 2, 3, etc.) or lower case letters (a, b, c, etc.) are not separate standards but are elements of the standard. When any element a, b, c or 1, 2, 3 is not met, the standard in which it appears is not met.~~

[TABLE 1.
Certification Actions Available to the Board

I. Current Certification Status	II. Current program conditions as identified through the certification audit	III. Resulting Certification Action
New Program	<p>100% compliance with all mandatory standards; AND</p> <p>At least 90% compliance with all nonmandatory standards; AND</p> <p>Has acceptable Plans of Action for all noncompliances</p> <p>NO life, health or safety violations.</p>	Conditional Certification for up to six months
Conditional Certificate Probation	<p>100% compliance with all mandatory standards; AND</p> <p>At least 90% compliance with all other standards; AND</p> <p>Has acceptable Plans of Action for all noncompliance; AND</p> <p>NO life, health or safety violations; AND</p> <p>No more than one systemic deficiency.</p>	One-year Certification
One-year Certificate Three-year Certificate	<p>100% compliance with all mandatory standards; AND</p> <p>At least 95% compliance with all other standards; AND</p> <p>Has acceptable Plans of Action for all noncompliance; AND</p> <p>Has no life, health or safety violations; AND</p> <p>Has no systemic deficiencies.</p>	Three-year Certification
Any program	<p>Less than 100% compliance with all mandatory standards but has acceptable Plans of Action to address deficiencies; OR</p> <p>Less than 90% compliance with all other standards; OR</p> <p>Does not have acceptable plans of action for all noncompliance; OR</p> <p>One or more life, health or safety violations; OR</p> <p>Two or more systemic deficiencies.</p>	Probation for up to six months
	<p>Less than 100% compliance with all mandatory standards without acceptable Plans of Action to address deficiencies; OR</p> <p>Less than 90% compliance with all other standards AND does not have acceptable Plans of Action to address deficiencies; OR</p> <p>The reasons cited in placing the program on probation or administrative probation have not been corrected to the point that the program would qualify for at least conditional certification.</p> <p>The program's staff have (i) committed, permitted, aided or abetted any illegal act in the program; or (ii) violated child abuse or neglect laws; or (iii) deviated significantly from the program or services for which a certificate was issued without prior approval from the board; or (iv) failed to correct any such deviations within the time specified by the board; or (v) falsified records.</p>	Decertification or Denial of Certification (See § 16.1-309.9 B of the Code of Virginia)]

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E. A Conditional Certification for up to six months will be issued to a new program that:

1. Demonstrates 100% compliance with all mandatory standards;
2. Demonstrates at least 90% compliance with all nonmandatory standards;
3. Has acceptable plans of action for all noncompliances; and
4. Has no unresolved life, health or safety violations.

F. A One-year Certification will be issued when a program currently holds a Conditional Certification, a One-Year Certification, or a Three-Year Certification, and:

1. Is in 100 % compliance with all mandatory standards;
2. Demonstrates at least 90% compliance with all other standards;
3. Has acceptable plans of action for all noncompliance;
4. Has no unresolved life, health or safety violations; and
5. Has no more than one systemic deficiency.

G. A Three-year Certification will be issued when a program currently holds a One-year Certification or a Three-year Certification and the program:

1. Is in 100% compliance with all mandatory standards;
2. Demonstrates at least 95% compliance with all other standards;
3. Has acceptable plans of action for all noncompliance;
4. Has no unresolved life, health or safety violations; and
5. Has no systemic deficiencies.

H. Any program, in any certification status, will be placed on probation for up to six months when the program:

1. Is in less than 100% compliance with all mandatory standards but has acceptable plans of action to address deficiencies;
2. Demonstrates less than 90% compliance with all other standards;
3. Does not have acceptable plans of action for all noncompliance;
4. Has one or more unresolved life, health or safety violations; or
5. Has two or more systemic deficiencies.

I. Any program, regardless of current certification status, will be decertified or denied certification when:

1. The program is in less than 100% compliance with all mandatory standards without acceptable plans of action to address deficiencies;
2. The program demonstrates less than 90% compliance with all other standards and does not have acceptable plans of action to address deficiencies;

3. The program, if on probation or administrative probation, has not corrected the circumstances that were cited in placing the program on probation or administrative probation to the point that the program would qualify for at least conditional certification; or

4. The program's staff have (i) committed, permitted, aided or abetted any illegal act in the program; or (ii) violated child abuse or neglect laws; or (iii) deviated significantly from the program or services for which a certificate was issued without prior approval from the board; or (iv) failed to correct any such deviations within the time specified by the board; or (v) falsified records.]

~~1. The program is certified.~~

~~2. The program is placed on probationary status.~~

~~3. The program is decertified (or not certified if a new program).~~

~~The board may also place a program on administrative probation in emergency situations or continue an administrative probation status initiated by the director.~~

6 VAC 35-20-110 through 6 VAC 35-20-140. [No change from proposed.]

6 VAC 35-20-150. Mandatory standards for juvenile residential facilities.

The following standards, selected from Standards for Juvenile Residential Facilities (6 VAC 35-140) and Standards for Interdepartmental Regulation of Children's Residential Facilities (22 VAC 42), are designated as "mandatory" as defined in 6 VAC 35-20-10. Programs that are subject to these standards must be in 100% compliance with the following standards in order to be approved to operate. Failure to comply with these mandatory standards will result in enforcement actions in accordance with the Code of Virginia and as set forth in this chapter.

1. 6 VAC 35-140-190

2. 6 VAC 35-140-340

3. 6 VAC 35-140-460

[4. 6 VAC 35-140-660

5. 6 VAC 35-140-680

6. 6 VAC 35-140-690

4. 7.] 22 VAC 42-10-190

[~~5.~~ 8.] 22 VAC 42-10-300

[~~6.~~ 9.] 22 VAC 42-10-330 A, B and E

[~~7.~~ 10.] 22 VAC 42-10-490 B and C

[~~8.~~ 11.] 22 VAC 42-10-700 A and B

[~~9.~~ 12.] 22 VAC 42-10-710 B through I

[~~10.~~ 13.] 22 VAC 42-10-720

[~~11.~~ 14.] 22 VAC 42-10-730 A and C

[15. 22 VAC 42-10-800

16. 22 VAC 42-10-960 C and D]

[~~42.~~ 17.] 22 VAC 42-10-970

[~~43.~~ 18.] 22 VAC 42-10-1000.

VA.R. Doc. No. R00-150; Filed June 30, 2003, 12:42 p.m.

TITLE 9. ENVIRONMENT

STATE WATER CONTROL BOARD

REGISTRAR'S NOTICE: The following regulation filed by the State Water Control Board is exempt from the Administrative Process Act in accordance with § 2.2-4006 A 9 of the Code of Virginia, which exempts general permits issued by the State Water Control Board pursuant to the State Water Control Law (§ 62.1-44.2 et seq.), Chapter 24 (§ 62.1-242 et seq.) of Title 62.1 and Chapter 25 (§ 62.1-254 et seq.) of Title 62.1 of the Code of Virginia if the board (i) provides a Notice of Intended Regulatory Action in conformance with the provisions of § 2.2-4007 B; (ii) following the passage of 30 days from the publication of the Notice of Intended Regulatory Action forms a technical advisory committee composed of relevant stakeholders, including potentially affected citizens groups, to assist in the development of the general permit; (iii) provides notice and receives oral and written comment as provided in § 2.2-4007 F; and (iv) conducts at least one public hearing on the proposed general permit.

Title of Regulation: 9 VAC 25-193. General Virginia Pollutant Discharge Elimination System (VPDES) Permit for Ready-Mixed Concrete Plants (amending 9 VAC 25-193-10 and 9 VAC 25-193-30 through 9 VAC 25-193-70; repealing 9 VAC 25-193-80).

Statutory Authority: § 62.1-44.15 of the Code of Virginia; § 402 of the Clean Water Act; 40 CFR Parts 122, 123, and 124.

Effective Date: October 1, 2003.

Agency Contact: Lily Choi, Department of Environmental Quality, P.O. Box 10009, Richmond, VA 23240, telephone (804) 698-4054, FAX (804) 698-4032 or e-mail ychoi@deq.state.va.us.

Summary:

The general permit regulation provides a general permit for point source discharges of storm water runoff and process wastewater associated with the operation of ready-mixed concrete plants. In 1998, the State Water Control Board issued the general permit that expires on September 30, 2003. The amendments reissue the general permit so that it will provide continued coverage for permittees.

The general permit consists of limitations and monitoring requirements on discharges of process wastewater for the following parameters: flow, pH (6.0 min, 9.0 max), total suspended solids (30 mg/l avg, 60 mg/l max), total petroleum hydrocarbons (15 mg/l max), total residual chlorine (nondetectable max), ammonia-N, temperature (based on Water Quality Standards, max). Monitoring requirement for storm water discharge to surface water

includes the following parameters: flow, pH, total suspended solids, total recoverable iron and total petroleum hydrocarbons. The regulation also sets forth the minimum information requirements for all requests for coverage under the general permit.

Some revisions are made to the existing general permit regulation. Ammonia monitoring is required in cases where a discharge includes noncontact cooling water and chloramines are used for disinfection of the cooling water or its source. The reduced monitoring provision has been revised to require that monitoring frequency revert to monthly should noncompliance occur. Requirements for a daily inspection for freeboard maintenance and an inspection log to be kept on site are added. A permit special condition is included to address reuse of treated wastewater on site for the purposes of dust control. In order to maintain consistency with the EPA NPDES Storm Water Multi-Sector General Permit issued on October 30, 2000, total recoverable iron has been added and chemical oxygen demand deleted from the parameter list for storm water discharges. Requirements for quarterly visual examination of storm water quality, allowable nonstorm water discharges, and releases of hazardous substances or oil in excess of reportable quantities have been added to the storm water management section. The sector-specific storm water pollution prevention plan requirements are incorporated into the general permit. These include a drainage area site map, good housekeeping and routine inspections.

The following changes were made to the regulation after it was published for public comment:

1. The total residual chlorine (TRC) limitations are revised in accordance with DEQ's Guidance Memo #00-2001 Guidance on Preparing VPDES Permit Limits. Implementation of the toxic standards, including chlorine, was updated through this guidance as a result of recent modifications to the Virginia Water Quality Standards (9 VAC 25-260).
2. A special condition is added to identify the quantification levels for TRC and ammonia and to prescribe data handling protocols for the purposes of compliance reporting.
3. The freeboard special condition is revised to allow a 72-hour transition period after a measurable rainfall event, provided that no discharge shall occur during the transition period unless it is in accordance with the permit. The transition period of 72 hours provides sufficient flexibility for proper operation and maintenance of the facility.
4. Requirements for salt storage and storm water discharges associated with industrial activity from facilities subject to § 313 of the Emergency Planning and Community Right-to-Know Act of 1986 reporting requirements are added to the storm water pollution prevention plans.
5. A question regarding the storm water pollution prevention plan is added to the registration statement to ensure a plan has been prepared for proposed facilities prior to submission of the registration statement.

Final Regulations

REGISTRAR'S NOTICE: The proposed regulation was adopted as published in 19:11 VA.R. 1565-1582 February 10, 2003, with the changes identified below. Pursuant to § 2.2-4031 of the Code of Virginia, the adopted regulation is not published at length; however, the sections that have changed since publication of the proposed are set out.

9 VAC 25-193-10 through 9 VAC 25-193-50. [No change from proposed.]

9 VAC 25-193-60. Registration statement.

A. Deadlines for submitting registration statement. The owner shall file a complete *General VPDES Permit* registration statement which shall serve as a notice of intent to be covered under the general VPDES permit for ready-mixed concrete plants. Any owner proposing a new discharge shall file ~~the a~~ *complete* registration statement at least 30 days prior to the date planned for commencing operation of the *ready-mixed* concrete plant. Any owner of an existing *ready-mixed* concrete plant covered by an individual VPDES permit who is proposing to be covered by this general permit shall file ~~the a~~ *complete* registration statement at least 180 days prior to the expiration date of the individual VPDES permit. Any owner of an existing *ready-mixed* concrete plant not currently covered by a VPDES permit who is proposing to be covered by this general permit shall file ~~this a complete~~ registration statement.

B. The required owner shall submit a registration statement shall contain that contains the following information:

VIRGINIA POLLUTANT DISCHARGE ELIMINATION
SYSTEM
GENERAL PERMIT REGISTRATION STATEMENT
FOR READY-MIXED CONCRETE PLANTS

1. APPLICANT INFORMATION

A. Name of facility: _____

B. Facility owner: _____

C. Owner's mailing address

a. Street or P.O. Box _____

b. City or town _____

c. State _____

d. Zip code _____

e. Phone number _____

D. Facility location: _____

Street no., route no., or other identifier

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

Yes ___ No ___

If No, complete F. & G.

F. Name of operator: _____

G. Operator's mailing address

a. Street or P.O. Box _____

b. City or town _____

c. State _____

d. Zip code _____

e. Phone number _____

2. FACILITY INFORMATION

A. Primary standard industrial classification

(SIC) code: _____

Secondary SIC codes: _____

B. Nature of business: (provide a brief description)

C. Is this a proposed or existing facility?

Does this facility currently have a VPDES permit?

Yes ___ No ___

If yes, give permit number. _____

Does this facility currently have a No-Discharge Certificate or a VPA permit? Yes ___ No ___

If yes, give permit number. _____

D. Describe any type of wastewater treatment or reuse/recycle system(s); identify any system(s) which operates only in a "no discharge" mode:

If settling basins are used for treatment and control of process wastewater and commingled storm water, were these basins constructed, or will they be constructed, on or after February 2, 1998? Yes ___ No ___

If Yes, are these basins lined with concrete or any other impermeable materials? Yes ___ No ___

E. Are there vehicle/equipment maintenance activities on site?

Yes ___ No ___

If yes, is there any process wastewater generated from these activities?

Yes ___ No ___

F. Will this facility discharge noncontact cooling water from a geothermal unit or other system? Yes ___ No ___

If yes, describe the source of noncontact cooling water.

G. If any chemical additives are used in the geothermal or other system which discharges noncontact cooling water,

a. List the chemical additive to be employed and its purpose;

b. Give the proposed schedule and quantity of chemical usage, and the estimated concentration in the discharge;

c. Describe any wastewater treatment or retention (if any) to be provided during the use of the additives; and

d. Attach a Material Safety Data Sheet (MSDS) and available aquatic toxicity information for each additive proposed for use.

H. Describe any measures employed to reclaim, reuse or dispose of the waste concrete materials.

3. FACILITY DRAWING

Attach a schematic drawing showing the source(s) of water used on the property, the industrial operations contributing to or using water, and the conceptual design of the methods of treatment and disposal of wastewater and solids.

4. MAP

Attach a topographic map extending to at least one mile beyond property boundary. The map must show the outline of the facility, and the location of each of its existing and proposed intake and discharge points. Include all springs, rivers and other surface water bodies.

5. DISCHARGE INFORMATION

A. List all discharge outfalls by a number that is the same as on the map required in Question 4. Identify the processes which discharge through each outfall. Estimate the flow in gallons per day (gpd). Give the name of the waterbody receiving the discharge.

Outfall No. Operation Maximum Average Daily Flow (gpd) Receiving Stream

B. Identify the duration and frequency of the discharge for each separate discharge point:

-Outfall No. hour/day day/week

6. STORM WATER POLLUTION PREVENTION PLAN

If your facility is a proposed new one, as identified under Item 2 C, and includes storm water outfalls, as identified under Item 5 A, has a storm water pollution prevention plan been prepared?

Yes _____ No _____

7. CERTIFICATION

I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure

that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system or those persons directly responsible for gathering the information, the information submitted is to the best of my knowledge and belief true, accurate, and complete. I am aware that there are significant penalties for submitting false information including the possibility of fine and imprisonment for knowing violations.

Signature: _____ Date: _____

Name of person signing above: _____

(printed or typed)

Title: _____

REQUIRED ATTACHMENTS:

1. MSDS and available aquatic toxicity information for chemical additives (if applicable)

2. Facility drawing

3. Topographic map

For department use only:

Accepted/Not Accepted by: _____ Date: _____

Basin _____ Stream Class _____ Section _____

Special Standards: _____

- 1. Name and location of the facility;
- 2. Name, mailing address, and telephone number of the facility owner;
- 3. Name, mailing address, and telephone number of the operator if different than owner;
- 4. Facility's Standard Industrial Classification (SIC) Code(s);
- 5. Nature of business at facility;
- 6. Indicate if the facility is proposed or existing; if the facility has a current VPDES and/or VPA Permit; and Permit Number(s) for any current VPDES and/or VPA Permits;
- 7. Description of the wastewater treatment or reuse/recycle system(s); indicate if there are any system(s) which [operates operate] in a "no discharge" mode;
- 8. If settling basins are used for treatment and control of process wastewater and commingled storm water, indicate the original date of construction, and whether these basins are lined with concrete or any other impermeable materials;
- 9. Indicate if there are vehicle/equipment maintenance activities on site. If yes, indicate if there is any process wastewater generated from these activities;
- 10. Indicate if this facility discharges noncontact cooling water from a geothermal unit or other system. If yes, description of the source of noncontact cooling water;
- 11. Indicate if any chemical additives are used in the geothermal or other system which discharges noncontact cooling water. If yes, list of chemical additive employed and its purpose; proposed schedule and quantity of chemical

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usage, and estimated concentration in the discharge; description of any wastewater treatment or retention during the use of the additives, if applicable; and a Material Safety Data Sheet (MSDS) and available aquatic toxicity information for each additive proposed for use;

12. Description of any measures employed to reclaim, reuse or disposal of the waste concrete materials;

13. A schematic drawing which shows the source(s) of water used on the property, the industrial operations contributing to or using water, and the conceptual design of the methods of treatment and disposal of wastewater and solids;

14. A topographic map, extending to at least one mile beyond property boundary, which shows the outline of the facility, the location of each of its existing and proposed intake and discharge points, and the locations of any wells, springs, and other surface water bodies;

15. Discharge outfall information, including outfall number(s), processes involved, estimated flow (gallons per day), receiving water bodies, and duration and frequency of each discharge (hours per day and days per week);

[16. For a proposed facility that discharges storm water, indicate if a Storm Water Pollution Prevention Plan has been prepared.]

[~~16.~~ 17.] The following certification: "I hereby grant to duly authorized agents of the Department of Environmental Quality, upon presentation of credentials, permission to enter the property where the treatment works is located for the purpose of determining compliance with or the suitability of coverage under the General Permit. I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system or those persons directly responsible for gathering the information, the information submitted is to the

best of my knowledge and belief true, accurate, and complete. I am aware that there are significant penalties for submitting false information including the possibility of fine and imprisonment for knowing violations."

The registration statement shall be signed in accordance with the requirements of 9 VAC 25-31-110.

9 VAC 25-193-70. General permit.

Any owner whose registration statement is accepted by the board will receive the following permit and shall comply with the requirements contained therein and be subject to all requirements of ~~the VPDES Permit Regulation~~ (9 VAC 25-31-40 et seq.).

General Permit No.: VAG11

Effective Date: October 1, 2003

Expiration Date: September 30, 2008

GENERAL PERMIT FOR READY-MIXED CONCRETE PLANTS

AUTHORIZATION TO DISCHARGE UNDER THE VIRGINIA POLLUTANT DISCHARGE ELIMINATION SYSTEM AND THE VIRGINIA STATE WATER CONTROL LAW

In compliance with the provisions of the Clean Water Act, as amended, and pursuant to the State Water Control Law and regulations adopted pursuant thereto, owners of ready-mixed concrete plants are authorized to discharge to surface waters within the boundaries of the Commonwealth of Virginia, except those specifically named in board regulations or policies which prohibit such discharges.

The authorized discharge shall be in accordance with this cover page, Part I--Effluent Limitations and Monitoring Requirements, and Special Conditions, Part II--Storm Water Management, and Part III--Conditions Applicable to All VPDES Permits, as set forth herein.

PART I. EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTS.

A. Effluent limitations and monitoring requirements.

1. During the period beginning on the permit's effective date and lasting until the permit's expiration date, the permittee is authorized to discharge process wastewater which may contain input from vehicle/equipment maintenance activities, and may be commingled with noncontact cooling water or storm water associated with industrial activity. Samples taken in compliance with the monitoring requirements specified below shall be taken at [~~the following location(s):~~] outfall(s) serial [number: _____].

Such discharges shall be limited and monitored by the permittee as specified below:

EFFLUENT CHARACTERISTICS	DISCHARGE LIMITATIONS			MONITORING REQUIREMENTS	
	Average	Maximum	Minimum	Frequency	Sample Type
Flow (MGD)	NL	NL	NA	⁽⁶⁾	Estimate
Total Suspended Solids (mg/l)	30	60	NA	⁽⁶⁾	Grab
pH (standard units)	NA	9.0 ⁽¹⁾	6.0 ⁽¹⁾	⁽⁶⁾	Grab
Total Petroleum Hydrocarbons ⁽²⁾ (mg/l)	NA	15	NA	1/3 Months	Grab

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Total Residual Chlorine ⁽³⁾ [⁽⁴⁾] (mg/l)	[NA 0.016]	[Nondetectable 0.016]	NA	⁽⁶⁾	Grab
Ammonia-N ⁽³⁾ [⁽⁴⁾] (mg/l)	NA	NL	NA	⁽⁶⁾	Grab
Temperature [⁽³⁾ ⁽⁴⁾] (°C)	NA	⁽⁵⁾	NA	⁽⁶⁾	Immersion Stabilization

NL = No limitation, monitoring required

NA = Not applicable

⁽¹⁾Where the Water Quality Standards (9 VAC 25-260-40 et seq.) establish alternate standards for pH in the waters receiving the discharge, those standards shall be the maximum and minimum effluent limitations.

⁽²⁾Total Petroleum Hydrocarbons limitation and monitoring are only required where a discharge contains process wastewater generated from the vehicle/equipment maintenance activities. Total Petroleum Hydrocarbons shall be analyzed in accordance with the photometric method specified in the Standard Methods, 18th edition, 5520-F using the Wisconsin Department of Natural Resources Modified Diesel Range Organics Method as specified in Wisconsin publication SW-141 (1995), or by EPA SW-846 Method 8015B (1996) for diesel range organics, or by EPA SW-846 Method 8270C (1996). If Method 8270C is used, the lab must report the combination of diesel range organics and polynuclear aromatic hydrocarbons.

[⁽³⁾Chlorine and temperature limitation, and ~~chlorine, ammonia and temperature~~ monitoring are only required where a discharge contains noncontact cooling water.

⁽⁴⁾ ⁽³⁾ Chlorine limitation [~~of nondetectable (<0.1 mg/l)~~] and [~~chlorine and ammonia~~] monitoring are only required where the [~~source of discharge contains~~] cooling water [~~that~~] is chlorinated [~~or~~] where chlorine is added [~~contains chloramines~~]. Chlorine residual shall be measure using an EPA approved method than can reach a 0.1 mg/l level of detection. [~~Ammonia monitoring is only required where the discharge contains cooling water that is sidinfected using chloramines.~~]

⁽⁴⁾ Temperature limitation and monitoring are only required where a discharge contains cooling water.]

⁽⁵⁾The effluent temperature shall not exceed a maximum 32°C for discharges to nontidal coastal and piedmont waters, 31°C for mountain and upper piedmont waters, 21°C for put and take trout waters, or 20°C for natural trout waters. No maximum temperature limit applies to discharges to estuarine waters.

For estuarine waters, nontidal coastal and piedmont waters, mountain and upper piedmont waters, and put and take trout waters, the effluent shall not cause an increase in temperature of the receiving stream of more than 3°C above the natural water temperature. For natural trout waters, the temperature of the effluent shall not cause an increase of 1°C above natural water temperature. The effluent shall not cause the temperature in the receiving stream to change more than 2°C per hour, except in the case of natural trout waters where the hourly temperature change shall not exceed 0.5°C.

Natural temperature is defined as that temperature of a body of water (measured as the arithmetic average over one hour) due solely to natural conditions without the influence of any point-source discharge.

⁽⁶⁾ For a facility that was covered by the previous general permit, and reduced monitoring was granted and compliance demonstrated, monitoring frequency shall be 1/quarter. In all other cases, monitoring frequency shall be 1/month in the first year of permit coverage. If the first year results demonstrate full compliance with the effluent limitations and the permittee receives authorization from the DEQ regional office, monitoring frequency shall be reduced to 1/quarter for the rest of the permit term. Should the permittee be issued a warning letter related to violation of effluent limitations, a notice of violation, or be the subject of an active enforcement action, monitoring frequency shall [~~be reverted~~ revert] to 1/month, upon issuance of the letter or notice or initiation of the enforcement action and remain in effect until the permit's expiration date. Reports of quarterly monitoring shall be submitted to the DEQ regional office no later than the 10th day of April, July, October, and January.

PART I. EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTS.

A. Effluent limitations and monitoring requirements.

2. During the period beginning on the permit's effective date and lasting until the permit's expiration date, the permittee is authorized to discharge noncontact cooling water. Samples taken in compliance with the monitoring requirements specified below shall be taken at [~~the following location(s):~~] outfall(s) serial [~~number _____~~].

Such discharges shall be limited and monitored by the permittee as specified below:

EFFLUENT CHARACTERISTICS	DISCHARGE LIMITATIONS			MONITORING REQUIREMENTS	
	Average	Maximum	Minimum	Frequency	Sample Type
Flow (MGD)	NL	NL	NA	⁽⁴⁾	Estimate

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pH (standard units)	NA	9.0 ⁽¹⁾	6.0 ⁽¹⁾	⁽⁴⁾	Grab
Total Residual Chlorine ⁽²⁾ (mg/l)	[NA 0.016]	[Nondetectable 0.016]	NA	⁽⁴⁾	Grab
Ammonia-N ⁽²⁾ (mg/l)	NA	NL	NA	⁽⁴⁾	Grab
Temperature (°C)	NA	⁽³⁾	NA	⁽⁴⁾	Immersion Stabilization

NL = No limitation, monitoring required

NA = Not applicable

⁽¹⁾Where the Water Quality Standards (9 VAC 25-260-10 et seq.) establish alternate standards for pH in the waters receiving the discharge, those standards shall be the maximum and minimum effluent limitations.

⁽²⁾Chlorine limitation [~~of nondetectable (<0.1 mg/l)~~] and [~~chlorine and ammonia~~] monitoring are only required where the source of cooling water is chlorinated [~~or~~] where chlorine is added [~~contains chloramines~~]. Chlorine residual shall be measured using an EPA approved method that can reach a 0.1 mg/l level of detection. [~~Ammonia monitoring is only required where cooling water is disinfected using chloramines.~~]

⁽³⁾The effluent temperature shall not exceed a maximum 32°C for discharges to nontidal coastal and piedmont waters, 31°C for mountain and upper piedmont waters, 21°C for put and take trout waters, or 20°C for natural trout waters. No maximum temperature limit applies to discharges to estuarine waters. For estuarine waters, nontidal coastal and piedmont waters, mountain and upper piedmont waters, and put and take trout waters, the effluent shall not cause an increase in temperature of the receiving stream of more than 3°C above the natural water temperature. For natural trout waters, the temperature of the effluent shall not cause an increase of 1°C above natural water temperature. The effluent shall not cause the temperature in the receiving stream to change more than 2°C per hour, except in the case of natural trout waters where the hourly temperature change shall not exceed 0.5°C. Natural temperature is defined as that temperature of a body of water (measured as the arithmetic average over one hour) due solely to natural conditions without the influence of any point-source discharge.

⁽⁴⁾ For a facility that was covered by the previous general permit, and reduced monitoring was granted and compliance demonstrated, monitoring frequency shall be 1/quarter. In all other cases, monitoring frequency shall be 1/month in the first year of permit coverage. If the first year results demonstrate full compliance with the effluent limitations and the permittee receives authorization from the DEQ regional office, monitoring frequency shall be reduced to 1/quarter for the rest of the permit term. Should the permittee be issued a warning letter related to violation of effluent limitations, a notice of violation, or be the subject of an active enforcement action, monitoring frequency shall be reverted to 1/month, upon issuance of the letter or notice or initiation of the enforcement action and remain in effect until the permit's expiration date. Reports of quarterly monitoring shall be submitted to the DEQ regional office no later than the 10th day of April, July, October, and January.

PART I.

EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTS--STORM EVENT MONITORING.

A. Effluent limitations and monitoring requirements--storm event monitoring.

3. During the period beginning on the permit's effective date and lasting until the permit's expiration date, the permittee is authorized to discharge storm water associated with industrial activity which does not combine with other process wastewaters or noncontact cooling water prior to discharge. Samples taken in compliance with the monitoring requirements specified below shall be taken at [~~the following location(s):~~] outfall(s) serial [~~number _____~~].

Such discharges shall be limited and monitored by the permittee as specified below:

EFFLUENT CHARACTERISTICS	DISCHARGE LIMITATIONS		MONITORING REQUIREMENTS	
	Maximum	Minimum	Frequency	Sample Type
Flow (MG)	NL	NA	1/Year	Estimate ⁽¹⁾
Total Petroleum Hydrocarbons ⁽³⁾ (mg/l)	NL	NA	1/Year	Grab ⁽²⁾
Chemical Oxygen Demand (mg/l)	NL	NA	1/Year	Grab ⁽²⁾
Total Suspended Solids (mg/l)	NL	NA	1/Year	Grab ⁽²⁾
Total Recoverable Iron (mg/l)	NL	NA	1/Year	Grab ⁽²⁾
pH (standard units)	NL	NL	1/Year	Grab ⁽²⁾

NL = No limitation, monitoring required

NA = Not applicable

⁽¹⁾ Estimate of the total volume of the discharge during the storm event *in accordance with the Operation and Maintenance Manual*.

⁽²⁾ The grab sample shall be taken during the first 30 minutes of the discharge. If during the first 30 minutes it was impracticable, then a grab sample shall be taken during the first hour of discharge, *and the permittee shall submit with the Discharge Monitoring Report a description of why a grab sample during the first 30 minutes was impracticable*.

⁽³⁾ Total Petroleum Hydrocarbons shall be analyzed ~~in accordance with the photometric method specified in the Standard Methods, 18th edition, 5520-F~~ *using the Wisconsin Department of Natural Resources Modified Diesel Range Organics Method as specified in Wisconsin publication SW-141 (1995), or by EPA SW-846 Method 8015B (1996) for diesel range organics, or by EPA SW-846 Method 8270C (1996). If Method 8270C is used, the lab must report the combination of diesel range organics and polynuclear aromatic hydrocarbons.*

4. All storm water samples shall be collected from the discharge resulting from a storm event that is greater than 0.1 inches in magnitude and that occurs at least 72 hours from the previously measurable (greater than 0.1 inch rainfall) storm event. *Specific storm event data shall be reported with the Discharge Monitoring Report in accordance with Part II A.*

5. Reports of annual monitoring shall be submitted to the DEQ regional office no later than the 10th day of ~~the month following the anniversary of the coverage of the general permit~~ *January of each year.*

6. *A quarterly visual monitoring shall be performed and recorded in accordance with Part II D.*

B. Special conditions.

1. There shall be no discharge of floating solids or visible foam in other than trace amounts.

2. Except as expressly authorized by this permit, no product, materials, industrial wastes, or other wastes resulting from the purchase, sale, mining, extraction, transport, preparation, or storage of raw or intermediate materials, final product, byproduct or wastes, shall be handled, disposed of, or stored so as to permit a discharge of such product, materials, industrial wastes, or other wastes to surface waters.

3. Vehicles and equipment utilized during the industrial activity on a site must be operated and maintained in such a manner as to minimize the potential or actual point source pollution of surface waters. Fuels, lubricants, coolants, and hydraulic fluids, or any other petroleum products, shall not be disposed of by discharging on the ground or into surface waters. Spent fluids shall be disposed of in a manner so as not to enter the surface or ground waters of the state and in accordance with the applicable state and federal disposal regulations. Any spilled fluids shall be cleaned up to the maximum extent practicable and disposed of in a manner so as not to allow their entry into the surface or ground waters of the state.

4. There shall be no product mixing unit washout or truck washing activities conducted outside of the designated washdown and washout areas. All washout water shall be collected for recycle or treated prior to discharge.

5. Any waste concrete and dredged solids from the settling basins shall be managed within a designated area, and any wastewaters including storm water generated from these activities shall be collected for recycle or treated prior to discharge.

6. No sewage discharges to surface waters are permitted under this general permit.

7. For geothermal or other system which discharges noncontact cooling water, the use of any chemical additives,

except chlorine, without prior approval is prohibited under this general permit. Prior approval shall be obtained from the DEQ Regional Office before any changes are made to the chemical usage in the geothermal or other system. Requests for approval of chemical use shall be made in writing and shall include the following information:

- a. The chemical additive to be employed and its purpose;
- b. The proposed schedule and quantity of chemical usage, and the estimated concentration in the discharge;
- c. The wastewater treatment or retention (if any) to be provided during the use of the additive; and
- d. A Material Safety Data Sheet (MSDS) and available aquatic toxicity information for each additive proposed for use.

8. ~~Within six months~~ *180 days* after the date of coverage under this general permit, the permittee shall develop an Operations and Maintenance (O&M) Manual for the permitted facility. The O&M Manual shall include procedures and practices for the mitigation of pollutant discharges and for the protection of state waters from the facility's operations. The manual shall address, at a minimum, operations and maintenance practices for the wastewater treatment process units and chemical and material storage areas, solids management and disposal procedures, temporary and long-term facility closure plans, testing requirements and procedures, recordkeeping and reporting requirements and the duties and roles of responsible officials.

The permittee shall implement the O&M Manual procedures and practices as soon as possible but no later than 12 months after the date of coverage under this general permit. The manual shall be kept on site at the permitted facility and shall be made available to the department upon request.

For a facility that was covered by the previous permit, an O&M Manual was required to be developed and implemented for that facility. Within 90 days after the date of coverage under this general permit, the existing O&M

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Manual shall be reviewed and modified, as appropriate, to conform to the requirements of this permit. The existing O&M Manual shall continue to be implemented until the manual, if required, is revised and implemented.

9. If the ready-mixed concrete plant discharges through a municipal separate storm sewer system to surface waters, the permittee shall, within 30 days of coverage under this general permit, notify the owner of the municipal separate storm sewer system of the existence of the discharge and provide the following information: the name of the facility; a contact person and phone number; nature of the discharge; number of the outfalls; and the location of the discharge. A copy of such notification shall be provided to the department.

10. The permittee shall [~~conduct daily inspections while the facility is in operation, to~~] ensure that all basins and lagoons maintain a minimum freeboard of one foot at all times [~~except during a 72-hour transition period after a measurable rainfall event. During the 72-hour transition period, no discharge from the basins and lagoons shall occur unless it is in accordance with this permit. Within 72 hours after a measurable rainfall event, the freeboard in all basins and lagoons shall return to the minimum freeboard of one foot~~]. Should the one-foot freeboard not be maintained, the permittee shall immediately notify the DEQ Regional Office, describe the problem and corrective measures taken to correct the problem. Within five days of notification, the permittee shall submit a written statement to the regional office of explanation and corrective measures taken. [~~In order to demonstrate compliance,~~] the permittee shall [~~conduct daily inspections while the facility is in operation and~~] maintain an inspection log [~~including~~]. The inspection log shall include [~~at least the date and time of inspection, [the weather data including the occurrence of a measurable rainfall event,~~] the printed name and the handwritten signature of the inspector, the freeboard measurement in inches, a notation of observation made, and any corrective measures, if appropriate, taken. The log shall be kept onsite and be made available to the department upon request.

11. For treatment systems which operate only in a "no discharge" mode, there shall be no discharge of pollutants to surface waters from these systems except in the case of a storm event which is greater than a 25 year-24 hour storm event. The operation of these systems shall not contravene the Water Quality Standards (9 VAC 25-260-40 et seq.), as adopted and amended by the board, or any provision of the State Water Control Law.

12. The permittee shall notify the department as soon as he knows or has reason to believe:

a. That any activity has occurred or will occur which would result in the discharge, on a routine or frequent basis, of any toxic pollutant which is not limited in this permit if that discharge will exceed the highest of the following notification levels:

- (1) One hundred micrograms per liter (100 µg/l);
- (2) Two hundred micrograms per liter (200 µg/l) for acrolein and acrylonitrile; five hundred micrograms per liter (500 µg/l) for 2,4-dinitrophenol and for

2-methyl-4,6-dinitrophenol; and one milligram per liter (1 mg/l) for antimony;

(3) Five times the maximum concentration value reported for that pollutant in the permit application; or

(4) The level established by the board in accordance with 9 VAC 25-31-220 F.

b. That any activity has occurred or will occur which would result in any discharge, on a nonroutine or infrequent basis, of a toxic pollutant which is not limited in this permit if that discharge will exceed the highest of the following notification levels:

(1) Five hundred micrograms per liter (500 µg/l);

(2) One milligram per liter (1 mg/l) for antimony;

(3) Ten times the maximum concentration value reported for that pollutant in the permit application; or

(4) The level established by the board in accordance with 9 VAC 25-31-220 F.

13. All settling basins used for treatment and control of process wastewater and commingled storm water that were constructed on or after February 2, 1998, shall be lined with concrete or any other impermeable materials prior to commencing operation.

14. Treated wastewater may be used on site for the purposes of dust suppression. Dust suppression shall be carried out as a best management practice but not a wastewater disposal method. No ponding or surface runoff shall occur as a result of such activity.

[15. Compliance reporting under Part I A.

a. The quantification levels (QL) shall be as follows:

Effluent Characteristic	Quantification Level
Chlorine	0.1 mg/l
Ammonia-N	0.2 mg/l

b. Reporting.

(1) *Monthly Average.* Compliance with the monthly average limitations and/or reporting requirements for the parameters listed in Part I A shall be determined as follows: All concentration data below the QL listed in subsection 15 a of this subsection shall be treated as zero. All concentration data equal to or above the QL listed shall be treated as it is reported. An arithmetic average shall be calculated using all reported data, including the defined zeros, for the month. This arithmetic average shall be reported on the DMR as calculated. If all data are below the QL then the average shall be reported as "<QL". If reporting for quantity is required on the DMR and the calculated concentration is <QL then report "<QL" for the quantity otherwise use the calculated concentration.

(2) *Daily Maximum.* Compliance with the daily maximum limitations and/or reporting requirements for the parameters listed in Part I A shall be determined as follows: All concentration data below the QL listed in

subdivision 15 a of this subsection shall be treated as zero. All concentration data equal to or above the QL shall be treated as reported. An arithmetic average of the values shall be calculated using all reported data, including the defined zeros, collected for each day during the reporting month. The maximum value of these daily averages thus determined shall be reported on the DMR as the Daily Maximum. If all data are below the QL then the average shall be reported as <QL. If reporting for quantity is required on the DMR and the calculated concentration is <QL then report "<QL" for the quantity otherwise use the calculated concentration.

(3) Any single datum required shall be reported as "<QL" if it is less than the QL listed in subdivision 15 a of this subsection. Otherwise the numerical value shall be reported.]

PART II. STORM WATER MANAGEMENT.

A. Recording of results. For each discharge measurement or sample taken pursuant to the storm event monitoring requirements of this permit, the permittee shall record and report with the Discharge Monitoring Report Reports (DMRs) the following information, ~~in addition to any applicable reporting requirements of Part III:~~

1. The date and duration (in hours) of the storm event(s) sampled;
2. The rainfall measurements or estimates (in inches) of the storm event which generated the sampled discharge; and
3. The duration between the storm event sampled and the end of the previous measurable (greater than 0.1 inch rainfall) storm event.

B. Representative discharge. When a facility has two or more exclusively storm water outfalls that, based on a consideration of industrial activity, significant materials, and management practices and activities within the area drained by the outfall, the permittee reasonably believes discharge substantially identical effluent, the permittee may test the effluent of one of such outfalls and include with the ~~Discharge Monitoring Report~~ DMRs an explanation that the quantitative data also applies to the substantially identical outfalls provided that the permittee includes a description of the location of the outfalls and explains in detail why the outfalls are expected to discharge substantially identical effluent. In addition, for each exclusively storm water outfall that the permittee believes is representative, an estimate of the size of the drainage area (in square feet) and an estimate of the runoff coefficient of the drainage area (e.g., low (under 40%), medium (40% to 65%) or high (above 65%)) shall be provided.

C. Sampling waiver. When a permittee is unable to collect storm water samples ~~for the storm event monitoring requirements required in Part I A or other applicable sections of this permit within a specified sampling period due to adverse climatic conditions, the permittee must submit with the Discharge Monitoring Report a description of why samples could not be collected, including available documentation of the event shall collect a substitute sample from a separate~~

qualifying event in the next period and submit these data along with the data for the routine sample in that period. Adverse weather conditions which may prohibit the collection of samples include weather conditions that create dangerous conditions for personnel (such as local flooding, high winds, hurricane, tornadoes, electrical storms, etc.) or otherwise make the collection of a sample impracticable (drought, extended frozen conditions, etc.). ~~Permittees are precluded from exercising this waiver more than once for each outfall during the permit term.~~

D. Quarterly visual examination of storm water quality. The permittee shall perform and document a visual examination of a storm water discharge associated with industrial activity from each outfall, except discharges exempted below. The visual examination(s) must be made during daylight hours (e.g., normal working hours), at least once in each of the following three-month periods: January through March, April through June, July through September, and October through December.

1. Examinations shall be made of samples collected within the first 30 minutes (or as soon thereafter as practical, but not to exceed one hour) of when the runoff or snowmelt begins discharging. The examination shall document observations of color, odor, clarity, floating solids, settled solids, suspended solids, foam, oil sheen, and other obvious indicators of storm water pollution. The examination must be conducted in a well lit area. No analytical tests are required to be performed on the samples. All such samples shall be collected from the discharge resulting from a storm event that is greater than 0.1 inches in magnitude and that occurs at least 72 hours from the previous measurable (greater than 0.1 inch rainfall) storm event. The required 72-hour storm event interval is waived where the preceding measurable storm event did not result in a measurable discharge from the facility. The required 72-hour storm event interval may also be waived where the permittee documents that less than a 72-hour interval is representative for local storm events during the season when sampling is being conducted. If no qualifying storm event resulted in discharge from the facility during a monitoring period, visual monitoring is exempted provided that the permittee document that no qualifying storm event occurred that resulted in storm water discharge during that quarter. Where practicable, the same individual should carry out the collection and examination of discharges for the entire permit term.

2. Visual examination reports must be maintained onsite with the pollution prevention plan. The report shall include the outfall location, the examination date and time, examination personnel, the nature of the discharge (i.e., runoff or snow melt), visual quality of the storm water discharge (including observations of color, odor, clarity, floating solids, settled solids, suspended solids, foam, oil sheen, and other obvious indicators of storm water pollution), and probable sources of any observed storm water contamination.

3. If the facility has two or more outfalls that, based on a consideration of industrial activity, significant materials, and management practices and activities within the area drained

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by the outfall, the permittee reasonably believes discharge substantially identical effluents, the permittee may collect a sample of effluent of one of such outfalls and report that the examination data also applies to the substantially identical outfall(s) provided that the permittee includes in the storm water pollution prevention plan a description of the location of the outfalls and explains in detail why the outfalls are expected to discharge substantially identical effluents. In addition, for each outfall that the permittee believes is representative, an estimate of the size of the drainage area (in square feet) and an estimate of the runoff coefficient of the drainage area (i.e., low (under 40%), medium (40 to 65%), or high (above 65%)) shall be provided in the plan.

4. When the permittee is unable to conduct the visual examination due to adverse climatic conditions, the permittee must document the reason for not performing the visual examination and retain this documentation onsite with the records of the visual examinations. Adverse weather conditions that may prohibit the collection of samples include weather conditions that create dangerous conditions for personnel (such as local flooding, high winds, hurricane, tornadoes, electrical storms, etc.) or otherwise make the collection of a sample impracticable (drought, extended frozen conditions, etc.).

E. Allowable nonstorm water discharges.

1. The following nonstorm water discharges are authorized by this permit provided the nonstorm water component of the discharge is in compliance with Part II E 2 below.

- a. Discharges from fire fighting activities;
- b. Fire hydrant flushings;
- c. Potable water including water line flushings;
- d. Uncontaminated air conditioning or compressor condensate;
- e. Irrigation drainage;
- f. Landscape watering provided all pesticides, herbicides, and fertilizer have been applied in accordance with manufacturer's instructions;
- g. Pavement wash waters where no detergents are used and no spills or leaks of toxic or hazardous materials have occurred (unless all spilled material has been removed);
- h. Routine external building wash down which does not use detergents;
- i. Uncontaminated ground water or spring water;
- j. Foundation or footing drains where flows are not contaminated with process materials such as solvents;
- k. Incidental windblown mist from cooling towers that collects on rooftops or adjacent portions of the facility, but NOT intentional discharges from the cooling tower (e.g., "piped" cooling tower blowdown or drains).

2. Except for flows from fire fighting activities, the Storm Water Pollution Prevention Plan must include:

- a. Identification of each allowable nonstorm water source;
- b. The location where it is likely to be discharged; and
- c. Descriptions of appropriate BMPs for each source.

3. If mist blown from cooling towers is included as one of the allowable nonstorm water discharges, the facility must specifically evaluate the potential for the discharges to be contaminated by chemicals used in the cooling tower. The permittee must determine that the levels of such chemicals in the discharges will not cause or contribute to a violation of an applicable water quality standard after implementation of the BMPs selected to control such discharges.

F. Releases of hazardous substances or oil in excess of reportable quantities. The discharge of hazardous substances or oil in the storm water discharge(s) from this facility shall be prevented or minimized in accordance with the applicable storm water pollution prevention plan for the facility. This permit does not authorize the discharge of hazardous substances or oil resulting from an onsite spill. Where a release containing a hazardous substance or oil in an amount equal to or in excess of a reportable quantity established under either 40 CFR Part 110 (1998), 40 CFR Part 117 (1998) or 40 CFR Part 302 (1998) occurs during a 24-hour period, the permittee is required to notify the department in accordance with the requirements of Part III G as soon as he has knowledge of the discharge. Where a release enters a municipal separate storm sewer system (MS4), the permittee shall also notify the owner of the MS4. In addition, the storm water pollution prevention plan required by this permit must be reviewed to identify measures to prevent the reoccurrence of such releases and to respond to such releases, and the plan must be modified where appropriate. This permit does not relieve the permittee of the reporting requirements of 40 CFR Part 110 (1998), 40 CFR Part 117 (1998) and 40 CFR Part 302 (1998) or § 62.1-44.34:19 of the Code of Virginia.

~~D.~~ G. Storm water pollution prevention plans. A storm water pollution prevention plan shall is required to be developed for each the facility covered by this permit. Storm water pollution prevention plans The plan shall be prepared in accordance with good engineering practices. The plan, and shall identify potential sources of pollution which may reasonably be expected to affect the quality of storm water discharges associated with industrial activity from the facility. In addition, the plan shall describe and ensure the implementation of practices which are to be used to reduce the pollutants in storm water discharges associated with industrial activity at the facility and to assure compliance with the terms and conditions of this permit. Facilities Permittees must implement the provisions of the storm water pollution prevention plan required under this part as a condition of this permit.

The storm water pollution prevention plan requirements of this permit may be fulfilled by incorporating by reference other plans or documents such as an erosion and sediment control plan, a spill prevention control and countermeasure (SPCC) plan developed for the facility under § 311 of the Clean Water Act or best management practices (BMP) programs otherwise required for the facility provided that the incorporated plan meets or exceeds the plan requirements of Part II G 4. If an erosion and sediment control plan is being incorporated by

reference, it shall have been approved by the locality in which the activity is to occur or by another appropriate plan approving authority authorized under the Virginia Erosion and Sediment Control Regulation, 4 VAC 50-30. All plans incorporated by reference into the storm water pollution prevention plan become enforceable under this permit.

~~E~~. 1. Deadlines for plan preparation and compliance.

~~4~~. a. For a storm water discharge associated with industrial activity that is existing on or before the effective date of this permit, the storm water pollution prevention plan: *shall be prepared and implemented as expeditiously as practicable, but not later than 270 days from the date of coverage under this permit. For a facility that was covered by the previous permit, a storm water pollution prevention plan was required to be developed and implemented for that facility. Within 120 days after the date of coverage under this permit, the existing storm water pollution prevention plan shall be reviewed and modified, as appropriate, to conform to the requirements of this permit. The existing storm water pollution prevention plans shall continue to be implemented until a new plan, if required, is developed and implemented.*

~~a~~. ~~Shall be prepared within 180 days after the date of coverage under this permit; and~~

~~b~~. ~~Shall provide for implementation and compliance with the terms of the plan within 365 days after the date of coverage under this permit.~~

~~2~~. b. The plan for any facility where industrial activity commences ~~on or~~ after the effective date of coverage under this permit, and except as provided elsewhere in this permit, shall be prepared, *implemented* and provide for compliance with the terms of the plan and this permit on or before the date of submission of a registration statement to be covered under this permit.

~~3~~. ~~Upon a showing of good cause, the board may establish a later date in writing for preparing and compliance with a plan for a storm water discharge associated with industrial activity that submits a registration statement in accordance with the registration requirements.~~

c. In cases where construction is necessary to implement measures required by the plan, the plan shall contain a schedule that provides compliance with the plan as expeditiously as practicable, but no later than three years from the date of coverage under this permit. Where a construction compliance schedule is included in the plan, the schedule shall include appropriate nonstructural and/or temporary controls to be implemented in the affected portion(s) of the facility prior to completion of the permanent control measure.

~~F~~. 2. Signature and plan review.

~~4~~. a. The plan shall be signed in accordance with Part III K (~~signatory requirements~~), and be retained on-site at the facility covered by this permit in accordance with Part III B (~~retention of records~~) of this permit. ~~When there are no on-site buildings or offices in which to store the plan, it shall be kept at the nearest company office.~~

~~2~~. b. The permittee shall make ~~plans the storm water pollution prevention plan, annual site compliance inspection report, or other information~~ available to the department upon request.

~~3~~. c. The ~~board~~ director, or his designee, may notify the permittee *in writing* at any time that the plan does not meet one or more of the minimum requirements of this part. Such notification shall identify those provisions of the permit which are not being met by the plan, and identify which provisions of the plan require modifications in order to meet the minimum requirements of this part. Within ~~30~~ 60 days of such notification from the ~~board~~ director, or as otherwise provided by the ~~board~~ director, the permittee shall make the required changes to the plan and shall submit to the department a written certification that the requested changes have been made.

~~G~~. 3. Keeping plans current. The permittee shall amend the plan whenever there is a change in design, construction, operation, or maintenance, which has a significant effect on the potential for the discharge of pollutants to surface waters of the state or if the storm water pollution prevention plan proves to be ineffective in eliminating or significantly minimizing pollutants from sources identified under Part II ~~H~~ 2 (~~description of potential pollutant sources~~) *G 4 b* of this permit, or in otherwise achieving the general objectives of controlling pollutants in storm water discharges associated with industrial activity.

~~H~~. 4. Contents of plan. The plan shall include, at a minimum, the following items:

~~4~~. a. Pollution prevention team. Each plan shall identify a specific individual or individuals within the facility organization as members of a storm water pollution prevention team that are responsible for developing the storm water pollution prevention plan and assisting the facility or plant manager in its implementation, maintenance, and revision. The plan shall clearly identify the responsibilities of each team member. The activities and responsibilities of the team shall address all aspects of the facility's storm water pollution prevention plan.

~~2~~. b. Description of potential pollutant sources. Each plan shall provide a description of potential sources which may reasonably be expected to add significant amounts of pollutants to storm water discharges or which may result in the discharge of pollutants during dry weather from separate storm sewers draining the facility. Each plan shall identify all activities and significant materials which may potentially be significant pollutant sources. Each plan shall include, at a minimum:

~~a~~. (1) Drainage. ~~(4)~~ A site map indicating an outline of the portions of the drainage area of each storm water outfall that are within the facility boundaries, each existing structural control measure to reduce pollutants in storm water runoff, surface water bodies, locations where significant materials are exposed to precipitation, locations where major spills or leaks identified under Part II ~~H~~ 2-e *G 4 b* (3) (~~spills and leaks~~) of this permit have occurred, and the locations of the following activities: fueling stations; vehicle and equipment

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maintenance and/or cleaning areas; loading/unloading areas; *bag house or other dust control device, recycle/sedimentation pond, clarifier or other device used for the treatment of process wastewater, and the areas that drain to the treatment device*, locations used for the ~~treatment~~, storage or disposal of wastes; liquid storage tanks; processing areas; and storage areas. ~~(2) The map must indicate the outfall locations and the types of discharges contained in the drainage areas of the outfalls; and for each area of the facility that generates storm water discharges associated with industrial activity with a reasonable potential for containing significant amounts of pollutants, a prediction of the direction of flow, and an identification of the types of pollutants which are likely to be present in storm water discharges associated with industrial activity. Factors to consider include the toxicity of the chemicals; quantity of chemicals used, produced or discharged; the likelihood of contact with storm water; and history of significant leaks or spills of toxic or hazardous pollutants. Flows with a significant potential for causing erosion shall be identified.~~

~~b. (2) Inventory of exposed materials. An inventory of the types of materials handled at the site that potentially may be exposed to precipitation. Such inventory shall include a narrative description of significant materials that have been handled, treated, stored or disposed in a manner to allow exposure to storm water between the time of three years prior to the date of coverage under this general permit and the present; method and location of on-site storage or disposal; materials management practices employed to minimize contact of materials with storm water runoff between the time of three years prior to the date of coverage under this general permit and the present; the location and a description of existing structural and nonstructural control measures to reduce pollutants in storm water runoff; and a description of any treatment the storm water receives.~~

~~e. (3) Spills and leaks. A list of significant spills and significant leaks of toxic or hazardous pollutants that occurred at areas that are exposed to precipitation or that otherwise drain to a storm water conveyance at the facility after the date of three years prior to the date of coverage under this general permit. Such list shall be updated as appropriate during the term of the permit.~~

~~e. (4) Sampling data. A summary of existing discharge sampling data describing pollutants in storm water discharges from the facility, including a summary of sampling data collected during the term of this permit.~~

~~e. (5) Risk identification and summary of potential pollutant sources. A narrative description of the potential pollutant sources from the following activities: loading and unloading operations; outdoor storage activities; outdoor manufacturing or processing activities; significant dust or particulate generating processes; and on-site waste disposal practices. The description shall specifically list any significant potential source of pollutants at the site and for each potential~~

source, any pollutant or pollutant parameter (e.g., biochemical oxygen demand, etc.) of concern shall be identified.

~~3. c. Measures and controls. Each facility covered by this permit shall develop a description of storm water management controls appropriate for the facility, and implement such controls. The appropriateness and priorities of controls in a plan shall reflect identified potential sources of pollutants at the facility. The description of storm water management controls shall address the following minimum components, including a schedule for implementing such controls:~~

~~a. (1) Good housekeeping. Good housekeeping requires the *clean and orderly* maintenance of areas ~~which that~~ may contribute pollutants to storm waters ~~discharges in a clean, orderly manner~~. *Particular attention should be paid to areas where raw materials are stockpiled, material handling areas, storage areas, liquid storage tanks, and loading/unloading areas. The plan shall describe procedures performed to minimize the discharge of: spilled cement, aggregate (including sand and gravel), fly ash, settled dust, or other significant material in storm water from paved portions of the site that are exposed to storm water. Regular sweeping or other equivalent measures to minimize the presence of these materials shall be employed. The frequency of sweeping or equivalent measures shall be specified in the plan based upon a consideration of the amount of industrial activity occurring in the areas and the frequency of precipitation, but it shall be a minimum of once a week if cement, aggregate, kiln dust, fly ash or settled dust are being handled/processed. Where practicable, efforts must be made to prevent the exposure of fine granular solids (cement, fly ash, etc.) to storm water by storing these materials in enclosed silos/hoppers, buildings or under other covering.*~~

~~b. (2) Preventive maintenance. A preventive maintenance program shall involve timely inspection and maintenance of storm water management devices (e.g., cleaning oil/water separators, catch basins) ~~as well as~~ inspecting and testing facility equipment and systems to uncover conditions that could cause breakdowns or failures resulting in discharges of pollutants to surface waters, and ~~ensuring~~ appropriate maintenance of such equipment and systems.~~

~~e. (3) Spill prevention and response procedures. Areas where potential spills which can contribute pollutants to storm water discharges can occur, and their accompanying drainage points shall be identified clearly in the storm water pollution prevention plan. Where appropriate, specifying material handling procedures, storage requirements, and use of equipment such as diversion valves in the plan should be considered. Procedures for cleaning up spills shall be identified in the plan and made available to the appropriate personnel. The necessary equipment to implement a clean up should be available to personnel.~~

~~e. (4) Routine facility inspections. ~~In addition to or as part of the comprehensive site compliance evaluation~~~~

~~required under Part II H 4 of this permit, qualified facility~~ Facility personnel who are familiar with the industrial activity, the BMPs and the storm water pollution prevention plan shall be identified to inspect designated equipment and areas of the facility at ~~appropriate intervals specified in the plan.~~ Inspections shall be conducted while the facility is in operation and include, but are not limited to, the following areas exposed to storm water: material handling areas, above ground storage tanks, hoppers or silos, dust collection/containment systems, and truck wash down/equipment cleaning areas. The inspection frequency shall be specified in the plan based on a consideration of the level of industrial activity at the facility, but it shall be a minimum of quarterly unless more frequent intervals are specified elsewhere in the permit. A set of tracking or followup procedures shall be used to ensure that appropriate actions are taken in response to the inspections. Records of inspections shall be maintained with the pollution prevention plan.

~~e.~~ (5) Employee training. Employee training programs shall inform personnel responsible for implementing activities identified in the storm water pollution prevention plan or otherwise responsible for storm water management at all levels of responsibility of the components and goals of the storm water pollution prevention plan. Training should address topics such as spill response, good housekeeping and material management practices. A pollution prevention plan shall identify periodic dates for such training.

~~f.~~ (6) Recordkeeping and internal reporting procedures. A description of incidents such as spills, or other discharges, along with other information describing the quality and quantity of storm water discharges shall be included in the plan ~~required under this part.~~ Inspections and maintenance activities shall be documented and records of such activities shall be incorporated into the plan.

~~g.~~ (7) Sediment and erosion control. The plan shall identify areas which, due to topography, activities, or other factors, have a high potential for significant soil erosion, and identify structural, vegetative, and/or stabilization measures to be used to limit erosion.

~~h.~~ (8) Management of runoff. The plan shall contain a narrative consideration of the appropriateness of traditional storm water management practices (practices other than those which control the generation or source(s) of pollutants) used to divert, infiltrate, reuse, or otherwise manage storm water runoff in a manner that reduces pollutants in storm water discharges from the site. The plan shall provide that measures that the permittee determines to be reasonable and appropriate shall be implemented and maintained. The potential of various sources at the facility to contribute pollutants to storm water discharges associated with industrial activity (~~see Part II H 2 (description of potential pollutant sources) of this permit~~) shall be considered when determining reasonable and appropriate measures. Appropriate

measures may include: vegetative swales and practices, reuse of collected storm water (such as for a process or as an irrigation source), inlet controls (such as oil/water separators), snow management activities, infiltration devices, and wet detention/retention devices; or other equivalent measures.

~~4.~~ d. Comprehensive site compliance evaluation. Qualified facility personnel who are familiar with the industrial activity, the BMPs and the storm water pollution prevention plan shall conduct site compliance evaluations at appropriate intervals specified in the plan, but, in no case less than once a year. Such evaluations shall ~~provide~~ include the following:

~~a.~~ (1) Areas contributing to a storm water discharge associated with industrial activity shall be visually inspected for evidence of, or the potential for, pollutants entering the drainage system. Measures to reduce pollutant loadings shall be evaluated to determine whether they are adequate and properly implemented in accordance with the terms of the permit or whether additional control measures are needed. Structural storm water management measures, sediment and erosion control measures, and other structural pollution prevention measures identified in the plan shall be observed to ensure that they are operating correctly. A visual inspection of equipment needed to implement the plan, such as spill response equipment, shall be made.

~~b.~~ (2) Based on the results of the ~~inspection evaluation~~, the description of potential pollutant sources identified in the plan in accordance with Part II ~~H 2 (description of potential pollutant sources) of this permit~~ G 4 b and pollution prevention measures and controls identified in the plan in accordance with Part II ~~H 3 (measures and controls) of this permit~~ G 4 c shall be revised as appropriate within ~~14 days~~ two weeks of such ~~inspection evaluation~~ and shall provide for implementation of any changes to the plan in a timely manner, but in no case more than ~~90 days~~ 12 weeks after the ~~inspection evaluation~~.

~~c.~~ (3) A report summarizing the scope of the inspection, personnel making the inspection, the date(s) of the inspection, major observations relating to the implementation of the storm water pollution prevention plan, and actions taken in accordance with Part II ~~H 4 b of this permit~~ G 4 d shall be made and retained as part of the storm water pollution prevention plan as required in Part III B. The report shall identify any incidents of noncompliance. Where a report does not identify any incidents of noncompliance, the report shall contain a certification that the facility is in compliance with the storm water pollution prevention plan and this permit. The report shall be signed in accordance with Part III K (~~signatory requirements) of this permit and retained as required in Part III B.~~

(4) Where compliance evaluation schedules overlap with inspections required under Part II G 4 c (4), the compliance evaluation may be conducted in place of one such inspection.

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~~5. Consistency with other plans. Storm water pollution prevention plans may reflect requirements for Spill Prevention Control and Countermeasure (SPCC) plans developed for the facility under § 311 of the Clean Water Act, Best Management Practices (BMP) Programs otherwise required by a VPDES permit for the facility or any other plans required by the board's regulations as long as such requirement is incorporated into the storm water pollution prevention plan.~~

[5. *Special pollution prevention plan requirements:*

a. Additional requirements for storm water discharges associated with industrial activity from facilities subject to § 313 of the Emergency Planning and Community Right-to-Know Act of 1986 (EPCRA) reporting requirements. Potential pollutant sources for which the facility has reporting requirements under EPCRA 313 must be identified in the summary of potential pollutant sources as per Part II G 4 b.

b. Additional requirements for salt storage. Storage piles of salt used for deicing or other commercial or industrial purposes must be enclosed or covered to prevent exposure to precipitation (except for exposure resulting from adding or removing materials from the pile). Piles do not need to be enclosed or covered where storm water from the pile is not discharged to surface waters or the discharges from the piles are authorized under another permit.]

PART III.

CONDITIONS APPLICABLE TO ALL VPDES PERMITS.

A. Monitoring.

1. Samples and measurements taken as required by this permit shall be representative of the monitored activity.
2. Monitoring shall be conducted according to procedures approved under 40 CFR Part 136 or alternative methods approved by the U.S. Environmental Protection Agency unless other procedures have been specified in this permit.
3. The permittee shall periodically calibrate and perform maintenance procedures on all monitoring and analytical instrumentation at intervals that will ensure accuracy of measurements.

B. Records.

1. Records of monitoring information shall include:
 - a. The date, exact place, and time of sampling or measurements;
 - b. The individuals who performed the sampling or measurements;
 - c. The dates and times analyses were performed;
 - d. The individuals who performed the analyses;
 - e. The analytical techniques or methods used; and
 - f. The results of such analyses.
2. Except for records of monitoring information required by this permit related to the permittee's sewage sludge use

and disposal activities, which shall be retained for a period of at least five years, the permittee shall retain (i) records of all monitoring information including all calibration and maintenance records and all original strip chart recordings for continuous monitoring instrumentation, (ii) copies of all reports required by this permit, and (iii) records of all data used to complete the registration statement for this permit for a period of at least three years from the date of the sample, measurement, report or request for coverage. This period of retention shall be extended automatically during the course of any unresolved litigation regarding the regulated activity or regarding control standards applicable to the permittee, or as requested by the board.

C. Reporting monitoring results.

1. The permittee shall submit the results of the monitoring required by this permit not later than the 10th day of the month after monitoring takes place, unless another reporting schedule is specified elsewhere in this permit. Monitoring results shall be submitted to the department's regional office.
2. Monitoring results shall be reported on a Discharge Monitoring Report (DMR) or on forms provided, approved or specified by the department.
3. If the permittee monitors any pollutant specifically addressed by this permit more frequently than required by this permit using test procedures approved under 40 CFR Part 136 or using other test procedures approved by the U.S. Environmental Protection Agency or using procedures specified in this permit, the results of this monitoring shall be included in the calculation and reporting of the data submitted in the DMR or reporting form specified by the department.
4. Calculations for all limitations which require averaging of measurements shall utilize an arithmetic mean unless otherwise specified in this permit.

D. Duty to provide information. The permittee shall furnish to the department, within a reasonable time, any information which the board may request to determine whether cause exists for modifying, revoking and reissuing, or terminating this permit or to determine compliance with this permit. The board may require the permittee to furnish, upon request, such plans, specifications, and other pertinent information as may be necessary to determine the effect of the wastes from his discharge on the quality of state waters, or such other information as may be necessary to accomplish the purposes of the State Water Control Law. The permittee shall also furnish to the department upon request copies of records required to be kept by this permit.

E. Compliance schedule reports. Reports of compliance or noncompliance with, or any progress reports on, interim and final requirements contained in any compliance schedule of this permit shall be submitted no later than 14 days following each schedule date.

F. Unauthorized discharges. Except in compliance with this permit, or another permit issued by the board, it shall be unlawful for any person to:

1. Discharge into state waters sewage, industrial wastes, other wastes, or any noxious or deleterious substances; or

2. Otherwise alter the physical, chemical or biological properties of such state waters and make them detrimental to the public health, or to animal or aquatic life, or to the use of such waters for domestic or industrial consumption, for recreation, or for other uses.

G. Reports of unauthorized discharges. Any permittee who discharges or causes or allows a discharge of sewage, industrial waste, other wastes or any noxious or deleterious substance into or upon state waters in violation of Part III F; or who discharges or causes or allows a discharge that may reasonably be expected to enter state waters in violation of Part III F, shall notify the department of the discharge immediately upon discovery of the discharge, but in no case later than 24 hours after said discovery. A written report of the unauthorized discharge shall be submitted to the department, within five days of discovery of the discharge. The written report shall contain:

1. A description of the nature and location of the discharge;
2. The cause of the discharge;
3. The date on which the discharge occurred;
4. The length of time that the discharge continued;
5. The volume of the discharge;
6. If the discharge is continuing, how long it is expected to continue;
7. If the discharge is continuing, what the expected total volume of the discharge will be; and
8. Any steps planned or taken to reduce, eliminate and prevent a recurrence of the present discharge or any future discharges not authorized by this permit.

Discharges reportable to the department under the immediate reporting requirements of other regulations are exempted from this requirement.

H. Reports of unusual or extraordinary discharges. If any unusual or extraordinary discharge including a bypass or upset should occur from a treatment works and the discharge enters or could be expected to enter state waters, the permittee shall promptly notify, in no case later than 24 hours, the department by telephone after the discovery of the discharge. This notification shall provide all available details of the incident, including any adverse affects on aquatic life and the known number of fish killed. The permittee shall reduce the report to writing and shall submit it to the department within five days of discovery of the discharge in accordance with Part III I 2. Unusual and extraordinary discharges include but are not limited to any discharge resulting from:

1. Unusual spillage of materials resulting directly or indirectly from processing operations;
2. Breakdown of processing or accessory equipment;
3. Failure or taking out of service some or all of the treatment works; and

4. Flooding or other acts of nature.

I. Reports of noncompliance. The permittee shall report any noncompliance which may adversely affect state waters or may endanger public health.

1. An oral report shall be provided within 24 hours from the time the permittee becomes aware of the circumstances. The following shall be included as information which shall be reported within 24 hours under this subdivision:

- a. Any unanticipated bypass; and
- b. Any upset which causes a discharge to surface waters.

2. A written report shall be submitted within five days and shall contain:

- a. A description of the noncompliance and its cause;
- b. The period of noncompliance, including exact dates and times, and if the noncompliance has not been corrected, the anticipated time it is expected to continue; and
- c. Steps taken or planned to reduce, eliminate, and prevent reoccurrence of the noncompliance.

The board may waive the written report on a case-by-case basis for reports of noncompliance under Part III I if the oral report has been received within 24 hours and no adverse impact on state waters has been reported.

3. The permittee shall report all instances of noncompliance not reported under Parts III I 1 or 2, in writing, at the time the next monitoring reports are submitted. The reports shall contain the information listed in Part III I 2.

NOTE: The immediate (within 24 hours) reports required in Parts III G, H and I may be made to the department's regional office by telephone or by fax. For reports outside normal working hours, leave a message and this shall fulfill the immediate reporting requirement. For emergencies, the Virginia Department of Emergency Services maintains a 24 hour telephone service at 1-800-468-8892.

J. Notice of planned changes.

1. The permittee shall give notice to the department as soon as possible of any planned physical alterations or additions to the permitted facility. Notice is required only when:

a. The permittee plans alteration or addition to any building, structure, facility, or installation from which there is or may be a discharge of pollutants, the construction of which commenced:

(1) After promulgation of standards of performance under § 306 of Clean Water Act which are applicable to such source; or

(2) After proposal of standards of performance in accordance with § 306 of Clean Water Act which are applicable to such source, but only if the standards are promulgated in accordance with § 306 within 120 days of their proposal;

b. The alteration or addition could significantly change the nature or increase the quantity of pollutants discharged.

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This notification applies to pollutants which are subject neither to effluent limitations nor to notification requirements specified elsewhere in this permit; or

c. The alteration or addition results in a significant change in the permittee's sludge use or disposal practices, and such alteration, addition, or change may justify the application of permit conditions that are different from or absent in the existing permit, including notification of additional use or disposal sites not reported during the permit application process or not reported pursuant to an approved land application plan.

2. The permittee shall give advance notice to the department of any planned changes in the permitted facility or activity which may result in noncompliance with permit requirements.

K. Signatory requirements.

1. Registration statements. All registration statements shall be signed as follows:

a. For a corporation: by a responsible corporate officer. For the purpose of this section, a responsible corporate officer means (i) president, secretary, treasurer, or vice-president of the corporation in charge of a principal business function, or any other person who performs similar policy- or decision-making functions for the corporation or (ii) the manager of one or more manufacturing, production, or operating facilities ~~employing more than 250 persons or having gross annual sales or expenditures exceeding \$25 million (in second quarter 1980 dollars);~~ *provided the manager is authorized to make management decisions that govern the operation of the regulated facility including having the explicit or implicit duty of making major capital investment recommendations, and initiating and directing other comprehensive measures to assure long-term environmental compliance with environmental laws and regulations; the manager can ensure that the necessary systems are established or actions taken to gather complete and accurate information for permit application requirements; and where* if authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures;

b. For a partnership or sole proprietorship: by a general partner or the proprietor, respectively; or

c. For a municipality, state, federal, or other public agency: by either a principal executive officer or ranking elected official. For purposes of this section, a principal executive officer of a public agency includes (i) the chief executive officer of the agency or (ii) a senior executive officer having responsibility for the overall operations of a principal geographic unit of the agency.

2. Reports, etc. All reports required by permits, and other information requested by the board shall be signed by a person described in Part III K 1, or by a duly authorized representative of that person. A person is a duly authorized representative only if:

a. The authorization is made in writing by a person described in Part III K 1;

b. The authorization specifies either an individual or a position having responsibility for the overall operation of the regulated facility or activity such as the position of plant manager, operator of a well or a well field, superintendent, position of equivalent responsibility, or an individual or position having overall responsibility for environmental matters for the company. A duly authorized representative may thus be either a named individual or any individual occupying a named position; and

c. The written authorization is submitted to the department.

3. Changes to authorization. If an authorization under Part III K 2 is no longer accurate because a different individual or position has responsibility for the overall operation of the facility, a new authorization satisfying the requirements of Part III K 2 shall be submitted to the department prior to or together with any reports, or information to be signed by an authorized representative.

4. Certification. Any person signing a document under Parts III K 1 or 2 shall make the following certification:

"I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

L. Duty to comply. The permittee shall comply with all conditions of this permit. Any permit noncompliance constitutes a violation of the State Water Control Law and the Clean Water Act, except that noncompliance with certain provisions of this permit may constitute a violation of the State Water Control Law but not the Clean Water Act. Permit noncompliance is grounds for enforcement action; for permit termination, revocation and reissuance, or modification; or denial of a permit renewal application.

The permittee shall comply with effluent standards or prohibitions established under § 307(a) of the Clean Water Act for toxic pollutants and with standards for sewage sludge use or disposal established under § 405(d) of the Clean Water Act within the time provided in the regulations that establish these standards or prohibitions or standards for sewage sludge use or disposal, even if this permit has not yet been modified to incorporate the requirement.

M. Duty to reapply. If the permittee wishes to continue an activity regulated by this permit after the expiration date of this permit, the permittee shall apply for and obtain a new permit. All permittees with a currently effective permit shall submit a new application at least 180 days before the expiration date of the existing permit, unless permission for a later date has been granted by the board. The board shall not grant permission for applications to be submitted later than the expiration date of the existing permit.

N. Effect of a permit. This permit does not convey any property rights in either real or personal property or any exclusive privileges, nor does it authorize any injury to private property or invasion of personal rights, or any infringement of federal, state or local law or regulations.

O. State law. Nothing in this permit shall be construed to preclude the institution of any legal action under, or relieve the permittee from any responsibilities, liabilities, or penalties established pursuant to any other state law or regulation or under authority preserved by § 510 of the Clean Water Act. Except as provided in permit conditions on "bypassing" (Part III U), and "upset" (Part III V) nothing in this permit shall be construed to relieve the permittee from civil and criminal penalties for noncompliance.

P. Oil and hazardous substance liability. Nothing in this permit shall be construed to preclude the institution of any legal action or relieve the permittee from any responsibilities, liabilities, or penalties to which the permittee is or may be subject under §§ 62.1-44.34:14 through 62.1-44.34:23 of the State Water Control Law.

Q. Proper operation and maintenance. The permittee shall at all times properly operate and maintain all facilities and systems of treatment and control (and related appurtenances) which are installed or used by the permittee to achieve compliance with the conditions of this permit. Proper operation and maintenance also includes effective plant performance, adequate funding, adequate staffing, and adequate laboratory and process controls, including appropriate quality assurance procedures. This provision requires the operation of back-up or auxiliary facilities or similar systems which are installed by the permittee only when the operation is necessary to achieve compliance with the conditions of this permit.

R. Disposal of solids or sludges. Solids, sludges or other pollutants removed in the course of treatment or management of pollutants shall be disposed of in a manner so as to prevent any pollutant from such materials from entering state waters.

S. Duty to mitigate. The permittee shall take all reasonable steps to minimize or prevent any discharge or sludge use or disposal in violation of this permit which has a reasonable likelihood of adversely affecting human health or the environment.

T. Need to halt or reduce activity not a defense. It shall not be a defense for a permittee in an enforcement action that it would have been necessary to halt or reduce the permitted activity in order to maintain compliance with the conditions of this permit.

U. Bypass.

1. "Bypass" means the intentional diversion of waste streams from any portion of a treatment facility. The permittee may allow any bypass to occur which does not cause effluent limitations to be exceeded, but only if it also is for essential maintenance to assure efficient operation. These bypasses are not subject to the provisions of Parts III U 2 and U 3.

2. Notice.

a. Anticipated bypass. If the permittee knows in advance of the need for a bypass, prior notice shall be submitted, if possible at least 10 days before the date of the bypass.

b. Unanticipated bypass. The permittee shall submit notice of an unanticipated bypass as required in Part III I.

3. Prohibition of bypass.

a. Bypass is prohibited, and the board may take enforcement action against a permittee for bypass, unless:

(1) Bypass was unavoidable to prevent loss of life, personal injury, or severe property damage;

(2) There were no feasible alternatives to the bypass, such as the use of auxiliary treatment facilities, retention of untreated wastes, or maintenance during normal periods of equipment downtime. This condition is not satisfied if adequate back-up equipment should have been installed in the exercise of reasonable engineering judgment to prevent a bypass which occurred during normal periods of equipment downtime or preventive maintenance; and

(3) The permittee submitted notices as required under Part III U 2.

b. The board may approve an anticipated bypass, after considering its adverse effects, if the board determines that it will meet the three conditions listed above in Part III U 3 a.

V. Upset.

1. An upset constitutes an affirmative defense to an action brought for noncompliance with technology based permit effluent limitations if the requirements of Part III V 2 are met. A determination made during administrative review of claims that noncompliance was caused by upset, and before an action for noncompliance, is not a final administrative action subject to judicial review.

2. A permittee who wishes to establish the affirmative defense of upset shall demonstrate, through properly signed, contemporaneous operating logs, or other relevant evidence that:

a. An upset occurred and that the permittee can identify the causes of the upset;

b. The permitted facility was at the time being properly operated;

c. The permittee submitted notice of the upset as required in Part III I; and

d. The permittee complied with any remedial measures required under Part III S.

3. In any enforcement proceeding the permittee seeking to establish the occurrence of an upset has the burden of proof.

W. Inspection and entry. The permittee shall allow the director, or an ~~authorized representative~~ *his designee*, upon

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presentation of credentials and other documents as may be required by law, to:

1. Enter upon the permittee's premises where a regulated facility or activity is located or conducted, or where records must be kept under the conditions of this permit;
2. Have access to and copy at reasonable times any records that must be kept under the conditions of this permit;
3. Inspect at reasonable times any facilities, equipment (including monitoring and control equipment), practices, or operations regulated or required under this permit; and
4. Sample or monitor at reasonable times, for the purposes of assuring permit compliance or as otherwise authorized by the Clean Water Act and the State Water Control Law, any substances or parameters at any location.

For purposes of this section, the time for inspection shall be deemed reasonable during regular business hours, and whenever the facility is discharging. Nothing contained herein shall make an inspection unreasonable during an emergency.

X. Permit actions. Permits may be modified, revoked and reissued, or terminated for cause. The filing of a request by the permittee for a permit modification, revocation and reissuance, or termination, or a notification of planned changes or anticipated noncompliance does not stay any permit condition.

Y. Transfer of permits.

1. Permits are not transferable to any person except after notice to the department. Except as provided in Part III Y 2, a permit may be transferred by the permittee to a new owner or operator only if the permit has been modified or revoked and reissued, or a minor modification made, to identify the new permittee and incorporate such other requirements as may be necessary under the State Water Control Law and the Clean Water Act.
2. As an alternative to transfers under Part III Y 1, this permit may be automatically transferred to a new permittee if:
 - a. The current permittee notifies the department at least 30 days in advance of the proposed transfer of the title to the facility or property;
 - b. The notice includes a written agreement between the existing and new permittees containing a specific date for transfer of permit responsibility, coverage, and liability between them; and
 - c. The board does not notify the existing permittee and the proposed new permittee of its intent to modify or revoke and reissue the permit. If this notice is not received, the transfer is effective on the date specified in the agreement mentioned in Part III Y 2 b.

Z. Severability. The provisions of this permit are severable, and if any provision of this permit or the application of any provision of this permit to any circumstance is held invalid, the application of such provision to other circumstances, and the remainder of this permit, shall not be affected thereby.

9 VAC 25-193-80. [No change from proposed.]

DOCUMENTS INCORPORATED BY REFERENCE [No change from proposed.]

VA.R. Doc. No. R03-183; Filed July 9, 2003, 8:14 a.m.

* * * * *

Notice of Effective Date

Title of Regulation: 9 VAC 25-260. Water Quality Standards (amending 9 VAC 25-260-140 and 9 VAC 25-140-155).

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

Effective Date: August 27, 2003

On July 9, 2002, the State Water Control Board adopted revisions to the Water Quality Standards in 9 VAC 25-260-140 and 9 VAC 25-260-155. These revisions relate to statewide water quality criteria for ammonia. The final amendments were published in 18:24 VA.R. 3289-3295 August 12, 2002, with an effective date of 30 days after notice in the Virginia Register of EPA approval. The State Water Control Board hereby notices EPA approval of these revisions to the water quality standards via a letter dated June 24, 2003, from Jon M. Capacasa, Director of the Water Protection Division, EPA Region 3 to Robert G. Burnley, Director of the Virginia Department of Environmental Quality. The effective date of these amendments is August 27, 2003. Copies are available online at <http://www.deq.state.va.us/wqs/rule.html#State> or call toll free at 1-800-592-5482 ext. 4111, local 698-4111, or make written request to Elleanor Daub at P.O. Box 10009, Richmond, VA 23240 or e-mail request to emdaub@deq.state.va.us.

VA.R. Doc. No. R01-13; Filed July 9, 2003, 8:13 a.m.

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Notice of Effective Date

Title of Regulation: 9 VAC 25-260. Water Quality Standards (amending 9 VAC 25-260-310 and 9 VAC 25-260-390).

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

Effective Date: August 27, 2003.

On May 6, 2002, the State Water Control Board adopted revisions to the Water Quality Standards in 9 VAC 25-260-310 and 9 VAC 25-260-390. These revisions relate to a site-specific water quality criterion for ammonia for some Potomac River embayments and other minor clarifications in 9 VAC 25-260-310. The final amendments were published in 18:20 VA.R. 2657-2661 June 17, 2002, with an effective date of 30 days after notice in the Virginia Register of EPA approval. The State Water Control Board hereby notices EPA approval of these revisions to the water quality standards via a letter dated June 24, 2003, from Jon M. Capacasa, Director of the Water Protection Division, EPA Region 3 to Robert G. Burnley, Director of the Virginia Department of Environmental Quality. The effective date of these amendments is August 27, 2003. Copies are available online at

http://www.deq.state.va.us/wqs/rule.html#State or call toll free at 1-800-592-5482 ext. 4111, local 698-4111, or make written request to Eleanore Daub at P.O. Box 10009, Richmond, VA 23240 or e-mail request to emdaub@deq.state.va.us.

VA.R. Doc. No. R01-13; Filed July 9, 2003, 8:14 a.m.

TITLE 12. HEALTH

DEPARTMENT OF MEDICAL ASSISTANCE SERVICES

REGISTRAR'S NOTICE: The following regulatory action is exempt from the Administrative Process Act in accordance with § 2.2-4006 A 4 c of the Code of Virginia, which excludes regulations that are necessary to meet the requirements of federal law or regulations provided such regulations do not differ materially from those required by federal law or regulation. The Department of Medical Assistance Services will receive, consider and respond to petitions by any interested person at any time with respect to reconsideration or revision.

Title of Regulation: 12 VAC 30-120. Waivered Services (amending 12 VAC 30-120-260, 12 VAC 30-120-280 and 12 VAC 30-120-300).

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

Effective Date: August 27, 2003.

Summary:

The amendments conform state regulations to several specific mandates in the federal Balanced Budget Act of 1997 (BBA) that affect managed care. The regulatory changes spurred by the BBA are found in the Code of Federal Regulations (CFR), specifically 42 CFR Part 438. While the BBA became law six years ago, states are not required to comply with these requirements until August 13, 2003. The significant changes giving rise to the present regulations include: changes to certain definitions as set forth in 12 VAC 30-120-260; changes to allow new enrollees to change their primary care provider (PCP) without cause in the first 90 days following their enrollment and under certain other specified circumstances (12 VAC 30-120-280); and changes to provider restrictions prohibiting certain provider affiliations and enhancing anti-discrimination rules (12 VAC 30-120-300).

Agency Contact: Victoria P. Simmons, Regulatory Coordinator, Department of Medical Assistance Services, Policy Division, 600 East Broad Street, Suite 1300, Richmond, VA 23219, telephone (804) 786-7959, FAX (804) 786-1680 or e-mail bmccormi@dmass.state.va.us.

12 VAC 30-120-260. Definitions.

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

"ABD" means aged, blind and disabled recipients of public assistance programs as defined by the Virginia Department of Social Services.

"AFDC" means Aid to Families with Dependent Children, which is a public assistance program administered by the Department of Social Services providing financial assistance to needy citizens.

"Action" means a termination, suspension, or reduction of Medicaid eligibility or covered services.

"AFDC related" means those recipients eligible for assistance as an extension of the AFDC program, such as pregnant women and indigent children under specific ages. It shall not include foster care or spend-down medically needy clients.

"Ancillary services" means those services accorded to a client that are intended to support the diagnosis and treatment of that client. These services include, but are not necessarily limited to, laboratory, pharmacy, radiology, physical therapy, and occupational therapy.

"Appeal" means a request for review of an action; all enrollee appeals are subject to the regulations set forth in 12 VAC 30-110.

"Client" or "clients" means an individual or individuals having current Medicaid eligibility who shall be authorized to participate as a member or members of MEDALLION.

"Comparison group" means the group of Medicaid recipients whose utilization and costs will be compared against similar groups of MEDALLION clients.

"Covering provider" means a provider designated by the primary care provider to render health care services in the temporary absence of the primary provider.

"DMAS" means the Department of Medical Assistance Services.

~~"Emergency services medical condition" means services provided in a hospital, clinic, office, or other facility that is equipped to furnish the required care, after the sudden onset of a medical condition manifesting itself by acute symptoms of sufficient severity (including severe pain) that a prudent layperson, who possesses an average knowledge of health and medicine, could reasonably expect the absence of immediate medical attention could reasonably be expected to result in the following:~~

1. Placing the client's health of the individual (or, with respect to a pregnant woman, the health of the woman or her unborn child) in serious jeopardy;
2. Serious impairment to bodily functions; or
3. Serious dysfunction of any bodily organ or part.

~~"Emergency services" means covered inpatient and outpatient services that are (i) furnished by a provider that is qualified to furnish these services under this title and (ii) needed to evaluate or stabilize an emergency medical condition.~~

"Enrollee" is a Medicaid recipient who is currently enrolled with a PCP in a given managed care program.

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"EPSDT" means the Early and Periodic Screening, Diagnosis, and Treatment program.

"Gatekeeper" means the function performed by the MEDALLION primary care provider in controlling and managing assigned clients through appropriate levels of medical care.

"General practitioner" means a licensed physician who provides routine medical treatment, diagnosis, and advice to maintain a client's health and welfare.

"Grievance" is an expression of dissatisfaction about any matter other than an action, as "action" is defined in this section. The term is also used to refer to the overall system that includes grievances and appeals and access to the state fair hearing process. Examples of subjects for grievances include, but are not limited to, the quality of care or services provided, and aspects of interpersonal relationships, such as rudeness of a provider or employee, or the failure to respect the enrollee's rights.

"Potential enrollee" means a Medicaid recipient who is subject to mandatory enrollment or may voluntarily elect to enroll in a given managed care program, but is not yet assigned to a specific primary care provider.

"Primary care provider" or "PCP" means that MEDALLION provider responsible for the coordination of all medical care provided to a MEDALLION client and shall be recognized by DMAS as a Medicaid provider.

"Site" means, for purposes of this part, the geographical areas that best represent the health care delivery systems in the Commonwealth. In certain areas (sites), there may be two or more identifiable health care delivery systems.

"Specialty" or "specialist services" means those services, treatments, or diagnostic tests intended to provide the patient with a higher level of medical care or a more definitive level of diagnosis than that routinely provided by the primary care provider.

"Spend-down" means the process of reducing countable income by deducting incurred medical expenses.

"State" means the Commonwealth of Virginia.

12 VAC 30-120-280. MEDALLION clients.

A. Clients of MEDALLION shall be individuals receiving Medicaid as ABD, AFDC or AFDC-related categorically needy and medically needy (except those becoming eligible through spend-down) and except for foster care children, whether or not receiving cash assistance grants.

B. Exclusions.

1. The following individuals shall be excluded from participating in MEDALLION:
 - a. Individuals who are inpatients in mental hospitals and skilled nursing facilities;
 - b. Individuals who are receiving personal care services;

- c. Individuals who are participating in foster care or subsidized adoption programs, who are members of spend-down cases, or who are refugees;

- d. Individuals receiving Medicare.

2. A client may be excluded from participating in MEDALLION if any of the following apply:

- a. Client not accepted to the caseload of any participating PCP.

- b. Client whose enrollment in the caseload of assigned PCP has been terminated and other PCPs have declined to enroll the client.

C. Client enrollment process.

1. All ABD, AFDC or AFDC-related recipients excepting those meeting one of the exclusions of subsection B of this section shall be enrolled in MEDALLION.

2. Newly eligible individuals shall not participate in MEDALLION until completion of the Medicaid enrollment process. This shall include initial enrollment at the time of eligibility determination by Department of Social Services staff, or any subsequent reenrollment that may occur.

3. Clients shall receive an interim Medicaid card from DMAS, and shall be provided authorized medical care in accordance with current procedures, after eligibility requirements are met.

4. Once clients are fully registered as MEDALLION clients, they will receive MEDALLION identification material in addition to the Medicaid card.

D. PCP selection.

Clients shall be given the opportunity to select the PCP of their choice.

1. Clients shall notify DMAS of their PCP selection within 30 days of receiving their MEDALLION enrollment notification letter. If notification is not received by DMAS within that timeframe, DMAS shall select a PCP for the client.

2. Selected PCP shall be a MEDALLION enrolled provider.

3. PCP will provide 24-hour access, which shall include as a minimum a 24-hour telephone number to be placed on each client's MEDALLION identifier.

4. DMAS shall review client requests in choosing a specific PCP for appropriateness and to ensure client accessibility to all required medical services.

E. Mandatory assignment of PCP.

Assignments shall be made for those clients not selecting a PCP as described in subsection D of this section. The selection process shall be as follows:

1. Clients shall be assigned to MEDALLION providers on a random basis. The age, gender, and any special medical needs shall be considered in assigning a provider with an appropriate specialty. Any prior patient-provider relationships shall be maintained if appropriate. Families will be grouped and assigned to the same provider when possible.

2. Each site having two or more separately identifiable provider groups shall be divided into separate regions for client assignment. Clients shall initially be assigned to a PCP according to the region in which they reside. Should insufficient PCPs exist within the client's specific region, clients shall be assigned a PCP in an adjacent region.

3. Each PCP shall be assigned a client, or family group if appropriate, until the maximum number of clients the PCP has elected to serve has been reached, or until there are no more clients suitable for assignment to that PCP, or all clients have been assigned.

F. Changing PCPs. MEDALLION clients ~~shall remain with the assigned PCP for a period of not less than six months. After that time clients may elect to change PCPs. Changes may be made annually thereafter.~~ will have the initial 90 calendar days following the effective date of enrollment with a MEDALLION PCP to change PCPs without cause. After the initial 90-day assignment period, the recipient will remain with the PCP for at least 12 months unless cause to change PCPs is shown pursuant to subdivision 1 or 2 of this subsection. After 12 months the recipient will have the option to select another PCP. Recipients will be given at least 60 days notice prior to the end of this enrollment period (and all future enrollment periods) during which time recipients can select another PCP. Open enrollment periods will occur annually.

1. Requests for change of PCP "for cause" are not subject to the six-month limitation, but shall be reviewed and approved by DMAS staff on an individual basis. Examples of changing providers "for cause" may include but shall not be necessarily limited to:

- a. Client has a special medical need which cannot be met in his service area or by his PCP.
- b. Client has a pre-existing relationship with a Medicaid provider rendering care for a special medical need.
- c. Mutual decision by both client and provider to sever the relationship.
- d. Provider or client moves to a new residence, causing transportation difficulties for the client.
- e. Provider cannot establish a rapport with the client.

2. The existing PCP shall continue to retain the client in the caseload, and provide services to the client until a new PCP is assigned or selected.

3. PCPs may elect to release MEDALLION clients from their caseloads for cause with review and approval by DMAS on a case-by-case basis. In such circumstances, subdivision F 2 of this section shall apply.

G. MEDALLION identification material. Each client enrolled shall receive a MEDALLION identifier, which shall be distinct from the Medicaid card in appearance or shall contain information in magnetic or other form which allows identification of the client as a member of the MEDALLION program.

1. The front of the identifier shall include the client's name, Medicaid case identification number, birthdate, sex, PCP's

name, address, 24-hour access telephone number, and the effective time period covered by the identifier.

2. The MEDALLION Hot Line 800 number will be listed on the identifier.

H. Prior authorization.

1. Clients shall contact their assigned PCP or designated covering provider to obtain authorization prior to seeking nonemergency care.

2. Emergency services shall be provided without delay or prior authorization. However, the emergency nature of the treatment shall be documented by the provider providing treatment and should be reported to the PCP after treatment is provided. Clients should inform the PCP of any emergency treatment received.

I. Enrollee rights.

1. Each primary care provider must comply with any and all applicable federal and state laws and regulations regarding enrollee rights including, but not limited to, the applicable sections of 42 CFR 438.100 et seq., Title VI of the Civil Rights Act of 1964, and other applicable laws regarding privacy and confidentiality, and ensure that their staff and affiliated providers take those rights into account when furnishing services to enrollees.

2. Each enrollee shall be free to exercise his rights, and the exercise of those rights shall not adversely affect the way the primary care provider or DMAS treats the enrollee.

12 VAC 30-120-300. MEDALLION provider requirements.

A. PCPs must require their clients to present their currently effective MEDALLION identification material upon presentation for services.

B. PCPs shall function as "gatekeeper" for assigned clients. Specific requirements shall include but are not necessarily limited to:

1. Providing patient management for the following services: physician, pharmacy, hospital inpatient and outpatient, laboratory, ambulatory surgical center, radiology, and durable medical equipment and supplies.

2. Providing or arranging for physician coverage 24 hours per day, seven days per week.

3. Determining the need for and authorizing when appropriate, all nonemergency care.

4. Being an EPSDT provider, or having a referral relationship with one, and providing or arranging for preventive health services for children under the age of 21 in accordance with the periodicity schedule recommended in the Guidelines for Health Supervision of the American Academy of Pediatrics, 1991.

5. Making referrals when appropriate, conforming to standard medical practices, to medical specialists or services as required. The referral duration shall be at the discretion of the PCP, and must be fully documented in the patient's medical record.

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6. Coordinating inpatient admissions either by personally ordering the admission, or by referring to a specialist who may order the admission.

7. Maintaining a legibly written, comprehensive, and unified patient medical record for each client consistent with documentation requirements set forth in DMAS' Physician Manual.

8. Documenting in each client's record all authorizations for referred services.

9. Providing education and guidance to assigned clients for the purpose of teaching correct methods of accessing the medical treatment system and promoting good health practices.

10. Tracking and documenting any emergency care provided to clients.

11. *Shall not refuse an assignment to, or otherwise discriminate against, any enrollee or potential enrollee on the basis of health status or need for health care services, or on the basis of race, color, or national origin, and shall not use any policy or practice that has the effect of discrimination on the basis of race, color, or national origin.*

C. A PCP may not knowingly be affiliated with any of the following:

1. *Any individual who is debarred, suspended, or otherwise excluded from participating in procurement activities under the Federal Acquisition Regulation (48 CFR 9.400 et seq.) or from participating in nonprocurement activities under regulations issued under Executive Order No. 12549 or under guidelines implementing Executive Order No. 12549.*

2. *An individual who is an affiliate of a person described in subdivision C 1 of this subsection whose relationship is as follows:*

a. *A director, officer, or partner of the PCP;*

b. *A person with beneficial ownership of 5.0% or more of the PCP's equity;*

c. *A person with an employment, consulting, or other arrangement with the PCP for the provision of items and services that are significant and material to the PCP's obligations under its contract with the state.*

VA.R. Doc. No. R03-244; Filed June 27, 2003, 4:42 p.m.

REGISTRAR'S NOTICE: The following regulatory action is exempt from the Administrative Process Act in accordance with § 2.2-4006 A 4 c of the Code of Virginia, which excludes regulations that are necessary to meet the requirements of federal law or regulations provided such regulations do not differ materially from those required by federal law or regulation. The Department of Medical Assistance Services will receive, consider and respond to petitions by any interested person at any time with respect to reconsideration or revision.

Title of Regulation: 12 VAC 30-120. **Waivered Services (amending 12 VAC 30-120-360 through 12 VAC 30-120-420).**

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

Effective Date: August 27, 2003.

Summary:

The amendments conform state regulations to several specific mandates in the federal Balanced Budget Act of 1997 (BBA) that affect managed care organizations (MCOs). The regulatory changes spurred by the BBA are found in the Code of Federal Regulations (CFR), specifically 42 CFR Part 438. While the BBA became law six years ago, states are not required to comply with these requirements until August 13, 2003. The significant changes giving rise to the present regulations include: changes to certain definitions as set forth in 12 VAC 30-120-360; changes to enrollee rights and access to providers (12 VAC 30-120-370); inclusion of health care professionals in decisions regarding amount, duration, and scope of services (12 VAC 30-120-380); imposition of quality control and utilization review (12 VAC 30-120-400); the addition of new specific monetary sanctions (12 VAC 30-120-410), and changes to the grievance and appeal process (12 VAC 30-120-420).

Agency Contact: Victoria P. Simmons, Regulatory Coordinator, Department of Medical Assistance Services, Policy Division, 600 East Broad Street, Suite 1300, Richmond, VA 23219, telephone (804) 786-7959, FAX (804) 786-1680 or e-mail bmccormi@dmass.state.va.us.

12 VAC 30-120-360. Definitions.

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

"Action" means the denial or limited authorization of a requested service, including the type or level of service; the reduction, suspension, or termination of a previously authorized service; the denial, in whole or in part, of payment for a service; the failure to provide services in a timely manner, as defined by the state; or the failure of an MCO to act within the timeframes provided in 42 CFR 438.408(b).

"Appeal" means ~~any written communication from a client or his representative which clearly expresses that he wants to present his case to a reviewing authority~~ a request for review of an action, as "action" is defined in this section.

"Area of residence" means the recipient's address in the Medicaid eligibility file.

"Capitation payment" means a payment the department makes periodically to a contractor ~~for~~ on behalf of each recipient enrolled under a contract for the provision of medical services under the State Plan, regardless of whether the particular recipient receives services during the period covered by the payment.

"Client," "clients," "recipient," "enrollee," or "participant" means an individual or individuals having current Medicaid eligibility

who shall be authorized by DMAS to be a member or members of Medallion II.

"Covered services" means Medicaid services as defined in the State Plan for Medical Assistance.

"Disenrollment" means the process of changing enrollment from one Medallion II Managed Care Organization (MCO) plan to another MCO or to the Primary Care Case Management (PCCM) program, if applicable.

"DMAS" means the Department of Medical Assistance Services.

"Eligible person" means any person eligible for Virginia Medicaid in accordance with the State Plan for Medical Assistance under Title XIX of the Social Security Act.

"Emergency medical condition" means a medical condition manifesting itself by acute symptoms of sufficient severity (including severe pain) that a prudent layperson, who possesses an average knowledge of health and medicine, could reasonably expect the absence of immediate medical attention to result in the following:

1. Placing the health of the individual (or, with respect to a pregnant woman, the health of the woman or her unborn child) in serious jeopardy,
2. Serious impairment to bodily functions, or
3. Serious dysfunction of any bodily organ or part.

~~"Emergency services" means those health care services that are rendered by participating or nonparticipating providers after the sudden onset of a medical condition manifesting itself by acute symptoms of sufficient severity (including severe pain) that a prudent layperson, who possesses an average knowledge of health and medicine, could reasonably expect the absence of immediate medical attention to result in: covered inpatient and outpatient services that are furnished by a provider that is qualified to furnish these services and that are needed to evaluate or stabilize an emergency medical condition.~~

- ~~1. Placing the client's health or, with respect to a pregnant woman, the health of the woman or her unborn child in serious jeopardy;~~
- ~~2. Serious impairment to bodily functions; or~~
- ~~3. Serious dysfunction of any bodily organ or part.~~

~~Emergency services provided within the MCO plan's service area shall include covered health care services from nonaffiliated providers only when delay in receiving care from a provider affiliated with the managed care organization could reasonably be expected to cause the recipient's condition to worsen if left unattended.~~ "Enrollment broker" means an independent contractor that enrolls recipients in the contractor plan and is responsible for the operation and documentation of a toll-free recipient service helpline. The responsibilities of the enrollment broker include, but shall not be limited to, recipient education and enrollment, assistance with and tracking of recipients' complaints resolutions, and may include recipient marketing and outreach.

"Exclusion from Medallion II" means the removal of an enrollee from the Medallion II program on a temporary or permanent basis.

"External Quality Review Organization" (EQRO) is an organization that meets the competence and independence requirements set forth in 42 CFR 438.354 and performs external quality reviews, other EQR related activities as set forth in 42 CFR 438.358, or both.

"Foster care" means a child who received either foster care assistance under Title IV-E of the Social Security Act or state and local foster care assistance.

~~"Grievance" means an oral or written communication made by or on behalf of a member expressing dissatisfaction with the resolution of a complaint. Grievances are usually handled by the MCO's Internal Grievance Committee and are related to: (i) the availability, delivery or quality of health care services including the utilization review decisions that are adverse to the member or (ii) payment or reimbursement of health care service claims. an expression of dissatisfaction about any matter other than an action, as "action" is defined in this section.~~

"Health care plan" means any arrangement in which any health maintenance organization undertakes to provide, arrange for, pay for, or reimburse any part of the cost of any health care services.

"Health care professional" means a provider as defined in 42 CFR 438.2.

"Managed care organization" or "MCO" means an organization that offers managed care health insurance plans (MCHIP) as defined by § 38.2-5800 of the Code of Virginia. Any health maintenance organization as defined in § 38.2-4300 of the Code of Virginia or health carrier that offers preferred provider contracts or policies as defined in § 38.2-3407 of the Code of Virginia or preferred provider subscription contracts as defined in § 38.2-4209 of the Code of Virginia shall be deemed to be offering one or more MCHIPs.

"Network" means doctors, hospitals or other health care providers who participate or contract with an MCO and, as a result, agree to accept a mutually-agreed upon sum or fee schedule as payment in full for covered services that are rendered to eligible participants.

"Nonparticipating provider" means a health care entity or health care professional not in the contractor's participating provider network.

"Post-stabilization care services" means covered services related to an emergency medical condition that are provided after an enrollee is stabilized in order to maintain the stabilized condition or to improve or resolve the enrollee's condition.

"Potential enrollee" means a Medicaid recipient who is subject to mandatory enrollment or may voluntarily elect to enroll in a given managed care program, but is not yet an enrollee of a specific MCO or PCCM.

"Primary care case management" or "PCCM" means a system under which a primary care case manager contracts with the Commonwealth to furnish case management services (which

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include the location, coordination, and monitoring of primary health care services) to Medicaid recipients.

"School-based services" means those therapy services, nursing services, psychiatric/psychological screenings, and well-child screenings, rendered to children who qualify for these services under the federal Individuals with Disabilities Education Act (20 USC § 1471 et seq.) by (i) employees of the school divisions or (ii) providers that subcontract with school divisions.

"Spend-down" means the process of reducing countable income by deducting incurred medical expenses for medically needy individuals, as determined in the State Plan for Medical Assistance.

12 VAC 30-120-370. Medallion II enrollees.

A. DMAS shall determine enrollment in Medallion II. Enrollment in Medallion II is not a guarantee of continuing eligibility for services and benefits under the Virginia Medical Assistance Services Program.

B. The following individuals shall be excluded from participating in Medallion II. Individuals not meeting the exclusion criteria must participate in the Medallion II program.

1. Individuals who are inpatients in state mental hospitals;
2. Individuals who are approved by DMAS as inpatients in long-stay hospitals, nursing facilities, or intermediate care facilities for the mentally retarded;
3. Individuals who are placed on spend-down;
4. Individuals who are participating in federal waiver programs for home-based and community-based Medicaid coverage;
5. Individuals who are participating in foster care or subsidized adoption programs;
6. Individuals who are enrolled in DMAS authorized residential treatment or treatment foster care programs;
7. Newly eligible individuals who are in the third trimester of pregnancy and who request exclusion within a department-specified timeframe of the effective date of their MCO enrollment. Exclusion may be granted only if the member's obstetrical provider (physician or hospital) does not participate with any of the state-contracted MCOs. Exclusion requests made during the third trimester may be made by the recipient, MCO, or provider. DMAS shall determine if the request meets the criteria for exclusion. Following the end of the pregnancy, these individuals shall be required to enroll to the extent they remain eligible for Medicaid;
8. Individuals, other than students, who permanently live outside their area of residence for greater than 60 consecutive days except those individuals placed there for medically necessary services funded by the MCO;
9. Individuals who receive hospice services in accordance with DMAS criteria;
10. Individuals with Medicare coverage;

11. Individuals requesting exclusion who are inpatients in hospitals, other than those listed in subdivisions 1 and 2 of this subsection, at the scheduled time of enrollment or who are scheduled for inpatient hospital stay or surgery within 30 calendar days of the enrollment effective date. The exclusion shall remain effective until the first day of the month following discharge;

12. Individuals who have been preassigned to an MCO but have not yet been enrolled, who have been diagnosed with a terminal condition and who have a life expectancy of six months or less, if they request exclusion. The client's physician must certify the life expectancy; and

13. Certain individuals between birth and age three certified by the Department of Mental Health, Mental Retardation and Substance Abuse Services as eligible for services pursuant to Part C of the Individuals with Disabilities Education Act (20 USC § 1471 et seq.) who are granted an exception by DMAS to the mandatory Medallion II enrollment.

C. Medallion II managed care plans shall be offered to recipients, and recipients shall be enrolled in those plans, exclusively through an independent enrollment broker under contract to DMAS.

D. Clients shall be enrolled as follows:

1. All eligible persons, except those meeting one of the exclusions of subsection B of this section, shall be enrolled in Medallion II.
2. Clients shall receive a Medicaid card from DMAS during the interim period, and shall be provided authorized medical care in accordance with DMAS' procedures, after eligibility has been determined to exist.
3. Once individuals are enrolled in Medicaid, they will receive a letter indicating that they may select one of the contracted MCOs. These letters shall indicate a preassigned MCO, determined as provided in subsection E of this section, in which the client will be enrolled if he does not make a selection within a period specified by DMAS of not less than 30 days.
4. A child born to a woman enrolled with an MCO will be enrolled with the MCO from birth until the last day of the third month including the month of birth, unless otherwise specified by the Enrollment Broker. For instance, a child born during the month of February will be automatically enrolled until April 30. By the end of that third month, the child will be disenrolled unless the Enrollment Broker specifies continued enrollment. If the child remains an inpatient in a hospital at the end of that third month, the child shall automatically remain enrolled until the last day of the month of discharge, unless this child's parent requests disenrollment.
5. Individuals who lose then regain eligibility for Medallion II within 60 days will be reenrolled into their previous MCO without going through preassignment and selection.

E. Clients who do not select an MCO as described in subdivision D 3 of this section shall be assigned to an MCO as follows:

1. Clients are assigned through system algorithm based upon the client's history with a contracted MCO.
2. Clients not assigned pursuant to subdivision 1 of this subsection shall be assigned to the MCO of another family member, if applicable.
3. All other clients shall be assigned to an MCO on a basis of approximately equal number by MCO in each locality.
4. In areas where there is only one contracted MCO, recipients have a choice of enrolling with the contracted MCO or the PCCM program. All eligible recipients in areas where one contracted MCO exists, however, are automatically assigned to the contracted MCO. Individuals are allowed 90 days after the effective date of new or initial enrollment to change from either the contracted MCO to the PCCM program or vice versa.

F. Following their initial enrollment into an MCO or PCCM program, recipients shall be restricted to the MCO or PCCM program until the next open enrollment period, unless appropriately disenrolled or excluded by the department.

1. During the first 90 calendar days of enrollment in a new or initial MCO, a client may disenroll from that MCO to enroll into another MCO or into PCCM, if applicable, for any reason. Such disenrollment shall be effective no later than the first day of the second month after the month in which the client requests disenrollment.
2. During the remainder of the enrollment period, the client may only disenroll from one MCO into another MCO or PCCM, if applicable, upon determination by DMAS that good cause exists as determined under subsection H of this section.

G. The department shall conduct an annual open enrollment for all Medallion II participants, including in areas where there is only one contracted MCO. The open enrollment period shall be the 60 calendar days before the end of the enrollment period. Prior to the open enrollment period, DMAS will inform the recipient of the opportunity to remain with the current MCO or change to another MCO, without cause, for the following year. In areas with only one contracted MCO, recipients will be given the opportunity to select either the MCO or the PCCM program. Enrollment selections will be effective on the first of the next month following the open enrollment period. Recipients who do not make a choice during the open enrollment period will remain with their current MCO selection.

H. Disenrollment for good cause may be requested at any time.

1. After the first 90 days of enrollment in an MCO, clients must request disenrollment from DMAS based on good cause. The request ~~must~~ *may* be made *orally* or in writing to DMAS and *must* cite the reasons why the client wishes to disenroll. Good cause for disenrollment shall include the following:

- a. A recipient's desire to seek services from a federally qualified health center which is not under contract with the recipient's current MCO, and the recipient (i) requests a change to another MCO that subcontracts with the desired federally qualified health center or (ii) requests a

change to the PCCM, if the federally qualified health center is contracting directly with DMAS as a PCCM;

b. Performance or nonperformance of service to the recipient by an MCO or one or more of its providers which is deemed by the department's external quality review organizations to be below the generally accepted community practice of health care. This may include poor quality care;

c. Lack of access to necessary specialty services covered under the State Plan; *or lack of access to providers experienced in dealing with the enrollee's health care needs.*

d. A client has a combination of complex medical factors that, in the sole discretion of DMAS, would be better served under another contracted MCO or PCCM program, if applicable, or provider; ~~or~~

e. The enrollee moves out of the MCO's service area;

f. The MCO does not, because of moral or religious objections, cover the service the enrollee seeks;

g. The enrollee needs related services to be performed at the same time; not all related services are available within the network, and the enrollee's primary care provider or another provider determines that receiving the services separately would subject the enrollee to unnecessary risk; or

e. h. Other reasons as determined by DMAS through written policy directives.

2. DMAS shall determine whether good cause exists for disenrollment.

3. Good cause for disenrollment shall be deemed to exist and the disenrollment shall be granted if DMAS fails to take final action on a valid request prior to the first day of the second month after the request.

4. The DMAS determination concerning good cause for disenrollment may be appealed by the client in accordance with the department's client appeals process at 12 VAC 30-110-10 through 12 VAC 30-110-380.

5. The current MCO shall provide, within two working days of a request from DMAS, information necessary to determine good cause.

12 VAC 30-120-380. Medallion II MCO responsibilities.

A. The MCO shall provide, at a minimum, all medically necessary covered services provided under the State Plan for Medical Assistance and further defined by written DMAS regulations, policies and instructions, except as otherwise modified or excluded in this part.

Nonemergency services provided by hospital emergency departments shall be covered by MCOs in accordance with rates negotiated between the MCOs and the emergency departments.

B. Services that shall be provided outside the MCO network, and reimbursed by DMAS shall include, but are not limited to, those services defined by the contract between DMAS and the

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MCO. Services reimbursed by DMAS include school-based services and community mental health services (rehabilitative, targeted case management and substance abuse services). The MCOs shall pay for emergency services and family planning services and supplies whether they are provided inside or outside the MCO network.

C. The MCOs shall report data to DMAS under the contract requirements, which may include data reports, report cards for clients, and ad hoc quality studies performed by the MCO or third parties.

D. *Documentation requirements.*

1. The MCO shall maintain such records as may be required by federal and state law and regulation and by DMAS policy. The MCO shall furnish such required information to DMAS, the Attorney General of Virginia or his authorized representatives, or the State Medicaid Fraud Control Unit on request and in the form requested.

2. *Each MCO shall have written policies regarding enrollee rights and must comply with any applicable federal and state laws that pertain to enrollee rights and ensure that its staff and affiliated providers take those rights into account when furnishing services to enrollees in accordance with 42 CFR 438.100.*

E. The MCO shall ensure that the health care provided to its clients meets all applicable federal and state mandates, community standards for quality, and standards developed pursuant to the DMAS managed care quality program.

F. The MCOs shall promptly provide or arrange for the provision of all required services as specified in the contract between the state and the contractor. Medical evaluations shall be available within 48 hours for urgent care and within 30 calendar days for routine care. On-call clinicians shall be available 24 hours per day, seven days per week.

G. The MCOs must meet standards specified by DMAS for sufficiency of provider networks as specified in the contract between the state and the contractor.

~~H. Preauthorization and concurrent review decisions must be supervised by qualified medical professionals as defined by the contract between DMAS and the MCO. Each MCO and its subcontractors shall have in place, and follow, written policies and procedures for processing requests for initial and continuing authorizations of service. Each MCO and its subcontractors shall ensure that any decision to deny a service authorization request or to authorize a service in an amount, duration, or scope that is less than requested, be made by a health care professional who has appropriate clinical expertise in treating the enrollee's condition or disease. Each MCO and its subcontractors shall have in effect mechanisms to ensure consistent application of review criteria for authorization decisions and consult with the requesting provider when appropriate.~~

I. The MCOs shall not charge copayments to any categorically needy enrollees.

J. *An MCO may not prohibit, or otherwise restrict, a health care professional acting within the lawful scope of practice,*

from advising or advocating on behalf of an enrollee who is his patient in accordance with 42 CFR 438.102.

K. An MCO that would otherwise be required to provide, reimburse for, or provide coverage of, a counseling or referral service is not required to do so if the MCO objects to the service on moral or religious grounds and furnishes information about the service it does not cover in accordance with 42 CFR 438.102.

12 VAC 30-120-390. Payment rate for Medallion II MCOs.

The payment rate to MCOs shall be set by negotiated contracts and in accordance with 42 CFR 438.6 and other pertinent federal regulations.

12 VAC 30-120-395. Payment rate for preauthorized or emergency care provided by out-of-network providers.

The MCOs shall pay for preauthorized or emergency services when provided outside the MCO network. Preauthorized or emergency ~~care~~ services provided to a Medallion II client by a provider or facility not participating in the MCO's network will be reimbursed according to the current Medicaid fee schedule. This reimbursement shall be considered payment in full to the provider or facility of emergency ~~care~~ services.

12 VAC 30-120-400. Quality control and utilization review.

A. DMAS shall rigorously monitor the quality of care provided by the MCOs. DMAS may contract with one or more external quality review organizations to perform focused studies on the quality of care provided by the MCOs. The external organizations may utilize data or other tools to ensure contract compliance and quality improvement activities. Specifically, DMAS shall monitor to determine if the MCO:

1. Fails substantially to provide the medically necessary items and services required under law or under the contract to be provided to an enrolled recipient and the failure has adversely affected (or has substantial likelihood of adversely affecting) the individual.
2. Engages in any practice that discriminates among individuals on the basis of their health status or requirements for health care services, including expulsion or refusal to reenroll an individual, or any practice that could reasonably be expected to have the effect of denying or discouraging enrollment (except as permitted by § 1903(m) of the Social Security Act (42 USC § 1396b(m))) by eligible individuals whose medical conditions or histories indicate a need for substantial future medical services.
3. Misrepresents or falsifies information that it furnishes, under § 1903(m) of the Social Security Act (42 USC § 1396b(m)) to CMS, DMAS, an individual, or any other entity.
4. Fails to comply with the requirements of 42 CFR 417.479(d) through (g) relating to physician incentive plans, or fails to submit to DMAS its physician incentive plans as required or requested in 42 CFR 434.70.
5. *Imposes on enrollees premiums or charges that are in excess of the premiums or charges permitted under the Medicaid program.*

B. DMAS shall ensure that data on performance and patient results is collected.

C. DMAS shall ensure that quality outcomes information is provided to MCOs. DMAS shall ensure that changes which are determined to be needed as a result of quality control or utilization review are made.

12 VAC 30-120-410. Sanctions.

A. If DMAS determines that an MCO is not in compliance with *applicable* state or federal laws, regulations (including but not limited to the requirements of or pursuant to 12 VAC 30-120-380 E), or 42 CFR 438, Subpart I), or their Medallion II contract, DMAS may impose sanctions on the MCO. The sanctions may include but are not limited to:

1. Limiting enrollments in the MCO by freezing voluntary recipient enrollments;
2. Freezing DMAS assignment of recipients to the MCO;
3. Limiting MCO enrollment to specific areas;
4. Denying, withholding, or retracting payments to the MCO; ~~and~~
5. Terminating the MCO's Medallion II contract; ~~and~~
6. *Intermediate sanctions including, but not limited to, the maximum civil money penalties specified in 42 CFR Part 438, Subpart I, for the violations set forth therein, or in accordance therewith.*

B. In the case of an MCO that has repeatedly failed to meet the requirements of §§ 1903(m) and 1932 of the Social Security Act, DMAS shall, regardless of what other sanctions are imposed, impose the following sanctions.

1. Appoint a temporary manager to:
 - a. Oversee the operation of the Medicaid managed care organization upon a finding by DMAS that there is continued egregious behavior by the organization or there is a substantial risk to the health of enrollees; or
 - b. Assure the health of the organization's enrollees if there is a need for temporary management while (i) there is an orderly termination or reorganization of the organization or (ii) improvements are made to remedy the violations found under subsection A of this section. Temporary management under this subdivision may not be terminated until DMAS has determined that the MCO has the capability to ensure that the violations shall not recur.
2. Permit individuals enrolled with the MCO to disenroll without cause. If this sanction is imposed, DMAS shall be responsible for notifying such individuals of the right to disenroll.

C. Prior to terminating a contract as permitted under subdivision A 5 of this section, DMAS shall provide the MCO with a hearing. DMAS may not provide an MCO with a pretermination hearing before the appointment of a temporary manager under subdivision B 1 of this section.

D. Prior to imposing any sanction other than termination of the MCO's contract, DMAS shall provide the MCO with notice, develop procedures with which the MCO must comply to eliminate specific sanctions, and provide such other due process protections as the state may provide.

E. In accordance with the terms of the contract, MCOs shall have the right to appeal any adverse action taken by DMAS. For appeal procedures not addressed by the contract, the MCO shall proceed in accordance with the appeals provisions of the Virginia Public Procurement Act (§ 2.2-4300 et seq. of the Code of Virginia). Pursuant to §§ 2.2-4364 and 2.2-4365 of the Code of Virginia, DMAS shall establish an administrative appeals procedure through which the MCO may elect to appeal decisions on disputes arising during the performance of its contract. Pursuant to § 2.2-4365 of the Code of Virginia, such appeal shall be heard by a hearing officer; however, in no event shall the hearing officer be an employee of DMAS. In conducting the administrative appeal, the hearing officer shall follow the hearing procedure used in § 2.2-4020 of the Code of Virginia.

F. When DMAS determines that an MCO committed one of the violations specified in 12 VAC 30-120-400 A, DMAS shall implement the provisions of 42 CFR 434.67.

1. Any sanction imposed pursuant to this subsection shall be binding upon the MCO.
2. The MCO shall have the appeals rights for any sanction imposed pursuant to this subsection as specified in 42 CFR 434.67.

12 VAC 30-120-420. Client grievances and appeals.

A. The MCOs shall, whenever a client's request for covered services is reduced, denied or terminated, or payment for services is denied, provide a written notice in accordance with the notice provisions specified in ~~42 VAC 30-110-70 through 42 VAC 30-110-100; federal requirements at 42 CFR Part 431, Subpart E, Fair Hearings for Applicants and Recipients; 42 CFR 438.404 and 42 CFR 438.210(c), as defined by the contract between DMAS and the MCO, and any other statutory or regulatory requirements.~~

B. MCOs shall, at the initiation of either new client enrollment or new provider/subcontractor contracts, or at the request of the enrollee, provide to every enrollee the information described in 42 CFR 438.10(g) concerning grievance/appeal rights and procedures.

~~B. C. Disputes between the MCO and the client concerning any aspect of service delivery, including medical necessity and specialist referral, shall be resolved through a verbal (informal) or written (formal) grievance/appeals process operated by the MCO or through the DMAS appeals process. A provider who has the enrollee's written consent may act on behalf of a client an enrollee in the MCO's internal informal or formal grievance procedures. MCO grievance/appeals or the DMAS appeals process.~~

1. *The enrollee, provider, or representative acting on behalf of the enrollee with the enrollee's written consent, may file an oral or written grievance or appeal with the MCO. The MCO must accept grievances or appeals submitted within 30 days from the date of the notice of adverse action. Oral*

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~~requests for appeals must be followed up in writing by the enrollee or his representative, unless the request is for an expedited appeal. The enrollee may also file a written request for a grievance standard or expedited appeal shall be filed with the DMAS Appeals Division within 30 days of the client's receipt of the notice of adverse action, in accordance with the time limit for requests for appeal specified in 12 VAC 30-110-160 and 12 VAC 30-110-170. Any written communication from a client or his representative (including a provider acting on behalf of the client) which clearly expresses that he wants to present his case to a reviewing authority shall constitute an appeal request 42 CFR 431 Subpart E and 12 VAC 30-110.~~

2. In compliance with 14 VAC 5-210-70 H 4, pending resolution of a ~~written grievance or appeal~~ filed by a client or his representative (including a provider acting on behalf of the client), coverage shall not be terminated for the client for any reason which is the subject of the ~~written~~ complaint. In addition, the MCO shall not terminate or reduce services as specified in 12 VAC 30-110-100.

3. ~~The MCO shall ensure that the individuals who make decisions on MCO grievances and appeals were not involved in any previous level of review or decision making, and where the reason for the grievance or appeal involves clinical issues, relates to a denial or a request for an expedited appeal, or where the appeal is based on a lack of medical necessity, shall ensure that the decision makers are health care professionals with the appropriate clinical expertise in treating the enrollee's condition or disease.~~

~~G. D.~~ The MCO shall develop written materials describing the ~~informal and formal~~ grievance/appeals system and its procedures and operation.

~~D. E.~~ The MCO shall maintain a recordkeeping and tracking system for complaints, grievances, and appeals that includes a copy of the original ~~written~~ complaint, grievance, or appeal; the decision; and the nature of the decision. This system shall distinguish Medicaid from commercial enrollees, if the MCO does not have a separate system for Medicaid enrollees.

~~E. F.~~ At the time of enrollment and at the time of any adverse actions, the MCO shall notify the client, in writing, that:

1. Medical necessity, specialist referral or other service delivery issues may be resolved through a system of ~~informal and formal~~ grievances and appeals, within the MCO or through the DMAS client appeals process;

2. Clients have the right to appeal directly to DMAS; and

3. The MCO shall promptly provide grievance or appeal forms ~~and~~, reasonable assistance and written procedures to clients who wish to register written grievances or appeals.

~~F. G.~~ The MCO shall, within two days of receipt of any written request for a grievance or appeal, provide DMAS with a copy of the request.

~~G. H.~~ The MCO shall issue ~~informal~~ grievance/appeal decisions as defined by the contract between DMAS and the MCO. ~~The informal Oral grievance decision is~~ decisions are not required to be in writing.

~~H. I.~~ The MCO shall issue ~~formal grievance standard appeal~~ decisions within 14 days from the date of initial receipt of the ~~formal grievance~~ appeal in accordance with 42 CFR 438.408 and as defined by the contract between DMAS and the MCO. The ~~formal~~ appeal decision shall be required to be in writing and shall include but is not limited to:

1. The ~~decision reached, the results and the date of the~~ decision reached by the MCO;

2. The reasons for the decision;

3. The policies or procedures which provide the basis for the decision; ~~and~~

4. A clear explanation of further appeal rights and a timeframe for filing an appeal; ~~and~~

5. ~~For appeals that involve the termination, suspension, or reduction of a previously authorized course of treatment, the right to continue to receive benefits in accordance with 42 CFR 438.420 pending a hearing, and how to request continuation of benefits.~~

~~I. J.~~ The MCO shall provide DMAS with a copy of its ~~formal~~ grievance or appeal decision concurrently with the provision of the decision to the client.

~~J. K.~~ An expedited ~~grievance~~ appeal decision shall be issued as expeditiously as the enrollee's condition requires and within ~~48 hours~~ three business days in ~~case~~ cases of medical emergencies, in which delay could result in death or serious injury to a client. Extensions to these timeframes shall be allowed in accordance with 42 CFR 438.408 and as defined by the contract between DMAS and the MCO. Written confirmation of the decision shall promptly follow the verbal notice of the expedited decision.

~~K. L.~~ Any ~~grievance~~ appeal decision issued by the MCO may be appealed by the client to DMAS in accordance with the department's Client Appeals regulations at 12 VAC 30-110-10 through 12 VAC 30-110-380. DMAS shall conduct an evidentiary hearing in accordance with the Client Appeals regulations at 12 VAC 30-110-10 through 12 VAC 30-110-380 and shall not base any appealed decision on the record established by any ~~grievance~~ appeal decision of the MCO. The MCO shall comply with the DMAS appeal decision. The DMAS decision in these matters shall be final and shall not be subject to appeal by the MCO.

~~L. M.~~ The MCO shall provide information necessary for any DMAS appeal within timeframes established by DMAS.

VA.R. Doc. No. R03-245; Filed June 27, 2003; 4:42 p.m.



TITLE 16. LABOR AND EMPLOYMENT

DEPARTMENT OF LABOR AND INDUSTRY

Safety and Health Codes Board

REGISTRAR'S NOTICE: The following regulations are exempt from the Administrative Process Act in accordance with § 2.2-4006 A 4 c of the Code of Virginia, which excludes regulations that are necessary to meet the requirements of federal law or regulations, provided such regulations do not differ materially from those required by federal law or regulation. The Safety and Health Codes Board will receive, consider and respond to petitions by any interested person at any time with respect to reconsideration or revision.

Title of Regulation: 16 VAC 25-85-1904. **Federal Identical Recording and Reporting Occupational Injuries and Illnesses (29 CFR Part 1904) (amending 16 VAC 25-85-1904.10, 16 VAC 25-85-1904.12, and 16 VAC 25-85-1904.29).**

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

Effective Date: January 1, 2004.

Summary:

Federal OSHA delayed the effective date from January 1, 2003, until January 1, 2004, of three provisions of the Occupational Injury and Illness Recording and Reporting Requirements, Final Rule, which was published on January 19, 2001 (66 FR 5916 - 6135). The purpose for the delay is to permit federal OSHA additional time to resolve the definition of musculoskeletal disorder (MSD). Only the delayed effective date of the following provisions is addressed in these amendments:

1. 1904.10(b)(7) [Recording criteria for cases involving occupational hearing loss]. This section requires employers to enter a check in the hearing loss column of the OSHA 300 Log for cases involving occupational hearing loss;
2. 1904.12 [Recording criteria for cases involving work-related musculoskeletal disorders]. This section requires employers to check the MSD column on the OSHA Log if an employee experiences a work-related musculoskeletal disorder; and
3. 1904.29(b)(7)(vi) [Forms -- in the second sentence] states that MSDs are not considered privacy concern cases.

Federal OSHA will implement the hearing loss column requirements on January 1, 2004, and will continue to evaluate the MSD provisions over the next year (66 FR 77165).

Agency Contact: John Crisanti, VOSH Planning Manager, Department of Labor and Industry, 13 South 13th Street, Richmond, VA 23219, telephone (804) 786-4300, FAX (804) 786-8418, e-mail jjc@doli.state.va.us.

Note on Incorporation by Reference

Pursuant to § 2.2-4103 of the Code of Virginia, Recording and Reporting Occupational Injuries and Illnesses, 29 CFR Part 1904.10 is declared a document generally available to the public and appropriate for incorporation by reference. For this reason the document will not be printed in the Virginia Register of Regulations. Copies of the document are available for inspection at the Department of Labor and Industry, 13 South 13th Street, Richmond, Virginia 23219, and in the office of the Registrar of Regulations, General Assembly Building, 9th and Broad Streets, Richmond, Virginia 23219.

On June 13, 2003, the Safety and Health Codes Board adopted an identical version of federal OSHA's revised final rule for Recording and Reporting Occupational Injuries and Illnesses, 29 CFR 1904.10, 1904.12 and 1904.29, with an effective date of January 1, 2004.

The text of the amendments to 29 CFR 1904, Recording and Reporting Occupational Injuries and Illnesses, can be found in the December 17, 2002, issue of the Federal Register, Volume 67, Issue 242, pages 77165-77170.

When the regulations, as set forth in the amendments to Recording and Reporting Occupational Injuries and Illnesses, 16 VAC 25-85-1904.10(b)(7), 1904.12, and 1904.29(b)(7)(vi), are applied to the Commissioner of the Department of Labor and Industry or to Virginia employers, the following terms shall be considered to read as follows:

<u>Federal Terms</u>	<u>VOSH Equivalent</u>
29 CFR	VOSH Standard
Assistant Secretary	Commissioner of Labor and Industry
Agency	Department
January 1, 2004	January 1, 2004

VA.R. Doc. No. R03-246; Filed June 27, 2003, 11:13 a.m.

REGISTRAR'S NOTICE: The following regulations are exempt from the Administrative Process Act in accordance with § 2.2-4006 A 4 c of the Code of Virginia, which excludes regulations that are necessary to meet the requirements of federal law or regulations, provided such regulations do not differ materially from those required by federal law or regulation. The Safety and Health Codes Board will receive, consider and respond to petitions by any interested person at any time with respect to reconsideration or revision.

Title of Regulation: 16 VAC 25-90-1910. **Federal Identical General Industry Standards (amending 16 VAC 25-90-1910.178).**

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

Effective Date: September 1, 2003.

In 1971, OSHA published a final rule adopting national consensus standards and it also established OSHA Standards for General Industry. These standards were intended to include only the mandatory provisions of relevant American National Standards Institute (ANSI) or

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National Fire Protection Association (NFPA) standards. When § 1910.178(m)(12), which deals with trucks equipped with personnel lifts, was originally published in 1971, it contained the mandatory language (shall); however, the corresponding ANSI standard, upon which subsection (m)(12) was based, contained only the advisory language (should). Federal OSHA corrected this error by deleting § 1910.178(m)(12) because it was invalidly promulgated from a nonmandatory provision of a national consensus standard and therefore was legally unenforceable.

Agency Contact: John Crisanti, VOSH Planning Manager, Department of Labor and Industry, 13 South 13th Street, Richmond, VA 23219, telephone (804) 786-4300, FAX (804) 786-8418, e-mail jjc@doli.state.va.us.

Note on Incorporation by Reference

Pursuant to § 2.2-4103 of the Code of Virginia, 29 CFR Part 1910 is declared a document generally available to the public and appropriate for incorporation by reference. For this reason the document will not be published in the Virginia Register of Regulations. Copies of the document are available for inspection at the Department of Labor and Industry, 13 South 13th Street, Richmond, Virginia 23219, and in the office of the Registrar of Regulations, General Assembly Building, 9th and Broad Streets, Richmond, Virginia 23219.

On June 13, 2003, the Safety and Health Codes Board adopted an identical version of federal OSHA's technical amendment for 16 VAC 25-90-1910.178, Powered Industrial Trucks, General Industry, Final Rules 29 CFR 1910.178, which was published in 68 FR 32637-32638 on June 2, 2003. When the regulations, as set forth in the technical amendment to the final rule for 16 VAC 25-90-1910.178, Powered Industrial Trucks, General Industry, are applied to the Commissioner of the Department of Labor and Industry or to Virginia employers, the following terms shall be considered to read as below:

<u>Federal Terms</u>	<u>VOSH Equivalent</u>
29 CFR	VOSH Standard
Assistant Secretary	Commissioner of Labor and Industry
Agency	Department
July 2, 2003	September 1, 2003

VA.R. Doc. No. R03-247; Filed June 25, 2003, 2:54 p.m.

TITLE 18. PROFESSIONAL AND OCCUPATIONAL LICENSING

DEPARTMENT OF PROFESSIONAL AND OCCUPATIONAL REGULATION

Title of Regulation: 18 VAC 120-40. Virginia Professional Boxing and Wrestling Events Regulations (amending 18 VAC 120-40-10, 18 VAC 120-40-20, 18 VAC 120-40-40 through 18 VAC 120-40-90, [18 VAC 120-40-100, 18 VAC 120-40-110,] 18 VAC 120-40-120, [18 VAC 120-40-130,] 18 VAC 120-40-140, [18 VAC 120-40-170 through 18 VAC 120-40-210,] 18 VAC 120-40-220 through 18 VAC 120-40-250, [18 VAC 120-40-260,] 18 VAC 120-40-290, 18 VAC 120-40-350, [18 VAC 120-40-380, 18 VAC 120-40-400,] 18 VAC 120-40-430; repealing 18 VAC 120-40-30).

Statutory Authority: § 54.1-831 of the Code of Virginia and 15 USC § 6301 et seq.

Effective Date: August 27, 2003.

Agency Contact: Karen W. O'Neal, Deputy Director for Regulatory Programs, Department of Professional and Occupational Regulation, 3600 W. Broad Street, Richmond, VA 23230, telephone (804) 367-8537, FAX (804) 367-2475, or e-mail oneal@dpor.state.va.us.

Summary:

The amendments incorporate changes to federal law effective May 1, 2000, ensure consistency with state law, and change the fee for a wrestling event license allowing the fee to cover more of the costs associated with providing officials for the events.

Amendments to the proposed regulation (i) change existing definitions and add new definitions for clarification, (ii) change provisions relating to applicants with criminal convictions to make the provisions consistent with § 54.1-204 of the Code of Virginia, (iii) clarify that the approval and issuance of licenses are in accordance with standards established by the federal Professional Boxing Safety Act of 1996 (15 USC § 6301 et seq.), and (iv) clarify that the promoter's fee report is due within 24 hours of the completion of an event.

Summary of Public Comment and Agency's Response: A summary of comments made by the public and the agency's response may be obtained from the promulgating agency or viewed at the office of the Registrar of Regulations.

REGISTRAR'S NOTICE: The proposed regulation was adopted as published in 18:24 VA.R. 3255-3263 August 12, 2002, with the changes identified below. Pursuant to § 2.2-4031 A of the Code of Virginia, the adopted regulation is not published at length; however, the sections that have changed since publication of the proposed are set out.

18 VAC 120-40-10. Scope.

These regulations contain procedures and requirements for the licensure of individuals and firms to engage in the conduct of professional boxing and wrestling events as provided for in Chapter 8.1 (§ 54.1-828 et seq.) of Title 54.1 of the Code of Virginia.

Amateur boxing and wrestling contests, where the participants receive no money, compensation, *including a promise of participation in a future [nonamateur]* event, or reward other than a suitably inscribed memento are exempt from the provisions of Chapter 8.1 of Title 54.1 of the Code of Virginia and from the provisions of these regulations.

The director of the department is empowered to (i) promulgate these regulations, (ii) issue licenses, (iii) investigate to determine compliance with these regulations, and (iv) take disciplinary action, in accordance with the Virginia Administrative Process Act, against those who fail to comply with these regulations. Furthermore, to the extent applicable, these regulations shall be construed in accordance with and governed by Virginia's Administrative Process Act. The director is also empowered to contract with a vendor to perform certain tasks on the director's behalf. These tasks include examining and recommending licensure, investigating and ensuring that events are conducted in compliance with statutes and regulations, performing clerical duties, collecting fees, maintaining records, developing proposed regulations, and recommending enforcement actions.

~~The director is empowered by Chapter 8.1 of Title 54.1 of the Code of Virginia to conduct investigations as to whether monopolies, combinations, or other circumstances exist to restrain matches or exhibitions of professional boxing or wrestling.~~

18 VAC 120-40-20. Definitions.

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

["*Assistant event inspector*" means the individual assigned to assist the event inspector.]

~~"Boxer" means a person competing in the sport of boxing.~~

~~"Boxer registry" means an any entity that maintains certified by the Association of Boxing Commissions for the purposes of maintaining records and identification of boxers.~~

~~"Boxing" means the contact sport of attack or defense using fists, feet, or both, including professional kick boxing, boxing, or any similar contest.~~

~~"Cable television system" means any facility consisting of a set of closed transmission paths and associated equipment designed to provide video programming to multiple subscribers when subscriber interaction is required to select a specific video program for an access fee established by the cable television system for that specific video program.~~

"Contest," "bout," or "match" means the portion of an event wherein specific individuals (two boxers, or two or more

wrestlers) engage in boxing or wrestling which ends when a decision is reached.

~~"Contractor" means any person who has entered into a contract with the department to provide services to assist the Commonwealth in complying with the provisions of this chapter.~~

~~"Department" means the Department of Professional and Occupational Regulation or its successor.~~

~~"Director" means the Director of the Department of Professional and Occupational Regulation.~~

~~"Event" means any professional boxing or wrestling show that includes one or more contests or matches.~~

"Event inspector" means the individual assigned to be in overall charge of the conduct of an event to assure compliance with this chapter.

"Event license" means a method of regulation whereby any promoter arranging or conducting a boxing or wrestling event is required to obtain a prior authorization from the department.

"Event officials" means those individuals assigned to carry out the duties of an event inspector, [*assistant event inspector,*] inspector, referee, timekeeper, judge, or ringside physician as established by this chapter.

"Firm" means any sole proprietorship, general partnership, limited partnership, limited liability company, association, corporation or other business entity.

"Inspector" means the individual assigned to assist the event inspector as provided for in this chapter.

"Judge" means an individual assigned to score a boxing contest as provided for in this chapter.

~~"License" means a method of regulation whereby any person arranging, conducting, or participating in boxing or wrestling activities is required to obtain a prior authorization from the department.~~

"Licensed event" means an event that has been issued a license from the department in accordance with this chapter.

~~"Manager" means any person who receives compensation for services as a representative or agent of a boxer or wrestler to arrange for his participation in an event.~~

~~"Matchmaker" means any person who selects, arranges for, or in any manner procures specific individuals to be contestants in an event or match.~~

~~"Person" means a natural person, corporation, partnership, sole proprietorship, firm, enterprise, franchise, association, or any other entity.~~

~~"Promote" or "promotion" means to organize, arrange, publicize, or conduct an event in the Commonwealth.~~

~~"Promoter" means any person who undertakes to promote an event.~~

"Rabbit punch" means a blow delivered by a boxer against his opponent that strikes the back of the opponent's neck [*or head*] with a chopping motion [*or punch*].

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"Referee" means the event official assigned to a boxing contest to assure the proper conduct of the contest and the safety of the contestants or the licensed wrestler assigned to a wrestling contest to assure the safety of the spectators as provided for in this chapter.

"Responsible management" means the following individuals:

1. The sole proprietor of a sole proprietorship;
2. The partners of a general partnership;
3. The [~~managing general~~] partners of a limited partnership;
4. The officers of a corporation;
5. The managers of a limited liability company; or
6. The officers and directors of an association.

"Ringside physician" means the medical doctor assigned to assure the medical health and safety of each boxer as provided for in this chapter.

"Task force" means the professional boxing and wrestling task force.

"Timekeeper" means the individual assigned to time each round and the interval between rounds, and to count for knockdowns as provided for in this chapter.

~~"Trainer," "second," or "cutman" means an individual who undertakes to assure the well-being of a boxer by providing instruction or advice concerning techniques or strategies of boxing, and who may work in the corner with a boxer between the rounds of a match to assure his well-being and provide necessary equipment and advice concerning match participation.~~

~~"Wrestler" means any person competing or participating as an opponent in wrestling.~~

~~"Wrestling" means any contact sport or exhibition in which individuals attempt to subdue or unbalance an opponent.~~

18 VAC 120-40-30. [No change from proposed.]

18 VAC 120-40-40. License expiration and renewal.

A. Except as set out in subsection B of this section, each license ~~issued to an individual or to a firm, other than an event license~~, shall expire on December 31 of the year in which the license was issued, except that licenses issued during the last 45 days of any calendar year shall expire on December 31 of the following calendar year.

B. Each license to conduct a boxing or wrestling event issued to a licensed promoter shall be valid only for the duration of the event described in the application for licensure.

C. Prior to the expiration date shown on the license, each licensee desiring to renew the license shall cause the department or its contractor to receive a photocopy of his license and the fee specified in 18 VAC 120-40-50.

[D. The department may deny renewal of a license for the same reasons as it may refuse initial licensure or discipline a current licensee.]

18 VAC 120-40-50. Fees.

A. Each applicant shall submit the following fee along with the application for licensure:

Boxer	\$20
Wrestler	\$20
Manager	\$30
Promoter	\$300
Trainer, second, and cutman	\$20
Matchmaker	\$50

B. Each application for a boxing event license shall be accompanied by the following fee:

1. [*Scheduled*] events of 42 rounds or fewer, with no more than one nontitle 10- or 12-round bout-- [~~\$50~~ \$1,000].
2. [*Scheduled*] events exceeding 42 rounds, with more than one nontitle 10- or 12-round bout or *any event* with a title bout--\$2,000.

C. Each application for a wrestling event license shall be accompanied by a fee of ~~\$50~~ \$75.

D. All fees are nonrefundable.

18 VAC 120-40-60. [No change from proposed.]

18 VAC 120-40-70. Application requirements.

~~A. Individuals and firms desiring to be issued a license Applicants shall apply on forms supplied by the department or its contractor.~~

B. Individual applicants shall be at least 18 years of age.

~~C. The application shall be completed according to the instructions provided with the application. Incomplete applications will be returned to the applicant. Fees shall remain valid for 90 days and shall not be refunded.~~

~~D. C. The applicant shall disclose the following information about himself, in the case of an individual, or about the firm and every member of the responsible management of the firm, in the case of a firm:~~

1. Any guilty finding by the department, or by a court of any competent jurisdiction, of any material misrepresentation while engaged in boxing, wrestling, or other athletic activities, or any conviction, guilty plea or finding of guilty, regardless of adjudication or deferred adjudication, of any felony or misdemeanor ~~which, in the judgment of the department, adversely affects the applicant's ability while engaged in boxing, wrestling, or other athletic activities;~~

2. Any disciplinary action taken by the department or another jurisdiction in connection with the applicant's participation in or promotion of professional athletic contests or activities including, but not limited to, monetary penalty, fine, suspension, revocation, or surrender of a license in connection with a disciplinary action; and

3. Any currently or previously held boxing or wrestling licenses issued by this Commonwealth or any other jurisdiction.

Any plea of nolo contendere shall be considered a conviction for the purposes of this subsection. A certified copy of a final

order, decree or case decision by a court or regulatory agency with the lawful authority to issue such order, decree or case decision shall be admissible as prima facie evidence of such conviction or discipline. [*Subject to the provisions of § 54.1-204 of the Code of Virginia,*] the department may deny an application for a license if, in its judgment, the actions disclosed in subdivisions 1 and 2 of this subsection would render the applicant unfit or unsuited to engage in boxing, wrestling, or other athletic activities.

~~E.~~ D. Each individual applicant shall disclose his physical address and each firm applying for licensure shall disclose the physical addresses of the firm and the firm's responsible management. A post office box shall not be accepted in lieu of a physical address.

~~F.~~ E. The fee established by 18 VAC 120-40-50 A shall accompany the application and shall not be refunded.

~~G.~~ F. The receipt of an application and the deposit of fees in no way indicates approval by the department.

18 VAC 120-40-80. [No change from proposed.]

18 VAC 120-40-90. [No change from proposed.]

[18 VAC 120-40-100. Entry requirements for manager.

Each applicant for a license as a manager shall submit a completed application as described 18 VAC 120-40-70 and a statement that the applicant possesses a knowledge of this chapter. *The department shall approve and issue all licenses in accordance with the standards established by the federal Professional Boxing Safety Act of 1996 (15 USC § 6301 et seq.).*]

[18 VAC 120-40-110. Entry requirements for matchmaker.

Each applicant for a license as a matchmaker shall submit a completed application as described in 18 VAC 120-40-70 and a statement that the applicant does not employ and does not otherwise have a financial interest in or commercial connection with any wrestler, boxer, manager, trainer, or second, except that which may be necessary to arrange a wrestler's or boxer's participation in a specific event. *The department shall approve and issue all licenses in accordance with the standards established by the federal Professional Boxing Safety Act of 1996 (15 USC § 6301 et seq.).*]

18 VAC 120-40-120. Entry requirements for promoter.

Each applicant for a license as a promoter shall submit a completed application as described in 18 VAC 120-40-70 and, a statement that the applicant possesses knowledge of this chapter- *and the following certification:*

I understand that I am not entitled to compensation in connection with a boxing match, including gate fees, until I provide the department with a copy of any agreement in writing to which I and any boxer participating in the match are parties; a statement made under penalty of perjury that there are no other agreements; a statement of fees, charges and expenses that will be assessed by or through me on the boxer, including any portion of the boxer's purse that I receive and training expenses; all payments, gifts or benefits I am providing to any sanctioning organization affiliated with the event; any reduction in the boxer's purse

contract to a previous agreement between myself and the boxer. Further, I understand that I am not entitled to compensation in connection with a boxing match until I provide the boxer I promote with the amounts of any compensation or consideration that I have contracted to receive from such match; all fees, charges and expenses that will be assessed by or through me on the boxer pertaining to the event, including any portion of the boxer's purse that I will receive and training expenses; and any reduction in a boxer's purse contract to a previous agreement between myself and the boxer.

[The department shall approve and issue all licenses in accordance with the standards established by the federal Professional Boxing Safety Act of 1996 (15 USC § 6301 et seq.).]

[18 VAC 120-40-130. Entry requirements for trainer, second, or cutman.

Each applicant for a license as a trainer, second, or cutman shall submit a completed application as described in 18 VAC 120-40-70 and evidence of a knowledge of:

1. This chapter;
2. The treatment of injuries;
3. Physical conditioning, health care, nutrition, training, first aid, and the effects of alcohol as it relates to boxing; and
4. The bandaging of a boxer's hand.

The required evidence may take the form of the applicant's official record from a state regulatory agency, signed statements from current or former clients, or other documentary evidence that establishes that the applicant is competent. *The department shall approve and issue all licenses in accordance with the standards established by the federal Professional Boxing Safety Act of 1996 (15 USC § 6301 et seq.).*]

18 VAC 120-40-140. [No change from proposed.]

[18 VAC 120-40-170. Duties of boxing event inspectors.

A. An event inspector shall be assigned by the department or its contractor to each boxing event and shall be in overall charge of the conduct of the event and shall assure that all assigned inspectors, referees, timekeepers, judges, and ringside physicians are present and perform their duties.

B. The event inspector shall officiate at weigh-in to assure that all boxers are properly weighed and licensed, and shall assure that the boxers have no weights or other objects which could influence the accuracy of the weighing.

C. The assigned event inspector shall *comply with all procedures established by the department and* assure compliance with Chapter 8.1 (§ 54.1-828 et seq.) of Title 54.1 of the Code of Virginia and this chapter.

D. *The assistant event inspector shall perform all duties assigned by the event inspector.*]

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[18 VAC 120-40-180. Duties of boxing inspectors.

A. Inspectors shall be assigned to each event to assist the event inspector in the discharge of his duties.

B. Inspectors shall be assigned by the event inspector to be in charge of the dressing room and the corners and shall accompany the boxers to the corner. An inspector shall remain in each corner and assure compliance with this chapter.

C. An inspector shall assist the event inspector during the weigh-in and the ringside physician during the physical examination.

D. Inspectors shall *comply with all procedures established by the department* and perform other duties as assigned to assure compliance with this chapter.]

[18 VAC 120-40-190. Duties of boxing referees.

An assigned referee shall *pass a prefight physical performed by the ringside physician in accordance with 18 VAC 120-40-220, comply with all procedures established by the department* and perform the following duties before, during, and after each assigned contest:

1. Provide the prefight instructions to boxers;
2. Assure that each boxer is properly gloved and wearing the required safety equipment;
3. Exercise supervision over the conduct of the contest to assure compliance with this chapter and to take immediate corrective action when a failure to comply is observed;
4. Immediately stop any contest when, in his judgment, one of the boxers is outclassed by the other, injured, or otherwise unable to safely continue to participate in the contest;
5. Endeavor to perform his duties in a manner which does not impede the fair participation of either boxer;
6. Consult, when he feels it appropriate, with the ringside physician on the advisability of stopping the contest if either boxer appears injured or unable to continue;
7. Count for knockdowns and knockouts as provided for in 18 VAC 120-40-340;
8. Determine fouls and stop contests as provided in 18 VAC 120-40-350;
9. Immediately stop any contest and notify the department's representative or contractor present at the event if one or both of the boxers is not putting forth his best effort; and
10. Assure the health and well-being of the boxers to the greatest extent possible.]

[18 VAC 120-40-200. Duties of boxing judges.

An assigned boxing judge shall *comply with all procedures established by the department* and perform the following duties before, during, and after each assigned contest:

1. Score each contest on the 10-point system. The better boxer of each round shall receive 10 points and the opponent proportionately less. If the round is even, assign

each boxer 10 points. No fractional points shall be given. Points shall be awarded immediately after the end of the round;

2. Be present and attentive during the entire contest;

3. Provide his scorecards to the event inspector or his designee at the end of each round; and

4. Report to the event inspector or his designee promptly at the time directed.]

[18 VAC 120-40-210. Duties of boxing timekeepers.

An assigned boxing timekeeper shall *comply with all procedures established by the department* and perform the following duties before, during, and after each assigned contest:

1. Provide a chronometer of a type suitable for timing the rounds of a boxing contest;

2. Assure that a warning is sounded 10 seconds before the start of each round by blowing a whistle or other sound easily heard by the boxers and distinct from the sound signaling the beginning and end of each round;

3. Assure that each round and the interval between each round is correctly and uniformly timed and that a bell or gong with a distinctive tone which is easily heard by the boxers is sounded at the beginning and end of each round;

4. Assist the referee in the counting for a knockdown to assure the downed boxer receives the correct amount of time allowed by this chapter to return to the contest; and

5. Report to the event inspector or his designee promptly at the time directed.]

18 VAC 120-40-220. Duties of ringside physicians.

The assigned ringside physician shall [*comply with all procedures established by the department* and] perform the following duties before, during, and after each assigned contest:

[1. Conduct a physical examination of each referee immediately before the contest to assure his fitness to act as a referee.]

[~~1. 2.~~] Conduct a physical examination *and take a medical history* of each boxer immediately before the contest to assure his fitness to compete. ~~In addition, for female boxers, examine the breasts and note any masses, determine whether she is experiencing her menstrual period, and obtain her verbal assurance that she is not pregnant. Tests, including a pregnancy test, may be conducted if the ringside physician determines it is necessary to assure the health and safety of the boxer;~~

[~~2. 3.~~] Report to the event inspector or his designee promptly at the time directed and remain at ringside during the entire duration of all contests assigned;

[~~3. 4.~~] Signal the referee immediately in the event an injury is observed which the referee has not observed and enter the ring only after the referee has stopped or suspended the [~~contest~~ action];

[4- 5.] Render immediate medical aid to any boxer injured during a contest and, where appropriate, accompany the boxer to the hospital or other place where competent medical aid may be delivered. In no case shall the assigned ringside physician cease the direct application of his skills as a physician to an injured boxer until such time as the ringside physician, in his best medical judgment, determines that his services are no longer necessary or the injured boxer is under the care of other medically competent individuals;

[5- 6.] Assure all substances in the possession of seconds, trainers, or cutmen are appropriate for use on boxers during the course of the contest; and

[6- 7.] Report immediately to the department or its contractor his determination of the fitness of each boxer to participate in the boxing contest. A written report summarizing the results of his examination of each boxer shall be provided to the department or its contractor within 24 hours after the date of the licensed boxing event.

18 VAC 120-40-230. [No change from proposed.]

18 VAC 120-40-240. [No change from proposed.]

18 VAC 120-40-250. Promoter to provide copy of contract with boxer at weigh-in; penalty for noncompliance; contents of contract.

A. The promoter shall provide a copy of his contract with each boxer scheduled to compete in the event to the event inspector at the time of weigh-in for the event.

B. Failure to provide a copy of the contract for a boxer at weigh-in shall result in the boxer's disqualification to compete in the event.

C. Each contract shall contain the name of the promoter, the name of the boxer, ~~and~~ the amount of compensation to be paid to the boxer by the promoter *and shall comply with the minimum provisions promulgated by the Association of Boxing Commissions [and contained in the federal Professional Boxing Safety Act of 1996 (15 USC § 6301 et seq.)].*

[18 VAC 120-40-260. Equipment to be provided by boxing seconds.

Each boxing second shall provide the following equipment for use at the event:

1. A clear plastic water bottle;
2. A bucket containing ice;
3. A solution of a kind approved by the ~~ringside physician~~ *Association of Boxing Commissions* to stop hemorrhaging;
4. Adhesive tape;
5. Gauze;
6. Scissors; and
7. One extra mouthpiece.]

18 VAC 120-40-290. Boxing event conduct standards.

A. Bandaging of each boxer's hands shall not exceed one [~~winding roll~~] of surgeon's adhesive tape, not over 1-1/2

inches wide, placed directly on the hand to protect the part of the hand near the wrist. The tape may [~~cross the back of the hand twice cover the hand~~] but may not extend within three-fourths of an inch of the knuckles when the hand is clenched to make a fist. Soft surgical bandage, not over two inches wide, held in place by not more than six feet of surgeon's adhesive tape for each hand shall be used. Up to one 15-yard roll of bandage may be used to complete the wrappings for each hand. Strips of tape may be used between the fingers to hold down the bandages [, ~~not to cover the knuckles~~]. Bandages shall be adjusted in the dressing room in the presence of the event inspector or his designee.

B. Any boxer who has signed a contract to box on a promoter's program shall be subject to be called by the department to appear at any time to be weighed or to be examined by a physician designated by the department when the department has reason to believe the boxer may not be qualified or may not be medically sound to participate in the contest.

C. Each boxer who signs a contract to box on a promoter's program shall appear at a time and place designated by the department or its contractor to be weighed on department-approved scales in the presence of each other and a representative designated by the department. Boxers shall have all weights removed from their bodies before the weigh-in but may wear shorts in the case of males, and shorts and shirts in the case of females.

D. *In accordance with 15 USC § 6304*, each boxer shall be examined immediately before the contest by a ringside physician assigned to the event and shall not participate in the contest unless pronounced medically able to compete by the ringside physician.

[*E. All boxing events shall be conducted in accordance with the rules set forth by the Association of Boxing Commissions. The department may use the Championship Rules adopted by the Association of Boxing Commissions in any championship fight.*]

18 VAC 120-40-350. [No change from proposed.]

[18 VAC 120-40-380. Full contact karate (kick boxing) event conduct standards.

The provisions of this chapter which apply to boxers shall also apply to full contact karate (kick boxing) with the following modifications:

1. Contests shall not exceed 12 two-minute rounds with a one-minute rest period between rounds.
2. Fouls may result in the deduction of one or more points based on the severity of the foul as determined by the referee. The referee shall base his decision as to the severity of the foul on the intent of the contestant committing the foul and the result of the foul on the fouled contestant. At the time of the foul, the referee shall indicate to the judges the number of points to be subtracted from each judge's ballot. Fouls include:
 - a. Head butting;
 - b. Striking with the elbow;

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- c. Striking to the groin;
- d. Attacking with the knee;
- e. Chopping to the back of the neck [*or head*] (rabbit punch);
- f. Striking to the face with any part of the arm other than the gloved hand (as in the spinning-back first attempt which lands with the forearm or elbow);
- g. Kicking to the legs;
- h. Punching or kicking a contestant when he is down (A contestant is knocked down when any part of his body, other than his feet, touches the floor. If a contestant is on his way to the floor, his opponent may continue to attack until he has touched the floor with any part of his body other than his feet.);
- i. Takedowns;
- j. Intentionally pushing, shoving, or wrestling an opponent out of the ring with any part of the body;
- k. Sweeping other than boot to boot;
- l. Attacking on the break when both contestants have been ordered to take one step back by the referee;
- m. Attacking after the bell has sounded to end the round;
- n. Holding and hitting, such as holding with one hand, especially behind the neck, and hitting with the other hand;
- o. Grabbing or holding onto an opponent's foot or leg, followed by a takedown;
- p. Holding the ropes with one hand while kicking, punching, or defending with the other hand or with the legs;
- q. Leg checking--extending the leg to check an opponent's leg to prevent him from kicking;
- r. Purposely going down without being hit, resulting in the referee automatically administering an 8 count;
- s. Using abusive language in the ring;
- t. Hitting or flicking with an open glove; and
- u. Refusing to compete.]

[18 VAC 120-40-400. Wrestling event conduct standards.

- A. Wrestling exhibitions shall be conducted inside the ring ropes or inside of a securely barricaded area which positively prevents any direct contact between the wrestlers and the audience.
- B. Each match shall be conducted under the supervision of a referee who shall be currently licensed as a wrestler and who shall be responsible for the safety of the spectators.
- C. Each participant in each wrestling match shall be currently licensed as a wrestler.

D. In no case shall a wrestler intentionally cause a flow of blood or other bodily fluid from his body during the course of the exhibition.

E. In the event a visible flow of blood or other bodily fluid from any wrestler occurs during a contest, the referee shall immediately suspend the contest until medical treatment can be obtained. If the flow of blood or other bodily fluid cannot be stopped, the exhibition involving that wrestler shall not continue.

F. Neither referees nor promoters shall permit physically dangerous conduct or tactics by any wrestler.

G. Promoters shall maintain peace, order, and decency in the conduct of any wrestling exhibition.

H. Promoters must report to the department, within 24 hours of the completion of the event, the fees paid to the participants. Such report shall be on the form provided by the department or consist of copies of the contracts with the participants.]

18 VAC 120-40-430. Grounds for disciplinary action by the department.

A. The department shall have the authority to ~~deny application for a license or event license and to deny renewal of a license as well as to~~ discipline a licensee through a fine, license suspension, or license revocation for *the same reason it may deny licensure [or renewal]*, and for the following reasons:

1. Violating or inducing another person to violate any provisions of *the federal Professional Boxing Safety Act of 1996 (15 USC § 6301 et seq.)*, Chapters 1, 2, 3 or 8.1 of Title 54.1 of the Code of Virginia or of this chapter.
2. Using misrepresentation or fraud to obtain or attempt to obtain a license or event license.
3. Having a medical condition which makes participation in boxing or wrestling events a health hazard.
4. Altering a license issued by the department.
5. Having been convicted in any jurisdiction of any felony or of any misdemeanor involving lying, cheating or stealing, or of any misdemeanor for acts carried out while engaged in boxing, wrestling, or other athletic activities. Any plea of nolo contendere shall be considered a conviction for the purposes of this subsection. A certified copy of a final order, decree or case decision by a court or regulatory agency with the lawful authority to issue such order, decree or case decision shall be admissible as prima facie evidence of such conviction or discipline.
6. Having been the subject of disciplinary action taken by Virginia or another jurisdiction in connection with the participation in or promotion of professional athletic contests or activities, including but not limited to, monetary penalties, fines, suspension, revocation, or surrender of a license in connection with a disciplinary action.
7. Failing or refusing to appear when directed by the department or its contractor for the purposes of weighing or conducting a medical examination.

8. Failing to furnish a valid reason or a doctor's certificate to explain any failure to appear at an event in which an applicant or licensee agreed to participate by signing a contract.

9. *Using unsportsmanlike conduct or other inappropriate behavior inconsistent with generally accepted methods of competition [in a professional boxing match].*

[10. *Failure to meet financial obligations that results in collection proceedings against the bond required by 18 VAC 120-40-230.]*

B. The department, ~~or its contractor if the contractor's duties include the conduct of disciplinary proceedings,~~ shall conduct disciplinary procedures in accordance with the Administrative Process Act (§ ~~9-6-14:4.1~~ 2.2-4000 et seq. of the Code of Virginia).

NOTICE: The forms used in administering 18 VAC 120-40, Virginia Professional Boxing and Wrestling Events Regulations, are not being published due to the large number; however, the name of each form is listed below. The forms are available for public inspection at the Department of Professional and Occupational Regulation, 3600 W. Broad Street, Richmond, Virginia, or at the office of the Registrar of Regulations, General Assembly Building, 2nd Floor, Richmond, Virginia.

FORMS

Boxing and Wrestling Non-Participant License Application, 41INPLIC (rev. ~~4/99~~ 6/01).

Boxing and Wrestling Promoter License Application, 41PRLIC (rev. ~~4/99~~ 1/01).

Boxing and Wrestling Event License Application, 41EVLIC (rev. ~~4/99~~ 6/00).

Boxing and Wrestling Event Card Additions and Deletions Form, 41VCHG (rev. ~~4/99~~ 6/00).

~~Boxing and Wrestling Approved~~ Boxing and Wrestling Official Application, 41OFAPP (rev. ~~4/99~~ 2/01).

Boxing and Wrestling Event Surety Bond Form, 41EVBOND (rev. ~~4/99~~ 6/00).

Boxing and Wrestling Participant License Application, 41PLIC (rev. ~~4/99~~ 10/00).

Boxing and Wrestling Deposit Verification, 41DEPOSIT (rev. ~~6/99~~ 6/00).

Boxing and Wrestling Promoter's Fee Report, ~~B&WPER FIN,~~ eff. ~~10/98~~ 41PFRFIN (rev. 5/00).

[*Boxing and Wrestling Participant Sign-In Sheet, 41SIGNIN (eff. 11/01).*

Boxing and Wrestling Promoters Payout Report, 41PROPAYREP (eff. 3/03).]

VA.R. Doc. No. R01-119; Filed July 8, 2002, 12:05 p.m.



TITLE 19. PUBLIC SAFETY

DEPARTMENT OF STATE POLICE

REGISTRAR'S NOTICE: The following regulatory action is exempt from the requirements of the Administrative Process Act in accordance with § 9.1-915 of the Code of Virginia, which provides that regulations and forms promulgated to implement and enforce Chapter 9 (§ 9.1-900 et seq.) of Title 9.1 of the Code of Virginia shall not be subject to the Administrative Process Act.

Title of Regulation: 19 VAC 30-170, Regulations Governing the Operation and Maintenance of the Sex Offender and Crimes Against Minors Registry (amending 19 VAC 30-170-30 and 19 VAC 30-170-50; repealing 19 VAC 30-170-5, 19 VAC 30-170-10, 19 VAC 30-170-20, 19 VAC 30-170-40, and 19 VAC 30-170-60; adding 19 VAC 30-170-15).

Statutory Authority: § 9.1-915 of the Code of Virginia.

Effective Date: July 3, 2003.

Summary:

These regulations provide guidance on the forms and attachments required for registration and reregistration, the procedure for correction expungement from the registry, and establish the fees authorized by the statutory provisions. In accordance with Chapter 584 of the 2003 Acts of Assembly the amendments eliminate duplicative and unnecessary repetition of the statutory provisions in the regulations.

Agency Contact: Lieutenant Colonel W. Steven Flaherty, Director, Bureau of Administrative and Support Services, Department of State Police, P.O. Box 27472, Richmond, VA 23261-7472, telephone (804) 674-4606, FAX (804) 674-2234 or e-mail sflaherty@vsp.state.va.us.

19 VAC 30-170-5. Definitions. (Repealed.)

~~"Sex Offender and Crimes against Minors Registrant" means a person whose offense is a violation of or attempted violation of the following sections of the Code of Virginia: §§ 18.2-63, 18.2-64.1, 18.2-67.2:1, subdivision A 2 of 18.2-67.3, subsection B of 18.2-67.5, 18.2-90 with intent to commit rape, 18.2-370, 18.2-370.1, a "sexually violent offense," or where the victim is a minor or is physically helpless or mentally incapacitated as defined in § 18.2-67.10, a violation or attempted violation of subsection A of § 18.2-47, clause (iii) of § 18.2-48, subsection B of § 18.2-361 or subsection B of § 18.2-366, or subdivision B 1 of § 18.2-374.1.~~

~~"Sexually violent offense" as defined in § 19.2-298.1 of the Code of Virginia, means a violation of clause (ii) of §§ 18.2-48, 18.2-61, 18.2-67.1, 18.2-67.2, subdivision A 1 of § 18.2-67.3 or subsection A of § 18.2-67.5 or a second or subsequent violation of §§ 18.2-63, 18.2-64.1, 18.2-67.2:1, subdivision A 2 of § 18.2-67.3, subsection B of § 18.2-67.5, 18.2-90 with the intent to commit rape, 18.2-370, 18.2-370.1 or, where the victim is a minor or is physically helpless or mentally incapacitated as defined in § 18.2-67.10, a violation or attempted violation of subsection A of § 18.2-47, clause (iii) of~~

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~~§ 18.2-48, subsection B of § 18.2-361, subsection B of § 18.2-366, or subdivision B 1 of § 18.2-374.1 within a 10-year period, provided that person had been at liberty between such convictions.~~

19 VAC 30-170-10. Sex Offender and Crimes against Minors Registry established. (Repealed.)

~~A. The Department of State Police shall keep and maintain a Sex Offender and Crimes against Minors Registry, to include conviction data, including fingerprints and photographs received from the courts and other entities pursuant to § 19.2-390.1 of the Code of Virginia and registrations and reregistrations received from persons required to do so by §§ 19.2-298.1 through 19.2-298.4 of the Code of Virginia. The purpose of the registry shall be to assist the efforts of law enforcement agencies to protect their communities from repeat sex offenders and to protect children from becoming victims of criminal offenders by helping to prevent such individuals from being hired or allowed to volunteer to work directly with children.~~

~~B. The records of the Sex Offender and Crimes against Minors Registry shall be maintained separate and apart from all other records maintained by the Department of State Police.~~

19 VAC 30-170-15. Registration, reregistration, change of address, forms and procedures.

A. Submission of registration, reregistration, and change of address materials mandated by Chapter 9 (§ 9.1-900 et seq.) of Title 9.1 of the Code of Virginia shall be as follows:

- 1. Initial registrations. Completed form SP236, one clear 10-print fingerprint card, and one photograph.*
- 2. Reregistration. Completed form SP236A and clear thumb prints (both thumbs) on bottom of form. If the person does not have a thumb or thumbs, the index finger on the same hand will be used and noted on the form.*
- 3. Change of address. Completed form SP236 and one clear 10-print fingerprint card.*

B. Photographs required to be submitted must be in color, be taken or submitted with the registrant facing the camera and clearly showing only the registrant's face and shoulders. No other person may appear in the photograph submitted. The photograph must have been taken within 30 days of submission and indicate on the back the registrant's full name, date of birth and the date of the photograph. A new photograph meeting these requirements must be submitted every two years commencing on the date of the initial submission.

C. Completed forms, photographs and fingerprint cards shall be provided to the Department of State Police, Central Criminal Records Exchange, Attn: Sex Offender Registry, P.O. Box 27472, Richmond, Virginia 23261-7472. Forms may be obtained at any office of the Department of State Police, sheriff's office, county or local police department or by writing to the address listed above.

D. For purposes of Chapter 9 of Title 9.1 of the Code of Virginia, the term "promptly" shall mean within 48 hours.

19 VAC 30-170-20. Registration; duties of registrants and local law enforcement agencies. (Repealed.)

~~A. Every person convicted on or after July 1, 1997, including juveniles tried and convicted in the circuit courts pursuant to § 16.1-269 of the Code of Virginia, of an offense for which registration is required shall be required, as a part of the sentence imposed upon conviction, to register and reregister with the Department of State Police. In accordance with § 19.2-298.1 of the Code of Virginia, the court shall order the person to submit all information required by the Department of State Police, including fingerprints and photographs to the local law enforcement agency. The local law enforcement agency will forward to the Department of State Police such information within seven days of sentencing and promptly (within 48 hours) provide any information necessary for reregistration. Upon release from incarceration, a person who is required to register, must register within 10 days of their release from confinement or within 10 days of the suspension of their sentence. Persons who have been convicted in other states of offenses for which registry is required shall obtain from the local law enforcement agency in the jurisdiction in which they have established residence, two sets of fingerprints and two photographs of a type and kind specified by the Department of State Police, and shall provide to the local agency all information necessary to complete Form SP-236 for inclusion in the registry, within 10 days of establishing a residence in the Commonwealth. Any person required to register, shall do so by completing the Sex Offender and Crimes against Minors Registration Form (Form SP-236) within the prescribed time period. The local law enforcement agency shall advise the person of his duties regarding reregistration. Any person required to register shall also be required to reregister within 10 days following any change in residence, whether within or without the Commonwealth. Completed forms shall be mailed to the Department of State Police, Central Criminal Records Exchange, Attn: Sex Offender Registry, P.O. Box C85076, Richmond, Virginia 23261-5076. Form SP-236 may be obtained at any office of the Department of State Police, sheriff's office, county or local police department. The local law enforcement agency shall promptly submit to the Department of State Police, all necessary information for registrations and reregistrations pursuant to § 19.2-298.1 D of the Code of Virginia. "Promptly" is defined as within 48 hours.~~

~~B. The registration shall be maintained within the Sex Offender and Crimes against Minors Registry established pursuant to § 18.2-390.1 of the Code of Virginia and shall include the person's name; all aliases which he has used or under which he may have been known; the date and locality of the conviction for which the registration is required; his fingerprints and a photograph as specified by the Department of State Police; his date of birth, social security number, current address and a description of the offense or offenses for which he was convicted; and shall, if applicable, provide the same information on convictions prior to July 1, 1997, for any of the specified offenses or under a substantially similar law of the United States or any other state. In addition, to maintain the integrity of the Sex Offender and Crimes against Minors Registry, the person shall submit a recent photograph of himself to the Department of State Police every~~

~~two years of a size and type specified by the Department of State Police.~~

~~Every person required to register under this section, other than a person convicted of a sexually violent offense, including those persons required to register prior to July 1, 1997, shall reregister with the Department of State Police on an annual basis from the date of initial registration. Every person convicted of a sexually violent offense, including persons convicted of a sexually violent offense who were required to register prior to July 1, 1997, shall reregister with the Department of State Police every 90 days from the date of initial registration in accordance with § 19.2-298.1 F of the Code of Virginia. Within 10 days following any change of residence by any person required to register with the Sex Offender and Crimes against Minors Registry, any such person shall reregister by mailing a new Sex Offender Registration Form (SP-236) with the new residence information. The Department of State Police will provide the person with an address verification form to be used for reregistration (Form SP-236A) which will be mailed to their residence.~~

~~C. Upon the receipt of a registration or reregistration pursuant to § 19.2-298.1 of the Code of Virginia, the Department of State Police will promptly notify the chief law enforcement officer of the county, city, or town of the locality listed as the person's address on the registration or reregistration and transmit the appropriate information as required by the Federal Bureau of Investigation for inclusion in the National Sex Offender Registry.~~

~~D. Whenever it appears from the records of the Department of State Police, that a person has failed to comply with the duty to register or reregister, the Department of State Police will request a warrant be issued for the arrest of the person in the jurisdiction in which the person last registered or reregistered or, if the offender failed to initially register, in the jurisdiction where he was last convicted of an offense requiring registration.~~

~~E. The registration period will be 10 years from the date of initial registration. Any person who has been convicted of a sexually violent offense shall have a continuing duty to reregister for life. Any confinement in a state or local correctional facility, hospital, or any other institution or facility during the 10-year period shall toll the registration period and the duty to reregister shall be extended.~~

19 VAC 30-170-30. Expungement from Sex Offender and Crimes against Minors Registry; petition for removal.

A. Upon receipt of a certified copy of a death certificate recording the death of any person registered with the Sex Offender and Crimes against Minors Registry, the Department of State Police will expunge any and all records concerning such person from the Sex Offender and Crimes against Minors Registry. If available, a set of fingerprints should accompany the death certificate.

B. Upon receipt of a duly attested copy of a pardon issued by the Governor of Virginia or other competent authority as to any conviction reported to the Sex Offender and Crimes against Minors Registry, the Department of State Police will expunge any and all records concerning such conviction from

the Sex Offender and Crimes against Minors Registry. If the pardoned person has no other convictions requiring registration, the Department of State Police will expunge any and all records concerning such person from the Sex Offender and Crimes against Minors Registry.

C. Upon receipt of a report from any clerk of a circuit court or other court of competent jurisdiction that any conviction previously reported to the Sex Offender and Crimes against Minors Registry has been reversed, the Department of State Police will expunge any and all records concerning such conviction from the Sex Offender and Crimes against Minors Registry. If the person whose conviction is reversed has no other convictions requiring registration, the Department of State Police will expunge any and all records concerning such person from the Sex Offender and Crimes against Minors Registry.

D. Upon receipt of a certified copy of an order of expungement entered pursuant to §§ 19.2-298.3 or 19.2-392.2 of the Code of Virginia or the laws of the United States or any political subdivision thereof, the Department of State Police will expunge any and all records concerning such conviction from the Sex Offender and Crimes against Minors Registry. If the person whose conviction has been expunged has no other convictions requiring registration, the Department of State Police will expunge any and all records concerning such person from the Sex Offender and Crimes against Minors Registry.

~~E. Any person required to register, other than a person who has been convicted of a sexually violent offense, may petition the circuit court in which he was convicted or the circuit court in the jurisdiction where he resides for removal of his name and all identifying information from the Sex Offender and Crimes against Minors Registry. A petition may not be filed earlier than 10 years from the date of initial registration. The court will hold a hearing on the matter, and, if the court is satisfied that the person does not pose a risk to public safety, the court shall grant the petition. If the petition is not granted, the person shall wait at least 24 months from the date of denial to enter a new petition for removal. A petition for expungement shall not be granted to any person convicted of two or more offenses for which registration is required or to any person convicted of any sexually violent offense.~~

~~F. Sexually violent offenders may seek relief from reregistration in accordance with § 19.2-298.4 of the Code of Virginia which provides that upon the expiration of three years from the date upon which the duty to register is imposed, any person convicted of a sexually violent offense as defined in § 19.2-298.10 of the Code of Virginia may petition the court in which he was convicted for relief from the requirement to reregister every 90 days. This section further provides that the court shall hold a hearing on the petition, on notice to the attorney for the Commonwealth, to determine whether the person suffers from a mental abnormality or a personality disorder that makes the person a menace to the health and safety of others or significantly impairs his ability to control his sexual behavior. Prior to the hearing, the court shall order a comprehensive assessment of the applicant by a panel of three certified sex offender treatment providers as defined in § 54.1-3600 of the Code of Virginia. A report of the assessment~~

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shall be filed with the court prior to the hearing and costs of the assessment shall be taxed as costs of the proceeding. If, after consideration of the report and such other evidence that the person does not suffer from a mental abnormality or a personality disorder that makes the person a menace to the health and safety of others or significantly impairs his ability to control his sexual behavior, the petition shall be granted and the duty to reregister every 90 days shall be terminated. The Department of State Police shall be notified promptly upon entry of an order granting the petition and registry information on the offender shall be removed from the Internet system developed and maintained by the Department of State Police pursuant to of § 19.2-390.1 D of the Code of Virginia. The person however, is still under a duty to reregister annually in accordance with § 19.2-298.1 F of the Code of Virginia. Should the petition be denied, the duty to reregister every 90 days shall continue. The person may appeal the denial of the petition to the Supreme Court. A petition for relief pursuant to this section may not be filed within three years from the date on which any previous petition for such relief was denied.

19 VAC 30-170-40. Dissemination of Sex Offender and Crimes against Minors Registry information. (Repealed.)

A. Any authorized officer or employee of an agency authorized to receive Sex Offender and Crimes against Minors Registry information pursuant to § 19.2-390.1 or §§ 19.2-298.1 through 19.2-298.4 of the Code of Virginia may request such information by completing a Name Search Request Form for Criminal History Record and/or Sex Offender and Crimes Against Minors Registry Search, Form SP-230, and mailing the completed form, along with the appropriate fee, to Department of State Police, Central Criminal Records Exchange, P.O. Box C-85076, Richmond, Virginia 23261-5076. Form SP-230 may be obtained from any office of the Department of State Police. The form used by the Department of State Police to disseminate information from the Sex Offender and Crimes against Minors Registry shall provide notice that any unauthorized use of the information shall be punishable as a Class 1 misdemeanor.

B. Registry information shall be disseminated upon a request made directly to the Department of State Police or to the Department of State Police through a local law enforcement agency. Such information may be disclosed to any person requesting information on a specific individual in accordance with subsection A of this section. The Department of State Police shall make registry information available, upon request, to criminal justice agencies including local law enforcement agencies through the Virginia Criminal Information Network (VCIN). The information provided under this section shall only be used for the administration of justice and to prevent sex offenders from being hired or allowed to work or volunteer to work directly with children. Sex Offender and Crimes against Minors Registry information shall be made available for screening of current or prospective employees or volunteers or otherwise for the protection of the public in general and children in particular. Use of this information for purposes not authorized in § 19.2-390.1 of the Code of Virginia is prohibited and willful violation of this section with the intent to harass or intimidate another shall be punished as a Class 1 misdemeanor. (See Name Search Request Form, Form SP 266.)

C. Registry information will be made available to public, parochial, denominational or private elementary or secondary school and any state-regulated or state-licensed child caring institution, child day center, child day program, family day home, foster home, or group home. For the purposes of this chapter, day care services means provision of supplementary care and protection during part of the day for the minor child of another, and child-minding services means provision of temporary custodial care or supervisory services for the minor child of another. Examples of child-minding services include little league, soccer league, or similar situations where children are placed under the temporary care of another adult.

D. Upon the receipt of a registration or reregistration pursuant to § 19.2-298.1 of the Code of Virginia, the Department of State Police shall promptly notify the chief law enforcement officer of the county, city or town of the locality listed as the person's address on the registration or reregistration and the Federal Bureau of Investigation for entry into the National Sex Offender Registry. The information shall also be transmitted to any person or entity who has requested automatic notification pursuant to § 19.2-320.2 of the Code of Virginia.

E. Whenever a person subject to registration changes residence to another state, the Department of State Police shall notify the designated law enforcement agency of that state.

19 VAC 30-170-50. Fee for responding to requests for information.

A. Any person requesting Sex Offender and Crimes against Minors Registry information shall pay a fee of \$15 for each Sex Offender and Crimes against Minors Registry record requested. If the request is made in conjunction with a request for a criminal history "name search" record for the same individual, the person making the request shall pay a fee of \$20 to cover both requests.

B. Consistent with § 19.2-389 (11) of the Code of Virginia, the fee for a criminal history record search will not be assessed if that person has applied to be a volunteer (i) with a Virginia affiliate of Big Brothers/Big Sisters of America, (ii) with a volunteer fire company or volunteer rescue squad, (iii) as a court-appointed special advocate, or (iv) with the Volunteer Emergency Families for Children, or (v) any Virginia affiliate or *Compeer*.

19 VAC 30-170-60. Information on violent sex offenders through the Internet and electronic notification of registration or reregistration. (Repealed.)

A. The Department of State Police will develop and maintain a system that will enable the public to obtain information on violent sex offenders through the Internet.

B. The information to be contained on the Internet shall include the offender's name; all aliases which he has used or under which he may have been known; the date and locality of the conviction and a brief description of the offense; his date of birth, current address and photograph; and other information the Department of State Police believes necessary to preserve the public safety.

C. Any public, parochial, denominational or private elementary or secondary school and any state-regulated or state-licensed

~~child caring institution, child day center, child day program, family day home, foster home, or group home may request the Department of State Police under § 19.2-390.1 of the Code of Virginia to receive electronic notice of the registration or reregistration of any sex offender registered pursuant to § 19.2-298.1 of the Code of Virginia. Agencies and other entities that request and are entitled to this notification who do not have the capability of receiving such notice may register with the Department of State Police to receive written notification of sex offender registration or reregistration.~~

~~D. In order to receive Sex Offender and Crimes against Minors Registry information, public, parochial, denominational or private elementary or secondary school and any state-regulated or state-licensed child caring institution, child day center, child day program, family day home, foster home, or group home and other entities must register with the Department of State Police. Registration for this service may occur through either of two methods. The first method is to submit to the Department of State Police a request for this information on official letterhead specifying the responsible party of the entity, official address and whether the information is to be sent to the entity through electronic means or by US mail. If the information is to be sent by electronic means an Internet e-mail address shall be provided. The second method will be to submit the required information on a form provided by the Department of State Police, Internet Registry Request.~~

NOTICE: The forms used in administering 19 VAC 30-170, Regulations Governing the Operation and Maintenance of the Sex Offender and Crimes Against Minors Registry, are not being published; however, the name of each form is listed below. The forms are available for public inspection at the Department of State Police, 7700 Midlothian Turnpike, Richmond, Virginia 23235, or at the office of the Registrar of Regulations, General Assembly Building, 2nd Floor, Richmond, Virginia.

FORMS

Name Search Request Form, SP- 266 (~~eff. date 7/98~~ rev. 7/03).

Name Search Request Form for Criminal History Record and/or Sex Offender and Crimes against Minors Registry Search, SP-230 (~~eff. 7/98~~ rev. 7/03).

Sex Offender and Crimes against Minors Reregistration and Address Verification Form, SP-236A (~~eff. 7/97~~ rev. 7/03).

Sex Offender and Crimes against Minors Registration Form, SP-236 (~~eff. 7/98~~ rev. 7/03).

VA.R. Doc. No. R03-262; Filed July 3, 2003, 9:27 a.m.



TITLE 21. SECURITIES AND RETAIL FINANCING

STATE CORPORATION COMMISSION

REGISTRAR'S NOTICE: The State Corporation Commission is exempt from the Administrative Process Act in accordance with § 2.2-4002 A 2 of the Code of Virginia, which exempts courts, any agency of the Supreme Court, and any agency that by the Constitution is expressly granted any of the powers of a court of record.

Title of Regulations: **21 VAC 5-10. General Administration--Securities Act (amending 21 VAC 5-10-10).**

21 VAC 5-20. Broker-Dealers, Broker-Dealer Agents and Agents of the Issuer: Registration, Expiration, Renewal, Updates and Amendments, Termination, Changing Connection, Merger or Consolidation, Examinations/Qualification, Financial Statements and Reports (amending 21 VAC 5-20-70, 21 VAC 5-20-85, 21 VAC 5-20-155, 21 VAC 5-20-220, 21 VAC 5-20-240, 21 VAC 5-20-260, and 21 VAC 5-20-280; adding 21 VAC 5-20-225; repealing 21 VAC 5-20-250 and 21 VAC 5-20-270).

21 VAC 5-30. Securities Registration (amending 21 VAC 5-30-10, 21 VAC 5-30-40, and 21 VAC 5-30-80; repealing 21 VAC 5-30-70 and 21 VAC 5-30-90).

21 VAC 5-40. Exempt Securities (amending 21 VAC 5-40-30, 21 VAC 5-40-100, 21 VAC 5-40-140, and 21 VAC 5-40-150; adding 21 VAC 5-40-160; repealing 21 VAC 5-40-120).

21 VAC 5-45. Federal Covered Securities (adding 21 VAC 5-45-10 and 21 VAC 5-45-20).

21 VAC 5-80. Investment Advisors (amending 21 VAC 5-80-40, 21 VAC 5-80-190, 21 VAC 5-80-200, and 21 VAC 5-80-210).

21 VAC 5-100. Disclosure of Information or Documents by Commission (amending 21 VAC 5-100-10).

Statutory Authority: §§ 12.1-13 and 13.1-523.1 of the Code of Virginia.

Effective Date: July 1, 2003.

Agency Contact: Thomas M. Gouldin, Deputy Director, State Corporation Commission, P.O. Box 1197, Richmond, VA 23218, telephone (804) 371-9755, FAX (804) 371-9911, toll free (800) 552-7945 or e-mail dgouldin@scc.state.va.us.

Summary:

The major revisions include:

1. Revisions were made to 21 VAC 5-20-85, 21 VAC 5-20-155, and 21 VAC 5-40-160 dealing with Canadian securities and Canadian broker-dealer and agent registration requirements. The division had received numerous requests for clarification of these provisions.

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2. The inspection of records of issuer agents are in proposed 21 VAC 5-20-225 to mirror similar requirements for inspections of registered broker-dealer agents' records.

3. Part IV (21 VAC 5-20-230 et seq.) of 21 VAC 5-20 was substantially revised to adopt the new federal Securities and Exchange Commission books and records requirements. By federal law, states may not have books and records requirements that are in addition to those required by the federal SEC.

4. Subsections of 21 VAC 5-20-280 were revised to add disclosure requirements as prohibited practices for broker-dealers. Failures to make appropriate disclosures with regard to SIPC are also found in this section and the dishonest and unethical practices regulation, 21 VAC 5-80-200.

5. 21 VAC 5-30-70, Investment company notice filing requirements, and 21 VAC 5-40-120, regarding Rule 506 of federal Regulation D notice filings, were repealed and substantially the same provisions were moved into a newly created chapter, 21 VAC 5-45, in order to highlight the sections as federal covered securities and make it easier for filers to find.

6. 21 VAC 5-80-190 was revised to add substantive disclosure requirements for investment advisors and investment advisor representatives who assist in the recommendation and engagement of other investment advisors.

7. Revisions to 21 VAC 5-80-210 clarify when an exempt investment advisor would be required to register with the division.

8. The Virginia General Assembly was added to the list of entities which are approved for disclosures with regard to investigations made pursuant to § 13.1-518 of the Code of Virginia.

Minor changes include:

1. A new qualification examination was added in 21 VAC 5-20-70 for supervisors who only work to sell investment company securities.

2. Minor changes were made to 21 VAC 5-20-220, 21 VAC 5-30-40, and 21 VAC 5-30-80, for Small Company Offering Registrations. 21 VAC 5-30-90 was repealed to make the regulations consistent.

3. A minor change was made to 21 VAC 5-30-10 to address changes in certified financial statements.

4. Minor amendments were made to 21 VAC 5-40-30, Uniform limited offering exemption, and 21 VAC 5-40-100, Domestic issuer limited transactional exemption, to note that the filing fee is made payable to the Treasurer of Virginia.

5. Formatting changes and payment of fee changes were made to 21 VAC 5-40-140, Accredited investor exemption.

Revisions that were made after the comment period closed include:

1. In 21 VAC 5-20-280 and 21 VAC 5-80-200, language is added to clarify that an investment advisor be required to be paid compensation for certain types of advice before disclosure requirements would be imposed upon an investment advisor or its representative.

2. 21 VAC 5-80-190 is amended to include language that certain disclosures only be made when an investment advisor or its representatives receive compensation from another investment advisor in connection with assisting a client in the selection of another investment advisor. This will reduce the required disclosures burden imposed on registered investment advisors and representatives.

AT RICHMOND, JUNE 27, 2003

COMMONWEALTH OF VIRGINIA, ex rel.

STATE CORPORATION COMMISSION

Ex Parte: In Re
Amendments to Securities
Act Rules

CASE NO.SEC-2003-00010

ORDER ADOPTING AMENDED RULES

On April 18, 2003, the Division of Securities and Retail Franchising ("Division") mailed notice of proposed amendments to the Commission's Securities Act Rules ("Rules") and forms to all issuer agents, broker-dealers, and investment advisors pending registration or registered under the Virginia Securities Act, § 13.1-501 et seq. of the Code of Virginia, and to other interested parties. Notice of the proposed amendments was also published in several newspapers in general circulation throughout Virginia, and in the "Virginia Register of Regulations" on April 21, 2003. The notices describe the proposed amendments, and afforded interested parties an opportunity to file written comments or requests for hearing.

Written comments were filed by The Investment Company Institute, Washington, D.C., Financial Planning Association (FPA) Government Relations Office located in Washington, D.C., Geoffrey Foisie, a registered investment advisor located in Alexandria, Virginia, Brinkley, McNerney, Morgan, Solomon & Tatum, LLP, a Florida law firm, and Beach Financial Advisory Service located in Virginia Beach, Virginia. After considering the comments received, comments were addressed both formally and informally. Each comment received a written response by the Division or Division's counsel. Several substantive changes were necessary, but acceptable to the Division. In addition, the Division addressed some minor inconsistencies.

The Commission, upon consideration of the proposed amendments as modified, the written comments filed, the recommendation of the Division, and the record in this case, finds that the proposed modified amendments should be adopted.

Accordingly, IT IS ORDERED THAT:

(1) The evidences of mailing and publication of notice of the proposed Rules and forms amendments shall be filed in and made part of the record in this case.

(2) The proposed Rules and forms amendments are adopted effective July 1, 2003. A copy of the modified Rules and forms amendments is attached to and made part of this order.

(3) This matter is dismissed from the Commission's docket, and the papers herein shall be placed in the file for ended causes.

AN ATTESTED COPY of this order shall be sent to each of the following by the Division: Commission's Division of Information Resources; Securities Regulation and Law Report, c/o The Bureau of National Affairs, 1231 25th Street, N.W., Washington, D.C. 20037; Blue Sky Law Reporter, c/o Commerce Clearing House, Inc., 4025 West Peterson Avenue, Chicago, Illinois 60646; The Investment Company Institute, 1401 H Street, N.W., Washington, D.C. 20005-2148; FPA Government Relations Office, 1615 L Street, N.W., Suite 650, Washington, D.C. 20036; Geoffrey Foisie, 812 West Timber Branch Parkway, Alexandria, Virginia 22302-3620; Michael J. McNerney, Esquire, Brinkley, McNerney, Morgan, Solomon & Tatum, LLP, Suite 1900, 200 East Las Olas Boulevard, Fort Lauderdale, Florida 33301-2209; Ronald S. Pearson, CFP, Beach Financial Advisory Service, 6204 Ocean Front Avenue, Virginia Beach, Virginia 23451; and such other persons as the Division deems appropriate.

REGISTRAR'S NOTICE: The proposed regulation was adopted as published in 19:16 VA.R. 2344-2369 April 21, 2003, with the additional changes shown below. Therefore, pursuant to § 2.2-4031 A of the Code of Virginia, the text of the final regulation is not set out at length; however, the changes from the proposed regulation are printed below.

21 VAC 5-10-10. [No change from proposed.]

21 VAC 5-20-70 through 21 VAC 5-20-225. [No change from proposed.]

21 VAC 5-20-240. Books and records of broker-dealers.

A. Every ~~registered~~ broker-dealer ~~registered or required to be registered under the Act~~ shall make and keep true, accurate and current, and preserve the following books and records relating to his *its* business, ~~provided that any broker-dealer subject to the Securities Exchange Act of 1934 shall not be required to comply with any of the following provisions which are different from or in addition to the requirements pertaining to such books and records established under the Securities Exchange Act of 1934 as are described in SEC Rules 17a-3 (17 CFR 240.17a-3) and 17a-4 (17 CFR 240.17a-4), or Municipal Securities Rule Making Board (MSRB) Rules [G6 and] G7[and G8]~~.

1. ~~Blotters (or other records of original entry) containing an itemized daily record of all purchases and sales of securities, all receipts and deliveries of securities (including certificate numbers), all receipts and disbursements of cash and all debits and credits. Such records shall show the account for which each such transaction was effected, the name and amount of securities, the unit and aggregate purchase or sale price (if any), the trade date, and the name or other designation of the person from whom purchased or received or to whom sold or delivered.~~

~~2. Ledgers (or other records) reflecting all assets and liabilities, income, expense and capital accounts.~~

~~3. Ledger accounts (or other records) itemizing separately as to each cash and margin account of every customer, and of such broker-dealer and partners thereof, all purchases, sales, receipts and deliveries of securities for such account and all other debits and credits to such account.~~

4. Ledgers (or other records) reflecting the following:

a. ~~Securities in transfers;~~

b. ~~Dividends and interest received;~~

c. ~~Securities borrowed and securities loaned;~~

d. ~~Moneys borrowed and moneys loaned (together with a record of the collateral therefore and any substitutions in such collateral);~~

e. ~~Securities failed to receive and failed to deliver;~~

f. ~~All long and all short stock record differences arising from the examination, count, verification and comparison, pursuant to Rule 17a-13 and Rule 17a-5 under the Securities Exchange Act of 1934 (17 CFR 240.17a-13 and 17 CFR 240.17a-5) as amended (by date of examination, count, verification and comparison showing for each security the number of shares long or short count differences); and~~

g. ~~Repurchase and reverse repurchase agreements.~~

5. ~~A securities record or ledger reflecting separately for each security as of the clearance dates all "long" or "short" positions (including securities in safekeeping and securities that are subjects of repurchase or reverse repurchase agreements) carried by such broker-dealer for its account or for the account of its customers or partners or others and showing the location of all securities long and the offsetting positions to all securities short, including long security count differences and short security count differences classified by the date of the physical count and verification in which they were discovered, and in all cases the name or designation of the account in which each position is carried.~~

6. ~~A memorandum of each brokerage order, and of any other instruction, given or received for the purchase or sale of securities, whether executed or unexecuted. Such memorandum shall show the terms and conditions of the order or instructions and of any modification or cancellation thereof, the account for which entered, the time of entry, the price at which executed and, to the extent feasible, the time of execution or cancellation. Orders entered pursuant to the exercise of a discretionary power by such broker-dealer, or any agent or employee thereof, shall be so designated. For the purpose of this subsection, the following definitions apply:~~

a. ~~"Instruction" includes instructions between partners, agents and employees of a broker-dealer.~~

b. ~~"Time of entry" means the time when such broker-dealer transmits the order of instruction for execution or, if it is not so transmitted, the time when it is received.~~

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7. A memorandum of each purchase and sale of securities for the account of such broker-dealer showing the price and, to the extent feasible, the time of execution; and, in addition, where such purchase or sale is with a customer other than a broker-dealer, a memorandum of each order received, showing the time of receipt, the terms and conditions of the order, and the account in which it was entered.

8. Copies of confirmations of all purchases and sales of securities including all repurchase and reverse repurchase agreements and copies of notices of all other debits and credits for securities, cash and other items for the account of customers and partners of such broker-dealer.

9. A record in respect of each cash and margin account with such broker-dealer indicating (i) the name and address of the beneficial owner of such account; (ii) except with respect to exempt employee benefit plan securities as defined in Rule 14a-1(d) under the Securities Exchange Act of 1934 (17 CFR 240.14a-1(d)) but only to the extent such securities are held by employee benefit plans established by the issuer of the securities, whether or not the beneficial owner of securities registered in the name of such broker-dealers, or a registered clearing agency or its nominee objects to disclosure of his identity, address and securities positions to issuers; and (iii) in the case of a margin account, the signature of such owner, provided that in the case of a joint account or an account of a corporation, such records are required only in respect of the person or persons authorized to transact business for such account.

10. A record of all puts, calls, spreads, straddles and other options in which such broker-dealer has any direct or indirect interest or which such broker-dealer has granted or guaranteed, containing at least, an identification of the security and the number of units involved.

11. A record of the proof of money balances of all ledger accounts in the form of trial balances and a record of the computation of aggregate indebtedness and net capital as of the trial balance date pursuant to 21 VAC 5-20-290.

12. Questionnaire or application for employment:

a. A questionnaire or application for employment executed by each agent of such broker-dealer, which questionnaire or application shall be approved in writing by an authorized representative of such broker-dealer and shall contain at least the following information with respect to each such person:

(1) The agent's name, address, social security number, and the starting date of his employment or other association with the broker-dealer.

(2) The agent's date of birth.

(3) The educational institutions attended by the agent and whether or not the agent graduated therefrom.

(4) A complete, consecutive statement of all the agent's business connections for at least the preceding 10 years, including the agent's reason for leaving each prior employment, and whether the employment was part-time or full-time.

(5) A record of any denial of a certificate, membership, or registration, and of any disciplinary action taken, or sanction imposed upon the agent, by any federal or state agency, or by any national securities exchange or national securities association, including a record of any finding that the agent was a cause of any disciplinary action or had violated any law.

(6) A record of any denial, suspension, expulsion or revocation of a certificate, membership or registration of any broker-dealer with which the agent was associated in any capacity when such action was taken.

(7) A record of any permanent or temporary injunction entered against the agent or any broker-dealer with which the agent was associated in any capacity at the time such injunction was entered.

(8) A record of any arrest or indictment for any felony; any misdemeanor pertaining to securities, commodities, banking, insurance, real estate (including, but not limited to, acting as or being associated with a broker-dealer, investment company, investment advisor, futures sponsor, bank, or savings and loan association), fraud, false statements or omission, wrongful taking of property, bribery, forgery, counterfeiting or extortion; and the disposition of the foregoing.

(9) A record of any other name or names by which the agent has been known or which the agent has used.

b. If such agent has been registered as a representative of such broker-dealer with, or his employment has been approved by the National Association of Securities Dealers, Inc., or the American Stock Exchange, the Boston Stock Exchange, the Midwest Stock Exchange, the New York Stock Exchange, the Pacific Coast Stock Exchange, or the Philadelphia-Baltimore Stock Exchange, then the retention of a full, correct, and complete copy of any and all applications for such registration or approval shall be deemed to satisfy the requirements of this subdivision.

13. Records required to be maintained pursuant to paragraph (d) of Rule 17f-2 under the Securities Exchange Act of 1934 (17 CFR 240.17f-2) as added in Release No. 34-12214, under the Securities Exchange Act of 1934.

14. Copies of all Forms X-17F-1A filed pursuant to Rule 17f-1 under the Securities Exchange Act of 1934 (17 CFR 240.17f-1), all agreements between reporting institutions regarding registration or other aspects of Rule 17f-1 under the Securities Exchange Act of 1934 (17 CFR 240.17f-1) and all confirmations or other information received from the SEC or its designee as a result of inquiry, as added in Release No. 34-11615 and amended in Release No. 34-15867 under the Securities Exchange Act of 1934.

15. Records required to be maintained pursuant to paragraph (e) of Rule 17f-2 under the Securities Exchange Act of 1934 (17 CFR 240.17f-2) as added in Release No. 34-19268 under the Securities Exchange Act of 1934.

~~16. All such other books and records as may be required, kept, maintained and retained by broker-dealers under the Securities Exchange Act of 1934.~~

~~B. Exemptions from the requirements of subsection A of this section:~~

~~1. This section does not require a registered broker-dealer who transacts a business in securities through the medium of any other registered broker-dealer to make or keep such records of transactions cleared for such broker-dealer as are customarily made and kept by a clearing broker-dealer pursuant to the requirement of subsection A of this section and of 21 VAC 5-20-250 provided that the clearing broker-dealer has and maintains net capital of not less than \$25,000 and is otherwise in compliance with 21 VAC 5-20-290.~~

~~2. This section shall not be deemed to require a registered broker-dealer who transacts a business in securities through the medium of any other registered broker-dealer, to make or keep such records of transactions cleared for such broker-dealer by a bank as are customarily made and kept by a clearing broker-dealer pursuant to the requirements of this section and 21 VAC 5-20-250. Provided that such broker-dealer obtains from such bank an agreement, in writing, to the effect that the records made and kept by such bank are the property of the broker-dealer, and that such books and records are available for examination by representatives of the commission as specified in § 13.1-518 of the Act, and that it will furnish to the commission, upon demand, at such place designated in such demand, true, correct, complete and current copies of any or all of such records. Nothing herein contained shall be deemed to relieve such broker-dealer from the responsibility that such books and records be accurate and maintained and preserved as specified in this section and 21 VAC 5-20-250.~~

~~C. This section does not require a broker-dealer to make or keep such records as are required by subsection A of this section reflecting the sale of United States Tax Savings Notes, United States Defense Savings Stamps, or United States Defense Savings Bonds, Series E, F and G.~~

~~D. The records specified in subsection A of this section shall not be required with respect to any cash transaction of \$100 or less involving only subscription rights or warrants which by their terms expire within 90 days after the issuance thereof.~~

~~E. For purposes of transactions in municipal securities by municipal securities broker-dealers, compliance with Rule G-8 of the Municipal Securities rulemaking board will be deemed to be in compliance with this section.~~

~~F. Every registered broker-dealer as a condition of its registration as a broker-dealer under the Act hereby agrees and represents that:~~

~~1. All of the broker-dealer's records, immediately upon the request of the commission, will be made available for inspection by the commission and reproduction for the commission in the office where such records are maintained;~~

~~2. All of the broker-dealer's records (or legible copies of the same, or print-outs of same, if automated) pertaining to a securities transaction any part of which occurred or is to occur within the Commonwealth of Virginia will be made available for inspection of the commission in the office of the commission's Division of Securities and Retail Franchising within 48 hours after request of the commission for same;~~

~~3. The term "records" shall mean and include all books, papers, documents, tapes, films, photographs, electronic readable format or other materials, regardless of physical form or characteristics, (i) that are maintained for the recordation or storage of information prepared, used or to be used in connection with a securities transaction or (ii) that were used or are to be used in connection with securities transactions;~~

~~4. Failure to comply with this subsection may be considered grounds for the institution of a proceeding to revoke a broker-dealer's registration or other penalty prescribed by the Act;~~

~~5. Any broker-dealer subject to an investigation made by the commission may be required to pay the actual cost of the investigation.~~

21 VAC 5-20-250 through 21 VAC 5-20-270. [No change from proposed.]

21 VAC 5-20-280. Prohibited business conduct.

A. No broker-dealer shall:

1. Engage in a pattern of unreasonable and unjustifiable delays in the delivery of securities purchased by any of its customers and/or in the payment upon request of free credit balances reflecting completed transactions of any of its customers, or take any action that directly or indirectly interferes with a customer's ability to transfer his account; provided that the account is not subject to any lien for moneys owed by the customer or other bona fide claim, including, but not limited to, seeking a judicial order or decree that would bar or restrict the submission, delivery or acceptance of a written request from a customer to transfer his account;

2. Induce trading in a customer's account which is excessive in size or frequency in view of the financial resources and character of the account;

3. Recommend to a customer the purchase, sale or exchange of any security without reasonable grounds to believe that the recommendation is suitable for the customer based upon reasonable inquiry concerning the customer's investment objectives, financial situation and needs, and any other relevant information known by the broker-dealer;

4. Execute a transaction on behalf of a customer without authority to do so or, when securities are held in a customer's account, fail to execute a sell transaction involving those securities as instructed by a customer, without reasonable cause;

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5. Exercise any discretionary power in effecting a transaction for a customer's account without first obtaining written discretionary authority from the customer, unless the discretionary power relates solely to the time and/or price for the execution of orders;

6. Execute any transaction in a margin account without securing from the customer a properly executed written margin agreement promptly after the initial transaction in the account, *or fail, prior to or at the opening of a margin account, to disclose to a noninstitutional customer the operation of a margin account and the risks associated with trading on margin at least as comprehensively as required by NASD Rule 2341;*

7. Fail to segregate customers' free securities or securities held in safekeeping;

8. Hypothecate a customer's securities without having a lien thereon unless the broker-dealer secures from the customer a properly executed written consent promptly after the initial transaction, except as permitted by Rules of the SEC;

9. Enter into a transaction with or for a customer at a price not reasonably related to the current market price of a security or receiving an unreasonable commission or profit;

10. Fail to furnish to a customer purchasing securities in an offering, no later than the date of confirmation of the transaction, either a final prospectus or a preliminary prospectus and an additional document, which together include all information set forth in the final prospectus;

11. Introduce customer transactions on a "fully disclosed" basis to another broker-dealer that is not exempt under § 13.1-514 B 6 of the Act;

12. a. Charge unreasonable and inequitable fees for services performed, including miscellaneous services such as collection of moneys due for principal, dividends or interest, exchange or transfer of securities, appraisals, safekeeping, or custody of securities and other services related to its securities business;

b. Charge a fee based on the activity, value or contents (or lack thereof) of a customer account unless written disclosure pertaining to the fee, which shall include information about the amount of the fee, how imposition of the fee can be avoided and any consequence of late payment or nonpayment of the fee, was provided no later than the date the account was established or, with respect to an existing account, at least 60 days prior to the effective date of the fee;

13. Offer to buy from or sell to any person any security at a stated price unless such broker-dealer is prepared to purchase or sell, as the case may be, at such price and under such conditions as are stated at the time of such offer to buy or sell;

14. Represent that a security is being offered to a customer "at a market" or a price relevant to the market price unless such broker-dealer knows or has reasonable grounds to believe that a market for such security exists other than that made, created or controlled by such broker-dealer, or by any person for whom he is acting or with whom he is

associated in such distribution, or any person controlled by, controlling or under common control with such broker-dealer;

15. Effect any transaction in, or induce the purchase or sale of, any security by means of any manipulative, deceptive or fraudulent device, practice, plan, program, design or contrivance, which may include but not be limited to:

a. Effecting any transaction in a security which involves no change in the beneficial ownership thereof;

b. Entering an order or orders for the purchase or sale of any security with the knowledge that an order or orders of substantially the same size, at substantially the same time and substantially the same price, for the sale of any security, has been or will be entered by or for the same or different parties for the purpose of creating a false or misleading appearance of active trading in the security or a false or misleading appearance with respect to the market for the security; provided, however, nothing in this subsection shall prohibit a broker-dealer from entering bona fide agency cross transactions for its customers;

c. Effecting, alone or with one or more other persons, a series of transactions in any security creating actual or apparent active trading in such security or raising or depressing the price of such security, for the purpose of inducing the purchase or sale of such security by others;

16. Guarantee a customer against loss in any securities account of such customer carried by the broker-dealer or in any securities transaction effected by the broker-dealer with or for such customer;

17. Publish or circulate, or cause to be published or circulated, any notice, circular, advertisement, newspaper article, investment service, or communication of any kind which purports to report any transaction as a purchase or sale of any security unless such broker-dealer believes that such transaction was a bona fide purchase or sale of such security; or which purports to quote the bid price or asked price for any security, unless such broker-dealer believes that such quotation represents a bona fide bid for, or offer of, such security;

18. Use any advertising or sales presentation in such a fashion as to be deceptive or misleading. An example of such practice would be a distribution of any nonfactual data, material or presentation based on conjecture, unfounded or unrealistic claims or assertions in any brochure, flyer, or display by words, pictures, graphs or otherwise designed to supplement, detract from, supersede or defeat the purpose or effect of any prospectus or disclosure;

19. Fail to make reasonably available upon request to any person expressing an interest in a solicited transaction in a security, not listed on a registered securities exchange or quoted on an automated quotation system operated by a national securities association approved by regulation of the commission, a balance sheet of the issuer as of a date within 18 months of the offer and/or sale of the issuer's securities and a profit and loss statement for either the fiscal year preceding that date or the most recent year of operations, the names of the issuer's proprietor, partners or

officers, the nature of the enterprises of the issuer and any available information reasonably necessary for evaluating the desirability or lack of desirability of investing in the securities of an issuer. All transactions in securities described in this subsection shall comply with the provisions of § 13.1-507 of the Act;

20. Fail to disclose that the broker-dealer is controlled by, controlling, affiliated with or under common control with the issuer of any security before entering into any contract with or for a customer for the purchase or sale of such security, the existence of such control to such customer, and if such disclosure is not made in writing, it shall be supplemented by the giving or sending of written disclosure at or before the completion of the transaction;

21. Fail to make a bona fide public offering of all of the securities allotted to a broker-dealer for distribution, whether acquired as an underwriter, a selling group member, or from a member participating in the distribution as an underwriter or selling group member; or

22. Fail or refuse to furnish a customer, upon reasonable request, information to which such customer is entitled, or to respond to a formal written request or complaint; or

23. *Fail to clearly and separately disclose to its customer, prior to any security [or investment advisory] transaction, [or promptly after any material providing investment advice for compensation or any materially] related transaction [;] that the customer's funds [or securities] will be [invested, or] in [the] custody [— of an investment advisor or contracted custodian], in a manner that does not provide Securities Investor Protection Corporation protection, or equivalent third-party coverage over the customer's assets.*

B. No agent shall:

1. Engage in the practice of lending or borrowing money or securities from a customer, or acting as a custodian for money, securities or an executed stock power of a customer;

2. Effect any securities transaction not recorded on the regular books or records of the broker-dealer which the agent represents, unless the transaction is authorized in writing by the broker-dealer prior to execution of the transaction;

3. Establish or maintain an account containing fictitious information in order to execute a transaction which would otherwise be unlawful or prohibited;

4. Share directly or indirectly in profits or losses in the account of any customer without the written authorization of the customer and the broker-dealer which the agent represents;

5. Divide or otherwise split the agent's commissions, profits or other compensation from the purchase or sale of securities in this state with any person not also registered as an agent for the same broker-dealer, or for a broker-dealer under direct or indirect common control; or

6. Engage in conduct specified in subdivisions A 2, 3, 4, 5, 6, 10, 15, 16, 17, or 18, or 23 of this section.

C. Failure to comply with any of the applicable continuing education requirements set forth in any of the following, if such failure has resulted in an agent's denial, suspension or revocation of a license, registration or membership with a self regulatory organization, shall be deemed a demonstration of a lack of business knowledge by an agent insofar as such business knowledge is required for registration by § 13.1-505 A 3 of the Act.

1. Schedule C to the National Association of Securities Dealers By-Laws, Part XII of the National Association of Securities Dealers, as such provisions existed on July 1, 1995;

2. Rule 345 A of the New York Stock Exchange, as such provisions existed on July 1, 1995;

3. Rule G-3(h) of the Municipal Securities Rulemaking Board, as such provisions existed on July 1, 1995;

4. Rule 341 A of the American Stock Exchange, as such provisions existed on July 1, 1995;

5. Rule 9.3A of the Chicago Board of Options Exchange, as such provisions existed on July 1, 1995;

6. Article VI, Rule 9 of the Chicago Stock Exchange, as such provisions existed on July 1, 1995;

7. Rule 9.27(C) of the Pacific Stock Exchange, as such provisions existed on July 1, 1995; or

8. Rule 640 of the Philadelphia Stock Exchange, as such provisions existed on July 1, 1995.

Each or all of the education requirements standards listed above may be changed by each respective entity and if so changed will become a requirement if such change does not materially reduce the educational requirements expressed above or reduce the investor protection provided by such requirements.

D. No person shall publish, give publicity to, or circulate any notice, circular, advertisement, newspaper article, letter, investment service or communication which, though not purporting to offer a security for sale, describes such security, for a consideration received or to be received, directly or indirectly, from an issuer, underwriter, or dealer, without fully disclosing the receipt, whether past or prospective, of such consideration and the amount thereof.

E. The purpose of this subsection is to identify practices in the securities business which are generally associated with schemes to manipulate and to identify prohibited business conduct of broker-dealers and/or sales agents.

1. Entering into a transaction with a customer in any security at an unreasonable price or at a price not reasonably related to the current market price of the security or receiving an unreasonable commission or profit.

2. Contradicting or negating the importance of any information contained in a prospectus or other offering materials with intent to deceive or mislead or using any advertising or sales presentation in a deceptive or misleading manner.

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3. In connection with the offer, sale, or purchase of a security, falsely leading a customer to believe that the broker-dealer or agent is in possession of material, non-public information which would affect the value of the security.
4. In connection with the solicitation of a sale or purchase of a security, engaging in a pattern or practice of making contradictory recommendations to different investors of similar investment objective for some to sell and others to purchase the same security, at or about the same time, when not justified by the particular circumstances of each investor.
5. Failing to make a bona fide public offering of all the securities allotted to a broker-dealer for distribution by, among other things, (i) transferring securities to a customer, another broker-dealer or a fictitious account with the understanding that those securities will be returned to the broker-dealer or its nominees or (ii) parking or withholding securities.
6. Although nothing in this subsection precludes application of the general anti-fraud provisions against anyone for practices similar in nature to the practices discussed below, the following subdivisions a through f specifically apply only in connection with the solicitation of a purchase or sale of OTC (over the counter) unlisted non-NASDAQ equity securities:
 - a. Failing to advise the customer, both at the time of solicitation and on the confirmation, of any and all compensation related to a specific securities transaction to be paid to the agent including commissions, sales charges, or concessions.
 - b. In connection with a principal transaction, failing to disclose, both at the time of solicitation and on the confirmation, a short inventory position in the firm's account of more than 3.0% of the issued and outstanding shares of that class of securities of the issuer; however, subdivision 6 of this subsection shall apply only if the firm is a market maker at the time of the solicitation.
 - c. Conducting sales contests in a particular security.
 - d. After a solicited purchase by a customer, failing or refusing, in connection with a principal transaction, to promptly execute sell orders.
 - e. Soliciting a secondary market transaction when there has not been a bona fide distribution in the primary market.
 - f. Engaging in a pattern of compensating an agent in different amounts for effecting sales and purchases in the same security.
7. Effecting any transaction in, or inducing the purchase or sale of any security by means of any manipulative, deceptive or other fraudulent device or contrivance including but not limited to the use of boiler room tactics or use of fictitious or nominee accounts.
8. Failing to comply with any prospectus delivery requirements promulgated under federal law or the Act.
9. In connection with the solicitation of a sale or purchase of an OTC unlisted non-NASDAQ security, failing to promptly provide the most current prospectus or the most recently filed periodic report filed under § 13 of the Securities Exchange Act when requested to do so by a customer.
10. Marking any order tickets or confirmations as unsolicited when in fact the transaction was solicited.
11. For any month in which activity has occurred in a customer's account, but in no event less than every three months, failing to provide each customer with a statement of account with respect to all OTC non-NASDAQ equity securities in the account, containing a value for each such security based on the closing market bid on a date certain; however, this subdivision shall apply only if the firm has been a market maker in such security at any time during the month in which the monthly or quarterly statement is issued.
12. Failing to comply with any applicable provision of the Rules of Fair Practice of the NASD or any applicable fair practice or ethical standard promulgated by the SEC or by a self-regulatory organization approved by the SEC.
13. In connection with the solicitation of a purchase or sale of a designated security:
 - a. Failing to disclose to the customer the bid and ask price, at which the broker-dealer effects transactions with individual, retail customers, of the designated security as well as its spread in both percentage and dollar amounts at the time of solicitation and on the trade confirmation documents; or
 - b. Failing to include with the confirmation, the notice disclosure contained in subsection F of this section, except the following shall be exempt from this requirement:
 - (1) Transactions in which the price of the designated security is \$5.00 or more, exclusive of costs or charges; however, if the designated security is a unit composed of one or more securities, the unit price divided by the number of components of the unit other than warrants, options, rights, or similar securities must be \$5.00 or more, and any component of the unit that is a warrant, option, right, or similar securities, or a convertible security must have an exercise price or conversion price of \$5.00 or more.
 - (2) Transactions that are not recommended by the broker-dealer or agent.
 - (3) Transactions by a broker-dealer: (i) whose commissions, commission equivalents, and mark-ups from transactions in designated securities during each of the immediately preceding three months, and during 11 or more of the preceding 12 months, did not exceed 5.0% of its total commissions, commission-equivalents, and mark-ups from transactions in securities during those months; and (ii) who has not executed principal transactions in connection with the solicitation to purchase the designated security that is the subject of the transaction in the immediately preceding 12 months.

(4) Any transaction or transactions that, upon prior written request or upon its own motion, the commission conditionally or unconditionally exempts as not encompassed within the purposes of this section.

c. For purposes of this section, the term "designated security" means any equity security other than a security:

(1) Registered, or approved for registration upon notice of issuance, on a national securities exchange and makes transaction reports available pursuant to 17 CFR 11Aa3-1 under the Securities Exchange Act of 1934;

(2) Authorized, or approved for authorization upon notice of issuance, for quotation in the NASDAQ system;

(3) Issued by an investment company registered under the Investment Company Act of 1940;

(4) That is a put option or call option issued by The Options Clearing Corporation; or

(5) Whose issuer has net tangible assets in excess of \$4,000,000 as demonstrated by financial statements dated less than 15 months previously that the broker or dealer has reviewed and has a reasonable basis to believe are true and complete in relation to the date of the transaction with the person, and

(a) In the event the issuer is other than a foreign private issuer, are the most recent financial statements for the issuer that have been audited and reported on by an independent public accountant in accordance with the provisions of 17 CFR 210.2.02 under the Securities Exchange Act of 1934; or

(b) In the event the issuer is a foreign private issuer, are the most recent financial statements for the issuer that have been filed with the SEC; furnished to the SEC pursuant to 17 CFR 241.12g3-2(b) under the Securities Exchange Act of 1934; or prepared in accordance with generally accepted accounting principles in the country of incorporation, audited in compliance with the requirements of that jurisdiction, and reported on by an accountant duly registered and in good standing in accordance with the regulations of that jurisdiction.

F. Customer notice requirements follow:

IMPORTANT CUSTOMER NOTICE--READ CAREFULLY

You have just entered into a solicited transaction involving a security which may not trade on an active national market. The following should help you understand this transaction and be better able to follow and protect your investment.

Q. What is meant by the BID and ASK price and the spread?

A. The BID is the price at which you could sell your securities at this time. The ASK is the price at which you bought. Both are noted on your confirmation. The difference between these prices is the "spread," which is also noted on

the confirmation, in both a dollar amount and a percentage relative to the ASK price.

Q. How can I follow the price of my security?

A. For the most part, you are dependent on broker-dealers that trade in your security for all price information. You may be able to find a quote in the newspaper, but you should keep in mind that the quote you see will be for dealer-to-dealer transactions (essentially wholesale prices and will not necessarily be the prices at which you could buy or sell).

Q. How does the spread relate to my investments?

A. The spread represents the profit made by your broker-dealer and is the amount by which your investment must increase (the BID must rise) for you to break even. Generally, a greater spread indicates a higher risk.

Q. How do I compute the spread?

A. If you bought 100 shares at an ASK price of \$1.00, you would pay \$100 (100 shares X \$1.00 = \$100). If the BID price at the time you purchased your stock was \$.50, you could sell the stock back to the broker-dealer for \$50 (100 shares X \$.50 = \$50). In this example, if you sold at the BID price, you would suffer a loss of 50%.

Q. Can I sell at any time?

A. Maybe. Some securities are not easy to sell because there are few buyers, or because there are no broker-dealers who buy or sell them on a regular basis.

Q. Why did I receive this notice?

A. The laws of some states require your broker-dealer or sales agent to disclose the BID and ASK price on your confirmation and include this notice in some instances. If the BID and ASK were not explained to you at the time you discussed this investment with your broker, you may have further rights and remedies under both state and federal law.

Q. Where do I go if I have a problem?

A. If you cannot work the problem out with your broker-dealer, you may contact the Virginia State Corporation Commission or the securities commissioner in the state in which you reside, the United States Securities and Exchange Commission, or the National Association of Securities Dealers, Inc.

G. Engaging in or having engaged in conduct specified in subsection A, B, C, D, or E of this section, or other conduct such as forgery, embezzlement, nondisclosure, incomplete disclosure or misstatement of material facts, or manipulative or deceptive practices shall be grounds under the Act for imposition of a penalty, denial of a pending application or refusal to renew or revocation of an effective registration.

21 VAC 5-30-10. Definitions.

As used in [~~these regulations~~ *this chapter*], forms instructions and orders relating to the securities registration, the following meanings shall apply:

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"*Certified financial statements*" shall be defined as those financial statements prepared in accordance with generally accepted accounting standards, that are examined and reported upon with an opinion expressed by an independent accountant and shall include at least the following information:

1. Date of report, manual signature, city and state where issued and identification without detailed enumeration of the financial statements and schedules covered by the report;
2. Representations as to whether the audit was made in accordance with generally accepted auditing standards and designation of any auditing standards and designation of any auditing procedures deemed necessary by the accountant under the circumstances of the particular case which may have been omitted, and the reason for their omission; nothing in this regulation however shall be construed to imply authority for the omission of any procedure which independent accountants would ordinarily employ in the course of an audit for the purpose of expressing the opinions required under the regulation;
3. Statement of the opinion of the accountant in respect to the financial statements and schedules covered by the report and the accounting principles and practices reflected therein and as to the consistency of the application of the accounting principles, or as to any changes in such principles which would have a material effect on the financial statements;
4. Any matters to which the accountant takes exception shall be clearly identified, the exception thereto specifically and clearly stated, and, to the extent practicable, the effect of such exception on the related financial statements given.

"*Financial statements*" shall be defined as those reports, schedules and statements, prepared in accordance with generally accepted accounting principles, which contain at least the following information unless the context otherwise dictates:

1. ~~Statement of Financial Condition or Balance Sheet;~~
2. ~~Statement of Income or Operations; and~~
3. ~~Statement of Changes in Financial Position, Shareholders' Equity or Members' Equity; and~~
4. ~~Statement of Cash Flows.~~

"*Independent accountant*" shall be defined as any certified public accountant in good standing and entitled to practice as such under the laws of his principal place of business or residence, and who is, in fact, not controlled by or under common control with the entity or person being audited; for the purposes of this definition an accountant will be considered not independent with respect to any person or any of its parents, its subsidiaries, or other affiliates (i) in which, during the period of the accountant's professional engagement to examine the financial statements being reported on or at the date of the accountant's report, the accountant or the accountant's firm or a member thereof, had, or was committed to acquire, any direct financial interest or any material indirect financial interest; (ii) with which, during the period of the accountant's professional engagement to examine the financial statements being reported on, at the date of the

accountant's report during the period covered by the financial statements, the accountant or the accountant's firm or a member thereof was connected as a promoter, underwriter, voting trustee, director, officer, or employee, except that a firm will not be deemed not independent in regard to a particular person if a former officer or employee of such person is employed by the firm and such individual has completely disassociated [~~himself/herself~~ *himself*] from the person and its affiliates covering any period of [~~his/her~~ *his*] employment by the person. For the purposes of this [~~regulation~~ *chapter*], the term "member" means all partners in the firm and all professional employees participating in the audit or located in an office of the firm participating in a significant portion of the audit; and in determining whether an accountant may in fact be not independent with respect to a particular person, the Commission will give appropriate consideration to all relevant circumstances, including evidence bearing on all relationships between the accountant and that person or any affiliates thereof and will not confine itself to the relationships existing in connection with the filing of reports with the Commission.

"*Unaudited financial statements*" shall be defined as those financial statements prepared in accordance with generally accepted accounting principles, not accompanied by the statements and representations as set forth in subdivisions 2, 3, and 4 of the first definition of this section.

21 VAC 5-30-40 through 21 VAC 5-30-90. [No change from proposed.]

21 VAC 5-40-30. Uniform limited offering exemption.

A. Nothing in this exemption is intended to relieve, or should be construed as in any way relieving, issuers or persons acting on their behalf from providing disclosure to prospective investors adequate to satisfy the anti-fraud provisions of the Act.

In view of the objective of this section and the purpose and policies underlying the Act, this exemption is not available to an issuer with respect to a transaction which, although in technical compliance with this section, is part of a plan or scheme to evade registration or the conditions or limitations explicitly stated in this section.

Nothing in this section is intended to exempt registered broker-dealers or agents from the due diligence standards otherwise applicable to such registered persons.

Nothing in this section is intended to exempt a person from the broker-dealer or agent registration requirements of Article 3 (§ 13.1-504 et seq.) of Chapter 5 of Title 13.1 of the Code of Virginia, except in the case of an agent of the issuer who receives no sales commission directly or indirectly for offering or selling the securities and who is not subject to subdivision B 2 of this section.

B. For the purpose of the limited offering exemption referred to in § 13.1-514 B 13 of the Act, the following securities are determined to be exempt from the securities registration requirements of Article 4 (§ 13.1-507 et seq.) of Chapter 5 of Title 13.1 of the Code of Virginia.

Any securities offered or sold in compliance with the Securities Act of 1933, Regulation D (Reg. D), Rules 230.501-230.503 and 230.505 as made effective in Release

No. 33-6389 (47 FR 11251), and as amended in Release Nos. 33-6437 (47 FR 54764), 33-6663 (51 FR 36385), 33-6758 (53 FR 7866) and 33-6825 (54 FR 11369) and which satisfy the following further conditions and limitations:

1. The issuer and persons acting on its behalf shall have reasonable grounds to believe, and after making reasonable inquiry shall believe, that all persons who offer or sell securities subject to this section are registered in accordance with § 13.1-505 of the Act except in the case of an agent of the issuer who receives no sales commission directly or indirectly for offering or selling the securities and who is not subject to subdivision 2 of this subsection.

2. No exemption under this section shall be available for the securities of any issuer if any of the persons described in the Securities Act of 1933, Regulation A, Rule 230.262(a), (b), or (c) (17 CFR 230.262):

a. Has filed a registration statement which is [*the*] subject of a currently effective stop order entered pursuant to any state's securities law within five years prior to the beginning of the offering.

b. Has been convicted within five years prior to the beginning of the offering of a felony or misdemeanor in connection with the purchase or sale of a security or a felony involving fraud or deceit, including but not limited to forgery, embezzlement, obtaining money under false pretenses, larceny or conspiracy to defraud.

c. Is currently subject to a state's administrative order or judgment entered by that state's securities administrator within five years prior to the beginning of the offering or is subject to a state's administrative order or judgment in which fraud or deceit, including but not limited to making untrue statements of material facts or omitting to state material facts, was found and the order or judgment was entered within five years prior to the beginning of the offering.

d. Is currently subject to a state's administrative order or judgment which prohibits the use of any exemption from registration in connection with the purchase or sale of securities.

e. Is currently subject to an order, judgment, or decree of a court of competent jurisdiction temporarily or preliminarily restraining or enjoining, or is subject to an order, judgment or decree of any court of competent jurisdiction, entered within five years prior to the beginning of the offering, permanently restraining or enjoining such person from engaging in or continuing any conduct or practice in connection with the purchase or sale of any security or involving the making of a false filing with a state.

f. The prohibitions of subdivisions a, b, c and e of this subdivision shall not apply if the party subject to the disqualifying order, judgment or decree is duly licensed or registered to conduct securities related business in the state in which the administrative order, judgment or decree was entered against such party.

g. A disqualification caused by this subsection is automatically waived if the state securities administrator

or agency of the state which created the basis for disqualification, or the State Corporation Commission, determines upon a showing of good cause that it is not necessary under the circumstances that the exemption under this section be denied.

3. The issuer shall file with the commission no later than 15 days after the first sale in this state from an offering being made in reliance upon this exemption:

a. A notice on Form D (17 CFR 239.500).

b. An undertaking by the issuer to promptly provide, upon written request, the information furnished by the issuer to offerees.

c. An executed consent to service of process (*Form U2*) appointing the Clerk of the ~~State Corporation~~ commission as its agent for purpose of service of process, unless a currently effective consent to service of process is on file with the commission.

d. A filing fee of \$250 payable to the Treasurer of Virginia.

4. In sales to nonaccredited investors, the issuer and persons acting on its behalf shall have reasonable grounds to believe, and after making reasonable inquiry shall believe, that the investment is suitable for the purchaser as to the purchaser's other security holdings and financial situation and needs.

5. Offers and sales of securities which are exempted by this section shall not be combined with offers and sales of securities exempted by another regulation or section of the Act; however, nothing in this limitation shall act as an election. The issuer may claim the availability of another applicable exemption should, for any reason, the securities or persons fail to comply with the conditions and limitations of this exemption.

6. In any proceeding involving this section, the burden of proving the exemption or an exception from a definition or condition is upon the person claiming it.

C. The exemption authorized by this section shall be known and may be cited as the "Uniform Limited Offering Exemption."

21 VAC 5-40-100 through 21 VAC 5-40-160. [No change from proposed.]

CHAPTER 45. FEDERAL COVERED SECURITIES.

21 VAC 5-45-10. [No change from proposed.]

21 VAC 5-45-20. [No change from proposed.]

21 VAC 5-80-40. Updates and amendments.

A. An investment advisor or federal covered advisor shall update its Form ADV as required by item 3 4, "When am I required to update my Form ADV?" of Form ADV: General Instructions and shall file all such information with the IARD system.

B. An investment advisor shall file the balance sheet as prescribed by Part II [, *Item* 14] of Form ADV, unless

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excluded from such requirement, with the commission at its Division of Securities and Retail Franchising within 90 days of the investment advisor's fiscal year end. Any investment advisor who is registered in the state in which it maintains its principal place of business shall file with the commission at its Division of Securities and Retail Franchising any financial documents required to be filed by the state within 10 days of the time it must file these documents in such state.

C. A federal covered advisor shall maintain Part II of Form ADV at its principal place of business and shall make a copy available to the commission at its Division of Securities and Retail Franchising within five days of its request.

21 VAC 5-80-190. Disclosure requirements.

A. For purposes of compliance with § 13.1-505.1 of the Act, a copy of Part II of Form ADV must be given to clients of investment advisors, or a brochure containing such information may be utilized.

B. The investment advisor or its registered representatives shall deliver the disclosure information required by this section to an advisory client or prospective advisory client:

1. Not less than 48 hours prior to entering into any investment advisory contract with such client or prospective client, or
2. At the time of entering into any such contract, if the advisory client has a right to terminate the contract without penalty within five calendar days after entering into the contract.

C. The investment advisor, or its registered representatives, shall offer to deliver the disclosure information required by this section to an advisory client or prospective advisory client annually, within 90 days of any investment advisor's fiscal year end.

D. A copy of Part II of Form ADV or the brochure to be given to clients must be filed by investment advisors with the commission at its Division of Securities and Retail Franchising not later than the time of its use.

E. If an investment advisor renders substantially different types of investment advisory services to different advisory clients, any information required by Part II of Form ADV may be omitted from the statement furnished to an advisory client or prospective advisory client if such information is applicable only to a type of investment advisory service or fee which is not rendered or charged, or proposed to be rendered or charged to that client or prospective client.

F. An investment advisor and its representative [who receives compensation for assisting a client in the selection of another investment advisor] may only assist [clients that client] in the selection of [other another] investment [advisors advisor] pursuant to a written agreement between the assisting investment advisor and the other investment advisor. The written agreement must describe the assisting activities and compensation, contain the assisting investment advisor's undertaking to perform consistent with the other investment advisor's instructions, and require that the assisting investment advisor representative provide the prospective clients with written disclosure documents of the assisting

investment advisor and the other investment advisor. The disclosure document of an investment advisor who [assist assists] clients in the selection of another investment advisor shall always contain the following information in addition to other information required by subsection A of [~~21 VAC 5-80-190~~ of this section] :

1. *The name of the assisting investment advisor representative;*
2. *The name of the other investment advisor;*
3. *The nature of the relationship, including any affiliation between the assisting investment advisor representative and the other investment advisor;*
4. *A statement that the assisting investment advisor representative will be compensated for his services by the other investment advisor;*
5. *The terms of such compensation arrangement, including a description of the compensation paid to the assisting investment advisor representative;*
6. *Compensation differentials charged to clients above the normal other investment advisor's fee, as a result of the cost of obtaining clients by compensating the assisting investment advisor representative.*

21 VAC 5-80-200. Dishonest or unethical practices.

A. An investment advisor or federal covered advisor is a fiduciary and has a duty to act primarily for the benefit of his clients. While the extent and nature of this duty varies according to the nature of the relationship between an investment advisor or federal covered advisor and his clients and the circumstances of each case, an investment advisor or federal covered advisor shall not engage in unethical practices, including the following:

1. Recommending to a client to whom investment supervisory, management or consulting services are provided the purchase, sale or exchange of any security without reasonable grounds to believe that the recommendation is suitable for the client on the basis of information furnished by the client after reasonable inquiry concerning the client's investment objectives, financial situation and needs, and any other information known or acquired by the investment advisor or federal covered advisor after reasonable examination of the client's financial records.
2. Placing an order to purchase or sell a security for the account of a client without written authority to do so.
3. Placing an order to purchase or sell a security for the account of a client upon instruction of a third party without first having obtained a written third-party authorization from the client.
4. Exercising any discretionary power in placing an order for the purchase or sale of securities for a client without obtaining written discretionary authority from the client within 10 business days after the date of the first transaction placed pursuant to oral discretionary authority, unless the discretionary power relates solely to the price at which, or

the time when, an order involving a definite amount of a specified security shall be executed, or both.

5. Inducing trading in a client's account that is excessive in size or frequency in view of the financial resources, investment objectives and character of the account.

6. Borrowing money or securities from a client unless the client is a broker-dealer, an affiliate of the investment advisor or federal covered advisor, or a financial institution engaged in the business of loaning funds or securities.

7. Loaning money to a client unless the investment advisor or federal covered advisor is a financial institution engaged in the business of loaning funds or the client is an affiliate of the investment advisor or federal covered advisor.

8. Misrepresenting to any advisory client, or prospective advisory client, the qualifications of the investment advisor or federal covered advisor, or misrepresenting the nature of the advisory services being offered or fees to be charged for such service, or omission to state a material fact necessary to make the statements made regarding qualifications services or fees, in light of the circumstances under which they are made, not misleading.

9. Providing a report or recommendation to any advisory client prepared by someone other than the investment advisor or federal covered advisor without disclosing that fact. This prohibition does not apply to a situation where the advisor uses published research reports or statistical analyses to render advice or where an advisor orders such a report in the normal course of providing service.

10. Charging a client an unreasonable advisory fee in light of the fees charged by other investment advisors or federal covered advisors providing essentially the same services.

11. Failing to disclose to clients in writing before any advice is rendered any material conflict of interest relating to the investment advisor or federal covered advisor or any of his employees which could reasonably be expected to impair the rendering of unbiased and objective advice including:

a. Compensation arrangements connected with advisory services to clients which are in addition to compensation from such clients for such services; or

b. Charging a client an advisory fee for rendering advice when a commission for executing securities transactions pursuant to such advice will be received by the advisor or his employees.

12. Guaranteeing a client that a specific result will be achieved as a result of the advice which will be rendered.

13. Publishing, circulating or distributing any advertisement that would not be permitted under Rule 206(4)-1 under the Investment Advisers Act of 1940 (17 CFR 275.206(4)-1).

14. Disclosing the identity, affairs, or investments of any client to any third party unless required by law or an order of a court or a regulatory agency to do so, or unless consented to by the client.

15. Taking any action, directly or indirectly, with respect to those securities or funds in which any client has any

beneficial interest, where the investment advisor has custody or possession of such securities or funds, when the investment advisor's action is subject to and does not comply with the safekeeping requirements of 21 VAC 5-80-140.

16. Entering into, extending or renewing any investment advisory contract unless such contract is in writing and discloses, in substance, the services to be provided, the term of the contract, the advisory fee, the formula for computing the fee, the amount of prepaid fee to be returned in the event of contract termination or nonperformance, whether the contract grants discretionary power to the investment advisor or federal covered advisor and that no assignment of such contract shall be made by the investment advisor or federal covered advisor without the consent of the other party to the contract.

17. Failing to clearly and separately disclose to its customer, prior to any security [~~or investment advisory~~] transaction, [~~or promptly after any material providing investment advice for compensation or any materially~~] related transaction [,] that the customer's funds [~~or securities~~] will be [~~invested or~~] in [the] custody [~~of an investment advisor or contracted custodian~~] in a manner that does not provide Securities Investor Protection Corporation protection, or equivalent third-party coverage over the customer's assets.

B. An investment advisor representative is a fiduciary and has a duty to act primarily for the benefit of his clients. While the extent and nature of this duty varies according to the nature of the relationship between an investment advisor representative and his clients and the circumstances of each case, an investment advisor representative shall not engage in unethical practices, including the following:

1. Recommending to a client to whom investment supervisory, management or consulting services are provided the purchase, sale or exchange of any security without reasonable grounds to believe that the recommendation is suitable for the client on the basis of information furnished by the client after reasonable inquiry concerning the client's investment objectives, financial situation and needs, and any other information known or acquired by the investment advisor representative after reasonable examination of the client's financial records.

2. Placing an order to purchase or sell a security for the account of a client without written authority to do so.

3. Placing an order to purchase or sell a security for the account of a client upon instruction of a third party without first having obtained a written third-party authorization from the client.

4. Exercising any discretionary power in placing an order for the purchase or sale of securities for a client without obtaining written discretionary authority from the client within 10 business days after the date of the first transaction placed pursuant to oral discretionary authority, unless the discretionary power relates solely to the price at which, or the time when, an order involving a definite amount of a specified security shall be executed, or both.

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5. Inducing trading in a client's account that is excessive in size or frequency in view of the financial resources, investment objectives and character of the account.

6. Borrowing money or securities from a client unless the client is a broker-dealer, an affiliate of the investment advisor representative, or a financial institution engaged in the business of loaning funds or securities.

7. Loaning money to a client unless the investment advisor representative is engaged in the business of loaning funds or the client is an affiliate of the investment advisor representative.

8. Misrepresenting to any advisory client, or prospective advisory client, the qualifications of the investment advisor representative, or misrepresenting the nature of the advisory services being offered or fees to be charged for such service, or omission to state a material fact necessary to make the statements made regarding qualifications services or fees, in light of the circumstances under which they are made, not misleading.

9. Providing a report or recommendation to any advisory client prepared by someone other than the investment advisor or federal covered advisor who the investment advisor representative is employed by or associated with without disclosing that fact. This prohibition does not apply to a situation where the investment advisor or federal covered advisor uses published research reports or statistical analyses to render advice or where an investment advisor or federal covered advisor orders such a report in the normal course of providing service.

10. Charging a client an unreasonable advisory fee in light of the fees charged by other investment advisor representatives providing essentially the same services.

11. Failing to disclose to clients in writing before any advice is rendered any material conflict of interest relating to the investment advisor representative which could reasonably be expected to impair the rendering of unbiased and objective advice including:

a. Compensation arrangements connected with advisory services to clients which are in addition to compensation from such clients for such services; or

b. Charging a client an advisory fee for rendering advice when a commission for executing securities transactions pursuant to such advice will be received by the investment advisor representative.

12. Guaranteeing a client that a specific result will be achieved as a result of the advice which will be rendered.

13. Publishing, circulating or distributing any advertisement that would not be permitted under Rule 206(4)-1 under the Investment Advisers Act of 1940.

14. Disclosing the identity, affairs, or investments of any client to any third party unless required by law or an order of a court or a regulatory agency to do so, or unless consented to by the client.

15. Taking any action, directly or indirectly, with respect to those securities or funds in which any client has any

beneficial interest, where the investment advisor representative other than a person associated with a federal covered advisor has custody or possession of such securities or funds, when the investment advisor representative's action is subject to and does not comply with the safekeeping requirements of 21 VAC 5-80-140.

16. Entering into, extending or renewing any investment advisory or federal covered advisory contract unless such contract is in writing and discloses, in substance, the services to be provided, the term of the contract, the advisory fee, the formula for computing the fee, the amount of prepaid fee to be returned in the event of contract termination or nonperformance, whether the contract grants discretionary power to the investment advisor representative and that no assignment of such contract shall be made by the investment advisor representative without the consent of the other party to the contract.

17. *Failing to clearly and separately disclose to [~~their~~ its] customer, prior to any security [~~or investment advisory~~] transaction, [~~or promptly after any material~~ providing investment advice for compensation or any materially] related transaction [;] that the customer's funds [or securities] will be [~~invested or~~ in [the] custody [of an investment advisor or contracted custodian] in a manner that does not provide Securities Investor Protection Corporation protection, or equivalent third-party coverage over the customer's assets.*

C. The conduct set forth in subsections A and B of this section is not all inclusive. Engaging in other conduct such as nondisclosure, incomplete disclosure, or deceptive practices may be deemed an unethical business practice except to the extent [~~not~~] permitted by the National Securities Markets Improvement Act of 1996 (Pub. L. No. 104-290).

D. The provisions of this section shall apply to federal covered advisors to the extent that fraud or deceit is involved, or as otherwise permitted by the National Securities Markets Improvement Act of 1996 (Pub. L. No. 104-290).

21 VAC 5-80-210. [No change from proposed.]

21 VAC 5-100-10. [No change from proposed.]

VA.R. Doc. No. R03-165; Filed June 27, 2003, 4:08 p.m.



EMERGENCY REGULATIONS

TITLE 4. CONSERVATION AND NATURAL RESOURCES

MARINE RESOURCES COMMISSION

Title of Regulation: 4 VAC 20-752. Pertaining to Blue Crab Sanctuaries (amending 4 VAC 20-752-20).

Statutory Authority: §§ 28.2-201 and 28.2-210 of the Code of Virginia.

Effective Dates: June 26, 2003, through July 24, 2003.

Agency Contact: Deborah R. Cawthon, Agency Regulatory Coordinator, Marine Resources Commission, 2600 Washington Avenue, 3rd Floor, Newport News, VA 23607, telephone (757) 247-2248, FAX (757) 247-2002, or e-mail dcawthon@mrc.state.va.us.

Summary:

The emergency amendment corrects a typographical error in a map coordinate.

4 VAC 20-752-20. Definitions.

"Hampton Roads Blue Crab Sanctuary" means that area consisting of all tidal waters inshore and upstream of a line formed by the extreme south and north ends of the westbound span of the Hampton Roads Bridge Tunnel.

"Virginia Blue Crab Sanctuary" means two distinct sanctuary areas, with one area consisting of all tidal waters that are bounded by a line beginning at a point, near the western shore of Fisherman's Island, being on a line from the Cape Charles Lighthouse to the Thimble Shoal Light, having NAD83 geographic coordinates of 37° 05' 58.00" N, 75° 58' 45.95" W; thence southwesterly to Thimble Shoal Light, 37° 00' 52.19" N, 76° 14' 24.63" W; thence southwesterly to the offshore end of Harrison's Fishing Pier, 36° 57' 44.98" N, 76° 15' 31.76" W; thence north to Flashing Green Buoy "9" on the York River Entrance Channel, 37° 11' 30.99" N, 76° 15' 16.85" W; thence northeasterly to Wolf Trap Light, 37° 23' 27.15" N, 76° 11' 46.01" W; thence northwesterly to a point, northeast of Windmill Point, 37° 38' 23.13" N, 76° 15' 59.54" W; thence northerly to a point due east of Great Wicomico Light at 37° 48' 15.72" N, 76° 14' 33.15" W; thence northeasterly to a point, 37° 49' 18.10" N, 76° 13' 06.00" W; thence northerly to a point on the Virginia-Maryland state line, 37° 54' 04.00" N, 76° 11' 49.15" W; thence northeasterly to a point on the Virginia-Maryland state line, 37° 55' 44.82" N, 76° 07' 13.41" W; thence southeasterly to a point, southwest of Tangier Island, 37° 44' 59.85" N, 76° 01' 34.31" W; thence southeasterly to a point, southeast of Tangier Island, 37° 43' 41.05" N, 76° 75' 57' 51.84" W; thence northeasterly to a point, south of Watts Island, 37° 45' 36.95" N, 75° 52' 53.87" W; thence southeasterly to a point, 37° 44' 56.15" N, 75° 51' 33.18" W; thence southwesterly to a point, west of Parkers Marsh, 37° 42' 41.49" N, 75° 55' 06.31" W; thence southwesterly to a point, west of Cape Charles Harbor, 37° 15' 37.23" N, 76° 04' 13.79" W; thence southeasterly to a point near the western shore of Fisherman's Island, on the line from Cape Charles Lighthouse to Thimble Shoal Light, said point being the point of beginning, and a second area consisting of

all tidal waters that are bounded by a line beginning at Cape Charles Lighthouse, having NAD83 geographic coordinates of 37° 07' 31.63" N, 75° 53' 58.36" W; thence southwesterly to Cape Henry Lighthouse, 36° 55' 42.02" N, 76° 00' 18.44" W; thence southeasterly to a point, 36° 54' 42.39" N, 75° 56' 44.23" W; thence northeasterly to a point, east of Cape Charles Lighthouse 37° 06' 45" N, 75° 52' 05" W; thence westerly to the Cape Charles Lighthouse, said point being the point of beginning.

VA.R. Doc. No. R03-254; Filed June 26, 2003, 3:16 p.m.

Title of Regulation: 4 VAC 20-1060. Pertaining to Enlargement of Established Restricted Area -- Dominion Power/Nuclear Power Station.

Statutory Authority: §§ 28.2-103, 28.2-106 and 28.2-210 of the Code of Virginia.

Effective Dates: June 25, 2003 through July 24, 2003.

Agency Contact: Deborah Cawthon, Regulatory Coordinator, Marine Resources Commission, 2600 Washington Avenue, 3rd Floor, Newport News, VA 23607, telephone (757) 247-2248, FAX (757) 247-2002 or e-mail dcawthon@mrc.state.va.us.

Summary:

The amendments extend the restricted area at the Dominion Power/Nuclear Power Station.

CHAPTER 1060.

PERTAINING TO ~~ESTABLISHMENT~~ ENLARGEMENT OF ESTABLISHED RESTRICTED AREA -- DOMINION POWER/NUCLEAR POWER STATION.

4 VAC 20-1060-10. Purpose.

The purpose of this regulation is to enhance the physical security of the facility and is part of a comprehensive plan to protect the public, environment, and economic interests from sabotage and other subversive acts, accidents, or incidents of a similar nature. (See Hog Island Quad Map outlining the location of the restricted area.)

~~The regulation delineates the identical areas already restricted by current federal regulation.~~ The adoption of this regulation simply affords the Virginia Marine Police the authority to enforce Virginia law that prohibits entrance into the restricted areas.

4 VAC 20-1060-20. Definitions.

A. Pursuant to § 28.2-106.2 of the Code of Virginia, the following restricted area is established adjacent to the James River, Surry Nuclear Power Plant:

The Area. The waters within an area beginning at Mean High Water on the shore at latitude 37°08'59.4"N, longitude 76°40'15.5"W; thence to the following points creating a 500 yard arc: latitude 37°08'58.8"N, longitude 76°40'06"W; latitude 37°09'03.1"N, longitude 76°39'59.4"W; latitude 37°09'06.9"N, longitude 76°39'54.1"W; latitude 37°09'12.8"N, longitude 76°39'48"W; latitude 37°09'18.6"N,

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longitude 76°39'48"W; latitude 37°09'25.1"N, longitude 76°39'48.3"W; latitude 37°09'32.3"N, longitude 76°39'50.1"W; latitude 37°09'37.2"N, longitude 76°39'53.1"W; latitude 37°09'40"N, longitude 76°39'56.6"W; latitude 37°09'37.2"N, longitude 76°39'53.1"W; latitude 37°09'43.4"N, longitude 76°40'03.4"W; thence to a point on shore at Mean High Water in position; latitude 37°09'42.7"N, longitude 76°40'27.1"W, and the entire discharge canal from jetty at the mouth of the discharge canal to the circulating water discharge pipes at the head of the discharge canal. The geographic coordinates for this are 37°10'18.3"N, 76°42'22.5"W to 37°10'00.8"N, 76°41'51.3"W and include the entire width of the canal.

B. No vessel or persons shall enter the restricted area without the permission of the Virginia Marine Police. Law-enforcement vessels, United States military vessels and vessels of the Dominion Power/Surry Nuclear Power Plant are exempt from the provisions of this regulation.

VA.R. Doc. No. R03-258; Filed June 25, 2003, 2:56 p.m.

TITLE 12. HEALTH

DEPARTMENT OF MEDICAL ASSISTANCE SERVICES

Title of Regulations: **12 VAC 30-50. Amount, Duration, and Scope of Medical and Remedial Care Services (amending 12 VAC 30-50-229.1).**

12 VAC 30-80. Methods and Standards for Establishing Payment Rates; Other Types of Care (adding 12 VAC 30-80-75).

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

Effective Dates: July 1, 2003, through June 30, 2004.

Agency Contact: Jeff Nelson, Policy and Planning Specialist, Department of Medical Assistance Services, 600 E. Broad Street, Suite 1300, Richmond, VA 23219, telephone (804) 371-8857, FAX (804) 786-1680, or e-mail jnelson@dmas.state.va.us.

Preamble:

This regulatory action qualifies as an emergency pursuant to the authority of § 2.2-4011 of the Code of Virginia because it is responding to a change in the Virginia Appropriation Act that must be effective within 280 days from the date of enactment of the Appropriation Act (the 2003 Appropriations Act, Items 325 XX, EEE, HHH). This regulatory action is not otherwise exempt under the provisions of § 2.2-4006 of the Code of Virginia.

This mandate is part of the revenue maximization initiative. Items 325 XX and EEE require DMAS to promulgate emergency regulations to expand school health services. Item HHH of the 2003 Appropriation Act authorizes DMAS to establish separate payment rates for state and local

government providers of special education and screening services. This regulation proposes to expand school health services and modify the fee-for-service payments to school divisions by incorporating school division costs into the fee-for-services amounts paid to them.

Substance:

School Health Services. The federal Individuals with Disabilities Education Act (IDEA) requires school divisions to provide all special education and related services to children with one or more of thirteen specified disabilities. Federal funds are authorized under IDEA for the services but the majority of the funds have historically been from state and local revenues. Code of Virginia § 32.1-326.3 requires that DMAS maximize access to health care for poor special education students. The expanded services set forth in the emergency regulation meet the requirements of both IDEA and § 32.1-326.3. In addition, DMAS is given specific authority for emergency regulations to cover the additional medical and transportation needs for special education students in the 2003 Appropriations Act, Items 325 XX and 325 EEE.

The services set forth in the emergency regulation are currently provided by Virginia school divisions to children in special education and represent an expansion of DMAS school-based services coverage. Consistent with other DMAS covered school-based services for children in special education, the DMAS reimbursement will be the federal share of the payment only with the school division documenting the nonfederal matching share. The emergency regulation also reduces constraints cited by the school divisions in billing DMAS for services. In particular, service limits and prior authorization for services are removed and school health professionals other than physicians may authorize services.

Fee-For-Service Providers: School Divisions (12 VAC 30-80-75). The emergency regulation adds a new subsection to Chapter 80 on fee-for-service providers as part of the chapter on the Standards and Methodology for Establishing Payment Rates: Other Types of Care. This subsection would apply only to school division providers. Fee-for-service rates would be based on costs incurred.

School division providers certify the state share for special education services that they bill to Medicaid. As a result, DMAS reimburses schools only for the federal share (FFP) of the amounts billed and approved for payment by Medicaid. No state funds are expended. In addition, the General Assembly has directed that, in the future, school divisions shall receive only half of the FFP and DMAS will retain the other half above previously billed amounts. It is, therefore, in the interest of the school divisions and the Commonwealth to pay the maximum permitted by federal law and regulation.

This emergency regulation allows DMAS to set separate rates for school division providers. DMAS already does this where there are no other providers billing for similar services. But there are some services where other providers bill for the same service.

The emergency regulation also establishes a methodology for setting fees based on direct, indirect and capital costs associated with providing the service. Basing fees on costs is

a generally accepted methodology for reimbursing providers. Cost information for school providers will be developed from financial and time study information gathered as part of the process of preparing administrative claims for periods after January 1, 2003. DMAS will supplement this information with data from the Department of Education, interviews with providers and surveys as necessary. Information from providers participating in administrative claiming will be weighted so that it is representative of all school providers in the state.

12 VAC 30-50-229.1. School health services.

A. School health services shall require parental consent and shall be defined as ~~these therapy~~ :

1. ~~Special education services: occupational therapy, physical therapy, speech therapy, nursing services, psychiatric and psychological screenings services, and well-child screenings rendered by employees of school divisions that are enrolled with DMAS to serve children who: audiology services, medical evaluation services, school health assistant services, health needs assessment and treatment planning services and transportation services.~~

1. ~~Qualify to receive special education services as described under and consistent with all of the requirements of Part B of the federal Individuals with Disabilities Education Act, as amended (20 USC § 1400 et seq.). Children qualifying~~

a. ~~Children receiving these services qualify for special education services pursuant to Part B of the federal Individuals with Disabilities Education Act, as amended, and shall not be restricted in their choice of enrolled providers of medical care services as described in the State Plan for Medical Assistance; or. Services billed to DMAS shall be stated in the child's Individualized Education Program;~~

2. ~~Qualify to receive routine screening services under the State Plan. Diagnostic and treatment services, that are otherwise covered under early and periodic screening, diagnosis and treatment services, shall not be covered for participating school divisions. Participating school divisions must receive parental consent before conducting screening services.~~

b. ~~School health services shall only be billed by school divisions enrolled with DMAS. Services shall be rendered by employees of school divisions or persons under contract to school divisions. Services billed by the school division shall not be duplicative of services the child receives at the school otherwise covered by DMAS.~~

c. ~~School divisions shall be reimbursed under 12 VAC 30-80-75 for school health services rendered to students that are qualified to receive special education services as described under and consistent with all of the requirements of Part B of the federal Individuals with Disabilities Education Act, as amended (20 USC § 1400 et seq.).~~

2. ~~EPSDT health services: these are routine screenings under the Early and Periodic Screening, Diagnosis and Treatment (EPSDT) services.~~

a. ~~These screenings shall be performed by school divisions that are enrolled to provide such routine screening services with DMAS. Fees for EPSDT will be based upon 12 VAC 30-80-30.~~

B. ~~Physical therapy and related services: Occupational, physical, and speech therapies.~~

1. ~~The services covered under this subsection shall include occupational therapy, physical therapy, occupational therapy, and speech/language speech-language pathology services. All of the requirements, with the exception of the 24-visit limit, prior authorization and physician order requirements of 12 VAC 30-50-200, 12 VAC 30-130-10 to 12 VAC 30-130-40, and 42 CFR 440.110 applicable to these services shall continue to apply with regard to, but not necessarily limited to, necessary authorizations, documentation requirements, and provider qualifications. Consistent with the child's Individualized Education Program (IEP), 35 therapy visits will be covered per year per discipline without DMAS prior authorization. The service provider shall be either employed by the school division or under contract to the school division. No additional prior authorization is required if the services are authorized by the current Individualized Education Program (IEP). The IEP team that authorizes these services must include a physician or other licensed practitioner of the healing arts acting within the scope of his license under state law to include an occupational therapist, physical therapist, or speech-language pathologist.~~

2. ~~Consistent with § 32.1-326.3 of the Code of Virginia, speech-language pathology services must shall be rendered either by:~~

a. ~~A speech-language pathologist who meets the qualifications under 42 CFR 440.110(c): (i) has a certificate of clinical competence from the American Speech-Language- and Hearing Association; (ii) has completed the equivalent educational requirements and work experience necessary for the certificate; or (iii) has completed the academic program and is acquiring supervised work experience to qualify for the certificate;~~

b. ~~A speech-language pathologist with a current license in speech-language pathology issued by the Board of Audiology and Speech-Language Pathology;~~

c. ~~A speech-language pathologist licensed by the Board of Education with an endorsement in speech-language disorders preK-12 and a master's degree in speech-language pathology. These persons also have a license without examination from the Board of Audiology and Speech-Language Pathology; or~~

d. ~~A speech-language pathologist who does not meet the criteria for subdivisions a, b, or c above and is directly supervised by a speech-language pathologist who meets the criteria of clause a (i) or a (ii) or subdivision b or c above. The speech-language pathologist must be licensed by the Board of Education with an endorsement in speech-language disorders preK-12 but does not hold a master's degree in speech-language pathology. Direct supervision must take place on site at least every 30 calendar days for a minimum of two hours and must be~~

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documented accordingly. The speech-language pathologist who meets the criteria for clause a (i) or a (ii) or subdivision b or c above is readily available to offer needed supervision when speech-language services are provided.

3. Utilization review shall be performed to determine if services are appropriately provided and to ensure that the services provided to Medicaid recipients are medically necessary and appropriate. Services not specifically documented in the child's school medical record as having been rendered shall be deemed not to have been rendered and no payment shall be provided.

C. Skilled nursing services.

1. These services must be medically necessary skilled nursing services that are required by a child in order to benefit from an educational program, as described under Part B of the federal Individuals with Disabilities Education Act, as amended (20 USC § 1400 et seq.). ~~These services shall be limited to a maximum of 26 units a day of medically necessary services.~~ Services not deemed to be medically necessary, upon utilization review, shall not be covered. A unit, for the purposes of this school-based health service, shall be defined as 15 minutes of skilled nursing care.

2. *No additional prior authorization is required if the services are authorized by the current Individualized Education Program (IEP). The IEP team that authorizes these services must include a physician or other licensed practitioner of the healing arts acting within the scope of his license under state law to include a licensed registered nurse. The child shall have a current order from a physician, physician assistant, or nurse practitioner for specialized nursing procedures such as tube feedings.*

~~2-~~ 3. These services must be performed by a Virginia-licensed registered nurse (RN), or licensed practical nurse (LPN) under the supervision of a licensed RN. The service provider shall be either employed by the school division or under contract to the school division. The skilled nursing services shall be rendered in accordance with the licensing standards and criteria of the Virginia Board of Nursing. Supervision of LPNs shall be provided consistent with the regulatory standards of the Board of Nursing at 18 VAC 90-20-270.

~~3-~~ 4. The coverage of skilled nursing services shall be of a level of complexity and sophistication (based on assessment, planning, implementation and evaluation) that is consistent with skilled nursing services when performed by a registered nurse or a licensed practical nurse. These skilled nursing services shall include, but not necessarily be limited to, dressing changes, maintaining patent airways, medication administration/monitoring and urinary catheterizations. Skilled nursing services shall be consistent with the medical necessity criteria in the school services manual.

~~4-~~ 5. Skilled nursing services shall be directly and specifically related to an active, written plan of care that is based on a physician's or nurse practitioner's written order for skilled nursing services. The registered nurse shall establish, sign, and date the plan of care. The plan of care

shall be periodically reviewed by a physician or nurse practitioner after any needed consultation with skilled nursing staff. The services shall be specific and provide effective treatment for the child's condition in accordance with accepted standards of skilled nursing practice. The plan of care is further described in subdivision 5 6 of this subsection. Skilled nursing services rendered that exceed the physician's or nurse practitioner's written order for skilled nursing services shall not be reimbursed by DMAS. A copy of the plan of care shall be given to the child's Medicaid primary care provider.

~~5-~~ 6. Documentation of services shall include a written plan of care that identifies the medical condition or conditions to be addressed by skilled nursing services, goals for skilled nursing services, time tables for accomplishing such stated goals, actual skilled nursing services to be delivered and whether the services will be delivered by an RN or LPN. Services that have been delivered and for which reimbursement from Medicaid is to be claimed must be supported with like documentation. Documentation of school-based skilled nursing services shall include the dates and times of services entered by the responsible licensed nurse; the actual nursing services rendered; the identification of the child on each page of the medical record; the current diagnosis and elements of the history and exam that form the basis of the diagnosis; any prescribed drugs that are part of the treatment including the quantities, dosage, and frequency; and notes to indicate progress made by the child, changes to the diagnosis, or treatment and response to treatment. The plan of care is to be part of the child's medical record. Actions related to the skilled nursing services such as notifying parents, calling the physician, or notifying emergency medical services shall also be documented. All documentation shall be signed and dated by the person performing the service. Lengthier skilled nursing services shall have more extensive documentation. The documentation shall be written immediately, or as soon thereafter as possible, after the procedure or treatment was implemented with the date and time specified, unless otherwise instructed in writing by Medicaid. Documentation is further described in the Medicaid school services manual. Skilled nursing services documentation shall otherwise be in accordance with the Virginia Board of Nursing, ~~Department the Board of Medicine, the Board of Health, and Department the Board of Education~~ statutes, regulations, and standards relating to school health. Documentation shall also be in accordance with school division standards.

~~6-~~ 7. Service limitations. The following general conditions shall apply to reimbursable skilled nursing services in school divisions:

a. Patient must be under the care of a physician or nurse practitioner who is legally authorized to practice and who is acting within the scope of his license.

b. A recertification by a physician or nurse practitioner of the skilled nursing services shall be conducted at least once each school year. The recertification statement must be signed and dated by the physician or nurse practitioner who reviews the plan of care, and may be

obtained when the plan of care is reviewed. The physician or nurse practitioner recertification statement must indicate the continuing need for services and should estimate how long rehabilitative services will be needed.

c. Physician or nurse practitioner orders for nursing services shall be required.

~~d. Utilization review shall be performed to determine if services are appropriately provided and to ensure that the services provided to Medicaid recipients are medically necessary and appropriate. Services not specifically documented in the child's school medical record as having been rendered shall be deemed not to have been rendered and no payment shall be provided.~~

e- d. Skilled nursing services are to be terminated when further progress toward the treatment goals are unlikely or when they are not benefiting the child or when the services can be provided by someone other than the skilled nursing professional.

8. *Utilization review shall be performed to determine if services are appropriately provided and to ensure that the services provided to Medicaid recipients are medically necessary and appropriate. Services not specifically documented in the child's school medical record as having been rendered shall be deemed not to have been rendered and no payment shall be provided.*

D. Psychiatric and psychological services.

1. Evaluations and therapy services shall be covered when rendered by individuals who are licensed by the Board of Medicine and practice as psychiatrists or by psychologists licensed by the Board of Psychology as clinical psychologists or by school psychologists-limited licensed by the Board of Psychology. *Evaluation and therapy services shall be covered when rendered by individuals who are endorsed by the Board of Education as school social workers. Services by these practitioners shall be subject to coverage at 12 VAC 30-50-140 D. The service provider shall be either employed by the school division or under contract to the school division. No additional prior authorization is required if the services are authorized by the current Individualized Education Program (IEP). The IEP team that authorizes these services must include a physician or other licensed practitioner of the healing arts acting within the scope of his license under state law to include a psychiatrist, clinical psychologist, school psychologist-limited, or school social worker.*

2. *Utilization review shall be performed to determine if services are appropriately provided and to ensure that the services provided to Medicaid recipients are medically necessary and appropriate. Services not specifically documented in the child's school medical record as having been rendered shall be deemed not to have been rendered and no payment shall be provided.*

E. Audiology services.

1. *Consistent with § 32.1-326.3 of the Code of Virginia, audiology services shall be rendered by an audiologist with a current license in audiology issued by the Board of Audiology and Speech-Language Pathology.*

2. *The service provider shall be either employed by the school division or under contract to the school division. Audiology services shall be authorized by the current Individualized Education Program (IEP). No additional prior authorization is necessary. The IEP team that authorizes these services must include a physician or other licensed practitioner of the healing arts acting within the scope of his license under state law to include a licensed audiologist.*

3. *The audiological assessment shall include testing and/or observation as appropriate for chronological or mental age for one or more of the following areas of functioning:*

a. *Auditory acuity (including pure tone air and bone conduction), speech detection, and speech reception threshold;*

b. *Auditory discrimination in quiet and noise;*

c. *Impedence audiometry including tympanometry and acoustic reflex;*

d. *Hearing amplification evaluation; and*

e. *Central auditory function.*

4. *Audiological treatment shall include one or more of the following as appropriate:*

a. *Auditory training;*

b. *Speech reading; and*

c. *Aural rehabilitation including for cochlear implants.*

5. *Utilization review shall be performed to determine if services are appropriately provided and to ensure that the services provided to Medicaid recipients are medically necessary and appropriate. Services not specifically documented in the child's school medical record as having been rendered shall be deemed not to have been rendered and no payment shall be provided.*

F. Medical evaluation services.

1. *These evaluation services shall be rendered by a physician, physician assistant or nurse practitioner as part of the development and/or review of a child's Individualized Education Program, to identify or determine the nature and extent of a child's medical or other health-related condition.*

2. *Physicians and physician assistants shall be licensed by the Virginia Board of Medicine and nurse practitioners shall be licensed by the Virginia Board of Medicine and the Virginia Board of Nursing. The service provider shall be either employed by the school division or under contract to the school division.*

3. *Utilization review shall be performed to determine if services are appropriately provided and to ensure that the services provided to Medicaid recipients are medically necessary and appropriate. Services not specifically documented in the child's school medical record as having been rendered shall be deemed not to have been rendered and no payment shall be provided.*

G. School health assistant services.

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1. The assistant shall have met standards for school health assistant services as required by the Department of Education and received training for assisting with meeting the health needs of the child. The assistant is to be supervised by a Virginia-licensed physician, physician assistant, nurse practitioner, registered nurse (RN), or other DMAS recognized school health professional acting within the scope of his license under state law.

2. No additional prior authorization is required if the services are authorized by the current Individualized Education Program (IEP). The IEP team that authorizes these services must include a physician or other licensed practitioner of the healing arts acting within the scope of his or her practice under state law to include a speech-language pathologist, occupational therapist, physical therapist, registered nurse, psychiatrist, clinical psychologist, school psychologist-limited, school social worker, or audiologist. The child shall have a current order from a physician, physician assistant or nurse practitioner for specialized nursing procedures such as tube feedings, where the assistant may be involved in attending to the child.

3. The school health assistant shall perform services consistent with the training received. The services are to assist the child with disabilities in self-sufficiency, communications, and mobility skills. Services provided by the assistant are related to the child's physical and behavioral health requirements, including assistance with eating, dressing, hygiene, activities of daily living, bladder and bowel needs, use of adaptive equipment, ambulation and exercise, minor behavioral issues and other remedial services to promote reduction of a child's disabilities. The RN or other DMAS-recognized school health professional supervising the assistant shall provide a written plan describing the assistance needed for the child.

4. The school health assistant shall document on a weekly basis the assistance provided to the child, with the dates and times noted, with initials of the assistant and date of entry. Out-of-the-ordinary needs of the child or assistance provided shall be noted. The documentation shall be reviewed by the supervising RN or other DMAS-recognized school health professional at least every 30 school days, with the supervising professional noting approval of the services in the documentation with initials and date.

5. Utilization review shall be performed to determine if services are appropriately provided and to ensure that the services provided to Medicaid recipients are medically necessary and appropriate. Services not specifically documented in the child's school medical record as having been rendered shall be deemed not to have been rendered and no payment shall be provided.

6. School health assistant services shall be billed in units, with one unit equaling 15 minutes. The number of units billed is not to exceed the number of units in a day that the child is in the care of the school. While more than one assistant may attend to a child over the course of a school day, the unit for a particular period of the day for the child shall not be billed for the services of more than one assistant.

H. Health needs assessment and treatment planning services.

1. These services are to assess a child's health needs, identify the most appropriate amount, duration, and scope of health services to meet the child's needs, and develop a plan of care to permit monitoring of services. These services are to be consistent with the determination of eligibility under the federal Individuals with Disabilities Education Act, as amended, and are related to the evaluation of the functioning of the child.

2. These services are reimbursable only when they result in the implementation of the Individualized Education Program. This implementation is evidenced by a Medicaid-covered school-based service, such as physical therapy, billed to DMAS for the child, for a date of service subsequent to the service date of the assessment and treatment planning services billed to DMAS.

3. The needs assessment and treatment planning services are performed by qualified providers recognized by the Department of Education for participation in the Individualized Education Program and at least one of the participants is a DMAS-recognized school health professional.

I. Transportation services.

1. School division-provided transportation shall be covered for children in special education on days when the child receives a medical service billed to DMAS, such as physical therapy. The transportation is to enable the child to receive the covered medical service. Transportation shall involve a trip from home to school and the return trip or from school (or home) to a DMAS medical provider in the community for a service, such as physical therapy, and the return trip.

2. Transportation on a "regular" school bus is not billable to DMAS, unless an aide is necessary for the child to ride the bus. If a child requires transportation on a vehicle adapted to serve the needs of the disabled, such as a specially adapted school bus, that transportation may be billed to DMAS. A school division car or other type of vehicle also qualifies which meets the needs of the child when the child cannot ride a school bus. If an aide is necessary for the child to ride the vehicle and this is noted in the child's IEP, then reimbursement shall include the services of the aide assigned to a child. The services of a single aide can be billed for up to six children. An aide assigned to ride in a vehicle, which transports children with transportation and an aide noted in the IEP, can also be billed.

3. Vehicles and drivers providing the transportation shall be in compliance with applicable laws and regulations.

~~E~~.J. Early and periodic screening, diagnosis, and treatment (EPSDT) services. Routine screening services shall be covered for school divisions when rendered by either physicians or nurse practitioners. Diagnostic and treatment services also covered under EPSDT shall not be covered for school divisions. School divisions shall be required to refer children who are identified through health assessment screenings as having potential abnormalities to their primary care physician for further diagnostic and treatment procedures.

F-K. Specific exclusions from school health services. All services encompassing and related to family planning, pregnancy, and abortion services shall be specifically excluded from Medicaid reimbursement if rendered in the school district setting.

12 VAC 30-80-75. Fee-for-service providers: school divisions.

A. Fees for physical therapy, occupational therapy, speech/language pathology, audiology services, school health assistant services, skilled nursing services, psychology services, medical evaluation services, health needs assessments and treatment planning services and transportation services provided by school divisions for special education students will be based upon costs incurred by school divisions. Costs shall include direct, indirect and capital costs associated with providing the service. Fees will be redetermined using this methodology at least every five years. In the interim, fees may be increased annually using an appropriate inflator.

B. Fees for EPSDT and clinic services will be based upon 12 VAC 30-80-30.

/s/ Mark R. Warner
Governor
Date: July 1, 2003

VA.R. Doc. No. R03-248; Filed July 1, 2003, 3:49 p.m.

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Title of Regulations: 12 VAC 30-60. Standards Established and Methods Used to Assure High Quality Care (amending 12 VAC 30-60-40 and 12 VAC 30-60-320).

12 VAC 30-90. Methods and Standards for Establishing Payment Rates for Long-Term Care (amending 12 VAC 30-90-264).

Statutory Authority: §§ 32.1-324 and 32.1-325 and Item 325 LLL of Chapter 1042 of the 2003 Acts of Assembly.

Effective Dates: July 1, 2003, through June 30, 2004.

Agency Contact: Paula Margolis, Reimbursement Analyst, Division of Reimbursement, Department of Medical Assistance Services, 600 E. Broad Street, Suite 1300, Richmond, VA 23219, telephone (804) 371-4767, FAX (804) 786-1680, or e-mail pmargolis@dmas.state.va.us.

Preamble:

This regulatory action qualifies as an emergency pursuant to the authority of § 2.2-4011 of the Code of Virginia because it is responding to a change in the Virginia Appropriation Act that must be effective within 280 days from the date of enactment of the Appropriation Act (Chapter 1042 of the 2003 Acts of Assembly, Item 325 LLL) and this regulatory action is not otherwise exempt under the provisions of § 2.2-4006 of the Code of Virginia.

This regulatory action proposes to: (i) eliminate the redundant coverage of rehabilitation services and complex care services from the adult specialized care program; (ii) include individuals who have a tracheostomy and meet

other criteria in the ventilator services component of the Specialized Care Program; and (iii) clarify the definition of covered ventilator service.

12 VAC 30-60-40. Utilization control: Nursing facilities.

A. Long-term care of residents in nursing facilities will be provided in accordance with federal law using practices and procedures that are based on the resident's medical and social needs and requirements. All nursing facility services, including specialized care, shall be provided in accordance with guidelines found in the Virginia Medicaid Nursing Home Manual.

B. Nursing facilities must conduct initially and periodically a comprehensive, accurate, standardized, reproducible assessment of each resident's functional capacity. This assessment must be conducted no later than 14 days after the date of admission and promptly after a significant change in the resident's physical or mental condition. Each resident must be reviewed at least quarterly, and a complete assessment conducted at least annually.

C. The Department of Medical Assistance Services shall periodically conduct a validation survey of the assessments completed by nursing facilities to determine that services provided to the residents are medically necessary and that needed services are provided. The survey will be composed of a sample of Medicaid residents and will include review of both current and closed medical records.

D. Nursing facilities must submit to the Department of Medical Assistance Services resident assessment information at least every six months for utilization review. If an assessment completed by the nursing facility does not reflect accurately a resident's capability to perform activities of daily living and significant impairments in functional capacity, then reimbursement to nursing facilities may be adjusted during the next quarter's reimbursement review. Any individual who willfully and knowingly certifies (or causes another individual to certify) a material and false statement in a resident assessment is subject to civil money penalties.

E. In order for reimbursement to be made to the nursing facility for a recipient's care, the recipient must meet nursing facility criteria as described in 12 VAC 30-60-300 (Nursing facility criteria).

In order for reimbursement to be made to the nursing facility for a recipient requiring specialized care, the recipient must meet specialized care criteria as described in 12 VAC 30-60-320 (Adult ventilation/tracheostomy specialized care criteria) or 12 VAC 30-60-340 (Pediatric and adolescent specialized care criteria). Reimbursement for specialized care must be preauthorized by the Department of Medical Assistance Services. In addition, reimbursement to nursing facilities for residents requiring specialized care will only be made on a contractual basis. Further specialized care services requirements are set forth below.

In each case for which payment for nursing facility services is made under the State Plan, a physician must recommend at the time of admission, or if later, the time at which the individual applies for medical assistance under the State Plan, that the individual requires nursing facility care.

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F. For nursing facilities, a physician must approve a recommendation that an individual be admitted to a facility. The resident must be seen by a physician at least once every 30 days for the first 90 days after admission, and at least once every 60 days thereafter. At the option of the physician, required visits after the initial visit may alternate between personal visits by the physician and visits by a physician assistant or nurse practitioner.

G. When the resident no longer meets nursing facility criteria or requires services that the nursing facility is unable to provide, then the resident must be discharged.

H. Specialized care services.

1. Providers must be nursing facilities certified by the Division of Licensure and Certification, State Department of Health, and must have a current signed participation agreement with the Department of Medical Assistance Services to provide nursing facility care. Providers must agree to provide care to at least four residents who meet the specialized care criteria for children/adolescents or adults.

2. Providers must be able to provide the following specialized services to Medicaid specialized care recipients:

a. Physician visits at least once weekly (after initial physician visit, subsequent visits may alternate between physician and physician assistant or nurse practitioner);

b. Skilled nursing services by a registered nurse available 24 hours a day;

c. Coordinated multidisciplinary team approach to meet the needs of the resident;

d. Infection control;

e. For residents under age 21 who require two of three rehabilitative services (physical therapy, occupational therapy, or speech-language pathology services), therapy services must be provided at a minimum of 90 minutes each day, five days per week;

~~f. For residents over age 21 who require two of three rehabilitative services (physical therapy, occupational therapy, or speech-language pathology services), therapy services must be provided at a minimum of two hours per day, five days a week;~~

g.f. Ancillary services related to a plan of care;

~~h.g.~~ Respiratory therapy services by a board-certified therapist (for ventilator patients, these services must be available 24 hours per day);

~~i.h.~~ Psychology services by a licensed clinical psychologist, licensed clinical social worker, licensed professional counselor, or licensed clinical nurse specialist-psychiatric related to a plan of care;

~~j.i.~~ Necessary durable medical equipment and supplies as required by the plan of care;

~~k.j.~~ Nutritional elements as required;

~~l.k.~~ A plan to assure that specialized care residents have the same opportunity to participate in integrated nursing facility activities as other residents;

~~m.l.~~ Nonemergency transportation;

~~n.m.~~ Discharge planning; and

~~o.n.~~ Family or caregiver training.

3. Providers must coordinate with appropriate state and local agencies for educational and rehabilitative needs for Medicaid specialized care recipients who are under the age of 21.

12 VAC 30-60-320. Adult *ventilation/tracheostomy* specialized care criteria.

§ 2.0. General description. The resident must have long-term health conditions requiring close medical supervision, 24 hour licensed nursing care, and specialized services or equipment.

~~§ 2.1. Targeted population. The targeted adult population requiring specialized care includes individuals requiring mechanical ventilation and individuals with a complex tracheostomy who require comprehensive respiratory therapy services.~~

~~A. Individuals requiring mechanical ventilation~~

~~B. Individuals with communicable diseases requiring universal or respiratory precautions~~

~~C. Individuals requiring ongoing intravenous medication or nutrition administration~~

~~D. Individuals requiring comprehensive rehabilitative therapy services~~

§ 2.2. Criteria.

A. The individual must require at a minimum:

1. Physician visits at least once weekly. (The initial physician visit must be made by the physician personally, and subsequent required physician visits after the initial visit may alternate between personal visits by the physician and visits by a physician assistant or nurse practitioner.)

2. Skilled nursing services 24 hours a day. (A registered nurse must be on the nursing unit on which the resident resides, 24 hours a day, whose sole responsibility is the designated unit).

3. Respiratory services provided by a licensed, pursuant to regulations of the Virginia Board of Medicine at 18 VAC 85-40-10 et seq., as may be amended, board-certified respiratory therapist (these services must be available 24 hours a day); and

~~3-4.~~ Coordinated multidisciplinary team approach to meet needs

B. In addition, the individual must meet one of the following two requirements:

~~1. Must require two out of three of the following rehabilitative services: Physical Therapy, Occupational Therapy, Speech pathology services; therapy must be provided at a minimum of 2 hours of therapy per day, 5~~

~~days per week; individual must demonstrate progress in overall rehabilitative plan of care on a monthly basis; or~~

~~2. Must require special equipment such as mechanical ventilators, respiratory therapy equipment (that has to be supervised by licensed nurse or respiratory therapist), monitoring device (respiratory or cardiac) kinetic therapy; or~~

~~3. Individuals that require at least one of the following special services:~~

~~a. Ongoing administration of intravenous medications of nutrition (i.e., TPN, antibiotic therapy, narcotic administration, etc.)~~

~~b. Special infection control precautions (universal or respiratory precaution; this does not include handwashing precautions only)~~

~~c. Dialysis treatment that is provided on unit (i.e., peritoneal dialysis)~~

~~d. Daily respiratory therapy treatments that must be provided by a skilled nurse or respiratory therapist~~

~~e. Extensive wound care requiring debridement, irrigation, packing, etc., more than two times a day (i.e., grade IV decubiti; large surgical wounds that cannot be closed, second or third degree burns covering more than 10% of the body)~~

~~f. Multiple unstable ostomies (a single ostomy does not constitute a requirement for special care) requiring frequent care (i.e., suctioning every hour, stabilization of feeding; stabilization of elimination)~~

~~1. Require a mechanical ventilator; or~~

~~2. Have a complex tracheostomy that meets all of the following criteria. The individual must:~~

~~a. Have a tracheostomy, with the potential for weaning off of it, or documentation of attempts to wean, with subsequent inability to wean;~~

~~b. Require nebulizer treatments followed by chest physiotherapy at least four times per day, or nebulizer treatments at least four times a day, which must be provided by a licensed nurse or licensed respiratory therapist;~~

~~c. Require pulse oximetry monitoring at least every shift due to demonstrated unstable oxygen saturation levels;~~

~~d. Require respiratory assessment and documentation every shift by licensed respiratory therapist or trained nurse;~~

~~e. Have a physician's order for oxygen therapy with documented usage of and for;~~

~~f. Require tracheostomy care at least daily;~~

~~g. Have a physician's order for suctioning as needed; and~~

~~h. Be deemed to be at risk of requiring subsequent mechanical ventilation.~~

12 VAC 30-90-264. Specialized care services.

Specialized care services provided in conformance with 12 VAC 30-60-40 E and H, 12 VAC 30-60-320 and 12 VAC 30-60-340 shall be reimbursed under the following methodology. The nursing facilities that provide adult specialized care for the categories of Ventilator Dependent Care, Comprehensive Rehabilitation Care, and Complex Health Care will be placed in one group for rate determination. The nursing facilities that provide pediatric specialized care in a dedicated pediatric unit of eight beds or more will be placed in a second group for rate determination.

1. Routine operating cost. Routine operating cost shall be defined as in 12 VAC 30-90-271 and 12 VAC 30-90-272. To calculate the routine operating cost reimbursement rate, routine operating cost shall be converted to a per diem amount by dividing it by actual patient days.

2. Allowable cost identification and cost reimbursement limitations. The provisions of Article 5 (12 VAC 30-90-50 et seq.) of Subpart II of Part II of this chapter and of Appendix III (12 VAC 30-90-290) of Part III of this chapter shall apply to specialized care cost and reimbursement.

3. Routine operating cost rates. Each facility shall be reimbursed a prospective rate for routine operating costs. This rate will be the lesser of the facility-specific prospective routine operating ceiling, or the facility-specific prospective routine operating cost per day plus an efficiency incentive. This efficiency incentive shall be calculated by the same method as in 12 VAC 30-90-41.

4. Facility-specific prospective routine operating ceiling. Each nursing facility's prospective routine operating ceiling shall be calculated as:

a. Statewide ceiling. The statewide routine operating ceiling shall be the weighted average (weighted by 1994 days) of specialized care rates in effect on July 1, 1996, reduced by statewide weighted average ancillary and capital cost per day amounts based on audited 1994 cost data from the 12 facilities whose 1994 FY specialized care costs were audited during 1996. This routine operating ceiling amount shall be adjusted for inflation by the percentage of change in the moving average of the Virginia specific Skilled Nursing Facility Market Basket of Routine Service Costs, as developed by DRI/McGraw-Hill, using the second quarter 1996 DRI table. The respective statewide operating ceilings will be adjusted each quarter in which the provider's most recent fiscal year ends, by adjusting the most recent interim ceiling by 100% of historical inflation and 50% of forecasted inflation to the end of the provider's next fiscal year.

b. The portion of the statewide routine operating ceiling relating to nursing salaries (as determined by the 1994 audited cost report data, or 67.22%) will be wage adjusted using a normalized wage index. The normalized wage index shall be the wage index applicable to the individual provider's geographic location under Medicare rules of reimbursement for skilled nursing facilities, divided by the statewide average of such wage indices across the state. This normalization of wage indices shall

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be updated January 1, after each time the Health Care Financing Administration (HCFA) publishes wage indices for skilled nursing facilities. Updated normalization shall be effective for fiscal years starting on and after the January 1 for which the normalization is calculated.

c. The percentage of the statewide routine operating ceiling relating to the nursing labor and nonlabor costs (as determined by the 1994 audited cost report data or 71.05%) will be adjusted by the nursing facility's specialized care average Resource Utilization Groups, Version III (RUG-III) Nursing-Only Normalized Case Mix Index (NCMI). The NCMI for each nursing facility will be based on all specialized care patient days rendered during the six-month period prior to that in which the ceiling applies (see subdivision 6 of this section).

5. Normalized case mix index (NCMI). Case mix shall be measured by RUG-III nursing-only index scores based on Minimum Data Set (MDS) data. The RUG-III nursing-only weights developed at the national level by the Health Care Financing Administration (HCFA) (see 12 VAC 30-90-320) shall be used to calculate a facility-specific case mix index (CMI). The facility-specific CMI, divided by the statewide CMI shall be the facility's NCMI. The steps in the calculation are as follows:

a. The facility-specific CMI for purposes of this rate calculation shall be the average of the national RUG-III Nursing-Only weights calculated across all patient days in the facility during the six months prior to the six-month period to which the NCMI shall be applied to the facility's routine operating cost and ceiling.

b. The statewide CMI for purposes of this rate calculation shall be the average of the national RUG-III Nursing-Only weights calculated across all specialized care patient days in all Specialized Care Nursing facilities in the state during the six months prior to the six-month period to which the NCMI shall be applied. A new statewide CMI shall be calculated for each six-month period for which a provider-specific rate must be set.

c. The facility-specific NCMI for purposes of this rate calculation shall be the facility-specific CMI from subdivision 5 a of this section divided by the statewide CMI from subdivision 5 b of this section.

d. Each facility's NCMI shall be updated semiannually, at the start and the midpoint of the facility's fiscal year.

e. Patient days for which the lowest RUG-III weight is imputed, as provided in subdivision 14 c of this section, shall not be included in the calculation of the NCMI.

6. Facility-specific prospective routine operating base cost per day: The facility-specific routine operating cost per day to be used in the calculation of the routine operating rate and the efficiency incentive shall be the actual routine cost per day from the most recent fiscal year's cost report, adjusted (using DRI-Virginia inflation factors) by 50% of historical inflation and 50% of the forecasted inflation, and adjusted for case mix as described below:

a. An NCMI rate adjustment shall be applied to each facility's prospective routine nursing labor and nonlabor

operating base cost per day for each semiannual period of the facility's fiscal year.

b. The NCMI calculated for the second semiannual period of the previous fiscal year shall be divided by the average of that (previous) fiscal year's two semiannual NCMI's to yield an "NCMI cost rate adjustment" to the prospective nursing labor and nonlabor operating cost base rate in the first semiannual period of the subsequent fiscal year.

c. The NCMI determined in the first semiannual period of the subsequent fiscal year shall be divided by the average of the previous fiscal year's two semiannual NCMI's to determine the NCMI cost rate adjustment to the prospective nursing labor and nonlabor operating base cost per day in the second semiannual period of the subsequent fiscal year.

See 12 VAC 30-90-310 for an illustration of how the NCMI is used to adjust routine operating cost ceilings and semiannual NCMI adjustments to the prospective routine operating base cost rates.

7. Interim rates. Interim rates, for processing claims during the year, shall be calculated from the most recent settled cost report and Minimum Data Set (MDS) data available at the time the interim rates must be set, except that failure to submit cost and MDS data timely may result in adjustment to interim rates as provided elsewhere.

8. Ancillary costs. Specialized care ancillary costs will be paid on a pass-through basis for those Medicaid specialized care patients who do not have Medicare or any other sufficient third-party insurance coverage. Ancillary costs will be reimbursed as follows:

a. All covered ancillary services, except kinetic therapy devices, will be reimbursed for reasonable costs as defined in the current NHPS. See 12 VAC 30-90-290 for the cost reimbursement limitations.

b. Kinetic therapy devices will have a limit per day (based on 1994 audited cost report data inflated to the rate period). See 12 VAC 30-90-290 for the cost reimbursement limitations.

c. Kinetic therapy devices will be reimbursed only if a resident is being treated for wounds that meet ~~specialized care Complex Health Care Category~~ the following wound care criteria. Residents receiving this wound care must require kinetic bed therapy (that is, low air loss mattresses, fluidized beds, and/or rotating/turning beds) and require treatment for a grade (stage) IV decubitus, a large surgical wound that cannot be closed, or second to third degree burns covering more than 10% of the body.

9. Covered ancillary services are defined as follows: laboratory, X-ray, medical supplies (e.g., infusion pumps, incontinence supplies), physical therapy, occupational therapy, speech therapy, inhalation therapy, IV therapy, enteral feedings, and kinetic therapy. The following are not specialized care ancillary services and are excluded from specialized care reimbursement: physician services, psychologist services, total parenteral nutrition (TPN), and drugs. These services must be separately billed to DMAS. An interim rate for the covered ancillary services will be

determined (using data from the most recent settled cost report) by dividing allowable ancillary costs by the number of patient days for the same cost reporting period. The interim rate will be retroactively cost settled based on the specialized care nursing facility cost reporting period.

10. Capital costs. Effective July 1, 2001, capital cost reimbursement shall be in accordance with 12 VAC 30-90-35 through 12 VAC 30-90-37 inclusive, except that the 90% occupancy requirement shall not be separately applied to specialized care. Capital cost related to specialized care patients will be cost settled on the respective nursing facility's cost reporting period. In this cost settlement the 90% occupancy requirement shall be applied to all the nursing facility's licensed nursing facility beds inclusive of specialized care.

To apply this requirement, the following calculation shall be carried out.

- a. Licensed beds, including specialized care beds, times days in the cost reporting period shall equal available days.
- b. 90% of available days shall equal 90% occupancy days.
- c. 90% occupancy days, minus actual resident days including specialized care days shall equal the shortfall of days if it is positive. It shall be set to zero if it is negative.
- d. Actual resident days not including specialized care days, plus the shortfall of days shall equal the minimum number of days to be used to calculate the capital cost per day.

11. Nurse aide training and competency evaluation programs and competency evaluation programs (NATCEP) costs. NATCEPS costs will be paid on a pass-through basis in accordance with the current NHPS.

12. Pediatric routine operating cost rate. For pediatric specialized care in a distinct part pediatric specialized care unit, one routine operating cost ceiling will be developed. The routine operating cost ceiling will be computed as follows:

- a. The Complex Health Care Payment Rate effective July 1, 1996, and updated for inflation, will be reduced by (i) the weighted average capital cost per day developed from the 1994 audit data and (ii) the weighted average ancillary cost per day from the 1994 audit data updated for inflation in the same manner as described in subdivision 4 a of this subsection.
- b. The statewide operating ceiling shall be adjusted for each nursing facility in the same manner as described in subdivisions 4 and 5 of this section.
- c. The final routine operating cost reimbursement rate shall be computed as described for other than pediatric units in subdivision 3 of this section.

13. Pediatric unit capital cost. Pediatric unit capital costs will be reimbursed in accordance with the current NHPS, except that the occupancy requirement shall be 70% rather than 90%.

14. MDS data submission. MDS data relating to specialized care patients must be submitted to the department in a submission separate from that which applies to all nursing facility patients.

- a. Within 30 days of the end of each month, each specialized care nursing facility shall submit to the department, separately from its submission of MDS data for all patients, a copy of each MDS Version 2.0 which has been completed in the month for a Medicaid specialized care patient in the nursing facility. This shall include (i) the MDS required within 14 days of admission to the nursing facility (if the patient is admitted as a specialized care patient), (ii) the one required by the department upon admission to specialized care, (iii) the one required within 12 months of the most recent full assessment, and (iv) the one required whenever there is a significant change of status.

- b. In addition to the monthly data submission required in subdivision 14 a of this section, the same categories of MDS data required in subdivision 14 a of this section shall be submitted for all patients receiving specialized care from January 1, 1996, through December 31, 1996, and shall be due February 28, 1997.

- c. If a provider does not submit a complete MDS record for any patient within the required timeframe, the department shall assume that the RUG-III weight for that patient, for any time period for which a complete record is not provided, is the lowest RUG-III weight in use for specialized care patients. A complete MDS record is one that is complete for purposes of transmission and acceptance by the Health Care Financing Administration.

15. Case mix measures in the initial semiannual periods. In any semiannual periods for which calculations in 12 VAC 39-90-310 requires an NCMI from a semiannual period beginning before January 1996, the case mix used shall be the case mix applicable to the first semiannual period beginning after January 1, 1996, that is a semiannual period in the respective provider's fiscal period. For example, December year-end providers' rates applicable to the month of December 1996, would normally require (in Appendix I (12 VAC 30-90-270 et seq.) of Part III of this chapter) an NCMI from July to December 1995, and one from January to June 1996, to calculate a rate for July to December 1996. However, because this calculation requires an NCMI from a period before January 1996, the NCMI that shall be used will be those applicable to the next semiannual period. The NCMI from January to June 1996, and from July to December 1996, shall be applied to December 1996, as well as to January to June 1997. Similarly, a provider with a March year end would have its rate in December 1996, through March 1997, calculated based on an NCMI from April through September 1996, and October 1996, through March 1997.

16. Cost reports of specialized care providers are due not later than 150 days after the end of the provider's fiscal year. Except for this provision, the requirements of 12 VAC 30-90-70 and 12 VAC 30-90-80 shall apply.

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/s/ Mark R. Warner
Governor
Date: June 30, 2003

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◆ **TITLE 18. PROFESSIONAL AND OCCUPATIONAL LICENSING** ◆

BOARD FOR BARBERS AND COSMETOLOGY

Title of Regulation: **18 VAC 41-40. Regulations - Waxing (adding 18 VAC 41-40-10 through 18 VAC 41-40-260).**

Statutory Authority: § 54.1-205 of the Code of Virginia.

Effective Dates: July 1, 2003, through June 30, 2004.

Agency Contact: William H. Ferguson, II, Executive Director, Board for Barbers and Cosmetology, 3600 West Broad Street, Richmond, VA 23230, telephone (804) 367-8590, FAX (804) 367-6295, or e-mail barbercosmo@dpor.state.va.us.

Preamble:

Chapter 797 of the 2002 Acts of the Assembly mandated a separate licensing category for wax technicians under the Board for Barbers and Cosmetology. The legislation mandated with conditions that the board waive the examination requirements for licensure as a wax technician for any individual making application for licensure between July 1, 2002, and July 1, 2003, even though regulations were not in effect. The regulations contain the requirements for obtaining a license, safety and sanitation procedures, and standards of professional conduct.

Over 1,000 wax technician licenses have been issued since July 1, 2002, to individuals practicing in Virginia with no regulations. Emergency action is justified in this case due to the "imminent threat to public health or safety" (§ 2.2-4011 A of the Administrative Process Act) that would result from the failure of the board to have regulations in place on July 1, 2003.

After July 1, 2003, without regulations the board will be unable to process applications for licensure due to the inability to determine the eligibility of the applicants. The statutes require licensure for individuals (§§ 54.1-703 and 54.1-704), shops and salons (§ 54.1-704.1), and schools (§ 54.1-704.2). All of the qualifications for licensure for all licenses issued by the board are contained in regulations; therefore, eligibility cannot be determined without regulations.

The board does not have authority to take enforcement action including safety and sanitation procedures, and standards of professional conduct in regard to the licenses issued between July 1, 2002, and July 1, 2003, until regulations are effective.

The proposed regulatory action is necessary to ensure minimal competence of waxing practitioners. This regulatory action will establish qualifications for licensure, standards of

practice and requirements for maintaining licensure as a wax technician, waxing salon, waxing school, and wax technician instructors in the Commonwealth of Virginia. This regulatory action will establish fees necessary to administer the licensure of waxing practitioners, waxing salons, waxing schools, and wax technician instructors in the Commonwealth of Virginia.

This action is based on the mandate of the 2002 General Assembly that the health, safety and welfare of the public would be endangered without the issuance of licenses and enforcement of regulations of this occupation.

**CHAPTER 40.
REGULATIONS - WAXING.**

**PART I.
GENERAL.**

18 VAC 41-40-10. Definitions.

The following words and terms when used in this chapter shall have the following meanings unless the context clearly indicates otherwise. All terms defined in Chapter 7 (§ 54.1-700 et seq.) of Title 54.1 of the Code of Virginia are incorporated in this chapter.

"Direct supervision" means that a Virginia licensed cosmetologist, or wax technician shall be present in the waxing salon at all times when services are being performed by a temporary license holder.

"Endorsement" means a method of obtaining a license by a person who is currently licensed in another state.

"Licensee" means any individual, partnership, association, limited liability company, or corporation holding a license issued by the Board for Barbers and Cosmetology, as defined in § 54.1-700 of the Code of Virginia.

"Reinstatement" means having a license or certificate restored to effectiveness after the expiration date has passed.

"Renewal" means continuing the effectiveness of a license or certificate for another period of time.

"Virginia state institution" for the purposes of these regulations means any institution approved by the Virginia Department of Education or the Virginia Department of Corrections.

**PART II.
ENTRY.**

18 VAC 41-40-20. General requirements for a wax technician license.

A. In order to receive a license as a wax technician, an applicant must meet the following qualifications:

1. The applicant shall be in good standing as a licensed wax technician in every jurisdiction where licensed. The applicant shall disclose to the board at the time of application for licensure any disciplinary action taken in another jurisdiction in connection with the applicant's practice as a wax technician. The applicant shall disclose to the board at the time of application for licensure whether he has been previously licensed in Virginia as a wax technician.

2. The applicant shall disclose his physical address. A post office box is not acceptable.

3. The applicant shall sign, as part of the application, a statement certifying that the applicant has read and understands the Virginia wax technician license laws and the regulations of the board.

4. In accordance with § 54.1-204 of the Code of Virginia, the applicant shall not have been convicted in any jurisdiction of a misdemeanor or felony which directly relates to the profession of waxing. The board shall have the authority to determine, based upon all the information available, including the applicant's record of prior convictions, if the applicant is unfit or unsuited to engage in the profession of waxing. The board will decide each case by taking into account the totality of the circumstances. Any plea of nolo contendere shall be considered a conviction for the purposes of this section. The applicant shall provide a certified copy of a final order, decree or case decision by a court with the lawful authority to issue such order, decree or case decision, and such copy shall be admissible as prima facie evidence of such conviction. This record shall be forwarded by the applicant to the board within 10 days after all appeal rights have expired.

5. The applicant shall provide evidence satisfactory to the board that the applicant has passed the board-approved examination, administered either by the board or by independent examiners.

B. Eligibility to sit for board-approved examination.

1. *Training in the Commonwealth of Virginia.* Any person completing an approved wax technician training program in a Virginia licensed waxing school, or a Virginia public school's wax technician program approved by the State Department of Education shall be eligible for examination.

2. *Training outside of the Commonwealth of Virginia, but within the United States and its territories.* Any person completing a wax technician training program that is substantially equivalent to the Virginia program but is outside of the Commonwealth of Virginia must submit to the board documentation of the successful completion of 115 hours of training to be eligible for examination. If less than 115 hours of wax technician training was completed, an applicant must submit a certificate, diploma or other documentation acceptable to the board verifying the completion of a substantially equivalent wax technician course and documentation of six months of wax technician work experience in order to be eligible for the wax technician examination.

18 VAC 41-40-30. License by endorsement.

Upon proper application to the board, any person currently licensed to practice as a wax technician or who is a licensed wax technician instructor in any other state or jurisdiction of the United States and who has completed both a training program and a written and practical examination that is substantially equivalent to that required by these regulations may be issued a wax technician license or a wax technician instructor certificate, respectively, without an examination. The

applicant must also meet the requirements set forth in 18 VAC 41-40-20 A.

18 VAC 41-40-40. Exceptions to training requirements.

A. Virginia licensed cosmetologists shall be eligible for the wax technician examination.

B. Any wax technician applicant having been trained as a wax technician in any Virginia state institution shall be eligible for the wax technician examination.

C. Any wax technician applicant having a minimum of two years experience in waxing in the United States armed forces and having provided documentation satisfactory to the board of that experience shall be eligible for the examination.

18 VAC 41-40-50. Examination requirements and fees.

A. Applicants for initial licensure shall pass both a practical and written examination approved by the board. The examinations may be administered by the board or by a designated testing service.

B. Any applicant who passes one part of the examination shall not be required to take that part again provided both parts are passed within one year of the initial examination date.

C. Any candidate failing to appear as scheduled for examination shall forfeit the examination fee.

D. The fee for examination or reexamination is subject to contracted charges to the board by an outside vendor. These contracts are competitively negotiated and bargained for in compliance with the Virginia Public Procurement Act (§ 2.2-4300 et seq. of the Code of Virginia). Fees may be adjusted and charged to the candidate in accordance with these contracts. The fee shall not exceed \$225 per candidate.

18 VAC 41-40-60. Reexamination requirements.

Any applicant who does not pass a reexamination within one year of the initial examination date shall be required to submit a new application and examination fee.

18 VAC 41-40-70. Examination administration.

A. The examinations may be administered by the board or the designated testing service. The practical examination shall be supervised by a chief examiner.

B. Every wax technician examiner shall hold a current Virginia wax technician or cosmetologist license, have three or more years of active experience as a licensed professional and be currently practicing in the waxing profession. Examiners shall attend training workshops sponsored by the board or by a testing service acting on behalf of the board.

C. No certified wax technician or cosmetology instructor who is currently teaching or is a school owner shall be an examiner.

D. Each wax technician chief examiner shall hold a current Virginia wax technician or cosmetologist license, have five or more years of active experience in the waxing profession, have three years of active experience as an examiner, and be currently practicing in the waxing profession. Chief examiners

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shall attend training workshops sponsored by the board or by a testing service acting on behalf of the board.

E. The applicant shall follow all procedures established by the board with regard to conduct at the examination. Such procedures shall include any written instructions communicated prior to the examination date and any instructions communicated at the site, either written or oral, on the date of the examination. Failure to comply with all procedures established by the board and the testing service with regard to conduct at the examination may be grounds for denial of application.

18 VAC 41-40-80. Wax technician temporary license.

A. A temporary license to work under the supervision of a currently licensed wax technician or cosmetologist may be issued only to applicants for initial licensure that the board finds eligible for examination. There shall be no fee for a license.

B. The temporary license shall remain in force for 45 days following the examination date. The examination date shall be the first test date after the applicant has successfully submitted an application to the board that an examination is offered to the applicant by the board.

C. Any person continuing to practice waxing services after a temporary license has expired may be prosecuted and fined by the Commonwealth under §§ 54.1-111 A 1 and 54.1-202 of the Code of Virginia.

D. No applicant for examination shall be issued more than one temporary license.

18 VAC 41-40-90. General requirements for a wax technician instructor certificate.

A. Upon filing an application with the Board for Barbers and Cosmetology, any person meeting the qualifications set forth in this section shall be eligible for a wax technician instructor certificate if the person:

1. Holds a current Virginia wax technician license; and
2. Passes a course in teaching techniques at the post-secondary educational level; or
3. Completes an instructor training course approved by the Virginia Board for Barbers and Cosmetology under the supervision of a certified cosmetology or wax technician instructor in a cosmetology or wax technician school; or
4. Passes an examination in wax technician instruction administered by the board or by a testing service acting on behalf of the board.

B. Applicants passing the examination for a wax technician instructor certificate shall be required to maintain a wax technician license.

18 VAC 41-40-100. Salon license.

A. Any individual wishing to operate a waxing salon shall obtain a salon license in compliance with § 54.1-704.1 of the Code of Virginia.

B. A waxing salon license shall not be transferable and shall bear the same name and address of the business. Any changes in the name, address, or ownership of the salon shall be reported to the board in writing within 30 days of such changes. New owners shall be responsible for reporting such changes in writing to the board within 30 days of the changes.

C. In the event of a closing of a waxing salon, the board must be notified by the owners in writing within 30 days of the closing, and the license must be returned by the owners to the board.

18 VAC 41-40-110. School license.

A. Any individual wishing to operate a wax technician school shall obtain a school license in compliance with § 54.1-704.2 of the Code of Virginia. All instruction and training of wax technicians shall be conducted under the direct supervision of a certified cosmetology or wax technician instructor.

B. A wax technician school license shall not be transferable and shall bear the same name and address as the school. Any changes in the name or address of the school shall be reported to the board in writing within 30 days of such change. The name of the school must indicate that it is an educational institution. All signs, or other advertisements, must reflect the name as indicated on the license issued by the board and contain language indicating it is an educational institution.

C. In the event of a change of ownership of a school, the new owners shall be responsible for reporting such changes in writing to the board within 30 days of the changes.

D. In the event of a school closing, the board must be notified by the owners in writing within 30 days of the closing, and the license must be returned.

PART III. FEES.

18 VAC 41-40-120. Fees.

The following fees apply:

FEE TYPE	AMOUNT DUE	WHEN DUE
Individuals:		
Application	\$55	With application
License by Endorsement	\$55	With application
Renewal	\$55	With renewal card prior to expiration date
Reinstatement	\$55	With reinstatement application
Facilities:		
Application	\$90	With application
Renewal	\$90	With renewal card prior to expiration date
Reinstatement	\$90	With reinstatement application
Schools:		
Application	\$120	With application
Renewal	\$120	With renewal card prior to expiration date
Reinstatement	\$120	With reinstatement

		application
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18 VAC 41-40-130. Refunds.

All fees are nonrefundable and shall not be prorated.

PART IV.
RENEWAL/REINSTATEMENT.

18 VAC 41-40-140. License renewal required.

A. All wax technician licenses and waxing salon licenses shall expire two years from the last day of the month in which they were issued.

B. All wax technician instructor certificates shall expire on the same date as the certificate holder's license expiration date.

C. All school licenses shall expire on December 31 of each even-numbered year.

18 VAC 41-40-150. Notice of renewal.

The Department of Professional and Occupational Regulation will mail a renewal notice to the licensee or certificate holder outlining the procedures for renewal. Failure to receive this notice, however, shall not relieve the licensee or certificate holder of the obligation to renew. If the licensee or certificate holder fails to receive the renewal notice, a copy of the old license or certificate may be submitted as evidence of intent to renew, along with the required fee.

18 VAC 41-40-160. Failure to renew.

A. When a licensed or certified individual or entity fails to renew its license or certificate within 30 days following its expiration date, the licensee or certificate holder shall apply for reinstatement of the license or certificate by submitting to the Department of Professional and Occupational Regulation a reinstatement application and renewal fee and reinstatement fee.

B. When a wax technician fails to renew his license within two years following the expiration date, reinstatement is no longer possible. To resume practice, the former licensee shall apply for licensure as a new applicant, shall meet all current application requirements, and shall pass the board's current examination. Individuals applying for licensure under this section shall be eligible to apply for a temporary license from the board under 18 VAC 41-40-90.

C. When a wax technician instructor fails to renew his certificate within two years following the expiration date, reinstatement is no longer possible. To resume practice, the former certificate holder shall apply as a new applicant for a wax technician license, shall meet all current application requirements, and shall pass the board's current examination. Upon receiving the new wax technician license, the individual may apply for a new instructor's certificate.

D. When a waxing salon fails to renew its license within two years following the expiration date, reinstatement is no longer possible. To resume practice the former licensee shall apply for licensure as a new applicant and shall meet all current application requirements.

E. The application for reinstatement for a school shall provide the reasons for failing to renew prior to the expiration date, and a notarized statement that all students currently enrolled or seeking to enroll at the school have been notified in writing that the school's license has expired. All of these materials shall be called the application package. Reinstatement will be considered by the board if the school consents to and satisfactorily passes an inspection of the school by the Department of Professional and Occupational Regulation and if the school's records are maintained in accordance with 18 VAC 41-40-220 and hours reported in accordance with 18 VAC 41-40-230. Pursuant to 18 VAC 41-40-170, upon receipt of the reinstatement fee, application package, and inspection results, the board may reinstate the school's license or require requalification or both. If the reinstatement application package and reinstatement fee are not received by the board within six months following the expiration date of the school's license, the board will notify the testing service that prospective graduates of the unlicensed school are not acceptable candidates for the examination. Such notification will be sent to the school and must be displayed in a conspicuous manner by the school in an area that is accessible to the public. No student shall be disqualified from taking the examination because the school was not licensed for a portion of the time the student attended if the school license is reinstated by the board.

When a waxing school fails to renew its license within two years following the expiration date, reinstatement is no longer possible. To resume practice the former licensee shall apply for licensure as a new applicant and shall meet all current application requirements

F. The date a renewal fee is received by the Department of Professional and Occupational Regulation, or its agent, will be used to determine whether the requirement for reinstatement of a license or certificate is applicable and an additional fee is required.

G. When a license or certificate is reinstated, the licensee or certificate holder shall have the same license number and shall be assigned an expiration date two years from the previous expiration date of the license.

H. A licensee or certificate holder who reinstates his license or certificate shall be regarded as having been continuously licensed or certified without interruption. Therefore, a licensee or certificate holder shall be subject to the authority of the board for activities performed prior to reinstatement.

I. A licensee or certificate holder who fails to reinstate his license or certificate shall be regarded as unlicensed or uncertified from the expiration date of the license or certificate forward. Nothing in these regulations shall divest the board of its authority to discipline a licensee or certificate holder for a violation of the law or regulations during the period of time for which the individual was licensed or certified.

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PART V. WAXING SCHOOLS.

18 VAC 41-40-170. Applicants for state approval.

A. Any person, firm, or corporation desiring to operate a waxing school shall submit an application to the board at least 60 days prior to the date for which approval is sought.

B. Waxing schools under the Virginia Department of Education and Department of Corrections shall be exempt from licensure requirements.

18 VAC 41-40-180. General requirements.

A waxing school shall:

1. Hold a school license for each and every location.
2. Hold a salon license if the school receives compensation for services provided in its clinic.
3. Employ a staff of licensed and certified cosmetology or wax technician instructors.
4. Develop individuals for entry level competency in waxing.
5. Submit its curricula for board approval.
 - a. Wax technician curricula shall be based on a minimum of 115 clock hours and shall include performances in accordance with 18 VAC 41-40-200.
6. Inform the public that all services are performed by students if the school receives compensation for services provided in its clinic by posting a notice in the reception area of the salon in plain view of the public.
7. Classroom instruction must be conducted in an area separate from the clinic area where practical instruction is conducted and services are provided.

18 VAC 41-40-190. Curriculum requirements.

1. Orientation:
 - a. School policies;
 - b. State law, regulations and professional ethics; and
 - c. Personal hygiene.
2. Skin care and treatment:
 - a. Analysis;
 - b. Anatomy and physiology;
 - c. Diseases and disorders of the skin;
 - d. Health, sterilization, sanitation, bacteriology, and safety including infectious disease control measures;
 - e. Procedures; and
 - f. Temporary removal of hair.
3. Skin theory, skin structure and composition.
4. Client consultation:
 - a. Health conditions;
 - b. Skin analysis;

- c. Treatments;
- d. Client expectations; and
- e. Health forms and questionnaires.

5. Waxing procedures (brow, lip, facial, legs, arms, underarm, chest, back and bikini areas):

- a. Fundamentals;
- b. Safety rules; and
- c. Procedures.

6. Wax treatments:

- a. Analysis;
- b. Disorders and diseases;
- c. Manipulations; and
- d. Treatments.

7. Salon management:

- a. Business ethics; and
- b. Care of equipment.

18 VAC 41-40-200. Hours of instruction and performances.

A. Curriculum and performance requirements shall be offered over a minimum of 115 clock hours for waxing.

B. The curriculum requirements for waxing must include the following minimum performances:

Arms	4
Back	2
Bikini area	6
Brows	12
Facial (face, chin, cheek)/Lip	6
Leg	3
Underarm	2
Total	36

18 VAC 41-40-210. School identification.

Each waxing school licensed by the board shall identify itself to the public as a teaching institution.

18 VAC 41-40-220. Records.

A. Schools are required to keep upon graduation, termination or withdrawal, written records of hours and performances showing what instruction a student has received for a period of five years after the student terminates or completes the curriculum of the school. These records shall be available for inspection by the department. All records must be kept on the premises of each school.

B. For a period of five years after a student completes the curriculum, terminates or withdraws from the school, schools are required to provide documentation of hours and performances completed by a student upon receipt of a written request from the student.

C. Prior to a school changing ownership or a school closing, the schools are required to provide to current students documentation of hours and performances completed.

D. For a period of one year after a school changes ownership, schools are required to provide documentation of hours and performances completed by a current student upon receipt of a written request from the student.

18 VAC 41-40-230. Hours and performances reported.

Within 30 days of the closing of a licensed waxing school, for any reason, the school shall provide a written report to the board on performances and hours of each of its students who have not completed the program.

PART VI.
STANDARDS OF PRACTICE.

18 VAC 41-40-240. Display of license.

A. Each salon owner or school owner shall ensure that all current licenses, certificates, and temporary licenses issued by the board shall be displayed in the reception area of the salon or school in plain view of the public. Duplicate licenses, certificates, or temporary licenses shall be posted in a like manner in every salon or school location where the regulant provides services.

B. Each salon owner or school owner shall ensure that no licensee or student performs any service beyond the scope of practice for the wax technician license.

C. All licensees, certificate holders, and temporary license holders shall operate under the name in which the license, certificate, or temporary license is issued.

18 VAC 41-40-250. Sanitation and safety standards for salons and schools.

A. Sanitation and safety standards. Any salon, school or facility where waxing services are delivered to the public must be clean and sanitary at all times. Compliance with these rules does not confer compliance with other requirements set forth by federal, state and local laws, codes, ordinances, and regulations as they apply to business operation, physical construction and maintenance, safety, and public health. Licensees and certificate holders shall take sufficient measures to prevent the transmission of communicable and infectious diseases and comply with the sanitation standards identified in this section and shall insure that all employees likewise comply.

B. Disinfection and storage of implements. All wax pots will be cleaned and disinfected with an EPA registered hospital (grade) and tuberculocidal disinfectant solution with no sticks left standing in the wax at any time.

C. General sanitation and safety requirements.

1. All furniture, walls, floors, and windows shall be clean and in good repair.
2. The floor surface in the immediate work area must be of a washable surface other than carpet. The floor must be kept clean, free of hair, dropped articles, spills and electrical cords;
3. Walls and ceilings in the immediate work area must be in good repair, free of water seepage and dirt. Any mats shall be secured or shall lay flat;

4. A fully functional bathroom with a working toilet and sink must be readily available for clients. Fixtures must be in good condition. The bathroom must be lighted and sufficiently ventilated. If there is a window, it must have a screen. There must be antibacterial soap and clean individual towels for the client's use. Laundering of towels is allowed, space permitting. The bathroom must not be used as a work area or for the open storage of chemicals;

5. General areas for client use must be neat and clean with a waste receptacle for common trash;

6. Electrical cords shall be placed to prevent entanglement by the client or licensee;

7. Electrical outlets shall be covered by plates;

8. The salon area shall be sufficiently ventilated to exhaust hazardous or objectionable airborne chemicals, and to allow the free flow of air;

9. Adequate lighting shall be provided.

D. Equipment sanitation.

1. Waxing tables shall be cleaned and sanitized after each use and any other objects that touch the client shall be cleaned and sanitized after each use or disposed of;

2. The top of workstands or back bars shall be kept clean;

3. The work area shall be free of clutter, trash, and any other items which may cause a hazard;

4. Heat-producing appliances and equipment shall be placed so as to prevent any accidental injury to the client or licensee; and

5. Electrical appliances and equipment shall be in safe working order at all times.

E. Articles, tools and products.

1. The temperature of waxing products shall be in accordance with the manufacturer's specifications and shall be tested prior to application to ensure client safety;

2. Any multi-use article, tool or product which cannot be cleansed or sanitized is prohibited from use;

3. Soiled implements must be removed from the tops of work stations immediately after use;

4. Clean spatulas, other clean tools, or clean disposable gloves shall be used to remove bulk substances from containers;

5. A clean spatula shall be used to remove creams or ointments from jars. Sterile cotton shall be used to apply creams, lotions and powders. Cosmetic containers shall be recovered after each use;

6. All sharp tools, implements, and heat-producing appliances shall be safely stored;

7. Pre-sanitized tools and implements, linens and equipment shall be stored for use in a sanitary enclosed cabinet or covered receptacle;

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8. Soiled towels, linens and implements shall be deposited in a container made of cleanable materials and separate from those that are clean or pre-sanitized;

9. No substance other than a sterile styptic powder or sterile liquid astringent approved for homeostasis and applied with a sterile single-use applicator shall be used to check bleeding; and

10. Any disposable material making contact with blood or other body fluid shall be disposed of in a sealed plastic bag and removed from the shop, salon, school or facility in accordance with the guidelines of the Department of Health.

F. Chemical storage and emergency information.

1. Salons, schools and facilities shall have in the immediate working area a binder with all Material Safety Data Sheets (MSDS) provided by manufacturers for any chemical products used;

2. Salons, schools and facilities shall have a blood spill clean-up kit in the work area;

3. Flammable chemicals shall be stored in a nonflammable storage cabinet or a properly ventilated room; and

4. Chemicals that could interact in a hazardous manner (oxidizers, catalysts and solvents) shall be separated in storage.

G. Client health guidelines.

1. All waxing services must be performed in a prescribed manner to avoid burns or bruising to the client's skin;

2. All employees providing client services shall cleanse their hands with an antibacterial product prior to providing services to each client;

3. No salon, school or facility providing waxing services shall have on the premises waxing products containing hazardous substances that have been banned by the U.S. Food and Drug Administration (FDA) for use in waxing products;

4. No product shall be used in a manner that is disapproved by the FDA; and

5. All regulated services must be performed in a facility that is in compliance with all applicable building and zoning codes.

H. In addition to any requirements set forth in this section, all licensees, certificate holders, and temporary license holders shall adhere to regulations and guidelines established by the Virginia Department of Health and the Occupational and Safety Division of the Virginia Department of Labor and Industry.

I. All salons, schools and facilities shall immediately report the results of any inspection of the salon, or school by the Virginia Department of Health as required by § 54.1-705 of the Code of Virginia.

J. All salons, schools and facilities shall conduct a self-inspection on an annual basis and maintain a self-inspection

form on file for five years so that it may be requested and reviewed by the board at its discretion.

18 VAC 41-40-260. Grounds for license revocation or suspension; denial of application, renewal or reinstatement; or imposition of a monetary penalty.

A. The board may, in considering the totality of the circumstances, fine any licensee or temporary license holder, and suspend or revoke or refuse to renew or reinstate any license, certificate, or temporary license, or deny any application issued under the provisions of Chapter 7 (§ 54.1-700 et seq.) of Title 54.1 of the Code of Virginia and the regulations of the board if the board finds that:

1. The licensee, certificate holder, temporary license holder or applicant is incompetent, or negligent in practice, or incapable mentally or physically, as those terms are generally understood in the profession, to practice as a wax technician; or

2. The licensee, certificate holder, temporary license holder or applicant has been convicted of fraud or deceit in the practice or teaching of waxing; or

3. The licensee, certificate holder, temporary license holder or applicant attempting to obtain, obtained, renewed or reinstated a license, certificate, or temporary license by false or fraudulent representation; or

4. The licensee, certificate holder, temporary license holder or applicant violates or induces others to violate, or cooperates with others in violating, any of the provisions of these regulations or Chapter 7 (§ 54.1-700 et seq.) of Title 54.1 of the Code of Virginia or any local ordinance or regulation governing standards of health and sanitation of the establishment in which any wax technician may practice or offer to practice; or

5. The licensee, certificate holder, temporary license holder or applicant fails to produce, upon request or demand of the board or any of its agents, any document, book, record, or copy thereof in a licensee's or owner's possession or maintained in accordance with these regulations; or

6. A licensee, certificate holder, or temporary license holder fails to notify the board of a change of name or address in writing within 30 days of the change for each and every license, certificate, or temporary license. The board shall not be responsible for the licensee's, certificate holder's, or temporary license holder's failure to receive notices, communications and correspondence caused by the licensee's, certificate holder's, or temporary license holder's failure to promptly notify the board in writing of any change of name or address or for any other reason beyond the control of the board; or

7. The licensee, certificate holder, temporary license holder or applicant publishes or causes to be published any advertisement that is false, deceptive, or misleading; or

8. The licensee, certificate holder, temporary license holder or applicant fails to notify the board in writing within 30 days of the suspension, revocation, or surrender of a license, certificate, or temporary license in connection with a disciplinary action in any other jurisdiction or of any license,

certificate, or temporary license which has been the subject of disciplinary action in any other jurisdiction; or

9. In accordance with § 54.1-204 of the Code of Virginia, the licensee, certificate holder, or temporary license holder has been convicted in any jurisdiction of a misdemeanor or felony which directly relates to the profession of waxing. The board shall have the authority to determine, based upon all the information available, including the regulant's record of prior convictions, if the regulant is unfit or unsuited to engage in the profession of waxing. The board will decide each case by taking into account the totality of the circumstances. Any plea of nolo contendere shall be considered a conviction for the purposes of this section. The regulant shall provide a certified copy of a final order, decree or case decision by a court with the lawful authority to issue such order, decree or case decision, and such copy shall be admissible as prima facie evidence of such conviction. This record shall be forwarded by the regulant to the board within 10 days after all appeal rights have expired.

B. In addition to subsection A of this section, the board may, in considering the totality of the circumstances, revoke, suspend or refuse to renew or reinstate the license of any school or impose a fine as permitted by law, or both, if the board finds that:

1. An instructor of the approved school fails to teach the curriculum as provided for in these regulations; or
2. The owner or director of the approved school permits or allows a person to teach in the school without a current instructor certificate; or
3. The instructor, owner or director is guilty of fraud or deceit in the teaching of waxing.

C. In addition to subsection A of this section, the board may, in considering the totality of the circumstances, revoke, suspend or refuse to renew or reinstate the license of any waxing salon or impose a fine as permitted by law, or both, if the board finds that:

1. The owner or operator of the salon fails to comply with the sanitary requirements of waxing salons provided for in these regulations or in any local ordinances; or
2. The owner or operator allows a person who has not obtained a license or a temporary license to practice as a wax technician.

D. In addition to subsection A of this section, the board may, in considering the totality of the circumstances, revoke, suspend or refuse to renew or reinstate the license of any licensee or impose a fine as permitted by law, or both, if the board finds that the licensee fails to take sufficient measures to prevent transmission of communicable or infectious diseases or fails to comply with any local, state or federal law or regulation governing the standards of health and sanitation for the practice of waxing.

NOTICE: The forms used in administering 18 VAC 41-40, Regulations - Waxing, are not being published; however, the name of each form is listed below. The forms are available for public inspection at the Department of Professional and Occupational Regulation, 3600 West Broad Street, Richmond, Virginia, or at the office of the Registrar of Regulations, General Assembly Building, 2nd Floor, Richmond, Virginia.

FORMS

Cosmetology, Nail Technician & Wax Technician Examination Application, 12EX (eff. 7/03)

Training and Experience Verification Form, 12TREP (eff. 7/03)

Cosmetology Temporary Permit Application, 12TP (eff. 7/03)

Cosmetology, Nail Technician & Wax Technician License Application, 12LIC (eff. 7/03)

Endorsement Application, 1213END (eff. 7/03)

Salon & Shop License Application, 1213SLSH (eff. 7/03)

School License Application, 12SCHL (eff. 7/03)

/s/ Mark R. Warner
Governor
Date: June 30, 2003

VA.R. Doc. No. R03-249; Filed July 1, 2003, 2:03 p.m.

BOARD OF MEDICINE

Title of Regulation: 18 VAC 85-20. Regulations Governing the Practice of Medicine, Osteopathy, Podiatry, and Chiropractic (amending 18 VAC 85-20-22).

Statutory Authority: § 54.1-2400 of the Code of Virginia and Chapter 762 of the 2003 Acts of Assembly.

Effective Dates: July 15, 2003, through July 14, 2004.

Agency Contact: Elaine J. Yeatts, Agency Regulatory Coordinator, Department of Health Professions, 6603 West Broad Street, Richmond, VA 23230-1712, telephone (804) 662-9918, FAX (804) 662-9114, or e-mail elaine.yeatts@dhp.state.va.us.

Preamble:

House Bill 1441 of the 2003 General Assembly strengthened requirements for health care institutions to report misconduct by doctors and changed the threshold for a finding of unprofessional conduct from a gross negligence standard to a simple negligence standard. The end result will be a substantial increase in the number of disciplinary proceedings conducted by the Board of Medicine. The additional cost associated with compliance and implementation of HB 1441 will result in increased costs for the board and will generate an immediate need for additional revenue.

In response, the General Assembly included an enactment clause to authorize the promulgation of emergency regulations to increase fees. The fifth enactment clause in

Emergency Regulations

Chapter 762 of the 2003 Acts of the Assembly requires, "That the health regulatory boards shall promulgate regulations to address any fee adjustments necessary to accomplish the regulatory and enforcement responsibilities set forth in this act to be effective within 280 days of its enactment." Although the regulation is not otherwise exempt under the provisions of the Administrative Process Act, the adoption of emergency regulations is authorized by § 2.2-4011 of the Code of Virginia.

The emergency action will amend 18 VAC 85-20-22 to increase the biennial renewal fee for doctors of medicine, osteopathic medicine and podiatry by \$77 from \$260 to \$337 and for doctors of chiropractic from \$235 to \$312. Other fees which are associated with the licensing (renewal) fee will also be increased accordingly. The application fee for initial licensure in Virginia will increase from \$225 to \$302 for doctors of medicine, osteopathic medicine and podiatry and for doctors of chiropractic from \$200 to \$277, because the first renewal cycle is included in the initial application fee. The fee for late renewal anytime within the two years following the expiration date will increase by \$25 from \$90 to \$115 (late fees are calculated at approximately 1/3 of the renewal fee). The fees for reinstatement of a lapsed license after two years will increase from \$305 to \$382 for doctors of medicine, osteopathic medicine and podiatry and for doctors of chiropractic from \$290 to \$367. Renewal fees for inactive licensees will increase by \$38 from \$130 to \$168 with the late fee increasing from \$45 to \$55 (renewal of inactive licenses is calculated at approximately 1/2 of the active fee).

A fee currently in regulation is eliminated because it is no longer applicable. The fee for board approval to sit for Part 3 of the USMLE examination without subsequent licensure in Virginia is deleted, since those applicants now can apply directly to USMLE to be approved to sit for the exam. An amendment in subsection H clarifies that renewal occurs in each even-numbered year, which is the current policy of the board.

Finally, the legislation eliminated § 54.1-2921 in the Medical Practice Act and inserted a new section, § 54.1-2408.2, in which a three-year time limit is set before a health regulatory board can consider a petition for reinstatement following revocation. The deleted Code section in Chapter 29 of Title 54.1 is referenced in the current regulation for a reinstatement fee charged to an applicant who is seeking reinstatement following revocation or after a petition to reinstate has been denied. The board must change the Code cite in its regulation and specifically add the requirement for the \$2,000 fee for an applicant after a petition to reinstate has been denied, since that is not referenced in the new § 54.1-2408.2.

Failure to provide sufficient funding through the adoption of emergency regulations to cover the costs of implementing this legislation would place the agency in noncompliance with the law. If the Board failed to increase fees sufficient to provide adequate staffing and support for investigative and disciplinary activities, the public health and safety would suffer by long delays in responding to complaints, processing cases and possibly removing incompetent or

dangerous practitioners. The proposed regulatory action is essential to ensure that the board and the department have sufficient resources to respond to reports of misconduct in a timely and thorough fashion.

18 VAC 85-20-22. Required fees.

A. Unless otherwise provided, fees established by the board shall not be refundable.

B. All examination fees shall be determined by and made payable as designated by the board.

C. The application fee for licensure in medicine, osteopathy, and podiatry shall be ~~\$225~~ \$302, and the fee for licensure in chiropractic shall be ~~\$200~~ \$277. ~~The fee for board approval to sit for Part 3 of the United States Medical Licensing Examination without subsequent licensure in Virginia shall be \$85.~~

D. The fee for a temporary permit to practice medicine pursuant to § 54.1-2927 B (i) and (ii) of the Code of Virginia shall be \$30.

E. The application fee for a limited professorial or fellow license issued pursuant to 18 VAC 85-20-210 shall be \$55. The annual renewal fee shall be \$35. An additional fee for late renewal of licensure shall be \$15.

F. The application fee for a limited license to interns and residents pursuant to 18 VAC 85-20-220 shall be \$55. The annual renewal fee shall be \$35 a year. An additional fee for late renewal of licensure shall be \$15.

G. The fee for a duplicate wall certificate shall be \$15; the fee for a duplicate license shall be \$5.

H. The fee for biennial renewal shall be ~~\$260~~ \$337 for licensure in medicine, osteopathy and podiatry and ~~\$235~~ \$312 for licensure in chiropractic, due in *each even-numbered year* in the licensee's birth month. An additional fee for processing a late renewal application within one renewal cycle shall be ~~\$90~~ \$115 for licensure in medicine, osteopathy and podiatry and ~~\$80~~ \$105 for licensure in chiropractic.

I. The fee for requesting reinstatement of licensure or certification pursuant to ~~§ 54.1-2924~~ 54.1-2408.2 of the Code of Virginia *or for requesting reinstatement after any petition to reinstate the certificate or license of any person has been denied* shall be \$2,000.

J. The fee for reinstatement of a license issued by the Board of Medicine pursuant to § 54.1-2904 of the Code of Virginia which has expired for a period of two years or more shall be ~~\$305~~ \$382 for licensure in medicine, osteopathy and podiatry and ~~\$290~~ \$367 for licensure in chiropractic and shall be submitted with an application for licensure reinstatement.

K. The fee for a letter of good standing/verification to another jurisdiction for a license shall be \$10.

L. The fee for certification of grades to another jurisdiction by the board shall be \$25. The fee shall be due and payable upon submitting the form to the board.

M. The fee for biennial renewal of an inactive license shall be ~~\$430~~ \$168, due in the licensee's birth month. An additional

fee for late renewal of licensure shall be ~~\$45~~ \$55 for each renewal cycle.

N. The fee for a returned check shall be \$25.

/s/ Mark R. Warner
Governor
Date: July 1, 2003

NOTICE: The forms used in administering 18 VAC 85-20, Regulations Governing the Practice of Medicine, Osteopathy, Podiatry, and Chiropractic, are not being published due to the large number; however, the name of each form is listed below. The forms are available for public inspection at the Department of Health Professions, 6603 West Broad Street, Richmond, Virginia, or at the office of the Registrar of Regulations, General Assembly Building, 2nd Floor, Richmond, Virginia.

FORMS

Instructions for Completing Application to Practice Medicine for Graduates of Approved Institutions (rev. ~~4/2/02~~ 7/03).

Instructions for Completing an Application to Practice Medicine for Graduates of Nonapproved Institutions (rev. ~~4/2/02~~ 7/03).

Instructions for Completing PMLEXIS Examination/License Application (rev. ~~9/04~~ 7/03).

~~Instructions~~ Information for Completing Chiropractic Endorsement Application (rev. ~~4/02~~ 7/03).

Instructions for Completing Podiatry Endorsement Application (rev. ~~4/03~~ 7/03).

Instructions for Completing Osteopathic ~~National Boards~~ ~~Endorsement~~ Medicine Licensure Application (rev. ~~4/02~~ 7/03).

Form A, Claims History Sheet (rev. 12/02).

Form B, Activity Questionnaire (rev. 12/02).

Form C, Clearance from Other State Boards (rev. 12/02).

Form E, Disciplinary Inquiry (rev. 12/02).

Application for a License to Practice Medicine and Surgery (rev. ~~4/2/02~~ 7/03).

Application for a License to Practice Osteopathic Medicine (rev. ~~4/2/02~~ 7/03).

Application for a License to Practice Podiatry (rev. ~~4/03~~ 7/03).

Application for a License to Practice Chiropractic (rev. 7/03).

Form H, Virginia Request for Podiatry Disciplinary Action (rev. 1/03).

Form I, National Board of Podiatric Medical Examiners Request for Scores on Part I and II (rev. 1/03).

Requirements and Instructions for an Intern/Resident License (rev. 1/03).

Intern/Resident, Form A, Memorandum from Associate Dean of Graduate Medical Education (rev. 1/03).

Intern/Resident, Form B, Certificate of Professional Education (rev. ~~4/2/02~~ 1/03).

Application for a Temporary License for Intern/Resident Training Program (rev. 1/03).

Form H, Report of Clinical Rotations (rev. 12/02).

Instructions for Completing an Application for a Limited License to Practice Medicine as a Full-time Faculty Member or as a Full-time Fellow (rev. 3/03).

Application for a Limited License to Practice Medicine as a Full-time Faculty Member or as a Full-time Fellow (rev. 2/03).

Form G, Request for Status Report of Educational Commission for Foreign Medical Graduates Certification (rev. 12/02).

Form L, Certificate of Professional Education (rev. 12/02).

Continued Competency Activity and Assessment Form (rev. 4/00).

Instructions for Reinstatement of Medicine and Surgery Licensure Application (rev. ~~4/03~~ 7/03).

Application for Reinstatement of License to Practice Medicine (rev. ~~4/03~~ 7/03).

Form A, MD Reinstatement, Claims History Sheet (rev. 1/03).

Form B, MD Reinstatement, Activity Questionnaire Form (rev. 1/03).

Form C, MD Reinstatement, State Questionnaire Form (rev. 1/03).

MD Reinstatement, Disciplinary Inquiries to Federation of State Medical Boards (rev. 1/03).

Instructions for Reinstatement of Osteopathy Licensure Application (rev. ~~3/03~~ 7/03).

Application for Reinstatement of License to Practice Osteopathy (rev. ~~3/03~~ 7/03).

Form A, Osteopathy Reinstatement, Claims History (rev. 3/03).

Instructions for Reinstatement of Chiropractic Licensure Application (rev. ~~3/03~~ 7/03).

Application for Reinstatement of License to Practice Chiropractic (rev. ~~3/03~~ 7/03).

Instructions for Reinstatement of Podiatry Licensure Application (rev. ~~4/03~~ 7/03).

Application for Reinstatement of License to Practice Podiatry (rev. ~~4/03~~ 7/03).

Application for Reinstatement of License to Practice Medicine/Osteopathy After Petition for Reinstatement Denied or License Revoked (rev. 3/03).

Application for Reinstatement of License to Practice Medicine/Osteopathy (rev. 2/03).

Application for Reinstatement of License to Practice Chiropractic (rev. 3/03).

Emergency Regulations

Renewal Notice and Application, 0101 Medicine and Surgery (rev. ~~4/02~~ 7/03).

Renewal Notice and Application, 0102 Osteopathy and Surgery (rev. ~~4/02~~ 7/03).

Renewal Notice and Application, 0103 Podiatry (rev. ~~4/02~~ 7/03).

Renewal Notice and Application, 0104 Chiropractic (rev. ~~4/02~~ 7/03).

Renewal Notice and Application, 0108 Naturopath (rev. 12/02).

Renewal Notice and Application, 0109 University and Limited License (rev. 12/02).

Renewal Notice and Application, 0116 Interns and Residents (rev. 12/02).

Application for Registration for Volunteer Practice (eff. 12/02).

Sponsor Certification for Volunteer Registration (eff. 1/03).

Guidelines for Completing the Practitioner Profile Questionnaire (rev. 12/02).

Practitioner's Help Section (rev. 11/02).

Practitioner Questionnaire (rev. 11/02).

VA.R. Doc. No. R03-268; Filed July 8, 2003, 10:40 a.m.

BOARD OF NURSING

Title of Regulation: 18 VAC 90-20. Regulations Governing the Practice of Nursing (amending 18 VAC 90-20-30).

Statutory Authority: § 54.1-2400 of the Code of Virginia and Chapter 762 of the 2003 Acts of Assembly.

Effective Dates: July 15, 2003, through July 14, 2004.

Agency Contact: Elaine J. Yeatts, Senior Policy Analyst, Department of Health Professions, 6603 West Broad Street, Richmond, VA 23230-1712, telephone (804) 662-9918, FAX (804) 662-9114, or e-mail elaine.yeatts@dhp.state.va.us.

Preamble:

In the 2003 General Assembly, House Bill 1441 strengthened requirements for health care institutions to report misconduct by nurses when there is a "reasonable probability that such health professional may have engaged in unethical, fraudulent or unprofessional conduct as defined by the pertinent licensing statutes and regulations." Both the time limit for reporting and the content of the report have been specified in the Code of Virginia, and the civil penalty for failure to report has been increased from a maximum of \$10,000 to \$25,000.

Accordingly, the agency estimated that complaints or reports of misconduct by nurses could increase from 1,400 to 1,750 per year, resulting in approximately 315 new cases to fully investigate, 78 more informal conferences and 22 more formal hearings. In addition, there may be approximately 174 cases that will result in a confidential consent agreement, which must be prepared by legal staff

and reviewed by counsel. During debate on the bill, it was clearly noted that the additional cost associated with compliance and implementation of HB1441 would result in increased costs for the affected boards and would generate an immediate need for additional revenue.

In response, the General Assembly included an enactment clause to authorize the promulgation of emergency regulations to increase fees. The fifth enactment clause in Chapter 762 of the 2003 Acts of the Assembly requires, "That the health regulatory boards shall promulgate regulations to address any fee adjustments necessary to accomplish the regulatory and enforcement responsibilities set forth in this act to be effective within 280 days of its enactment." Although the regulation is not otherwise exempt under the provisions of the Administrative Process Act, the adoption of emergency regulations is authorized by § 2.2-4011 of the Code of Virginia.

To accommodate the projected increase in reporting, investigations and disciplinary proceedings for the Board of Nursing, the agency has calculated costs for additional staff, hearings, equipment and related expenses. It is estimated that by June 30, 2006, at the conclusion of the 2004-06 biennium, costs related to HB1441 could result in a \$2.1 million deficit for the board. In order to adjust fees as necessary to accomplish the regulatory and enforcement responsibilities set forth in the act, the board has adopted an emergency regulation to increase the biennial renewal fee by \$12 and has set other fees accordingly.

The emergency action will amend 18 VAC 90-20 to increase the biennial renewal fee for registered nurses and licensed practical nurses by \$12 from \$70 to \$82. Other fees that are associated with the licensing (renewal) fee will also be increased accordingly. The application fee for licensure by examination or by endorsement will increase from \$105 to \$117, because the first renewal cycle is included in the initial application fee. The fee for late renewal anytime within the two years following the expiration date will increase by \$5 from \$25 to \$30. The fees for reinstatement of a lapsed license after two years will increase from \$120 to \$132 and for reinstatement of a license that has been suspended or revoked from \$160 to \$172.

Failure to provide sufficient funding through the adoption of emergency regulations to cover the costs of implementing this legislation would place the agency in noncompliance with the law. If the board failed to increase fees sufficient to provide adequate staffing and support for investigative and disciplinary activities, the public health and safety would suffer by long delays in responding to complaints, processing cases and possibly removing incompetent or dangerous practitioners. The proposed regulatory action is essential to ensure that the board and the department have sufficient resources to respond to reports of misconduct in a timely and thorough fashion.

18 VAC 90-20-30. Fees.

Fees required in connection with the licensing of applicants by the board are:

1. Application for licensure by examination ~~\$105~~-\$117

Emergency Regulations

<p>2. Application for licensure by endorsement \$105 \$117</p> <p>3. Reapplication for licensure by examination \$25</p> <p>4. Biennial licensure renewal \$70 \$82</p> <p>5. Late renewal \$25 \$30</p> <p>6. Reinstatement of lapsed license \$120 \$132</p> <p>7. Reinstatement of suspended or revoked license \$160 \$172</p> <p>8. Duplicate license \$5</p> <p>9. Replacement wall certificate \$15</p> <p>10. Verification of license \$25</p> <p>11. Transcript of all or part of applicant/licensee records \$25</p> <p>12. Returned check charge \$25</p> <p>13. Application for CNS registration \$95</p> <p>14. Biennial renewal of CNS registration \$60</p> <p>15. Reinstatement of lapsed CNS registration \$105</p> <p>16. Verification of CNS registration to another jurisdiction \$25</p> <p>17. Late renewal of CNS registration \$20</p>	<p>Application for Licensure by Examination -- Licensed Practical Nurse (rev. 10/02 6/03).</p> <p>Instructions for Filing Application for Licensure by Repeat Examination for Registered Nurses, RN2-INS (rev. 10/02).</p> <p>Application for Licensure by Repeat Examination for Registered Nurse (rev. 10/02).</p> <p>Instructions for Filing Application for Licensure by Repeat Examination for Practical Nurses, PN2-INS (rev. 10/02).</p> <p>Application for Licensure by Repeat Examination for Licensed Practical Nurse (rev. 10/02).</p> <p>Instructions for Filing Application for Licensure by Examination for Licensed Practical Nurses Educated in Other Countries, PNF-INS (rev. 10/02 6/03).</p> <p>Application for Licensure by Examination for Registered Nurses Educated in Other Countries (rev. 10/02 6/03).</p> <p><i>Instructions for Filing Application for Licensure by Examination for Registered Nurses Educated in Other Countries (rev. 6/03).</i></p> <p>Temporary Exemption To Licensure (eff. 10/02).</p> <p>Application for Licensure by Examination for Licensed Practical Nurses Educated in Other Countries (rev. 10/02 6/03).</p> <p>Application for Reinstatement of License as a Registered Nurse (rev. 10/02 6/03).</p> <p>Application for Reinstatement of License as a Licensed Practical Nurse (rev. 10/02 6/03).</p> <p><i>Application for Reinstatement of License as a Registered Nurse Following Suspension or Revocation (rev. 6/03).</i></p> <p><i>Application for Reinstatement of License as a Licensed Practical Nurse Following Suspension or Revocation (rev. 6/03).</i></p> <p>License Verification Form (rev. 10/02).</p> <p>Renewal Notice and Application, 0001, RN (rev. 12/02 6/03).</p> <p>Renewal Notice and Application, 0002, LPN (rev. 12/02 6/03).</p> <p>Renewal Notice and Application, 0015, Clinical Nurse Specialist (rev. 12/02).</p> <p>Application for Registration as a Clinical Nurse Specialist (rev. 10/02).</p> <p>Survey Visit Report (rev. 12/02).</p> <p>Annual Report for Registered Nursing Programs (rev. 12/02).</p> <p>Annual Report for Practical Nursing Programs (rev. 12/02).</p> <p>Renewal Notice and Application 1401, Certified Nurse Aide (rev. 12/02).</p> <p>Renewal Notice and Application, Advanced Certified Nurse Aide (eff. 12/02).</p> <p>Instructions for Application for Certification as Advanced Certified Nurse Aide (eff. 2/03).</p>
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/s/ Mark R. Warner
Governor
Date: June 30, 2003

NOTICE: The forms used in administering the 18 VAC 90-20, Regulations Governing the Practice of Nursing, are not being published due to the large number; however, the name of each form is listed below. The forms are available for public inspection at the Board of Nursing, 6603 West Broad Street, Richmond, Virginia, or at the office of the Registrar of Regulations, General Assembly Building, 2nd Floor, Richmond, Virginia.

FORMS

Application for Licensure by Endorsement -- Registered Nurse (rev. ~~10/02~~ 6/03).

Instructions for Licensure by Endorsement -- Registered Nurse (rev. 10/02).

Instructions for Licensure by Endorsement -- Licensed Practical Nurse (rev. ~~10/02~~ 6/03).

Application for Licensure by Endorsement -- Licensed Practical Nurse (rev. 10/02).

Instructions for Filing Application for Licensure by Examination for Registered Nurses, RN1-INS (rev. 10/02).

Application for Licensure by Examination -- Registered Nurse (rev. ~~10/02~~ 6/03).

Instructions for Filing Application for Licensure by Examination for Practical Nurses, PN1-INS (rev. 10/02).

Emergency Regulations

Application for Certification as Advanced Certified Nurse Aide (eff. 2/03).

Application for Reinstatement of Nurse Aide Certification (rev. 12/02).

Instructions for Application for Reinstatement of Nurse Aide Certification (rev. 12/02).

Instructions for Application for Reinstatement of Advanced Nurse Aide Certification (eff. 2/03).

Application for Reinstatement of Advanced Nurse Aide Certification (eff. 2/03).

Application for Nurse Aide Certification by Endorsement (rev. 12/02).

Instructions for Application for Nurse Aide Certification by Endorsement (rev. 12/02).

Nurse Aide Certification Verification Form (rev. 12/02).

Application to Establish a Nurse Aide Education Program (rev. 12/02).

Application to Establish an Advanced Certification Nurse Aide Education Program (eff. 12/02).

Nurse Aide Education Program -- Program Evaluation Report (rev. 11/02).

Nurse Aide Education Program -- On-Site Review Report (rev. 12/02).

Advanced Certification Nurse Aide Education Program -- On-site Review Report (eff. 12/02).

Evaluation of On-Site Visitor (eff. 12/02).

Request for Statistical Information (eff. 12/02).

Application for Registration for Volunteer Practice (eff. 12/02).

Sponsor Certification for Volunteer Registration (eff. 1/03).

VA.R. Doc. No. R03-261; Filed July 3, 2003, 9:26 a.m.



FORMS

TITLE 14. INSURANCE

STATE CORPORATION COMMISSION

Bureau of Insurance

EDITOR'S NOTICE: The following forms have been filed by the State Corporation Commission. The forms are available for public inspection at the State Corporation Commission, 1300 East Main Street, Richmond, Virginia 23219, or the Office of the Registrar of Regulations, General Assembly Building, 2nd Floor, Richmond, Virginia. Copies of the forms may be obtained from Raquel Pino-Moreno, State Corporation Commission, 1300 East Main Street, Richmond, Virginia 23219, P.O. Box 1157, Richmond, Virginia, 23218, telephone (804) 371-9499 or e-mail rpinomoreno@scc.state.va.us.

Title of Regulation: 14 VAC 5-71. Rules Governing Viatical Settlement Providers and Viatical Settlement Brokers.

FORMS

~~Requirements for Viatical Settlement Provider Companies Seeking to Do Business in Virginia, eff. 11/97.~~

~~Application for Initial License as a Viatical Settlement Provider, eff. 11/97.~~

~~SCC Bureau of Insurance Biographical Affidavit.~~

Application for Reservation or for Renewal of Reservation of Corporate Name, SCC631/830 (09/96).

Application for a Certificate of Authority to Transact Business in Virginia, SCC759/921 (09/96).

Application for Individual Viatical Settlement Broker License, PIN250A, eff. 11/97.

Application for Agency Viatical Settlement Broker License, PIN250B, eff. 11/97.

Requirements for Operating in Virginia, SCCBOI33, eff. 7/03.

Application for Initial License as a Viatical Settlement Provider, SCCBOI34, eff. 7/03.

Biographical Affidavit, SCCBOI35, eff. 7/03.



GENERAL NOTICES/ERRATA

DEPARTMENT OF CRIMINAL JUSTICE SERVICES

Division of Forensic Science

Approved Field Tests for Detection of Drugs

Statutory Authority: § 19.2-188.1

In accordance with 6 VAC 20-220-60 of the Regulations for the Approval of Field Tests for Detection of Drugs and under the authority of the Code of Virginia, the following field tests for detection of drugs are approved field tests:

Becton Dickinson Public Safety
147 Clinton Road
West Caldwell, N. J. 07006

Drug or Drug Type	Manufacturer's Field Test
Marijuana	Test E (Duquenois-Levine Test)
Hashish	Test E (Duquenois-Levine Test)
Hashish Oil	Test E (Duquenois-Levine Test)
Cocaine Hydrochloride	Test G (Modified Scott Reagent)
Cocaine Base	Test G (Modified Scott Reagent)
Heroin	Test K (Opiates Reagent)
Codeine	Test K (Opiates Reagent)
Morphine	Test K (Opiates Reagent)
Heroin	Test L (Brown Heroin Reagent)
Barbiturates	Test C (Dille-Koppanyi, Modified)
Amphetamine	Test A (Marquis Reagent)
Methamphetamine	Test A (Marquis Reagent)
Lysergic Acid Diethylamide	Test D (LSD Reagent System)

O D V Incorporated (NarcoPouch)
Post Office Box 305
South Paris, Maine 04281

Drug or Drug Type	Manufacturer's Field Test
Narcotic Alkaloids	901-Mayer's Reagent
Heroin	901-Mayer's Reagent
Morphine	901-Mayer's Reagent
Cocaine Hydrochloride	901-Mayer's Reagent
Opiates	902-Marquis Reagent
Heroin	902-Marquis Reagent
Morphine	902-Marquis Reagent
Methamphetamine	902-Marquis Reagent
Amphetamine	902-Marquis Reagent
MDMA	902-Marquis Reagent
Heroin	903-Nitric Acid
Morphine	903-Nitric Acid
Cocaine Hydrochloride	904-Scott (Modified) Reagent
Cocaine Base	904-Scott (Modified) Reagent
Barbiturates	905-Dille-Koppanyi Reagent
Amphetamine	906-Mandelin Reagent
Methamphetamine	906-Mandelin Reagent
Methadone	906-Mandelin Reagent
Lysergic Acid Diethylamide (LSD)	907-Ehrlich's (Modified) Reagent
Marijuana	908-Duquenois Levine Reagent
Hashish	908-Duquenois Levine Reagent

Hashish Oil	908-Duquenois Levine Reagent
Tetrahydrocannabinol (THC)	908-Duquenois
Levine Reagent	
Marijuana	909-K N Reagent
Hashish	909-K N Reagent
Hashish Oil	909-K N Reagent
Tetrahydrocannabinol (THC)	909-K N Reagent
Phencyclidine (PCP)	914-PCP Methaqualone Reagent
Methaqualone	914-PCP Methaqualone Reagent
MDMA	923-Secondary Amine Reagent
Methamphetamine	923-Secondary Amine Reagent
Heroin	924-Mecke's Modified
Diazepam	925-Valium/Diazepam Reagent
Pentazocine	926-Talwin/Pentazocine Reagent
Ephedrine	927-Ephedrine Reagent
Narcotic Alkaloids	7601-Mayer's Reagent
Heroin	7601-Mayer's Reagent
Morphine	7601-Mayer's Reagent
Cocaine Hydrochloride	7601-Mayer's Reagent
Opiates	7602-Marquis Reagent
Heroin	7602-Marquis Reagent
Morphine	7602-Marquis Reagent
Methamphetamine	7602-Marquis Reagent
MDMA	7602-Marquis Reagent
Heroin	7603-Nitric Acid
Morphine	7603-Nitric Acid
Cocaine Hydrochloride	7604-Cobalt Thiocyanate Reagent
Dibucaine	7604-Cobalt Thiocyanate Reagent
Tetracaine	7604-Cobalt Thiocyanate Reagent
Procaine	7604-Cobalt Thiocyanate Reagent
Barbiturates	7605-Dille Koppanyi Reagent
Amphetamine	7606-Mandelin Reagent
Methadone	7606-Mandelin Reagent
Lysergic Acid Diethylamide (LSD)	7607-Modified Ehrlich's Reagent
Marijuana	7608-Duquenois Reagent
Hashish Oil	7608-Duquenois Reagent
Hashish	7608-Duquenois Reagent
Tetrahydrocannabinol (THC)	7608-Duquenois Reagent
Marijuana	7609-K N Reagent
Hashish Oil	7609-K N Reagent
Hashish	7609-K N Reagent
Tetrahydrocannabinol (THC)	7609-K N Reagent
Cocaine Base	7613-Test #13 (Cocaine Free-Base Reagent)
Phencyclidine (PCP)	7614-Test #14 (Methaqualone Reagent)
Methaqualone	7614-Test #14 (Methaqualone Reagent)
MDMA	7623-Secondary Amine Reagent
Methamphetamine	7623-Secondary Amine Reagent
Diazepam	7625-Test #25 (Diazepam Reagent)

Pentazocine 7626-Test #26 (Talwin Reagent)
 Ephedrine 7627-Test #27 (Ephedrine Reagent)

Sirchie Fingerprint Laboratories
 5825 Triangle Drive
 Umstead Industrial Park
 Post Office Box 30576
 Raleigh, N. C. 27622-0576

Drug or Drug Type	Manufacturer's Field Test
Narcotic Alkaloids	#1-Mayer's Reagent
Heroin	#1-Mayer's Reagent
Morphine	#1-Mayer's Reagent
Cocaine Hydrochloride	#1-Mayer's Reagent
Morphine	#1-Mayer's Reagent
Amphetamine	#1-Mayer's Reagent
Opium Alkaloids	#2-Marquis Reagent
Heroin	#2-Marquis Reagent
Amphetamine	#2-Marquis Reagent
Meperidine (Demerol) (Pethidine)	#2-Marquis Reagent
Heroin	#3-Nitric Acid Reagent
Morphine	#3-Nitric Acid Reagent
Cocaine Hydrochloride	#4-Cobalt Thiocyanate Reagent
Procaine	#4-Cobalt Thiocyanate Reagent
Tetracaine	#4-Cobalt Thiocyanate Reagent
Methadone	#4-Cobalt Thiocyanate Reagent
Barbiturates	#5-Dille-Koppanyi Reagent
Amphetamine	#6-Mandelin Reagent
Lysergic Acid Diethylamide (LSD)	#7-Ehrlich's Reagent
Marijuana	#8-Duquenois Reagent
Hashish	#8-Duquenois Reagent
Tetrahydrocannabinol (THC)	#8-Duquenois Reagent
Marijuana	#9-NDB (Fast Blue B Salt) Reagent
Hashish	#9-NDB (Fast Blue B Salt) Reagent
Tetrahydrocannabinol (THC)	#9-NDB (Fast Blue B Salt) Reagent
Cocaine Base (Crack)	#13-Cobalt Thiocyanate/Crack Test
Methamphetamine	#1-Mayer's Reagent
Methamphetamine	#1-Marquis Reagent
Hashish Oil	#8-Duquenois Reagent
Hashish Oil	#9-NDB (Fast Blue B Salt) Reagent

STATE WATER CONTROL BOARD

Proposed Consent Special Order Bluegreen Properties of Virginia

The State Water Control Board proposes to issue a consent special order to Bluegreen Properties of Virginia to resolve certain alleged violations of environmental laws and regulations occurring at the residential subdivision known as Brickshire located in New Kent, Virginia. The proposed order requires that Bluegreen Properties maintain E&S controls; clearly flag nonimpact wetlands; stabilize all temporary

disturbances to wetlands during construction within 30 days of completion of work; minimize, restore and stabilize disturbance in surface waters from utility line work; submit quarterly monitoring reports as scheduled; and make payment of a civil charge.

On behalf of the State Water Control Board, the Department of Environmental Quality will receive for 30 days from the date of publication of this notice written comments relating to the proposed consent special order. Comments should be addressed to Cynthia Akers, Department of Environmental Quality, Piedmont Regional Office, 4949-A Cox Road, Glen Allen, Virginia 23060; or sent to the email address of ecakers@deq.state.va.us. All comments received by email must include the commenter's name, address and phone number. A copy of the order may be obtained in person or by mail from the above office.

Consent Special Order CMS, Inc.

The Department of Environmental Quality on behalf of the State Water Control Board, and CMS, Inc., have agreed to a Consent Special Order in settlement of a civil enforcement action under the Virginia State Water Control Law permit regulation, 9 VAC 25-180-70, regarding construction activities at Sunchase Apartments in Farmville, Virginia. The department will consider written comments relating to this order until 5 p.m. on August 27, 2003. Comments must include name, address, and telephone number and can be e-mailed to hfwaggoner@deq.state.va.us or mailed to: Harry F. Waggoner, DEQ – South Central Regional Office, 7705 Timberlake Road, Lynchburg, Virginia 24502.

The order is available at www.deq.state.va.us/enforcement/notices.html and at the above office during regular business hours. You may request copies from Mr. Waggoner by calling him at 434-582-5120.

Proposed Consent Special Order Sandy's Mobile Court, Inc.

The State Water Control Board proposes to enter into a consent special order with Sandy's Mobile Court, Inc., to resolve violations of the State Water Control Law and regulations at Sandy's wastewater treatment plant in Frederick County, Virginia. The facility discharges to an unnamed tributary to Crooked Run in the Shenandoah River subbasin, Potomac River basin.

In May 2001, the facility began to experience difficulty complying with the permit's effluent limitations for ammonia. The facility has experienced chronic ammonia effluent limitation violations since that time.

The proposed consent special order settles outstanding notices of violation and incorporates a schedule of compliance to ensure consistent compliance with all permit requirements.

The board will receive written comments relating to the proposed consent special order for 30 days from the date of publication of this notice. Comments should be addressed to Steven W. Hetrick, Department of Environmental Quality, Post Office Box 3000, Harrisonburg, Virginia 22801, and should

General Notices/Errata

refer to the Consent Special Order. Comments may also be submitted via electronic mail to swhetrick@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.

The proposed order may be examined at the Department of Environmental Quality, Valley Regional Office, 4411 Early Road, Harrisonburg, Virginia 22801. A copy of the order may be obtained in person or by mail from this office.

VIRGINIA CODE COMMISSION

Notice to State Agencies

Mailing Address: Virginia Code Commission, 910 Capitol Street, General Assembly Building, 2nd Floor, Richmond, VA 23219, FAX (804) 692-0625.

Forms for Filing Material for Publication in *The Virginia Register of Regulations*

All agencies are required to use the appropriate forms when furnishing material for publication in the Virginia Register of Regulations. The forms may be obtained from: Virginia Code Commission, 910 Capitol Street, General Assembly Building, 2nd Floor, Richmond, VA 23219, telephone (804) 786-3591.

Internet: Forms and other Virginia Register resources may be printed or downloaded from the Virginia Register web page: <http://register.state.va.us>

FORMS:

NOTICE of INTENDED REGULATORY ACTION-RR01
NOTICE of COMMENT PERIOD-RR02
PROPOSED (Transmittal Sheet)-RR03
FINAL (Transmittal Sheet)-RR04
EMERGENCY (Transmittal Sheet)-RR05
NOTICE of MEETING-RR06
AGENCY RESPONSE TO LEGISLATIVE OBJECTIONS-RR08
PETITION FOR RULEMAKING-RR13

ERRATA

VIRGINIA WASTE MANAGEMENT BOARD

Title of Regulation: 9 VAC 20-170. **Transportation of Solid and Medical Wastes on State Waters.**

Publication: 19:18 VA.R. 2678-2681 May 19, 2003.

Correction to Final Regulation:

Page 2678, 9 VAC 20-170-70 B 5 a, change "subdivisions C 1, C 2 and C 3 a, and subsection D" to "subdivisions D 1, D 2 and D 3 a, and subsection E"

BOARD OF GAME AND INLAND FISHERIES

Title of Regulation: 4 VAC 15-240. **Game: Turkey.**

Publication: 19:19 VA.R. 2825 June 2, 2003.

Correction to Final Regulation:

Page 2825, 4 VAC 15-240-40 A, line 2, strike "only"

CALENDAR OF EVENTS

Symbol Key

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



☎ 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

July 30, 2003 - 10 a.m. -- Open Meeting

Holiday Inn-Richmond, 6531 West Broad Street, Richmond, Virginia.♿ (Interpreter for the deaf provided upon request)

A meeting to discuss regulatory review and other matters requiring board action.

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 boa@boa.state.va.us.

† **August 12, 2003 - 10 a.m.** -- Open Meeting

Department of Professional and Occupational Regulation, 3600 West Broad Street, Suite 696, Richmond Virginia.♿ (Interpreter for the deaf provided upon request)

A meeting of the Enforcement Committee for discussion and review of open cases.

Contact: Nancy Taylor Feldman, Executive Director, Board of Accountancy, 3600 W. Broad St., Suite 696, Richmond VA 23230, telephone (804) 367-8505, FAX (804) 367-2174, (804) 367-9753/TTY☎, e-mail boa@boa.state.va.us.

VIRGINIA AGRICULTURAL COUNCIL

† **August 25, 2003 - 8:30 a.m.** -- Open Meeting

† **August 26, 2003 - 9 a.m.** -- Open Meeting

AmeriSuites, 1020 Plantation Road, Blacksburg, Virginia.♿ (Interpreter for the deaf provided upon request)

The council meeting will be held for two days, August 25 and August 26, 2003. The meeting on August 25 will start at 8:30 a.m. and at 10 a.m. the council will begin a tour of various agricultural research interests at Virginia Tech. The meeting on August 26 will start at 9 a.m. to act upon financial and business affairs. The council will entertain public comment at the conclusion of all other business for a period not to exceed 30 minutes. Any person who needs

any accommodation in order to participate at the meeting should contact Thomas Yates at least five days before the meeting date so that suitable arrangements can be made.

Contact: Thomas R. Yates, Executive Director, Department of Agriculture and Consumer Services, 1100 Bank St., Room 509, Richmond, VA 23219, telephone (804) 786-6060, FAX (804) 371-8372, (800) 828-1120/TTY☎, e-mail tyates@vdacs.state.va.us.

DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES

NOTE: EXTENSION OF PUBLIC COMMENT PERIOD

August 1, 2003 - Public comments may be submitted until 5 p.m. on this date.

Notice is hereby given in accordance with § 2.2-4007 of the Code of Virginia that the State Board of Agriculture and Consumer Services intends to amend regulations entitled: **2 VAC 5-360. Regulations for the Enforcement of the Virginia Commercial Feed Act.** The purpose of the proposed action is to amend the current regulation to incorporate the changes made to the commercial feed industry standards by the Association of American Feed Control Officials in the last decade and statutory changes made to Virginia's Commercial Feed Law in 1994.

Statutory Authority: § 3.1-828.4 of the Code of Virginia.

Contact: J. Alan Rogers, Program Manager, Department of Agriculture and Consumer Services, 1100 Bank St., Room 402, Richmond, VA 23219, telephone (804) 786-2476, FAX (804) 371-1571 or e-mail jrogers@vdacs.state.va.us.

NOTE: EXTENSION OF PUBLIC COMMENT PERIOD

August 1, 2003 - Public comments may be submitted until 5 p.m. on this date.

Notice is hereby given in accordance with § 2.2-4007 of the Code of Virginia that the State Board of Agriculture and Consumer Services intends to amend regulations entitled: **2 VAC 5-440, Rules and Regulations for Enforcement of**

Calendar of Events

the Virginia Pest Law - Cotton Boll Weevil Quarantine.

The purpose of the proposed regulatory action is to amend the regulation to (i) establish the fixed date of July 1 as the official reporting and payment date for acreage assessment, (ii) reduce penalties assessed on farm operators for the late payment or nonpayment of fees from \$10 to \$5.00 per acre, and (iii) eliminate the mandate for destruction of the cotton crop for nonpayment of fees and assessments by farm operators.

Statutory Authority: § 3.1-188.23 of the Code of Virginia.

Contact: Frank M. Fulgham, Program Manager, Department of Agriculture and Consumer Services, 1100 Bank St., Room 703, Richmond, VA 23219, telephone (804) 786-3515, FAX (804) 371-7793 or e-mail ffulgham@vdacs.state.va.us.

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NOTE: EXTENSION OF PUBLIC COMMENT PERIOD

August 5, 2003 - 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 Agriculture and Consumer Services intends to amend regulations entitled: **2 VAC 5-320. Rules and Regulations for the Enforcement of the Endangered Plant and Insect Species Act.** The purpose of the proposed action is to review the regulation for effectiveness and continued need, including the following: amending the regulation to (i) remove the currently named plants that are no longer considered globally rare and (ii) add those threatened or endangered plant and insect species that are considered rare both globally and in Virginia.

Statutory Authority: § 3.1-1025 of the Code of Virginia.

Contact: Frank M. Fulgham, Program Manager, Department of Agriculture and Consumer Services, 1100 Bank St., Room 703, Richmond, VA 23219, telephone (804) 786-3515, FAX (804) 371-7793 or e-mail ffulgham@vdacs.state.va.us.

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NOTE: EXTENSION OF PUBLIC COMMENT PERIOD

September 2, 2003 - Public comments may be submitted until 5 p.m. on this date.


Notice is hereby given in accordance with § 2.2-4007 of the Code of Virginia that the Department of Agriculture and Consumer Services intends to amend regulations entitled: **2 VAC 5-20, Standards for Classification of Real Estate as Devoted to Agricultural Use and to Horticultural Use under the Virginia Land Use Assessment Law.** The purpose of the proposed action is to review the regulation for effectiveness and continued need, including amending the regulation to satisfy the statutory amendment made by Chapter 705 of the 2001 Acts of Assembly. Under that provision, localities are authorized to waive, with respect to real estate devoted to the production of crops that require more than two years from initial planting until commercially feasible harvesting, any requirement contained in the regulation that requires the real estate to have been used for a particular purpose for a minimum length of time before

qualifying as real estate devoted to agricultural or horticultural use. The Commissioner of Agriculture and Consumer Services is to promulgate regulations to carry out the provisions of the act.

Statutory Authority: § 58.1-3230 of the Code of Virginia; Chapter 705 of the 2001 Acts of Assembly.

Contact: Lawrence H. Redford, Regulatory Coordinator, Department of Agriculture and Consumer Services, 1100 Bank St., Room 211, Richmond, VA 23219, telephone (804) 371-8067, FAX (804) 371-2945, or e-mail lredford@vdacs.state.va.us.


Virginia Cotton Board

August 21, 2003 - 2 p.m. -- Open Meeting
Tidewater Agriculture Research and Extension Center, 6321 Holland Road, Suffolk, Virginia. 

The board will meet to approve minutes of the last meeting. In addition, the board will review financial reports and the status of current projects and contracts, discuss priorities for future funding initiatives, and take up any other business that may come before the board. The board will entertain public comment at the conclusion of all other business for a period not to exceed 30 minutes. Any person who needs any accommodation in order to participate at the meeting should contact the person identified in this notice at least five days before the meeting date so that suitable arrangements can be made.

Contact: Gail Moody Milteer, Program Director, Virginia Cotton Board, 1100 Armory Dr., Suite 120, Franklin, VA 23851, telephone (757) 569-1100, FAX (757) 562-6104.

Virginia Horse Industry Board

August 25, 2003 - 10 a.m. -- Open Meeting
Virginia Department of Forestry, 900 Natural Resources Drive, 2nd Floor Meeting Room, Charlottesville, Virginia. 

The board will review the minutes of the last meeting, its current financial status, and on-going projects. The board will also discuss promotional plans and activities for FY 2003-2004. The board will entertain public comment at the conclusion of all other business for a period not to exceed 30 minutes. Any person who needs any accommodation in order to participate at the meeting should contact Andrea S. Heid at least five days before the meeting date so that suitable arrangements can be made.

Contact: Andrea S. Heid, Equine Marketing Specialist/Program Manager, Department of Agriculture and Consumer Services, 1100 Bank St., 9th Floor, Richmond, VA 23219, telephone (804) 786-5842, FAX (804) 786-3122.

Virginia Soybean Board

August 8, 2003 - 1 p.m. -- Open Meeting
Corbin Hall, 2936 Corbin Hall Drive, Waterview, Virginia. 

The board will discuss checkoff revenues and the financial status of the board following the end of the fiscal year ending June 30, 2003, and will hear and approve the

minutes of the March 6, 2003, meeting. Reports will be heard from the Chairman, United Soybean Board representatives, and from other committees. The board will entertain public comment at the conclusion of all other business for a period not to exceed 30 minutes. Any person who needs any accommodation in order to participate at the meeting should contact the person identified in this notice at least five days before the meeting date so that suitable arrangements can be made.

Contact: Philip T. Hickman, Program Director, Department of Agriculture and Consumer Services, 1100 Bank St., Room 906, Richmond, VA 23219, telephone (804) 371-6157, FAX (804) 371-7786, e-mail phickman@vdacs.state.va.us.

STATE AIR POLLUTION CONTROL BOARD

August 20, 2003 - 10 a.m. -- Public Hearing
Department of Environmental Quality, 629 East Main Street, Richmond, Virginia.

September 12, 2003 - Public comments may be submitted until this date.

Notice is hereby given in accordance with § 2.2-4007 of the Code of Virginia that the State Air Pollution Control Board intends to amend regulations entitled **9 VAC 5-140, Regulation for Emission Trading**. The purpose of the proposed action is to correct an EPA-identified deficiency in the banking provisions of the No_x Budget Trading Program regulation with regard to the state date for flow control.

Statutory Authority: §§ 10.1-1308 and 10.1-1322.3 of the Code of Virginia.

Contact: Mary E. Major, Environmental Program Manager, 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.

August 26, 2003 - 9 a.m. -- Public Hearing
Department of Environmental Quality, Tidewater Regional Office, 5636 Southern Boulevard, Virginia Beach, Virginia.

September 12, 2003 - Public comments may be submitted until this date.

Notice is hereby given in accordance with § 2.2-4007 of the Code of Virginia that the State Air Pollution Control Board intends to amend regulations entitled **9 VAC 5-20, General Provisions (Rev. G02)**. The purpose of the proposed action is enlarge the scope of the Hampton Roads Emissions Control Area.

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

Contact: Kathleen R. Sands, Department of Environmental Quality, P.O. Box 10009, Richmond, VA 23240, telephone (804) 698-4413, FAX (804) 698-4510 or e-mail krsands@deq.state.va.us.

August 26, 2003 - 9 a.m. -- Public Hearing
Department of Environmental Quality, Tidewater Regional Office, 5636 Southern Boulevard, Virginia Beach, Virginia.

August 26, 2003 - 1:30 p.m. -- Public Hearing
Department of Environmental Quality, 4411 Early Road, Harrisonburg, Virginia.

September 12, 2003 - Public comments may be submitted until this date.

Notice is hereby given in accordance with § 2.2-4007 of the Code of Virginia that the State Air Pollution Control Board intends to amend regulations entitled **9 VAC 5-20, General Provisions, and 9 VAC 5-40, Existing Stationary Sources (Rev. C03)**. The purpose of the proposed action is enlarge the scope of volatile organic compound (VOC) emissions control areas in order to include potential new ozone nonattainment areas. This action is being taken to implement a program established by the U.S. Environmental Protection Agency (EPA) for areas potentially designated as nonattainment under the eight-hour ozone standard. This program establishes such areas to avoid the nonattainment designation through early reduction credits.

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

Contact: Karen G. Sabasteanski, Policy Analyst, Department of Environmental Quality, P.O. Box 10009, Richmond, VA 23240, telephone (804) 698-4426, FAX (804) 698-4510 or e-mail kgsabastea@deq.state.va.us.

August 26, 2003 - 9 a.m. -- Public Hearing
Department of Environmental Quality, Fredericksburg Satellite Office, 806 Westwood Office Park, Conference Room, Fredericksburg, Virginia.

September 12, 2003 - Public comments may be submitted until this date.


Notice is hereby given in accordance with § 2.2-4007 of the Code of Virginia that the State Air Pollution Control Board intends to amend regulations entitled **9 VAC 5-20, General Provisions, and 9 VAC 5-40, Existing Stationary Sources (Rev. C02)**. The purpose of the proposed action is to achieve necessary VOC emissions reductions to stay within the budget limit in order to safeguard federal approval of transportation projects in Northern Virginia.

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

Contact: Kathleen R. Sands, Department of Environmental Quality, P.O. Box 10009, Richmond, VA 23240, telephone (804) 698-4413, FAX (804) 698-4510 or e-mail krsands@deq.state.va.us.

Calendar of Events


ALCOHOLIC BEVERAGE CONTROL BOARD

July 28, 2003 - 9 a.m. -- Open Meeting
August 11, 2003 - 9 a.m. -- Open Meeting
August 25, 2003 - 9 a.m. -- Open Meeting
September 8, 2003 - 9 a.m. -- Open Meeting
September 22, 2003 - 9 a.m. -- Open Meeting
October 14, 2003 - 9 a.m. -- Open Meeting
† October 27, 2003 - 9 a.m. -- Open Meeting
Department of Alcoholic Beverage Control, 2901 Hermitage Road, Richmond, Virginia. 

A meeting to receive and discuss reports and activities from staff members. Other matters are not yet determined.


Contact: W. Curtis Coleburn, III, Secretary to the Board, Alcoholic Beverage Control Board, P.O. Box 27491, Richmond, VA 23261, telephone (804) 213-4409, FAX (804) 213-4442, e-mail wccolen@abc.state.va.us.

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

July 30, 2003 - 9 a.m. -- Open Meeting
Department of Professional and Occupational Regulations, 3600 West Broad Street, Richmond, Virginia.  (Interpreter for the deaf provided upon request)


A meeting of the Architects Section to conduct board business. The meeting is open to the public; however, a portion of the board's business may be discussed in closed session. Persons desiring to participate in the meeting and requiring special accommodations or interpreter services should contact the department at least 10 days prior to this meeting so that suitable arrangements can be made. The department fully complies with the Americans with Disabilities Act.


Contact: Mark N. Courtney, Executive Director, Board for Architects, Professional Engineers, Land Surveyors, Certified Interior Designers and Landscape Architects, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-8514, FAX (804) 367-2475, (804) 367-9753/TTY , e-mail APELSCIDLA@dpor.state.va.us.

August 5, 2003 - 9 a.m. -- Open Meeting
Department of Professional and Occupational Regulations, 3600 West Broad Street, Richmond, Virginia.  (Interpreter for the deaf provided upon request)

A meeting of the Professional Engineers Section to conduct board business. The meeting is open to the public; however, a portion of the board's business may be discussed in closed session. Persons desiring to participate in the meeting and requiring special accommodations or interpreter services should contact the department at least 10 days prior to this meeting so that suitable arrangements can be made. The department fully complies with the Americans with Disabilities Act.


Contact: Mark N. Courtney, Executive Director, Board for Architects, Professional Engineers, Land Surveyors, Certified

Interior Designers and Landscape Architects, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-8514, FAX (804) 367-2475, (804) 367-9753/TTY , e-mail APELSCIDLA@dpor.state.va.us.

August 5, 2003 - 9 a.m. -- Open Meeting
September 10, 2003 - 9 a.m. -- Open Meeting
Department of Professional and Occupational Regulations, 3600 West Broad Street, Richmond, Virginia.  (Interpreter for the deaf provided upon request)


A meeting to conduct board business. The meeting is open to the public; however, a portion of the board's business may be discussed in closed session. Persons desiring to participate in the meeting and requiring special accommodations or interpreter services should contact the department at least 10 days prior to this meeting so that suitable arrangements can be made. The department fully complies with the Americans with Disabilities Act.

Contact: Mark N. Courtney, Executive Director, Board for Architects, Professional Engineers, Land Surveyors, Certified Interior Designers and Landscape Architects, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-8514, FAX (804) 367-2475, (804) 367-9753/TTY , e-mail APELSCIDLA@dpor.state.va.us.

August 6, 2003 - 9 a.m. -- Open Meeting
Department of Professional and Occupational Regulations, 3600 West Broad Street, Richmond, Virginia.  (Interpreter for the deaf provided upon request)

A meeting of the Land Surveyors Section to conduct board business. The meeting is open to the public; however, a portion of the board's business may be discussed in closed session. Persons desiring to participate in the meeting and requiring special accommodations or interpreter services should contact the department at least 10 days prior to this meeting so that suitable arrangements can be made. The department fully complies with the Americans with Disabilities Act.

Contact: Mark N. Courtney, Executive Director, Board for Architects, Professional Engineers, Land Surveyors, Certified Interior Designers and Landscape Architects, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-8514, FAX (804) 367-2475, (804) 367-9753/TTY , e-mail APELSCIDLA@dpor.state.va.us.

August 7, 2003 - 9 a.m. -- Open Meeting
Department of Professional and Occupational Regulations, 3600 West Broad Street, Richmond, Virginia.  (Interpreter for the deaf provided upon request)

A meeting of the Landscape Architects Section to conduct board business. The meeting is open to the public; however, a portion of the board's business may be discussed in Closed Session. Persons desiring to participate in the meeting and requiring special accommodations or interpreter services should contact the department at least 10 days prior to this meeting so that suitable arrangements can be made. The department fully complies with the Americans with Disabilities Act.

Contact: Mark N. Courtney, Executive Director, Board for Architects, Professional Engineers, Land Surveyors, Certified Interior Designers and Landscape Architects, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-8514, FAX (804) 367-2475, (804) 367-9753/TTY ☎, e-mail APELSCIDLA@dpor.state.va.us.

August 14, 2003 - 9 a.m. -- Open Meeting
Department of Professional and Occupational Regulations, 3600 West Broad Street, Richmond, Virginia. ♿ (Interpreter for the deaf provided upon request)

A meeting of the Certified Interior Designers Section to conduct board business. The meeting is open to the public; however, a portion of the board's business may be discussed in closed session. Persons desiring to participate in the meeting and requiring special accommodations or interpreter services should contact the department at least 10 days prior to this meeting so that suitable arrangements can be made. The department fully complies with the Americans with Disabilities Act.

Contact: Mark N. Courtney, Executive Director, Board for Architects, Professional Engineers, Land Surveyors, Certified Interior Designers and Landscape Architects, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-8514, FAX (804) 367-2475, (804) 367-9753/TTY ☎, e-mail APELSCIDLA@dpor.state.va.us.

ART AND ARCHITECTURAL REVIEW BOARD

August 1, 2003 - 10 a.m. -- Open Meeting
September 5, 2003 - 10 a.m. -- Open Meeting
October 3, 2003 - 10 a.m. -- Open Meeting
Science Museum of Virginia, 2500 West Broad Street, Richmond, Virginia. (Interpreter for the deaf provided upon request)

A monthly meeting to review projects submitted by state agencies. AARB submittal forms and submittal instructions can be downloaded by visiting the DGS forms center at www.dgs.state.va.us. Request Submittal Form # DGS-30-905 or Submittal Instructions form # DGS-30-906.

Contact: Richard L. Ford, AIA, Chairman, Art and Architectural Review Board, 1011 E. Main Street, #221, Richmond, VA 23219, telephone (804) 643-1977, FAX (804) 643-1981, (804) 786-6152/TTY ☎, e-mail rlfai@aol.com.

VIRGINIA BOARD FOR ASBESTOS, LEAD, AND HOME INSPECTORS

August 27, 2003 - 9 a.m. -- Open Meeting
Department of Professional and Occupational Regulation, 3600 West Broad Street, Richmond, Virginia. ♿

A meeting to conduct board business.

Contact: David Dick, Assistant Director, Virginia Board for Asbestos, Lead, and Home Inspectors, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-8507, FAX (804) 367-6128, (804) 367-9753/TTY ☎, e-mail asbestos@dpor.state.va.us.

COMPREHENSIVE SERVICES FOR AT-RISK YOUTH AND FAMILIES

State Executive Council

July 30, 2003 - 9 a.m. -- Open Meeting
August 27, 2003 - 9 a.m. -- Open Meeting
September 24, 2003 - 9 a.m. -- Open Meeting
Department of Social Services, 730 East Broad Street, Lower Level Room 3, Richmond, Virginia. ♿

A monthly council meeting. For traveling directions, please call (804) 692-1100.

Contact: Alan G. Saunders, Director, Office of Comprehensive Services, 1604 Santa Rosa Rd., Richmond, VA 23229, telephone (804) 662-9815, FAX (804) 662-9831, e-mail ags992@central.dss.state.va.us.

BOARD OF AUDIOLOGY AND SPEECH-LANGUAGE PATHOLOGY

† **August 14, 2003 - Noon** -- Open Meeting
Department of Health Professions, 6603 West Broad Street, 5th Floor, Richmond, Virginia. ♿

A meeting to hear possible violations of the laws and regulations governing the practice of audiology and speech-language pathology.

Contact: Elizabeth Young, Executive Director, Board of Audiology and Speech-Language Pathology, 6603 West Broad Street, 5th Floor, Richmond, VA 23230-1712, telephone (804) 662-9907, FAX (804) 662-9523, (804) 662-7197/TTY ☎, e-mail elizabeth.young@dhp.state.va.us.

VIRGINIA AVIATION BOARD

† **August 20, 2003 - 1 p.m.** -- Open Meeting
Richmond Omni, 100 South 12th Street, Richmond, Virginia. ♿

The 2003 Virginia Aviation Conference will be held August 20 through 22, 2003. Applications for state funding will be presented to the board and other matters of interest will be presented to the Virginia aviation community. 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 (800) 292-1034, (804) 236-3624/TTY ☎, e-mail toth@doav.state.va.us.

DEPARTMENT FOR THE BLIND AND VISION IMPAIRED


† **September 10, 2003 - 10:30 a.m.** -- Open Meeting
Library and Resource Center, 395 Azalea Avenue, Richmond, Virginia. ♿ (Interpreter for the deaf provided upon request)

Calendar of Events


A joint board meeting of the Virginia Industries for the Blind in Richmond and Charlottesville.


Contact: Rick Bohrer, Industry Manager, Department for the Blind and Vision Impaired, 1535 High St., Richmond VA 23220, telephone (804) 786-2056, FAX (804) 786-4582, toll-free (800) 622-2155, e-mail bohrerrc@dbvi.state.va.us.

BOARD FOR BRANCH PILOTS


July 31, 2003 - 8:30 a.m. -- Open Meeting
Virginia Pilot Association, 3329 Shore Drive, Virginia Beach, Virginia. 

A meeting to conduct examinations. Persons desiring to participate in the meeting and requiring special accommodations or interpretive services should contact the department at least 10 days prior to the meeting so that suitable arrangements can be made. The department fully complies with the Americans with Disabilities Act.

Contact: Mark N. Courtney, Executive Director, Board for Branch Pilots, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-8514, FAX (804) 367-2475, (804) 367-9753/TTY , e-mail branchpilots@dpor.state.va.us.


August 1, 2003 - 9:30 a.m. -- Open Meeting
Virginia Port Authority, 600 World Trade Center, Board Room, Norfolk, Virginia. 

A meeting to conduct board business. The meeting is open to the public; however, a portion of the board's business may be discussed in closed session. Persons desiring to participate in the meeting and requiring special accommodations or interpreter services should contact the department at least 10 days prior to the meeting so that suitable arrangements can be made. The department fully complies with the Americans with Disabilities Act.


Contact: Mark N. Courtney, Executive Director, Board for Branch Pilots, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-8514, FAX (804) 367-2475, (804) 367-9753/TTY , e-mail branchpilots@dpor.state.va.us.

CEMETERY BOARD

† **August 12, 2003 - 9 a.m.** -- Open Meeting


† **August 21, 2003 - 9 a.m.** -- Open Meeting
Department of Professional and Occupational Regulation, 3600 West Broad Street, 4th Floor, Room 453, Richmond, Virginia. 

A meeting to conduct an informal fact-finding conference.


Contact: Karen W. O'Neal, Regulatory Programs Coordinator, Department of Professional and Occupational Regulation, 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.

August 13, 2003 - 9 a.m. -- Open Meeting
Department of Professional and Occupational Regulation, 3600 West Broad Street, Richmond, Virginia.


A meeting to conduct board business.


Contact: Karen W. O'Neal, Regulatory Programs Coordinator, Department of Professional and Occupational Regulation, 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.

CHESAPEAKE BAY LOCAL ASSISTANCE BOARD


August 4, 2003 - 10 a.m. -- Open Meeting
James Monroe Building, 101 North 14th Street, Main Level, Conference Room, Richmond, Virginia.  (Interpreter for the deaf provided upon request)


The purpose of this meeting is for the board to consider approving new agency guidance pertaining to (i) definitions of the terms "water body with perennial flow" and "contiguous" (as the latter term applies to nontidal wetlands to be included in locally designated Resource Protection Areas); (ii) protocols for determining the presence of perennial flow through site-specific investigations; and (iii) mapping of local Chesapeake Bay Preservation Areas. The board will also be provided with an update pertaining to the status of guidance entitled "Riparian Buffers Guidance Manual." Public comment will be taken.

Contact: Carolyn J. Elliott, Administrative Assistant, Chesapeake Bay Local Assistance Board, James Monroe Bldg., 101 N. 14th St., 17th Floor, Richmond, VA 23219, telephone (804) 371-7505, FAX (804) 225-3447, toll-free (800) 243-7229, (800) 243-7229/TTY , e-mail celliott@cblad.state.va.us.


† **August 12, 2003 - 10 a.m.** -- Open Meeting
James Monroe Building, 101 North 14th Street, 17th Floor, Conference Room, Richmond, Virginia.  (Interpreter for the deaf provided upon request)

The committee will conduct general business, including review of local Chesapeake Bay Preservation Area programs for the Northern Area.

Contact: Carolyn J. Elliott, Administrative Assistant, Chesapeake Bay Local Assistance Board, James Monroe Bldg., 101 N. 14th St., 17th Floor, Richmond, VA 23219, telephone (804) 371-7505, FAX (804) 225-3447, toll-free (800) 243-7229, (800) 243-7229/TTY , e-mail celliott@cblad.state.va.us.

† **August 12, 2003 - 2 p.m.** -- Open Meeting
James Monroe Building, 101 North 14th Street, 17th Floor, Conference Room, Richmond, Virginia.  (Interpreter for the deaf provided upon request)

The committee will conduct general business, including review of local Chesapeake Bay Preservation Area programs for the Southern Area.

Contact: Carolyn J. Elliott, Administrative Assistant, Chesapeake Bay Local Assistance Board, James Monroe Bldg., 101 N. 14th St., 17th Floor, Richmond, VA 23219, telephone (804) 371-7505, FAX (804) 225-3447, toll-free (800) 243-7229, (800) 243-7229/TTY , e-mail celliott@cblad.state.va.us.

STATE CHILD FATALITY REVIEW TEAM

September 12, 2003 - 10 a.m. -- Open Meeting
Office of the Chief Medical Examiner, 400 East Jackson Street, Richmond, Virginia. ☎

The business portion of the State Child Fatality Review Team meeting, from 10 a.m. to 10:30 a.m., is open to the public. At the conclusion of the open meeting, the team will go into closed session for confidential case review.

Contact: Virginia Powell, Coordinator, State Child Fatality Review Team, 400 East Jackson St., Richmond, VA 23219, telephone (804) 786-6047, FAX (804) 371-8595, toll-free (800) 447-1708, e-mail vpowell@vdh.state.va.us.

COMPENSATION BOARD

† **August 20, 2003 - 11 a.m.** -- Open Meeting
Compensation Board, 202 North 9th Street, 10th Floor, Richmond, Virginia. ☎

A monthly board meeting.

Contact: Cindy P. Waddell, Administrative Staff Assistant, Compensation Board, P.O. Box 710, Richmond, VA 23218, telephone (804) 786-0786, FAX (804) 371-0235, e-mail cwaddell@scb.state.va.us.

DEPARTMENT OF CONSERVATION AND RECREATION

July 28, 2003 - 7 p.m. -- Open Meeting
Ferlazzo Building, 15941 Donald Curtis Drive, Auditorium, Woodbridge, Virginia. ☎

The Leesylvania State Park master planning process will be explained, and public input will be received on the draft park mission statement and draft goals and objectives.

Contact: Derral Jones, Planning Bureau Manager, Department of Conservation and Recreation, 203 Governor St., Suite 326, Richmond, VA 23219, telephone (804) 786-9042, FAX (804) 371-7899, e-mail djones@dcr.state.va.us.

July 29, 2003 - 6:30 p.m. -- Open Meeting
Eastern Shore Virginia Community College, Melfa, Virginia. ☎

An Eastern Shore tributary strategy kick-off meeting. Staff from Virginia's natural resource agencies are meeting with stakeholders in each of Virginia's Chesapeake Bay river basins to discuss the revision of new nutrient and sediment reduction strategies for each basin.

Contact: Ernie Brown, DCR Environmental Manager, Department of Conservation and Recreation, Chowan/Albemarle Coastal Watershed Office, 1548 Holland Rd., Suffolk, VA 23219, telephone (757) 925-2468, FAX (757) 925-2388, e-mail ebrown@dcr.state.va.us.

† **August 4, 2003 - 6:30 p.m.** -- Open Meeting
Jackson Elementary School, 4424 Fort Chiswell Road (U.S. Route 52), Cafeteria, Austinville, Virginia. ☎

Continued discussion of the New River Trail State Park master plan.

Contact: Robert Munson, Acting Deputy Director, Department of Conservation and Recreation, 203 Governor St., Suite 302, Richmond, VA 23219, telephone (804) 786-6140, FAX (804) 371-7899, e-mail rmunson@dcr.state.va.us.

† **August 5, 2003 - 3:30 p.m.** -- Open Meeting
Fairy Stone State Park, 967 Fairystone Lake Drive, Stuart, Virginia. ☎

Discussion of the Fairy Stone State Park master plan.

Contact: Robert Munson, Environmental Program Planner, Department of Conservation and Recreation, 203 Governor St., Suite 326, Richmond, VA 23219, telephone (804) 786-6140, FAX (804) 371-7899, e-mail rmunson@dcr.state.va.us.

August 7, 2003 - 9:30 a.m. -- Open Meeting
Hampton Roads Planning District Commission, Chesapeake, Virginia. ☎

A Lower James tributary strategy kick-off meeting. Staff from Virginia's natural resource agencies are meeting with stakeholders in each of Virginia's Chesapeake Bay river basins to discuss the revision of new nutrient and sediment reduction strategies for each basin.

Contact: Ernie Brown, Environmental Manager, Department of Conservation and Recreation, DCR Chowan/Albemarle Coastal Watershed Office, 1548 Holland Rd., Suffolk, VA 23434, telephone (757) 925-2468, FAX (757) 925-2388, e-mail ebrown@dcr.state.va.us.

† **August 12, 2003 - 6:30 p.m.** -- Open Meeting
Fairy Stone State Park, Fayerdale Hall, 927 Fairystone Lake Drive, Stuart, Virginia. ☎

The committee will receive input from the public regarding the proposed Fairy Stone State Park master plan.

Contact: Robert Munson, Environmental Program Planner, Department of Conservation and Recreation, 203 Governor St., Suite 326, Richmond, VA 23219, telephone (804) 786-6140, FAX (804) 371-7899, e-mail rmunson@dcr.state.va.us.

† **August 13, 2003 - 6:30 p.m.** -- Open Meeting
Wytheville Community College, Grayson Hall Commons, 1000 East Main Street, Wytheville, Virginia. ☎

The New River Trail State Park Master Plan Committee will receive comments from the public.

Contact: Robert Munson, Environmental Program Planner, Department of Conservation and Recreation, 203 Governor St., Suite 326, Richmond, VA 23219, telephone (804) 786-6140, FAX (804) 371-7899, e-mail rmunson@dcr.state.va.us.

Virginia Cave Board

September 13, 2003 - 1 p.m. -- Open Meeting
Radford, Virginia. ☎

Committee meetings will begin at 11 a.m. The board meeting will begin at 1 p.m.

Contact: Larry Smith, Natural Area Protection Manager, Department of Conservation and Recreation, 203 Governor St., Suite 302, Richmond, VA 23219, telephone (804) 371-6205, FAX (804) 371-2674, e-mail lsmith@dcr.state.va.us.

Calendar of Events

Virginia Land Conservation Foundation

† **August 12, 2003 - 9 a.m.** -- Open Meeting
Dorey Recreational Park 2999 Darbytown Road, Richmond, Virginia. ☎

A regular business meeting.

Contact: Leon E. App, Acting Deputy Director, Department of Conservation and Recreation, 203 Governor St., Suite 302, Richmond, VA 23219, telephone (804) 786-6124, FAX (804) 786-6141, e-mail leonapp@dcr.state.va.us.

BOARD FOR CONTRACTORS

July 29, 2003 - 9 a.m. -- Open Meeting

August 5, 2003 - 9 a.m. -- Open Meeting

August 6, 2003 - 1:30 p.m. -- Open Meeting

August 12, 2003 - 9 a.m. -- Open Meeting

August 26, 2003 - 9 a.m. -- Open Meeting

September 9, 2003 - 9 a.m. -- Open Meeting

September 30, 2003 - 9 a.m. -- Open Meeting

October 14, 2003 - 9 a.m. -- Open Meeting

† **October 21, 2003 - 9 a.m.** -- Open Meeting

Department of Professional and Occupational Regulation, 3600 West Broad Street, Richmond, Virginia. ☎ (Interpreter for the deaf provided upon request)

Informal fact-finding conferences. Persons desiring to participate in the meeting and requiring special accommodations or interpretive services should contact the department at 804-367-0946 at least 10 days prior to the meeting so that suitable arrangements can be made for appropriate accommodations. The department fully complies with the Americans with Disabilities Act.

Contact: Sharon Martin, Legal Assistant, Department of Professional and Occupational Regulation, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-8582, FAX (804) 367-0194, (804) 367-9753/TTY ☎, e-mail martin@dpor.state.va.us.

August 5, 2003 - 9 a.m. -- Open Meeting

August 6, 2003 - 1:30 p.m. -- Open Meeting

September 16, 2003 - 9 a.m. -- Open Meeting

† **October 28, 2003 - 9 a.m.** -- Open Meeting

Department of Professional and Occupational Regulation, 3600 West Broad Street, Richmond, Virginia. ☎ (Interpreter for the deaf provided upon request)

Informal fact-finding conferences for the Contractor Recovery Fund. Persons desiring to participate in the meeting and requiring special accommodations or interpretive services should contact the department at 804-367-0946 at least 10 days prior to this meeting so that suitable arrangements can be made for appropriate accommodations. The department fully complies with the Americans with Disabilities Act.

Contact: Sharon Martin, Legal Assistant, Department of Professional and Occupational Regulation, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-8562, FAX (804) 367-0194, (804) 367-9753/TTY ☎, e-mail martin@dpor.state.va.us.

August 6, 2003 - 10 a.m. -- Open Meeting

Department of Professional and Occupational Regulation, 3600 West Broad Street, Richmond, Virginia. ☎

A regular meeting of the Tradesman/Education Committee to consider items of interest relating to the Tradesmen, Backflow Workers, Education and other appropriate matters relating to Tradesmen and the Board for Contractors.

Contact: Eric L. Olson, Assistant Director, Board for Contractors, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-2785, FAX (804) 367-2474, (804) 367-9753/TTY ☎, e-mail contractors@dpor.state.va.us.

August 20, 2003 - 9 a.m. -- Open Meeting

October 8, 2003 - 9 a.m. -- Open Meeting

Department of Professional and Occupational Regulation, 3600 West Broad Street, Richmond, Virginia. ☎

A regular meeting to address policy and procedural issues, review and render decisions on applications for contractors' licenses, and review and render case decisions on matured complaints against licensees. The meeting is open to the public; however, a portion of the board's business may be conducted in closed session.

Contact: Eric L. Olson, Assistant Director, Department of Professional and Occupational Regulation, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-2785, FAX (804) 367-2474, (804) 367-9753/TTY ☎, e-mail contractors@dpor.state.va.us.

BOARD OF COUNSELING

August 21, 2003 - 10 a.m. -- Open Meeting

Department of Health Professions, 6603 West Broad Street, 5th Floor, Richmond, Virginia. ☎

The Credentials Committee will meet to review and discuss applicant credentials and hold an informal conference pursuant to § 2.2-4019 of the Code of Virginia. The committee will meet in open and closed sessions.

Contact: Joyce D. Williams, Administrative Assistant, Board of Counseling, 6603 W. Broad St., 6th Floor, Richmond, VA 23230, telephone (804) 662-9912, FAX (804) 662-7250, (804) 662-7197/TTY ☎, e-mail coun@dhp.state.va.us.

August 22, 2003 - 10 a.m. -- Open Meeting


Department of Health Professions, 6603 West Broad Street, 5th Floor, Richmond, Virginia. ☎

A business meeting to include reports from standing committees and any other disciplinary or regulatory matters as may be presented on the agenda. Public comment will be received at the beginning of the meeting


Contact: Evelyn B. Brown, Executive Director, Board of Counseling, Alcoa Bldg., 6603 W. Broad St., 5th Floor, Richmond, VA 23230-1712, telephone (804) 662-9912, FAX (804) 662-9943, (804) 662-7197/TTY ☎, e-mail evelyn.brown@dhp.state.va.us.

DEPARTMENT FOR THE DEAF AND HARD-OF-HEARING

August 6, 2003 - 10 a.m. -- Open Meeting

Department for the Deaf and Hard-of-Hearing, 1602 Rolling Hills Drive, Suite 203, Richmond, Virginia.  (Interpreter for the deaf provided upon request)


A regular meeting.

Contact: Leslie Hutcheson Prince, Policy and Planning Manager, Department for the Deaf and Hard-of-Hearing, 1602 Rolling Hills Dr., Suite 203, Richmond, VA 23229, telephone (804) 662-9703, FAX (804) 662-9718, toll-free (800) 552-7917, (804) 662-9502/TTY , e-mail princeelh@ddhh.state.va.us.


BOARD OF DENTISTRY

† **August 15, 2003 - 9 a.m.** -- Open Meeting

† **August 29, 2003 - 9:30 a.m.** -- Open Meeting

Department of Health Professions, 6603 West Broad Street, 5th Floor, Room 1, Richmond, Virginia. 

Informal Hearings. There will not be a public comment period.


Contact: JeAnne Marshall, Administrative Assistant, Department of Health Professions, 6603 W. Broad St., 5th Fl, Richmond, Virginia 23230-1712, telephone (804) 662-9906, FAX (804) 662-7246, (804) 662-7197/TTY , e-mail JeAnne.Marshall@dhp.state.va.us.

DESIGN-BUILD/CONSTRUCTION MANAGEMENT REVIEW BOARD

August 21, 2003 - 11 a.m. -- Open Meeting

September 18, 2003 - 11 a.m. -- Open Meeting

† **October 16, 2003 - 11 a.m.** -- Open Meeting

Department of General Services, 8th Street Office Building, 3rd Floor, Richmond, Virginia.  (Interpreter for the deaf provided upon request)

A meeting to review requests submitted by localities to use design-build or construction management type contracts. Contact the Division of Engineering and Buildings to confirm the meeting. Board rules and regulations can be obtained online at www.dgs.state.va.us under the DGS Forms, Form # DGS-30-904.

Contact: Freddie M. Adcock, Administrative Assistant, Department of General Services, 805 E. Broad St., Room 101, Richmond, VA 23219, telephone (804) 786-3263, FAX (804) 371-7934, (804) 786-6152/TTY , e-mail fadcock@dgs.state.va.us.

BOARD OF EDUCATION

September 17, 2003 - 9 a.m. -- Open Meeting

† **October 22, 2003 - 9 a.m.** -- Open Meeting

James Monroe Building, 101 North 14th Street, Main Lobby, Rooms D and E, Richmond, Virginia.


A regular business meeting of the board. Persons who wish to speak or who require the services of an interpreter for the deaf should contact the agency 72 hours in advance. Public comment will be received.

Contact: Dr. Margaret N. Roberts, Office of Policy and Public Affairs, Department of Education, P.O. Box 2120, James Monroe Bldg., 101 N. 14th St., 25th Floor, Richmond, VA 23219, telephone (804) 225-2540, FAX (804) 225-2524, e-mail mroberts@mail.vak12ed.edu.

DEPARTMENT OF ENVIRONMENTAL QUALITY

July 29, 2003 - 9 a.m. -- Open Meeting


August 21, 2003 - 9 a.m. -- Open Meeting

Department of Environmental Quality, 629 East Main Street, Richmond, Virginia. 

A meeting of the Natural Resources Funding Commission. The commission was established in response to recommendations for the Governor's Natural Resources Summit.

Contact: Scott Reed, Department of Environmental Quality, Office of the Secretary of Natural Resources, Ninth Street Office Building, 7th Floor, Richmond, VA 23219, telephone (804) 786-0044, e-mail fsreed@gov.state.va.us.

August 11, 2003 - 4:30 p.m. -- Open Meeting

Department of Environmental Quality, 629 East Main Street, First Floor Conference Room, Richmond, Virginia. 

Pursuant to the federal Coastal Zone Management Act, a public meeting will be conducted as part of the National Oceanic and Atmospheric Administration's evaluation of the Virginia Coastal Resources Management Program. Virginia's coastal resources are managed by a network of state agencies coordinated by the Virginia Department of Environmental Quality. The purpose of this meeting is to receive public comments regarding the operation of the Virginia Coastal Resources Management Program from November 1999 to the present. For more information about the program and this federal evaluation, visit <http://www.deq.state.va.us/coastal/>. Written comments are also encouraged and will be accepted until August 25. Please direct written comments to Ralph Central, Chief, National Policy and Evaluation Division, Office of Ocean and Coastal Resource Management, NOS/NOAA, 1305 East West Highway, 10th Floor, Silver Spring, Maryland 20910.


Contact: Laura McKay, Department of Environmental Quality, P.O. Box 10009, Richmond, VA 23240, telephone (804) 698-4323, e-mail lbmckay@deq.state.va.us.

August 18, 2003 - 9 a.m. -- Open Meeting

September 11, 2003 - 9 a.m. -- Open Meeting

September 29, 2003 - 9 a.m. -- Open Meeting

† **October 15, 2003 - 9 a.m.** -- Open Meeting


Department of Environmental Quality, Piedmont Regional Office, 4949-A Cox Road, Glen Allen, Virginia. 

A meeting of the Water Policy Technical Advisory Committee (WP-TAC) working on a preliminary water resources plan and local and regional water supply

Calendar of Events

regulations. Prior work of the WP-TAC resulted in SB 1221 (2003), which was passed by the General Assembly and signed by the Governor on March 24, 2003. This legislation will provide part of the structure for the work of the WP-TAC through the rest of the year. In addition, the work of the WP-TAC will be informed by work that was conducted during the fall of 2002.


Contact: Scott W. Kudlas, Department of Environmental Quality, P.O. Box 10009, Richmond, VA 23240, telephone (804) 698-4456, FAX (804) 698-4346, e-mail swkudlas@deq.state.va.us.

† **September 5, 2003 - 10 a.m.** -- Open Meeting
Department of Environmental Quality, Piedmont Regional Office, 4949-A Cox Road, Glen Allen, Virginia. 

The first meeting of the Natural Resources Partnership established to further the efforts of the Governor's Natural Resources Leadership Summit.

Contact: Scott Reed, Department of Environmental Quality, Office of the Secretary of Natural Resources, Ninth Street Office Bldg., 7th Floor, Richmond, VA 23219, telephone (804) 786-0044, e-mail fsreed@gov.state.va.us.


Litter Control and Recycling Fund Advisory Board

August 13, 2003 - 10:30 a.m. -- Open Meeting
Department of Environmental Quality, 629 East Main Street, Richmond, Virginia. 

A regular meeting.

Contact: G. Steven Coe, Department of Environmental Quality, P.O. Box 10009, Richmond, VA 23240, telephone (804) 698-4029, FAX (804) 698-4424, e-mail gscocoe@deq.state.va.us.

Recycling Markets Development Council

August 20, 2003 - 10 a.m. -- Open Meeting
Henrico Training Center, 7701 East Parham Road, Richmond, Virginia. 

A regular meeting.


Contact: G. Steven Coe, Department of Environmental Quality, P.O. Box 10009, Richmond, VA 23240, telephone (804) 698-4029, FAX (804) 698-4224, e-mail gscocoe@deq.state.va.us.

BOARD OF FUNERAL DIRECTORS AND EMBALMERS

† **July 29, 2003 - 9 a.m.** -- Open Meeting
† **September 9, 2003 - 1 p.m.** -- Open Meeting
† **September 10, 2003 - 9 a.m.** -- Open Meeting
Department of Health Professions, 6603 West Broad Street, 5th Floor, Conference Room 1, Richmond, Virginia. 

A meeting to hear possible violations of the laws and regulations governing the practice of funeral service.

Contact: Elizabeth Young, Executive Director, Board of Funeral Directors and Embalmers, 6603 W. Broad St., 5th

Floor, Richmond, VA 23230-1712, telephone (804) 662-9907, FAX (804) 662-9523, (804) 662-7197/TTY , e-mail elizabeth.young@dhp.state.va.us.


BOARD OF GAME AND INLAND FISHERIES

† **August 21, 2003 - 9 a.m.** -- Public Hearing
Department of Game and Inland Fisheries, 4000 West Broad Street, Richmond, Virginia.  (Interpreter for the deaf provided upon request)


A meeting to adopt 2003-2004 hunting seasons and bag limits for migratory waterfowl (ducks and coots, geese and brant, swan, gallinules and moorhens) and falconry, based on frameworks provided by the U.S. Fish and Wildlife Service. The board will solicit and receive comments from the public during the public hearing portion of the meeting for this action, at which time any interested citizen present shall be heard. The board may also review possible proposals for legislation for the 2004 session of the General Assembly, discuss general and administrative issues, and hold a closed session at some time during the meeting. The board may elect to hold a dinner Wednesday evening, August 20, or after the meeting on Thursday, August 21, at a location and time to be determined.

Contact: Phil Smith, Policy Analyst, Department of Game and Inland Fisheries, 4016 W. Broad St., Richmond VA 23230, telephone (804) 367-1000, e-mail regcomments@dgif.state.va.us.

BOARD FOR GEOLOGY


July 29, 2003 - 9 a.m. -- Open Meeting
Department of Professional and Occupational Regulation, 3600 West Broad Street, Richmond, Virginia. 

A meeting to conduct board business.


Contact: David E. Dick, Assistant Director, Board for Geology, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-8595, FAX (804) 367-6128, (804) 367-9753/TTY , e-mail geology@dpor.state.va.us.

GEORGE MASON UNIVERSITY


August 20, 2003 - 9 a.m. -- Open Meeting
Airlie Conference Center, East Room, Warrenton, Virginia.

September 24, 2003 - 9 a.m. -- Open Meeting
George Mason University, Mason Hall, Fairfax, Virginia. 

A meeting of the Board of Visitors. The agenda will be published 10 days prior to the meeting.

Contact: Mary Roper, Secretary, pro tem, George Mason University, MSN 3A1, George Mason University, 4400 University Dr., Fairfax, VA 22030, telephone (703) 993-8703, (703) 993-8707/TTY , e-mail mroper@gmu.edu.


OFFICE OF THE GOVERNOR

July 28, 2003 - 10 a.m. -- Open Meeting
August 15, 2003 - 10 a.m. -- Open Meeting
September 9, 2003 - 10 a.m. -- Open Meeting
September 23, 2003 - 10 a.m. -- Open Meeting
Meeting location to be announced. 

A meeting of the Urban Policy Task Force.

Contact: Kelly Spraker, 730 E. Broad St., Richmond, VA 23219, telephone (804) 692-1902.


STATE BOARD OF HEALTH

† **October 24, 2003 - 9 a.m.** -- Open Meeting
Department of Health, Main Street Station, 1500 East Main St., 3rd Floor Conference Room, Richmond, Virginia. 

A general business meeting.

Contact: Rene Cabral-Daniels, Department of Health, 1500 E. Main St., Richmond, VA 23219, telephone (804) 786-3561.


DEPARTMENT OF HEALTH

† **August 13, 2003 - 10 a.m.** -- Open Meeting
Department of Health, Main Street Station, 1500 East Main Street, Room 115, Richmond, Virginia. 

A meeting of the Marina Regulations Advisory Committee for the Sanitary Regulations for Marinas and Boat Moorings (12 VAC 5-570) to discuss both the current status of the regulatory program and future amendments to the current regulations as part of a comprehensive review of the regulations.

Contact: Preston Smith, Marina Program Acting Director, Department of Health, 1500 E. Main St., Room 115, Richmond, VA 23219, telephone (804) 371-2889, FAX (804) 225-4003, e-mail psmith@vdh.state.va.us.

Emergency Medical Services Advisory Board

August 8, 2003 - 1 p.m. -- Open Meeting
The Place at Innsbrook, 4036-C Cox Road, Glen Allen, Virginia. 

A regular quarterly meeting.

Contact: Gary R. Brown, Director, Department of Health, 1538 E. Parham Rd., Richmond, VA 23228, telephone (804) 371-3500, FAX (804) 371-3543, toll-free (800) 523-6019, e-mail gbrown@vdh.state.va.us.


Sewage Handling and Disposal Advisory Committee

August 21, 2003 - 10 a.m. -- Open Meeting
Department of Health, 1500 East Main Street, Room 115, Richmond, Virginia.

A meeting to discuss regulations, new technologies and new products to recommend for approval to the State Health Commissioner for use in Virginia.

Contact: Donald J. Alexander, Division Director, Department of Health, 1500 E. Main St., Room 115, Richmond, VA 23219, telephone (804) 225-4030, FAX (804) 225-4003, e-mail dalexander@vdh.state.va.us.

DEPARTMENT OF HEALTH PROFESSIONS


August 15, 2003 - 9 a.m. -- Open Meeting
† **October 17, 2003 - 9 a.m.** -- Open Meeting
Department of Health Professions, 6603 West Broad Street, 5th Floor, Richmond, Virginia. 

A bimonthly meeting of the Intervention Program Committee for the Health Practitioners' Intervention Program.

Contact: Donna P. Whitney, Intervention Program Manager, Department of Health Professions, 6603 W. Broad St., 5th Floor, Richmond, VA 23230, telephone (804) 662-9424, FAX (804) 662-7358, e-mail donna.whitney@dhp.state.va.us.

VIRGINIA INFORMATION TECHNOLOGIES AGENCY


VGIN Advisory Board

September 4, 2003 - 1:30 p.m. -- Open Meeting
Richmond Plaza Building, 110 South 7th Street, 3rd Floor Training Room, Richmond, Virginia. 

A regular board meeting.


Contact: Bill Shinar, VGIN Coordinator, Virginia Information Technologies Agency, 110 S. 7th Street, Suite 135, Richmond, VA 23219, telephone (804) 786-8175, FAX (804) 371-2795, e-mail bshinar@vgin.state.va.us.

Wireless E-911 Services Board

September 10, 2003 - 9 a.m. -- Open Meeting
Richmond Plaza Building, 110 South 7th Street, 3rd Floor Conference Room, Richmond, Virginia.  (Interpreter for the deaf provided upon request)

A meeting of the CMRS subcommittee in closed session.

Contact: Steven Marzolf, Public Safety Communications Coordinator, Virginia Information Technologies Agency, 110 South 7th Street, Richmond, VA 23219, telephone (804) 371-0015, e-mail smarzolf@ntp.state.va.us.

September 10, 2003 - 10 a.m. -- Open Meeting
Richmond Plaza Building, 110 South 7th Street, 3rd Floor Conference Room, Richmond, Virginia.  (Interpreter for the deaf provided upon request)

A regular monthly meeting of the full board.

Contact: Steven Marzolf, Public Safety Communications Coordinator, Virginia Information Technologies Agency, 110 South 7th Street, Richmond, VA 23219, telephone (804) 371-0015, e-mail smarzolf@ntp.state.va.us.

Calendar of Events

JAMESTOWN-YORKTOWN FOUNDATION

August 6, 2003 - 2 p.m. -- Open Meeting
September 10, 2003 - Noon -- Open Meeting
Location to be determined. (Interpreter for the deaf provided upon request)

A meeting of the Jamestown 2007 Steering Committee's Executive Committee. Public comment will not be heard.

Contact: Stacey Ruckman, Jamestown 2007 Executive Assistant, Jamestown-Yorktown Foundation, P.O. Box 1607, Williamsburg, VA 23187, telephone (757) 253-4659, FAX (757) 253-5299, toll-free (888) 593-4682, (757) 253-7236/TTY, e-mail sruckman@jyf.state.va.us.

DEPARTMENT OF LABOR AND INDUSTRY

Virginia Apprenticeship Council Subcommittee

† **August 21, 2003 - 9:30 a.m.** -- Open Meeting
Department of Labor and Industry, Powers-Taylor Building, 13 South 13th Street, Richmond, Virginia. (Interpreter for the deaf provided upon request)

A general meeting.

Contact: Beverley Donati, Assistant Program Director, Department of Labor and Industry, Powers-Taylor Bldg., 13 S. 13th St., Richmond, VA 23219, telephone (804) 786-2382, FAX (804) 786-8418, (804) 786-2376/TTY, e-mail bgd@doli.state.va.us.

Safety and Health Codes Board

August 12, 2003 - 10 a.m. -- Public Hearing
Tyler Building, 1300 East Main Street, Courtroom B, Richmond, Virginia. (Interpreter for the deaf provided upon request)

September 12, 2003 - Public comments may be submitted until this date.

Notice is hereby given in accordance with § 2.2-4007 of the Code of Virginia that the Safety and Health Codes Board intends to adopt regulations entitled **16 VAC 25-145, Safety Standards for Fall Protection in Steel Erection, Construction Industry**. The purpose of the proposed action is to establish in regulation the current VOSH administrative policy regarding fall protection for steel erection workers from falls at or above 10 feet.

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

Contact: Regina P. Cobb, Agency Management Analyst Senior, Department of Labor and Industry, Powers-Taylor 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.

COMMISSION ON LOCAL GOVERNMENT

July 28, 2003 - 10:30 a.m. -- Open Meeting
Elkton Fireman's Activities Building, 414 South Eastside Highway, Elkton, Virginia. (Interpreter for the deaf provided upon request)

Public presentations regarding the proposed Town of Elkton - Rockingham County agreement defining annexation rights.

Contact: Ted McCormack, Associate Director, Commission on Local Government, Department of Housing and Community Development, 501 N. 2nd St., Richmond, VA 23219, telephone (804) 786-6508, FAX (804) 371-7090, (800) 828-1120/TTY, e-mail tmccormack@dhcd.state.va.us.

† **July 28, 2003 - 2 p.m.** -- Open Meeting
Elkton Fireman's Activities Building, 414 South Eastside Highway, Elkton, Virginia. (Interpreter for the deaf provided upon request)

A regular meeting to consider such matters as may be presented.

Contact: Ted McCormack, Associate Director, Commission on Local Government, Department of Housing and Community Development, 501 N. 2nd St., Richmond, VA 23219, telephone (804) 786-6508, FAX (804) 371-7090, (800) 828-1120/TTY, e-mail tmccormack@dhcd.state.va.us.

July 28, 2003 - 7 p.m. -- Public Hearing
Elkton Fireman's Activities Building, 414 South Eastside Highway, Elkton, Virginia. (Interpreter for the deaf provided upon request)

Public hearing regarding the proposed Town of Elkton - Rockingham County agreement defining annexation rights.

Contact: Ted McCormack, Associate Director, Commission on Local Government, Department of Housing and Community Development, 501 N. 2nd St., Richmond, VA 23219, telephone (804) 786-6508, FAX (804) 371-7090, (800) 828-1120/TTY, e-mail tmccormack@dhcd.state.va.us.

MARINE RESOURCES COMMISSION

August 26, 2003 - 9:30 a.m. -- Open Meeting
† **September 23, 2003 - 9:30 a.m.** -- Open Meeting
† **October 28, 2003 - 9:30 a.m.** -- Open Meeting
Marine Resources Commission, 2600 Washington Avenue, 4th Floor, Newport News, Virginia. (Interpreter for the deaf provided upon request)

A monthly commission meeting.

Contact: Kathy Leonard, Executive Secretary, Marine Resources Commission, 2600 Washington Ave., 3rd Floor, Newport News, VA 23607, telephone (757) 247-2120, FAX (757) 247-8101, toll-free (800) 541-4646, (757) 247-2292/TTY, e-mail kleonard@mrc.state.va.us.

BOARD OF MEDICAL ASSISTANCE SERVICES

September 9, 2003 - 10 a.m. -- Open Meeting
Department of Medical Assistance Services, 600 East Broad Street, Suite 1300, Richmond, Virginia. (Interpreter for the deaf provided upon request)

A regular meeting.

Contact: Nancy Malczewski, Board Liaison, Department of Medical Assistance Services, 600 E. Broad St., Suite 1300, Richmond, VA 23219, telephone (804) 786-8096, FAX (804) 371-4981, (800) 343-0634/TTY ☎, e-mail nmalczew@dmas.state.va.us.

DEPARTMENT OF MEDICAL ASSISTANCE SERVICES

August 1, 2003 - 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 30-40. Eligibility Requirements.** The purpose of the proposed action is to simplify Medicaid eligibility requirements for counting income.

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

Public comments may be submitted until August 1, 2003, to Patricia Sykes, Manager, Division of Policy, 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, FAX (804) 786-1680, or e-mail vsimmons@dmas.state.va.us.

August 15, 2003 - Public comments may be submitted until this date.

Notice is hereby given in accordance with § 2.2-4007 of the Code of Virginia that the Department of Medical Assistance Services intends to amend regulations entitled: **12 VAC 30-50, Amount, Duration, and Scope of Medical and Remedial Services; 12 VAC 30-60, Standards Established and Methods Used to Assure High Quality of Care; and 12 VAC 30-130, Amount Duration, and Scope of Selected Services.** The purpose of the proposed action is to improve the delivery of community mental health and regulatory requirements.

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

Public comments may be submitted until August 15, 2003, to Katherine Hancock, Analyst, Division of Policy, 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, FAX (804) 786-1680, or e-mail vsimmons@dmas.state.va.us.

Pharmacy and Therapeutics Committee

† **July 30, 2003 - 10 a.m.** -- Open Meeting
Department of Medical Assistance Services, 600 East Broad Street, Suite 1300, Board Room, Richmond, Virginia. ♿

The second meeting of the committee to discuss issues related to the Preferred Drug List. Teleconference access is available by contacting Adrienne Fegans or Pamela Miller at (804) 786-4114.

Contact: Adrienne Fegans, Department of Medical Assistance Services, 600 E. Broad St., Suite 1300, Richmond, VA 23219, telephone (804) 786-4112, FAX (804) 371-4981, (800) 343-0634/TTY ☎, e-mail afegans@dmas.state.va.us.

BOARD OF MEDICINE

Informal Conference Committee

July 31, 2003 - 9 a.m. -- Open Meeting
August 1, 2003 - 1 p.m. -- Open Meeting
August 6, 2003 - 8:45 a.m. -- Open Meeting
September 3, 2003 - 9 a.m. -- Open Meeting
† **August 20, 2003 - 9:15 a.m.** -- Open Meeting
Clarion Hotel, 3315 Ordway Drive, Roanoke, Virginia.

August 28, 2003 - 9 a.m. -- Open Meeting
Holiday Inn Select, 2801 Plank Road, Fredericksburg, Virginia.

September 17, 2003 - 9 a.m. -- Open Meeting
Williamsburg Marriott, 50 Kingsmill Road, Williamsburg, Virginia.

A meeting to 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 or Renee Dixon, Staff, Department of Health Professions, 6603 W. Broad St., Richmond, VA 23230, telephone (804) 662-7332, FAX (804) 662-9517, (804) 662-7197/TTY ☎, e-mail Peggy.Sadler@dhp.state.va.us.

STATE MENTAL HEALTH, MENTAL RETARDATION AND SUBSTANCE ABUSE SERVICES BOARD

July 31, 2003 - 1 p.m. -- Open Meeting
August 1, 2003 - 9 a.m. -- Open Meeting
Hanover Community Services Board, 12300 Washington Highway, Ashland, Virginia. ♿ (Interpreter for the deaf provided upon request)

A quarterly meeting of the board.

Contact: Marlene Butler, State Board Secretary, State Mental Health, Mental Retardation and Substance Abuse Services Board, Jefferson Bldg., 1220 Bank St., 13th Floor, Richmond, VA 23219, telephone (804) 786-7945, FAX (804) 372-2308, e-mail mbutler@dmhmrsas.state.va.us.

Calendar of Events

August 15, 2003 - 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 Mental Health, Mental Retardation and Substance Abuse Services Board intends to amend regulations entitled **12 VAC 35-180, Regulations to Assure the Protection of Participants in Human Research**. The purpose of the proposed action is to comply with changes to the Code of Virginia and to be consistent with applicable federal requirements, including privacy requirements pursuant to the Health Insurance Portability and Accountability Act of 1996 (HIPAA).

Statutory Authority: §§ 37.1-10 and 37.1-24.01 of the Code of Virginia.

Contact: Mary Nash Shawver, Planning Coordinator, Office of Substance Abuse Services, Department of Mental Health, Mental Retardation and Substance Abuse Services, P.O. Box 1797, Richmond, VA 23218, telephone (804) 786-0825, FAX (804) 786-4320, e-mail mshawver@dmhmrsas.state.va.us.

DEPARTMENT OF MENTAL HEALTH, MENTAL RETARDATION AND SUBSTANCE ABUSE SERVICES

July 28, 2003 - 1 p.m. -- Open Meeting
Henrico County Training Center, 7701 East Parham Road, Richmond, Virginia. (Interpreter for the deaf provided upon request)

The Steering Committee of the Olmstead Task Force will meet.

Contact: Fran M. Sadler, Administrative Specialist, Department of Mental Health, Mental Retardation and Substance Abuse Services, P.O. Box 1797, Richmond, VA 23218, telephone (804) 786-8019, FAX (804) 786-9248, (804) 371-8977/TTY, e-mail fsadler@dmhmrsas.state.va.us.

† August 20, 2003 - 10 a.m. -- Public Hearing
Jefferson Building, 1220 Bank Street, 9th Floor, Conference Room, Richmond, Virginia. (Interpreter for the deaf provided upon request)

A public hearing to receive comments on the Virginia Community Mental Health Services Performance Partnership Block Grant Application for Federal Fiscal Year 2004. Copies of the application are available for review at the Office of Mental Health Services, 10th Floor, Jefferson Building, Richmond, Virginia, and at each community services board office. Comments may be made at the hearing or in writing no later than August 20, 2003, to the Office of the Commissioner, Department of Mental Health, Mental Retardation and Substance Abuse Services, P.O. Box 1797, Richmond, VA 23218. Any person wishing to make a presentation at the hearing should contact William T. Ferriss, LCSW. Copies of oral presentations should be filed at the time of the hearing.

Contact: William T. Ferriss, LCSW, Office of Mental Health, Department of Mental Health, Mental Retardation and

Substance Abuse Services, P.O. Box 1797, Richmond, VA 23218, telephone (804) 786-4837, FAX (804) 371-0091, (804) 371-8977/TTY

STATE MILK COMMISSION

August 13, 2003 - 10:30 a.m. -- Open Meeting
Motley's Dairy Inc., 4740 Payneton Road, Chatham, Virginia.

A regular meeting of the commission to consider industry issues, distributor licensing, base transfers, and reports from staff. The commission offers anyone in attendance an opportunity to speak at the conclusion of the agenda. Those persons requiring special accommodations should notify the agency contact at least five working days prior to the meeting date so that suitable arrangements can be made.

Contact: Edward C. Wilson, Jr., Deputy Administrator, State Milk Commission, Ninth St. Office Bldg., 202 N. Ninth St., Room 915, Richmond, VA 23219, telephone (804) 786-2013, FAX (804) 786-3779, e-mail ewilson@smc.state.va.us.

DEPARTMENT OF MINES, MINERALS AND ENERGY

† September 23, 2003 - 9:30 a.m. -- Public Hearing
Department of Mines, Minerals and Energy, Buchanan-Smith Building, Room 219, US Route 23 South, Big Stone Gap, Virginia. (Interpreter for the deaf provided upon request)

The purpose of the public hearing is to accept public comment on the proposed Board of Coal Mine Examiners Certification Requirements, 4 VAC 25-20. This hearing will be in conjunction with the hearing on the proposed Public Participation Guidelines, 4 VAC 25-10 and the Regulations Governing Coal Stockpiles and Bulk Storage and Handling Facilities, 4 VAC 25-125. Special accommodations should be requested within seven days prior to the hearing. This can be done by contacting the DMME at 276-523-8224.

Contact: Frank Linkous, Mine Chief, Department of Mines, Minerals and Energy, Department of Mines, Minerals and Energy, PO Drawer 900, US Route 23 South Big Stone Gap, VA 24219, telephone (276) 523-8224, FAX (276) 523-8239, (800) 828-1120/TTY, e-mail fal@mme.state.va.us, homepage <http://www.mme.state.va.us>.

† September 23, 2003 - 9:30 a.m. -- Public Hearing
Department of Mines, Minerals and Energy, Buchanan-Smith Building, Room 219, US Route 23 South, Big Stone Gap, Virginia. (Interpreter for the deaf provided upon request)

September 28, 2003 - Public comments may be submitted until this date.

Notice is hereby given in accordance with § 2.2-4007 of the Code of Virginia that the Department of Mines, Minerals and Energy intends to amend regulations entitled **4 VAC 25-10, Public Participation Guidelines**. The purpose of the proposed action is to accept comments on the amendments to the department's public participation guidelines.

Statutory Authority: §§ 45.1-161.3, 45.1-361.15, 45.1-161.28 and 45.1-161.292:19 of the Code of Virginia.

Contact: Stephen A. Walz, Regulatory Coordinator, Department of Mines, Minerals and Energy, 202 N. 9th St., 8th Floor, Richmond, VA 23219-3402, telephone (804) 692-3211, FAX (804) 692-3237 or e-mail saw@mme.state.va.us.

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† **September 25, 2003 - 9:30 a.m.** -- Public Hearing
Department of Forestry, Fontaine Research Park, 900 Natural Resources Drive, Charlottesville, Virginia. (Interpreter for the deaf provided upon request)

September 28, 2003 - Public comments may be submitted until this date.

Notice is hereby given in accordance with § 2.2-4007 of the Code of Virginia that the Department of Mines, Minerals and Energy intends to amend regulations entitled **4 VAC 25-35, Certification Requirements for Mineral Miners**. The purpose of the proposed action is to accept comments on the amendments to the department's Certification Requirements for Mineral Miners, 4 VAC 25-35.

Statutory Authority: § 45.1-161.292:19 of the Code of Virginia.

Contact: Jeff Stewart, Safety Engineer, Sr., Department of Mines, Minerals and Energy, 202 N. 9th St., 8th Floor, Richmond, VA 23219-3402, telephone (434) 951-6315, FAX (434) 951-6325 or e-mail saw@mme.state.va.us.

VIRGINIA MUSEUM OF FINE ARTS

† **July 29, 2003 - 9 a.m.** -- Open Meeting
Virginia Museum of Fine Arts, 2800 Grove Avenue, Main Lobby Conference Room, Richmond, Virginia. (Interpreter for the deaf provided upon request)

A meeting of the Expansion Oversight Committee for staff to update the committee. Public comment will not be received. The meeting will be held in closed session.

Contact: Suzanne Broyles, Secretary of the Museum, Virginia Museum of Fine Arts, 2800 Grove Ave., Richmond, VA 23221, telephone (804) 340-1503, FAX (804) 340-1502, (804) 340-1401/TTY, e-mail sbroyles@vmfa.state.va.us.

July 30, 2003 - 10 a.m. -- Open Meeting
† **September 12, 2003 - 10 a.m.** -- Open Meeting
† **September 17, 2003 - 12:30 p.m.** -- Open Meeting
Virginia Museum of Fine Arts, CEO Parlor, 2800 Grove Avenue, Richmond, Virginia. (Interpreter for the deaf provided upon request)

A meeting for staff to update the Museum Expansion Committee. Public comment will not be received.

Contact: Suzanne Broyles, Secretary of the Museum, Virginia Museum of Fine Arts, 2800 Grove Ave., Richmond, VA 23221, telephone (804) 340-1503, FAX (804) 340-1502, (804) 340-1401/TTY, e-mail sbroyles@vmfa.state.va.us.

September 4, 2003 - 8 a.m. -- Open Meeting
October 7, 2003 - 8 a.m. -- Open Meeting
Virginia Museum of Fine Arts, 2800 Grove Avenue, Main Lobby, Conference Room, Richmond, Virginia. (Interpreter for the deaf provided upon request)

A monthly meeting of the Executive Committee. Public comment will not be received.

Contact: Suzanne Broyles, Secretary of the Museum, Virginia Museum of Fine Arts, 2800 Grove Ave., Richmond, VA 23221, telephone (804) 340-1503, FAX (804) 340-1502, (804) 340-1401/TTY, e-mail sbroyles@vmfa.state.va.us.

† **September 17, 2003 - 8 a.m.** -- Open Meeting
Virginia Museum of Fine Arts, 2800 Grove Avenue, CEO Building, 2nd Floor Conference Room, Richmond, Virginia. (Interpreter for the deaf provided upon request)

The following committees will meet:

- Exhibitions - 9 a.m.
- Expansion - 12:30 p.m.
- Planning - 10 a.m.
- Education and Programs - 2 p.m.
- Communications and Marketing - 3:15 p.m.
- Legislative - 4:15 p.m.

Public comment will not be received.

Contact: Suzanne Broyles, Secretary of the Museum, Virginia Museum of Fine Arts, 2800 Grove Ave., Richmond, VA 23221, telephone (804) 340-1503, FAX (804) 340-1502, (804) 340-1401/TTY, e-mail sbroyles@vmfa.state.va.us.

† **September 18, 2003 - 8 a.m.** -- Open Meeting
Virginia Museum of Fine Arts, 2800 Grove Avenue, Richmond, Virginia. (Interpreter for the deaf provided upon request)

The following committees will meet:

- Buildings and Grounds - 8:30 a.m. - CEO Building, 2nd Floor Conference Room
- Collections - 9:30 a.m. - Auditorium
- Finance - 11 a.m. - Main Lobby Conference Room
- Board of Trustees - 12:30 p.m. - Auditorium

Public comment will not be received.

Contact: Suzanne Broyles, Secretary of the Museum, Virginia Museum of Fine Arts, 2800 Grove Ave., Richmond, VA 23221, telephone (804) 340-1503, FAX (804) 340-1502, (804) 340-1401/TTY, e-mail sbroyles@vmfa.state.va.us.

VIRGINIA MUSEUM OF NATURAL HISTORY

August 15, 2003 - 3 p.m. -- Open Meeting
Virginia Museum of Natural History, 1001 Douglas Avenue, Martinsville, Virginia. (Interpreter for the deaf provided upon request)


September 15, 2003 - 10 a.m. -- Open Meeting
† **October 20, 2003 - 10 a.m.** -- Open Meeting
LeClair Ryan Consulting, 1010 First Union Building, 213 South Jefferson Avenue, Roanoke, Virginia. (Interpreter for the deaf provided upon request)

A meeting of the executive committee to discuss the management and direction of the museum.


Contact: Cindy Rorrer, Administrative Assistant, Virginia Museum of Natural History, 1001 Douglas Ave., Martinsville, VA 24112, telephone (276) 666-8616, FAX (276) 632-6487, (276) 666-8638/TTY, e-mail crorrer@vmnh.net.


Calendar of Events

BOARD OF NURSING


July 29, 2003 - 9 a.m. -- Open Meeting
August 11, 2003 - 9 a.m. -- Open Meeting
August 12, 2003 - 9 a.m. -- Open Meeting
August 14, 2003 - 9 a.m. -- Open Meeting
August 19, 2003 - 9 a.m. -- Open Meeting
August 26, 2003 - 9 a.m. -- Open Meeting
October 7, 2003 - 9 a.m. -- Open Meeting
October 8, 2003 - 9 a.m. -- Open Meeting
October 14, 2003 - 9 a.m. -- Open Meeting
† October 15, 2003 - 9 a.m. -- Open Meeting
† October 21, 2003 - 9 a.m. -- Open Meeting
† October 23, 2003 - 9 a.m. -- Open Meeting
† October 28, 2003 - 9 a.m. -- Open Meeting
Department of Health Professions, 6603 West Broad Street, 5th Floor, Conference Room 3, Richmond, Virginia. 


A Special Conference Committee, comprised of two or three members of the Virginia Board of Nursing, will conduct informal conferences with licensees and certificate holders. Public comment will not be received.

Contact: Jay P. Douglas, R.N., M.S.M., C.S.A.C., Executive Director, Board of Nursing, 6603 West Broad Street, 5th Floor, Richmond, VA 23230, telephone (804) 662-9909, FAX (804) 662-9512, (804) 662-7197/TTY , e-mail nursebd@dhp.state.va.us.


September 22, 2003 - 9 a.m. -- Open Meeting
September 24, 2003 - 9 a.m. -- Open Meeting
September 25, 2003 - 9 a.m. -- Open Meeting
Department of Health Professions, 6603 West Broad Street, 5th Floor, Conference Room 2, Richmond, Virginia. 

A panel of the board will conduct formal hearings with licensees or certificate holders. Public comment will not be received.


Contact: Nancy K. Durrett, R.N., Executive Director, Board of Nursing, 6603 W. Broad St., 5th Floor, Richmond, VA 23230, telephone (804) 662-9909, FAX (804) 662-9512, (804) 662-7197/TTY , e-mail nursebd@dhp.state.va.us.

September 23, 2003 - 9 a.m. -- Open Meeting
Department of Health Professions, 6603 West Broad Street, Board Room 2, 5th Floor, Richmond, Virginia. 

A general business meeting including committee reports, consideration of regulatory action, and disciplinary case decisions as presented on the agenda. Public comment will be received at 11 a.m.

Contact: Jay P. Douglas, R.N., Executive Director, Board of Nursing, Alcoa Bldg., 6603 W. Broad St., 5th Floor, Richmond, VA 23230-1712, telephone (804) 662-9909, FAX (804) 662-9512, (804) 662-7197/TTY , e-mail jay.douglas@dhp.state.va.us.


BOARD OF NURSING HOME ADMINISTRATORS

† August 12, 2003 - 9 a.m. -- Open Meeting
Department of Health Professions, 6603 West Broad Street, 5th Floor, Room 4, Richmond, Virginia. 

Informal hearings. There will not be a public comment period.

Contact: JeAnne Marshall, Administrative Assistant, Department of Health Professions, 6603 W. Broad St., 5th Floor, Richmond, VA 23230-1712, telephone (804) 662-9906, FAX (804) 662-7246, (804) 662-7197/TTY , e-mail JeAnne.Marshall@dhp.state.va.us.


VIRGINIA BOARD FOR PEOPLE WITH DISABILITIES

August 6, 2003 - 11 a.m. -- Open Meeting
Virginia Board for People with Disabilities, 202 North 9th Street, 9th Floor, Conference Room, Richmond, Virginia. 

A meeting of the executive committee to update the state plan.

Contact: Sandra Smalls, Assistant to the Director, Virginia Board for People with Disabilities, 202 N. 9th St., 9th Floor, Richmond, VA, telephone (804) 786-9368, FAX (804) 786-1118, toll-free (800) 846-4464, e-mail smallsse@vbpd.state.va.us.


BOARD OF PHARMACY

July 31, 2003 - 9 a.m. -- Open Meeting
Department of Health Professions, 6603 West Broad Street, 5th Floor, Conference Room 4, Richmond, Virginia. 

A Special Conference Committee will discuss disciplinary matters. Public comments will not be received.

Contact: Elizabeth Scott Russell, Executive Director, Board of Pharmacy, 6603 W. Broad St., 5th Floor, Richmond, VA 23230, telephone (804) 662-9911, FAX (804) 662-9313.


POLYGRAPH EXAMINERS ADVISORY BOARD

July 31, 2003 - 10 a.m. -- Open Meeting
September 18, 2003 - 10 a.m. -- Open Meeting
Department of Professional and Occupational Regulation, 3600 West Broad Street, Richmond, Virginia. 

A meeting to conduct board business. The department fully complies with the Americans with Disabilities Act.

Contact: Eric Olson, Assistant Director, Department of Professional and Occupational Regulation, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-2785, FAX (804) 367-2474, (804) 367-9753/TTY , e-mail olson@dpor.state.va.us.

BOARD FOR PROFESSIONAL AND OCCUPATIONAL REGULATION

† August 19, 2003 - 10 a.m. -- Public Hearing
Roanoke City Council Chambers, Noel C. Taylor Municipal Building, 4th Floor, 215 Church Avenue, SW, Roanoke, Virginia  (Interpreter for the deaf provided upon request)

† **August 28, 2003 - 10 a.m.** -- Public Hearing
City of Chesapeake Council Chambers, 306 Cedar Road,
Chesapeake, Virginia. (Interpreter for the deaf provided
upon request)

† **September 22, 2003 - 10 a.m.** -- Public Hearing
Department of Professional and Occupational Regulation,
3600 West Broad Street, 5th Floor, Conference Room,
Richmond, Virginia. (Interpreter for the deaf provided upon
request)

† **October 1, 2003 - 10 a.m.** -- Public Hearing
Arlington County Board Chambers, 1 Court House Square,
2100 Clarendon Boulevard, Arlington, Virginia. (Interpreter
for the deaf provided upon request)

A public hearing to study the possible regulation of
photogrammetry.

Contact: Judith A. Spiller, Executive Secretary, Board for
Professional and Occupational Regulation, 3600 W. Broad St.,
Richmond VA 23230, telephone (804) 367-8519, FAX (804)
367-9537, (804) 367-9753/TTY ☎, e-mail
spiller@dpor.state.va.us.

† **August 19, 2003 - 1:30 p.m.** -- Public Hearing
Roanoke City Council Chambers, Noel C. Taylor Municipal
Building, 215 Church Ave., S.W., 4th Floor, Roanoke,
Virginia. (Interpreter for the deaf provided upon request)

† **August 28, 2003 - 1:30 p.m.** -- Public Hearing
City of Chesapeake Council Chambers, 306 Cedar Road,
Chesapeake, Virginia. (Interpreter for the deaf provided
upon request)

† **September 22, 2003 - 1:30 p.m.** -- Public Hearing
Department of Professional and Occupational Regulation,
3600 West Broad Street, 5th Floor, Conference Room,
Richmond, Virginia. (Interpreter for the deaf provided upon
request)

† **October 1, 2003 - 1:30 p.m.** -- Public Hearing
Arlington County Board Chambers, 1 Court House Square,
2100 Clarendon Boulevard, Arlington, Virginia. (Interpreter
for the deaf provided upon request)

A public hearing to study the possible regulation of
computer voice stress analyzers.

Contact: Judith A. Spiller, Executive Secretary, Board for
Professional and Occupational Regulation, 3600 W. Broad St.,
Richmond, VA 23230, telephone (804) 367-8519, FAX (804)
367-9537, (804) 367-9753/TTY ☎, e-mail
spiller@dpor.state.va.us.

† **September 22, 2003 - 9 a.m.** -- Open Meeting
Department of Professional and Occupational Regulation,
3600 West Broad Street, 5th Floor, Conference Room,
Richmond, Virginia. (Interpreter for the deaf provided upon
request)

A quarterly meeting of the board.

Contact: Judith A. Spiller, Executive Secretary, Board for
Professional and Occupational Regulation, 3600 W. Broad St.,
Richmond VA 23230, telephone (804) 367-8519, FAX (804)

367-9537, (804) 367-9753/TTY ☎, e-mail
spiller@dpor.state.va.us.

BOARD OF PSYCHOLOGY

July 28, 2003 - 9 a.m. -- Open Meeting
Department of Health Professions, Alcoa Building, 6603 West
Broad Street, 5th Floor, Richmond, Virginia. (Interpreter for the deaf provided upon request)

A regular board meeting.

Contact: Diana Pollick, Administrative Assistant, Department
of Health Professions, Alcoa Bldg., 6603 W. Broad St., 5th
Floor, Richmond, VA 23230-1712, telephone (804) 662-9913,
FAX (804) 662-7250, (804) 662-7197/TTY ☎, e-mail
Diana.Pollick@dhp.state.va.us.

July 28, 2003 - 10:30 a.m. -- Open Meeting
Department of Health Professions, Alcoa Building, 6603 West
Broad Street, 5th Floor, Richmond, Virginia. (Interpreter for the deaf provided upon request)

A formal hearing.

Contact: Diana Pollick, Administrative Assistant, Department
of Health Professions, Alcoa Bldg., 6603 W. Broad St., 5th
Floor, Richmond, VA 23230-1712, telephone (804) 662-9913,
FAX (804) 662-7250, (804) 662-7197/TTY ☎, e-mail
Diana.Pollick@dhp.state.va.us.

VIRGINIA PUBLIC GUARDIAN AND CONSERVATOR ADVISORY BOARD

September 25, 2003 - 10 a.m. -- Open Meeting
1600 Forest Avenue, Suite 102, Richmond, Virginia. (Interpreter for the deaf provided upon request)

A regular quarterly meeting.

Contact: Terry Raney, Guardianship Coordinator,
Department for the Aging, 1600 Forest Ave., Suite 102,
Richmond, VA 23229, telephone (804) 662-7049, FAX (804)
662-9354, toll-free (800) 552-3402, (804) 662-9333/TTY ☎, e-
mail traney@vdh.stat.va.us.

REAL ESTATE APPRAISER BOARD

August 26, 2003 - 10 a.m. -- Open Meeting
Department of Professional and Occupational Regulation,
3600 West Broad Street, Richmond, Virginia.


A meeting to conduct board business.

Contact: Karen W. O'Neal, Regulatory Programs
Coordinator, Real Estate Appraiser Board, 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.


REAL ESTATE BOARD

July 31, 2003 - 8:30 a.m. -- Open Meeting
† **August 18, 2003 - 10 a.m.** -- Open Meeting
September 17, 2003 - 9 a.m. -- Open Meeting
September 18, 2003 - 9 a.m. -- Open Meeting

Calendar of Events

Department of Professional and Occupational Regulation, 3600 West Broad Street, Richmond, Virginia.  (Interpreter for the deaf provided upon request)

A meeting to conduct informal fact-finding conferences. Persons desiring to participate in the meeting and requiring special accommodations or interpreter services should contact the department at least 10 days prior to the meeting so that suitable arrangements can be made. The department fully complies with the Americans with Disabilities Act.


Contact: Debbie Amaker, Legal Assistant, Department of Professional and Occupational Regulation, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-8582, FAX (804) 367-0194, (804) 367-9753/TTY , e-mail amaker@dpor.state.va.us.

September 3, 2003 - 4 p.m. -- Open Meeting

† October 22, 2003 - 4 p.m. -- Open Meeting

Department of Professional and Occupational Regulation, 3600 West Broad Street, Richmond, Virginia.

A meeting of the Education Committee to review education applications.


Contact: Karen W. O'Neal, Regulatory Programs Coordinator, Department of Professional and Occupational Regulation, 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.

September 4, 2003 - 8:30 a.m. -- Open Meeting

† October 23, 2003 - 8:30 a.m. -- Open Meeting

Department of Professional and Occupational Regulation, 3600 West Broad Street, Richmond, Virginia.

A meeting to review fair housing cases.


Contact: Karen W. O'Neal, Regulatory Programs Coordinator, Department of Professional and Occupational Regulation, 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.

September 4, 2003 - 9 a.m. -- Open Meeting

† October 23, 2003 - 9 a.m. -- Open Meeting

Department of Professional and Occupational Regulation, 3600 West Broad Street, Richmond, Virginia.

A meeting to conduct board business.

Contact: Karen W. O'Neal, Regulatory Programs Coordinator, Department of Professional and Occupational Regulation, 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 REHABILITATIVE SERVICES

September 26, 2003 - 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 Rehabilitative Services intends to amend regulations entitled **22 VAC 30-**

30, Provisions of Independent Learning. The purpose of the proposed action is to amend regulations governing provision of independent living to comply with federal regulations.


Statutory Authority: § 51.5-14 of the Code of Virginia.

Public comments may be submitted until September 26, 2003, to Elizabeth E. Smith, Policy and Planning Director, Department of Rehabilitative Services, 8004 Franklin Farms Drive, P.O. Box K300, Richmond, VA 23288-0300.

Contact: Theresa Preda, Program Manager, Independent Living, 8004 Franklin Farms Dr., P.O. Box K300, Richmond, VA 23288-0300, telephone (804) 662-7078, FAX (804) 662-7122, toll-free 1-800-552-5019 or e-mail predatr@drs.state.va.us.

VIRGINIA RESOURCES AUTHORITY

August 5, 2003 - 9 a.m. -- Open Meeting

Virginia Resources Authority, Eighth and Main Building, 707 East Main Street, 2nd Floor, 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: Bonnie R. C. McRae, Executive Assistant, Virginia Resources Authority, 707 E. Main St., Richmond, VA 23219, telephone (804) 644-3100, FAX (804) 644-3109, e-mail bmcr@a.vra.state.va.us.

SEWAGE HANDLING AND DISPOSAL APPEAL REVIEW BOARD

August 13, 2003 - 10 a.m. -- Open Meeting

General Assembly Building, 9th and Broad Streets, Senate Room B, Richmond, Virginia. 

The Sewage Handling and Disposal Appeal Review Board will meet to hear appeals of the Department of Health's denials of septic tank permits.

Contact: Susan C. Sherertz, Secretary to the Board, Sewage Handling and Disposal Appeal Review Board, 1500 E. Main St., Room 115, Richmond, VA 23219, telephone (804) 371-4236, FAX (804) 225-4003, e-mail ssherertz@vdh.state.va.us.

STATE BOARD OF SOCIAL SERVICES

August 1, 2003 - 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 40-250, Agency Placement Adoptions -- AREVA**. The purpose of the proposed action is to amend the regulation to make it consistent with a related adoption regulation, 22 VAC 40-260, Subsidy. Amendments also extend the time for local agencies to register children in AREVA and delete references to obsolete terms.

Statutory Authority: §§ 63.2-217 and 63.2-900 of the Code of Virginia.

Contact: Karen Clark, Adoption Program Consultant, Department of Social Services, 730 E. Broad St., Richmond, VA 23219, telephone (804) 692-1251, FAX (804) 692-1284 or e-mail kac900@dss.state.va.us.

August 1, 2003 - 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 40-260, Agency Placement Adoptions -- Subsidy**. The purpose of the proposed action is to amend the regulation to more accurately reflect the current population of children waiting for adoptive placement, delete obsolete terms, and improve overall clarity. An appeals provision will be added to replace 22 VAC 40-270, which is being repealed.

Statutory Authority: §§ 63.2-217 and 63.2-900 of the Code of Virginia.

Contact: Karen Clark, Adoption Program Consultant, Department of Social Services, 730 E. Broad St., Richmond, VA 23219, telephone (804) 692-1251, FAX (804) 692-1284 or e-mail kac900@dss.state.va.us.

August 1, 2003 - 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 40-270, Agency Placement Adoptions -- Appeals**. The purpose of the proposed action is to repeal the regulation. Appeal provisions will be added to another regulation, 22 VAC 40-260, Agency Placement Adoptions - Subsidy.

Statutory Authority: §§ 63.2-217 and 63.2-900 of the Code of Virginia.

Contact: Karen Clark, Adoption Program Consultant, Department of Social Services, 730 E. Broad St., Richmond, VA 23219, telephone (804) 692-1251, FAX (804) 692-1284 or e-mail kac900@dss.state.va.us.

August 20, 2003 - 9 a.m. -- Open Meeting
August 21, 2003 - 9 a.m. -- Open Meeting
Radisson Hotel-Hampton, 700 Settlers Landing Road, Hampton, Virginia. ☎

A regular meeting. Public comment will begin at 1:30 p.m.

Contact: Pat Rengnerth, Board Liaison, State Board of Social Services, Division of Legislative Affairs, 730 E. Broad St., Room 930, Richmond, VA 23219-1849, telephone (804) 692-1826, FAX (804) 692-1962, (800) 828-1120/TTY ☎, e-mail pvr2@email1.dss.state.va.us.

September 12, 2003 - Public comments may be submitted until this date.

Notice is hereby given in accordance with § 2.2-4007 that the State Board of Social Services intends to repeal regulations entitled **22 VAC 40-190, Regulation for Criminal Record Checks for Child Welfare Agencies**. The purpose of the proposed action is to repeal the current regulation for criminal record checks in order to promulgate a new regulation to establish sworn statement or affirmation, search of the central registry, and criminal history record check, in compliance with the Code of Virginia.

Statutory Authority: §§ 63.2-217, 63.2-1704, 63.2-1720, 63.2-1721, 63.2-1722, 63.2-1724, and 63.2-1727 of the Code of Virginia.

Contact: Wenda Singer, Program Consultant, Department of Social Services, 730 E. Broad St., Richmond, VA 23219, telephone (804) 692-2201, FAX (804) 692-2370 or e-mail wxs@dss.state.va.us.

September 12, 2003 - Public comments may be submitted until this date.

Notice is hereby given in accordance with § 2.2-4007 that the State Board of Social Services intends to repeal regulations entitled **22 VAC 40-191, Background Checks for Child Welfare Agencies**. The purpose of the proposed action is to establish background checks for child welfare agencies, in compliance with the Code of Virginia. Background checks are sworn statement or affirmation, search of the central registry, and criminal history record check.

Statutory Authority: §§ 63.2-217, 63.2-1704, 63.2-1720, 63.2-1721, 63.2-1722, 63.2-1724, and 63.2-1727 of the Code of Virginia.

Contact: Wenda Singer, Program Consultant, Department of Social Services, 730 E. Broad St., Richmond, VA 23219, telephone (804) 692-2201, FAX (804) 692-2370 or e-mail wxs@dss.state.va.us.

Calendar of Events

DEPARTMENT OF SOCIAL SERVICES

† **September 19, 2003 - 10 a.m.** -- Open Meeting
Department of Social Services, 730 East Broad Street, Lower Level 1, Richmond, Virginia. 

A regular meeting of the Family and Children's Trust Fund Board of Trustees.


Contact: Nan McKenney, Executive Director, Department of Social Services, 730 E. Broad St., 8th Floor, Richmond, VA 23219, telephone (804) 692-1823, FAX (804) 692-1869.

October 10, 2003 - 10 a.m. -- Open Meeting
Charlottesville, Virginia.


A quarterly meeting of the Virginia Commission on National and Community Services.

Contact: Felicia Jones, Administrative Assistant, Department of Social Services, 730 E. Broad St., 8th Floor, Richmond, VA 23219, telephone (804) 692-1998, FAX (804) 692-1999, toll-free (800) 638-3839, e-mail fyj900@email1.dss.state.va.us.


BOARD OF SOCIAL WORK

September 19, 2003 - 10 a.m. -- Open Meeting
Department of Health Professions, 6603 West Broad Street, 5th Floor, Board Room 1, Richmond, Virginia. 

A general business meeting to include consideration of regulatory, legislative and disciplinary matters as may be presented on the agenda. Public comment will be received at the beginning of the meeting

Contact: Arnice Covington, Administrative Assistant, Board of Social Work, Alcoa Bldg., 6603 W. Broad St., 5th Floor, Richmond, VA 23230-1712, telephone (804) 662-9914, FAX (804) 662-7250, (804) 662-7197/TTY , e-mail arnice.covington@dhp.state.va.us.

DEPARTMENT OF TAXATION


August 7, 2003 - 11 a.m. -- Open Meeting
September 18, 2003 - 11 a.m. -- Open Meeting
Department of Taxation, 2220 West Broad Street, Richmond, Virginia. 

A meeting of the State Land Evaluation Advisory Council to adopt suggested ranges of values for agricultural, horticultural, forest and open-space land use and the use-value assessment program.

Contact: Keith Mawyer, Property Tax Manager, Department of Taxation, 2220 W. Broad St., Richmond, VA 23220, telephone (804) 367-8020.

COUNCIL ON TECHNOLOGY SERVICES

August 21, 2003 - 3 p.m. -- Open Meeting
September 18, 2003 - 3 p.m. -- Open Meeting
† **October 16, 2003 - 3 p.m.** -- Open Meeting

Department of Rehabilitative Services, 8004 Franklin Farms Drive, Lee Building, Rooms 101, 103, and 105, Richmond, Virginia.  (Interpreter for the deaf provided upon request)

A regular monthly meeting of the Security Workgroup. Agenda and more details can be found at www.cots.state.va.us.

Contact: Jenny Hunter, COTS Executive Director, Council on Technology Services, 110 S. 7th St., Suite 135, Richmond, VA 23219, telephone (804) 786-9579, FAX (804) 786-9584, e-mail jhunter@gov.state.va.us.

August 7, 2003 - 2 p.m. -- Open Meeting

September 4, 2003 - 2 p.m. -- Open Meeting

October 2, 2003 - 2 p.m. -- Open Meeting

Department of Information Technology, 110 South 7th Street, 3rd Floor, Executive Conference Room, Richmond, Virginia.


A regular monthly meeting of the Executive Committee. Agenda and meeting information available at www.cots.state.va.us.

Contact: Jenny Hunter, COTS Executive Director, Council on Technology Services, Department of Technology Planning, 110 S. 7th St., Richmond, VA 23219, telephone (804) 786-9579, FAX (804) 786-9584, e-mail jhunter@gov.state.va.us.

August 13, 2003 - 9:30 a.m. -- Open Meeting

September 10, 2003 - 9:30 a.m. -- Open Meeting


October 8, 2003 - 9:30 a.m. -- Open Meeting


Department of Motor Vehicles, 2300 West Broad Street, 7th Floor, Executive Conference Room, Richmond, Virginia. 

A regular monthly meeting of the Change Management Workgroup. Agenda and details available at www.cots.state.va.us.

Contact: Jenny Hunter, COTS Executive Director, Council on Technology Services, 110 S. 7th St., Suite 135, Richmond, VA 23219, telephone (804) 786-9579, FAX (804) 786-9584, e-mail jhunter@gov.state.va.us.

COMMONWEALTH TRANSPORTATION BOARD

August 20, 2003 - 2 p.m. -- Canceled
Department of Transportation, 1221 East Broad Street, Auditorium, Richmond, Virginia. 

† **September 18, 2003 - 9 a.m.** -- Open Meeting
Virginia Port Authority, 600 World Trade Center, Board Room, Norfolk, Virginia. 

A work session of the Commonwealth Transportation Board and the Department of Transportation and Department of Rail and Public Transportation staff.

Contact: Frankie Giles, Agency Regulatory Coordinator, Commonwealth Transportation Board, 1401 E. Broad St., Richmond, VA 23219, telephone (804) 225-4701, FAX (804) 225-4700, e-mail Frankie.Giles@VirginiaDOT.org.

August 21, 2003 - 9 a.m. -- Canceled


Department of Transportation, 1221 East Broad Street, Auditorium, Richmond, Virginia. 

† **September 18, 2003 - Noon** -- Open Meeting
Virginia Port Authority, 600 World Trade Center, Board Room,
Norfolk, 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: Frankie Giles, Agency Regulatory Coordinator, Commonwealth Transportation Board, 1401 E. Broad St., Richmond, VA 23219, telephone (804) 225-4701, FAX (804) 225-4700, e-mail Frankie.Giles@VirginiaDOT.org.


TREASURY BOARD

August 20, 2003 - 9 a.m. -- Open Meeting
September 17, 2003 - 9 a.m. -- Open Meeting
James Monroe Building, 101 North 14th Street, 3rd Floor,
Treasury Board Room, Richmond, Virginia. 


A regular meeting.


Contact: Melissa Mayes, Treasury Board Secretary, Department of the Treasury, 101 N. 14th St., 3rd Floor, Treasury Board Room, Richmond, VA 23219, telephone (804) 371-6011, FAX (804) 225-3187, e-mail melissa.mayes@trs.state.va.us.

BOARD OF VETERINARY MEDICINE


† **August 13, 2003 - 9 a.m.** -- Open Meeting
Department of Health Professions, 6603 West Broad Street,
5th Floor, Conference Room 1, Richmond, Virginia. 

Discussions regarding inspection procedures, new legislation, compounding of drugs, formal hearing, and general board business.


Contact: Elizabeth A. Carter, Ph.D., Executive Director, Board of Veterinary Medicine, Alcoa Bldg., 6603 W. Broad St., 5th Floor, Richmond, VA 23230-1712, telephone (804) 662-9915, FAX (804) 662-7098, (804) 662-7197/TTY , e-mail elizabeth.carter@dhp.state.va.us.

August 14, 2003 - 9 a.m. -- Open Meeting
Department of Health Professions, 6603 West Broad Street,
5th Floor, Conference Room 4, Richmond, Virginia. 

A Special Conference Committee will conduct informal hearings (disciplinary hearings). These are public meetings, but public comment will not be received.

Contact: Terri H. Behr, Administrative Assistant, Board of Veterinary Medicine, 6603 W. Broad St., 5th Floor, Richmond, VA 23230, telephone (804) 662-9915, FAX (804) 662-7098, (804) 662-7197/TTY , e-mail terri.behr@dhp.state.va.us


VIRGINIA WAR MEMORIAL FOUNDATION

September 19, 2003 - Noon -- Open Meeting
Virginia War Memorial, 621 South Belvidere Street,
Richmond, Virginia.  (Interpreter for the deaf provided upon request)

A regular quarterly meeting of the Board of Trustees to include the election of officers.


Contact: Jon C. Hatfield, Executive Director, Virginia War Memorial Foundation, 621 S. Belvidere St., Richmond, VA 23220, telephone (804) 786-2060, FAX (804) 786-6652, e-mail jhatfield@vawarmemorial.state.va.us.


STATE WATER CONTROL BOARD

† **July 30, 2003 - 1 p.m.** -- Open Meeting
† **August 6, 2003 - 1 p.m.** -- Open Meeting
† **August 20, 2003 - 1 p.m.** -- Open Meeting
Department of Environmental Quality, Piedmont Regional Office, 4949-A Cox Road, Glen Allen, Virginia. 

The second of two meetings of the advisory committee assisting the department in the reissuance of the general VPDES permit for storm water discharges from industrial activities.

Contact: Burton R. Tuxford, 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.


† **August 12, 2003 - 10 a.m.** -- Open Meeting
Department of Environmental Quality, Piedmont Regional Office, 4949-A Cox Road, Glen Allen, Virginia. 

† **September 9, 2003 - 10 a.m.** -- Open Meeting
Department of Forestry Headquarters, 900 Natural Resources Drive, Charlottesville, Virginia. 

A meeting of the advisory committee assisting the department in the development of amendments to the General VPA Permits for confined animal feeding operations and confined poultry feeding operations and the new General VPDES permit for confined animal feeding operations.

Contact: T. Scott Haley, Department of Environmental Quality, P.O. Box 10009, Richmond, VA 23240, telephone (804) 698-4443, FAX (804) 698-4032, e-mail tshaley@deq.state.va.us.

BOARD FOR WATERWORKS AND WASTEWATER WORKS OPERATORS

September 9, 2003 - 8:30 a.m. -- Open Meeting
Department of Professional and Occupational Regulation, 3600 West Broad Street, Richmond, Virginia. 

A meeting to conduct board business.

Contact: David E. Dick, Assistant Director, Department of Professional and Occupational Regulation, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-8595, FAX (804)

Calendar of Events

367-6128, (804) 367-9753/TTY ☎, e-mail
waterwasteoper@dpor.state.va.us.

INDEPENDENT

VIRGINIA RETIREMENT SYSTEM

August 20, 2003 - 11 a.m. -- Open Meeting
Bank of America Building, 1111 East Main Street, 4th Floor,
Conference Room, Richmond, Virginia. 📍

A regular meeting of the Investment Advisory Committee.
No public comment will be received.

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.

August 20, 2003 - 11 a.m. -- Open Meeting
VRS Headquarters, 1200 East Main Street, Richmond, Virginia. 📍

The following committees will meet:

3 p.m. - Administration and Personnel Committee

3 p.m. - Benefits and Actuarial Committee

4 p.m. - 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.

NOTE: CHANGE IN MEETING TIME

August 21, 2003 - 9 a.m. -- Open Meeting

† **October 16, 2003 - 9 a.m.** -- Open Meeting

VRS Headquarters, 1200 East Main Street, Richmond, Virginia. 📍

A regular meeting of the Board of Trustees. No public comment will be received.

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.

LEGISLATIVE

VIRGINIA CODE COMMISSION

August 20, 2003 - 10 a.m. -- Open Meeting

September 17, 2003 - 10 a.m. -- Open Meeting

† **October 22, 2003 - 10 a.m.** -- Open Meeting

General Assembly Bldg., 9th and Broad Streets, 6th Floor, Speaker's Conference Room, Richmond, Virginia. 📍
(Interpreter for the deaf provided upon request)

A meeting to discuss the recodifications of Titles 1, 3.1 and 37.1 and other business that may come before the commission. A brief public comment period will be provided at the end of the meeting.

Contact: Jane Chaffin, Registrar of Regulations, Virginia Code Commission, General Assembly Bldg., 2nd Floor, 910 Capitol St., Richmond, VA 23219, telephone (804) 786-3591, FAX (804) 692-0625, e-mail jchaffin@leg.state.va.us.

JOINT COMMISSION ON TECHNOLOGY AND SCIENCE

August 6, 2003 - 1:30 p.m. -- Open Meeting

September 17, 2003 - 1:30 p.m. -- Open Meeting

† **October 22, 2003 - 1:30 p.m.** -- Open Meeting

General Assembly Building, 9th and Broad Streets, House Room D, Richmond, Virginia. 📍

A meeting of the JCOTS Advisory Committee on the Hard Sciences.

Contact: Eric Link, Staff Attorney, Joint Commission on Technology and Science, General Assembly Bldg., 2nd Floor, 910 Capitol St., Richmond, VA 23219, telephone (804) 786-3591, FAX (804) 371-0169, e-mail elink@leg.state.va.us.

August 5, 2003 - 9:30 a.m. -- Open Meeting

September 16, 2003 - 9:30 a.m. -- Open Meeting

† **October 21, 2003 - 9:30 a.m.** -- Open Meeting

Location to be determined.

A meeting of the JCOTS Advisory Committee on Consumer Protection.

Contact: Mitchell Goldstein, Director, Joint Commission on Technology and Science, General Assembly Bldg., 2nd Floor, 910 Capitol St., Richmond, VA 23219, telephone (804) 786-3591.

August 19, 2003 - 10 a.m. -- Open Meeting

Video conference; location to be determined.

A meeting to discuss homeland security.

Contact: Mitchell Goldstein, Director, Joint Commission on Technology and Science, General Assembly Bldg., 2nd Floor, 910 Capitol St., Richmond, VA 23219, telephone (804) 786-3591.

September 2, 2003 - 9:30 a.m. -- Open Meeting


General Assembly Building, 9th and Broad Streets, House Room D, Richmond, Virginia. 📍

October 7, 2003 - 9:30 a.m. -- Open Meeting

Location to be determined.

A meeting of the JCOTS Cyberlaw Advisory Committee. The meeting will also be teleconferenced at 510 Cumberland Street, Suite 308, Bristol, Virginia.

Contact: Mitchell Goldstein, Director, Joint Commission on Technology and Science, General Assembly Bldg., 910 Capitol St., Richmond, VA 23219, telephone (804) 786-3591, e-mail jcots@leg.state.va.us.

September 3, 2003 - 1:30 p.m. -- Open Meeting
October 8, 2003 - 1:30 p.m. -- Open Meeting
 General Assembly Building, 9th and Broad Streets, House Room D, Richmond, Virginia. 

A meeting of the JCOTS Advisory Committee on Integrated Government.

Contact: Eric Link, Staff Attorney, Joint Commission on Technology and Science, General Assembly Bldg., 2nd Floor, 910 Capitol St., Richmond, VA 23219, telephone (804) 786-3591, FAX (804) 371-0169, e-mail elink@leg.state.va.us.

CHRONOLOGICAL LIST

OPEN MEETINGS

July 28

Alcoholic Beverage Control Board
 Conservation and Recreation, Department of Governor, Office of the
 - Urban Policy Task Force
 † Local Government, Commission on
 Mental Health, Mental Retardation and Substance Services, Department of
 - Olmstead Task Force
 Psychology, Board of

July 29

Conservation and Recreation, Department of Contractors, Board for
 Environmental Quality, Department of
 - Natural Resources Funding Commission
 † Funeral Directors and Embalmers, Board of
 Geology, Board for
 † Museum of Fine Arts, Virginia
 - Expansion Oversight Committee
 Nursing, Board of
 - Special Conference Committee

July 30

Architects, Professional Engineers, Land Surveyors, Certified Interior Designers and Landscape Architects
 - Architects Section
 Accountancy, Board of
 At-Risk Youth and Families, Comprehensive Services for
 - State Executive Council
 † Medical Assistance Services, Department of
 - Pharmacy and Therapeutics Committee
 Museum of Fine Arts, Virginia
 - Expansion Committee
 † Water Control Board, State

July 31

Branch Pilots, Board for
 Medicine, Board of
 - Informal Conference Committee
 Mental Health, Mental Retardation and Substance Abuse Services Board, State
 Pharmacy, Board of
 - Special Conference Committee
 Polygraph Examiners Advisory Board
 Real Estate Board

August 1

Art and Architectural Review Board
 Branch Pilots, Board for
 Medicine, Board of
 - Informal Conference Committee
 Mental Health, Mental Retardation and Substance Abuse Services Board, State

August 4

Chesapeake Bay Local Assistance Board
 † Conservation and Recreation, Department of

August 5

Architects, Professional Engineers, Land Surveyors, Certified Interior Designers and Landscape Architects, Board for
 - Professional Engineers Section
 † Conservation and Recreation, Department of Contractors, Board for
 Resources Authority, Virginia
 - Board of Directors
 Technology and Science, Joint Commission on
 - Advisory Committee on Consumer Protection

August 6

Architects, Professional Engineers, Land Surveyors, Certified Interior Designers and Landscape Architects, Board for
 - Land Surveyors Section
 Contractors, Board for
 - Tradesman and Education Committee
 Deaf and Hard-of-Hearing, Department for the Jamestown-Yorktown Foundation
 - Steering Committee
 Medicine, Board of
 - Informal Conference Committee
 People with Disabilities, Virginia Board for
 - Executive Committee
 Technology and Science, Joint Commission on
 - Advisory Committee on the Hard Sciences
 † Water Control Board, State

August 7

Architects, Professional Engineers, Land Surveyors, Certified Interior Designers and Landscape Architects, Board for
 - Landscape Architects Section
 Conservation and Recreation, Department of
 Taxation, Department of
 - State Land Evaluation Advisory Council
 Technology Services, Council on
 - Executive Committee

August 8

Agriculture and Consumer Services, Department of
 - Virginia Soybean Board
 Health, Department of
 - Emergency Medical Services Advisory Board

August 11

Alcoholic Beverage Control Board
 Environmental Quality, Department of
 Nursing, Board of
 - Special Conference Committee

August 12

† Accountancy, Board of
 - Enforcement Committee
 † Cemetery Board

Calendar of Events

† Chesapeake Bay Local Assistance Board
† Conservation and Recreation, Department of
† Contractors, Board for
- Virginia Land Conservation Foundation
Nursing, Board of
- Special Conference Committee
† Nursing Home Administrators, Board of
† Water Control Board, State

August 13

Cemetery Board
† Conservation and Recreation, Department of
Environmental Quality, Department of
- Litter Control and Recycling Fund Advisory Board
† Health, Department of
- Marina Regulations Advisory Committee
Milk Commission, State
Sewage Handling and Disposal Appeal Review Board
Technology Services, Council on
- Change Management Workgroup
† Veterinary Medicine, Board of

August 14

Architects, Professional Engineers, Land Surveyors,
Certified Interior Designers and Landscape Architects,
Board for
- Certified Interior Designers Section
† Audiology and Speech-Language Pathology, Board of
Nursing, Board of
- Special Conference Committee
Veterinary Medicine, Board of
- Special Conference Committee

August 15

† Dentistry, Board of
Governor, Office of the
- Urban Policy Task Force
Health Professions, Department of
- Intervention Program Committee
Museum of Natural History, Virginia
- Executive Committee

August 18

Environmental Quality, Department of
- Water Policy Technical Advisory Committee
† Real Estate Board

August 19

Nursing, Board of
- Special Conference Committee
Technology and Science, Joint Commission on
- Advisory Committee on Homeland Security

August 20

† Aviation Board, Virginia
Code Commission, Virginia
† Compensation Board
Contractors, Board for
Environmental Quality, Department of
- Recycling Markets Development Council
George Mason University
† Medicine, Board of
- Informal Conference Committee
Retirement System, Virginia
- Administration and Personnel Committee
- Audit and Compliance Committee
- Benefits and Actuarial Committee
- Investment Advisory Committee

Social Services, State Board of
Treasury Board
† Water Control Board, State

August 21

Agriculture and Consumer Services, Department of
- Virginia Cotton Board
† Cemetery Board
Counseling, Board of
- Credentials Committee
Design-Build/Construction Management Review Board
Environmental Quality, Department of
- Natural Resources Funding Committee
† Game and Inland Fisheries, Board of
Health, Department of
- Sewage Handling and Disposal Advisory Committee
† Labor and Industry, Department of
- Virginia Apprenticeship Council Subcommittee
Social Services, State Board of
Technology Services, Council on
- Security Workgroup
Retirement System, Virginia
- Board of Trustees

August 22

Counseling, Board of

August 25

† Agricultural Council, Virginia
Agriculture and Consumer Services, Department of
- Virginia Horse Industry Board
Alcoholic Beverage Control Board

August 26

† Agricultural Council, Virginia
Contractors, Board for
Marine Resources Commission
Nursing, Board of
- Special Conference Committee
Real Estate Appraiser Board

August 27

Asbestos, Lead, and Home Inspectors, Virginia Board for
At-Risk Youth and Families, Comprehensive Services for
- State Executive Council

August 28

Medicine, Board of
- Informal Conference Committee

August 29

† Dentistry, Board of

September 2

Technology and Science, Joint Commission on
- Advisory Committee on Cyberlaw

September 3

Medicine, Board of
- Informal Conference Committee
Real Estate Board
- Education Committee
Technology and Science, Joint Commission on
- Advisory Committee on Integrated Government

September 4

Museum of Fine Arts, Virginia
- Executive Committee
Information Technologies Agency, Virginia
- VGIN Advisory Board
Real Estate Board
Technology Services, Council on

- Executive Committee

September 5

Art and Architectural Review Board
Environmental Quality, Department of
- Natural Resources Partnership

September 8

Alcoholic Beverage Control Board

September 9

Contractors, Board for
Funeral Directors and Embalmers, Board of
Governor, Office of the
- Urban Policy Task Force
Medical Assistance Services, Board of
† Water Control Board, State
Waterworks and Wastewater Works Operators, Board for

September 10

Architects, Professional Engineers, Land Surveyors,
Certified Interior Designers and Landscape Architects,
Board for
† Blind and Vision Impaired, Department of the
† Funeral Directors and Embalmers, Board of
Information Technologies Agency, Virginia
- Wireless E-911 Services Board
Jamestown-Yorktown Foundation
- Steering Committee
Technology Services, Council on
- Change Management Workgroup

September 11

Environmental Quality, Department of
- Water Policy Technical Advisory Committee

September 12

Child Fatality Review Team, State
† Museum of Fine Arts, Virginia
- Expansion Committee

September 13

Conservation and Recreation, Department of
- Virginia Cave Board

September 15

Museum of Natural History, Virginia
- Executive Committee

September 16

Contractors, Board for
Technology and Science, Joint Commission on
- Advisory Committee on Consumer Protection

September 17

Code Commission, Virginia
Education, Board of
Medicine, Board of
- Informal Conference Committee
† Museum of Fine Arts, Virginia
- Communications and Marketing Committee
- Education and Programs Committee
- Exhibitions Committee
- Expansion Committee
- Legislative Committee
- Planning Committee
Real Estate Board
Technology and Science, Joint Commission on
- Advisory Committee on the Hard Sciences
Treasury Board

September 18

Design-Build/Construction Management Review Board

† Museum of Fine Arts, Virginia
- Buildings and Grounds Committee
- Collections Committee
- Finance Committee
- Board of Trustees

Polygraph Examiners Advisory Board

Real Estate Board

Taxation, Department of
- State Land Evaluation Advisory Council
Technology Services, Council on
- Security Workgroup

† Transportation Board, Commonwealth

September 19

† Social Services, Department of
- Family and Children's Trust Fund Board of Trustees
Social Work, Board of
War Memorial Foundation, Virginia

September 22

Alcoholic Beverage Control Board
Nursing, Board of
† Professional and Occupational Regulation, Board for

September 23

Governor, Office of the
- Urban Policy Task Force
† Marine Resources Commission
Nursing, Board of

September 24

At-Risk Youth and Families, Comprehensive Services for
- State Executive Council
George Mason University
Nursing, Board of

September 25

Nursing, Board of
Public Guardian and Conservator Advisory Board, Virginia

September 29

Environmental Quality, Department of
- Water Policy Technical Advisory Committee

September 30

Contractors, Board for

October 2

Technology Services, Council on
- Executive Committee

October 3

Art and Architectural Review Board

October 7

Museum of Fine Arts, Virginia
- Executive Committee
Nursing, Board of
- Special Conference Committee
Technology and Science, Joint Commission on
- Advisory Committee on Cyberlaw

October 8

Contractors, Board for
Nursing, Board of
- Special Conference Committee
Technology Services, Council on
- Change Management Workgroup
Technology and Science, Joint Commission on
- Advisory Committee on Integrated Government

Calendar of Events

October 10

Social Services, Department of
- Virginia Commission on National and Community
Service

October 14

Alcoholic Beverage Control Board
Contractors, Board for
Nursing, Board of
- Special Conference Committee

October 15

† Environmental Quality, Department of
- Water Policy Technical Advisory Committee
† Nursing, Board of
- Special Conference Committee

October 16

† Design-Build/Construction Management Review Board
† Retirement System, Virginia
- Board of Trustees
† Technology Services, Council on
- Security Workgroup

October 17

† Health Professions, Department of

October 20

† Museum of Natural History, Virginia
- Executive Committee

October 21

† Contractors, Board for
† Nursing, Board of
- Special Conference Committee
† Technology and Science, Joint Commission on
- Advisory Committee on Consumer Protection

October 22

† Code Commission, Virginia
† Education, Board of
† Real Estate Board
- Education Committee
† Technology and Science, Joint Commission on
- Advisory Committee on The Hard Sciences

October 23

† Nursing, Board of
- Special Conference Committee
† Real Estate Board

October 24

† Health, State Board of

October 27

† Alcoholic Beverage Control Board

October 28

† Contractors, Board for
† Marine Resources Commission
† Nursing, Board of
- Special Conference Committee

PUBLIC HEARINGS

July 28

Local Government, Commission on

August 12

Labor and Industry, Department of
- Safety and Health Codes Board

August 19

† Professional and Occupational Regulation, Board for

August 20

Air Pollution Control Board, State
† Mental Health, Mental Retardation and Substance Abuse
Services, Department of

August 26

Air Pollution Control Board, State

August 28

† Professional and Occupational Regulation, Board for

September 22

† Professional and Occupational Regulation, Board for

September 23

† Mines, Minerals and Energy, Department of

September 25

† Mines, Minerals and Energy, Department of

October 1

† Professional and Occupational Regulation, Board for