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Title 3. Alcoholic Beverages			
3 VAC 5-40-20 emer	Amended	19:24 VA.R. 3586	7/10/03-7/9/04
3 VAC 5-40-50 emer	Amended	19:24 VA.R. 3587	7/10/03-7/9/04
3 VAC 5-70-220 emer	Added	19:24 VA.R. 3587	7/10/03-7/9/04
Title 4. Conservation and Natural Resources			
4 VAC 5-10-10	Amended	19:24 VA.R. 3507	9/10/03
4 VAC 5-10-20	Amended	19:24 VA.R. 3507	9/10/03
4 VAC 5-10-30	Amended	19:24 VA.R. 3508	9/10/03
4 VAC 5-10-40	Repealed	19:24 VA.R. 3510	9/10/03
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4 VAC 15-50-30	Repealed	19:19 VA.R. 2819	7/1/03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
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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

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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
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	Erratum	19:23 VA.R. 3412	--
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 20-490-40	Amended	19:23 VA.R. 3320	7/1/03
4 VAC 20-490-60	Amended	19:23 VA.R. 3320	7/1/03
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 20-752-20 emer	Amended	19:23 VA.R. 3385	6/26/03-7/24/03

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SECTION NUMBER	ACTION	CITE	EFFECTIVE DATE
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 20-910-45	Amended	19:23 VA.R. 3320	7/1/03
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 20-950-47	Amended	19:23 VA.R. 3321	7/1/03
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 emer	Amended	19:23 VA.R. 3385	6/25/03-7/24/03
4 VAC 20-1060-10	Added	19:16 VA.R. 2393	3/26/03
4 VAC 20-1060-20 emer	Amended	19:23 VA.R. 3385	6/25/03-7/24/03
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 25-30	Repealed	19:24 VA.R. 3510	9/11/03
4 VAC 25-31-10 through 4 VAC 25-31-570	Added	19:24 VA.R. 3510-3518	9/11/03
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
4 VAC 25-160-30	Amended	19:18 VA.R. 2664	7/1/03
4 VAC 50-10-10	Amended	19:24 VA.R. 3518	9/10/03
4 VAC 50-10-20	Amended	19:24 VA.R. 3519	9/10/03
4 VAC 50-10-30	Amended	19:24 VA.R. 3519	9/10/03
4 VAC 50-10-40	Repealed	19:24 VA.R. 3521	9/10/03
4 VAC 50-10-40	Repealed	19:24 VA.R. 3521	9/10/03
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
6 VAC 35-20-10	Amended	19:23 VA.R. 3322	9/1/03
6 VAC 35-20-20	Repealed	19:23 VA.R. 3324	9/1/03
6 VAC 35-20-30	Amended	19:23 VA.R. 3324	9/1/03
6 VAC 35-20-35	Added	19:23 VA.R. 3324	9/1/03
6 VAC 35-20-37	Added	19:23 VA.R. 3324	9/1/03
6 VAC 35-20-40	Repealed	19:23 VA.R. 3324	9/1/03
6 VAC 35-20-50	Amended	19:23 VA.R. 3324	9/1/03
6 VAC 35-20-60	Amended	19:23 VA.R. 3325	9/1/03
6 VAC 35-20-63	Added	19:23 VA.R. 3325	9/1/03
6 VAC 35-20-65	Added	19:23 VA.R. 3325	9/1/03
6 VAC 35-20-67	Added	19:23 VA.R. 3325	9/1/03
6 VAC 35-20-69	Added	19:23 VA.R. 3325	9/1/03
6 VAC 35-20-70	Repealed	19:23 VA.R. 3326	9/1/03
6 VAC 35-20-75	Added	19:23 VA.R. 3326	9/1/03
6 VAC 35-20-80	Amended	19:23 VA.R. 3326	9/1/03
6 VAC 35-20-90	Amended	19:23 VA.R. 3326	9/1/03
6 VAC 35-20-92	Added	19:23 VA.R. 3328	9/1/03
6 VAC 35-20-93	Added	19:23 VA.R. 3328	9/1/03
6 VAC 35-20-94	Added	19:23 VA.R. 3328	9/1/03
6 VAC 35-20-100	Amended	19:23 VA.R. 3328	9/1/03
6 VAC 35-20-110	Amended	19:23 VA.R. 3330	9/1/03
6 VAC 35-20-120	Amended	19:23 VA.R. 3330	9/1/03
6 VAC 35-20-130	Repealed	19:23 VA.R. 3330	9/1/03
6 VAC 35-20-140	Repealed	19:23 VA.R. 3330	9/1/03
6 VAC 35-20-150	Added	19:23 VA.R. 3330	9/1/03
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

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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
8 VAC 40-30-10 through 8 VAC 40-30-470 emer	Repealed	19:24 VA.R. 3589	7/16/03-7/15/04
8 VAC 40-31-10 through 8 VAC 40-31-280 emer	Added	19:24 VA.R. 3589-3600	7/16/03-7/15/04
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 5-40-6250 through 9 VAC 5-40-6510	Added	19:24 VA.R. 3521-3535	9/10/03
9 VAC 5-40-6550 through 9 VAC 5-40-6810	Added	19:24 VA.R. 3536-3556	9/10/03
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
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

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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	↑
9 VAC 20-170-70	Erratum	19:23 VA.R. 3412	--
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	↑
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 25-140-155	Amended	19:23 VA.R. 3348	8/27/03
9 VAC 25-193-10	Amended	19:23 VA.R. 3332	10/1/03
9 VAC 25-193-30 through 9 VAC 25-193-70	Amended	19:23 VA.R. 3332-3348	10/1/03
9 VAC 25-193-80	Repealed	19:23 VA.R. 3348	10/1/03
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	8/27/03 ²
9 VAC 25-260-155	Amended	18:24 VA.R. 3289	8/27/03 ²
9 VAC 25-260-310	Amended	18:20 VA.R. 2659	8/27/03 ²
9 VAC 25-260-390	Amended	18:20 VA.R. 2661	8/27/03 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 Notice of effective date published in 19:23 VA. R. 3348.

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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 5-590-140	Amended	19:24 VA.R. 3557	9/10/03
12 VAC 5-590-150	Amended	19:24 VA.R. 3557	9/10/03
12 VAC 5-590-370	Amended	19:17 VA.R. 2526	6/4/03
12 VAC 5-590-370	Amended	19:24 VA.R. 3557	9/10/03
12 VAC 5-590-380	Amended	19:24 VA.R. 3557	9/10/03
12 VAC 5-590-400	Amended	19:24 VA.R. 3557	9/10/03
12 VAC 5-590-410	Amended	19:24 VA.R. 3557	9/10/03
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 5-590-440	Amended	19:24 VA.R. 3557	9/10/03
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 5-590-530	Amended	19:24 VA.R. 3557	9/10/03

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

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

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12 VAC 5-590-540	Amended	19:24 VA.R. 3557	9/10/03
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 5-590 Appendix B	Amended	19:24 VA.R. 3557	9/10/03
12 VAC 5-590 Appendix O	Amended	19:24 VA.R. 3557	9/10/03
12 VAC 5-590 Appendix P	Added	19:24 VA.R. 3557	9/10/03
12 VAC 5-590 Appendix F	Repealed	19:24 VA.R. 3557	9/10/03
12 VAC 5-590 Appendix H	Repealed	19:24 VA.R. 3557	9/10/03
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
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 30-50-229.1 emer	Amended	19:23 VA.R. 3387	7/1/03-6/30/04
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 30-60-40 emer	Amended	19:23 VA.R. 3391	7/1/03-6/30/04
12 VAC 30-60-70	Amended	19:18 VA.R. 2687	7/1/03
12 VAC 30-60-320 emer	Amended	19:23 VA.R. 3392	7/1/03-6/30/04
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 30-80-75 emer	Added	19:23 VA.R. 3391	7/1/03-6/30/04
12 VAC 30-90-264 emer	Amended	19:23 VA.R. 3393	7/1/03-6/30/04
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 30-120-260	Amended	19:23 VA.R. 3349	8/27/03

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12 VAC 30-120-280	Amended	19:23 VA.R. 3350	8/27/03
12 VAC 30-120-300	Amended	19:23 VA.R. 3351	8/27/03
12 VAC 30-120-360 through 12 VAC 30-120-420	Amended	19:23 VA.R. 3352-3358	8/27/03
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 30-140-10 through 12 VAC 30-140-570	Repealed	19:24 VA.R. 3557	9/11/03
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
12 VAC 35-105-20	Amended	19:24 VA.R. 3558	9/18/03
12 VAC 35-105-30	Amended	19:24 VA.R. 3564	9/18/03
12 VAC 35-105-280	Amended	19:24 VA.R. 3564	9/18/03
12 VAC 35-105-590	Amended	19:24 VA.R. 3564	9/18/03
12 VAC 35-105-660	Amended	19:24 VA.R. 3565	9/18/03
12 VAC 35-105-800	Amended	19:24 VA.R. 3565	9/18/03
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
Title 14. Insurance			
14 VAC 5-71 (Forms)	Amended	19:23 VA.R. 3409	--
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

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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 25-85-1904.10	Amended	19:23 VA.R. 3359	1/1/04
16 VAC 25-85-1904.12	Amended	19:23 VA.R. 3359	1/1/04
16 VAC 25-85-1904.29	Amended	19:23 VA.R. 3359	1/1/04
16 VAC 25-90-1910.178	Amended	19:23 VA.R. 3359	9/1/03
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 15-30-10 through 18 VAC 15-30-50	Amended	19:24 VA.R. 3565	10/1/03
18 VAC 15-30-41	Added	19:24 VA.R. 3565	10/1/03
18 VAC 15-30-60 through 18 VAC 15-30-90	Repealed	19:24 VA.R. 3565	10/1/03
18 VAC 15-30-100 through 18 VAC 15-30-180	Amended	19:24 VA.R. 3565	10/1/03
18 VAC 15-30-190 through 18 VAC 15-30-240	Repealed	19:24 VA.R. 3565	10/1/03
18 VAC 15-30-205	Added	19:24 VA.R. 3565	10/1/03
18 VAC 15-30-245	Added	19:24 VA.R. 3565	10/1/03
18 VAC 15-30-250 through 18 VAC 15-30-300	Amended	19:24 VA.R. 3565	10/1/03
18 VAC 15-30-310	Repealed	19:24 VA.R. 3565	10/1/03
18 VAC 15-30-320	Repealed	19:24 VA.R. 3565	10/1/03
18 VAC 15-30-330 through 18 VAC 15-30-520	Amended	19:24 VA.R. 3565	10/1/03
18 VAC 15-30-530	Repealed	19:24 VA.R. 3565	10/1/03
18 VAC 15-30-540	Amended	19:24 VA.R. 3565	10/1/03
18 VAC 15-30-541	Added	19:24 VA.R. 3565	10/1/03
18 VAC 15-30-542	Added	19:24 VA.R. 3565	10/1/03
18 VAC 15-30-550	Amended	19:24 VA.R. 3565	10/1/03
18 VAC 15-30-560 through 18 VAC 15-30-600	Repealed	19:24 VA.R. 3565	10/1/03
18 VAC 15-30-610	Amended	19:24 VA.R. 3565	10/1/03
18 VAC 15-30-620	Amended	19:24 VA.R. 3565	10/1/03
18 VAC 15-30-630	Repealed	19:24 VA.R. 3565	10/1/03
18 VAC 15-30-640	Repealed	19:24 VA.R. 3565	10/1/03
18 VAC 15-30-650	Amended	19:24 VA.R. 3565	10/1/03
18 VAC 15-30-651	Added	19:24 VA.R. 3565	10/1/03
18 VAC 15-30-660 through 18 VAC 15-30-750	Repealed	19:24 VA.R. 3565	10/1/03
18 VAC 15-30-770 through 18 VAC 15-30-820	Amended	19:24 VA.R. 3565	10/1/03
18 VAC 15-30-830	Repealed	19:24 VA.R. 3565	10/1/03
18 VAC 15-30-840	Repealed	19:24 VA.R. 3565	10/1/03
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 41-40-10 through 18 VAC 41-40-260 emer	Added	19:23 VA.R. 3396-3403	7/1/03-6/30/04
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

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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
18 VAC 65-20-500	Amended	19:19 VA.R. 2869	7/2/03
18 VAC 76-20-10 through 18 VAC 76-20-60	Added	19:24 VA.R. 3565	9/10/03
18 VAC 76-30-10 through 18 VAC 76-30-120	Added	19:19 VA.R. 2869-2870	7/2/03
18 VAC 80-20-10	Amended	19:24 VA.R. 3567	10/1/03
18 VAC 80-20-30	Amended	19:24 VA.R. 3568	10/1/03
18 VAC 80-20-40	Amended	19:24 VA.R. 3569	10/1/03
18 VAC 80-20-50	Amended	19:24 VA.R. 3569	10/1/03
18 VAC 80-20-60	Repealed	19:24 VA.R. 3569	10/1/03
18 VAC 80-20-70	Amended	19:24 VA.R. 3569	10/1/03
18 VAC 80-20-80	Amended	19:24 VA.R. 3569	10/1/03
18 VAC 80-20-120 through 18 VAC 80-20-160	Amended	19:24 VA.R. 3569-3570	10/1/03
18 VAC 80-20-170	Repealed	19:24 VA.R. 3570	10/1/03
18 VAC 80-20-180	Amended	19:24 VA.R. 3570	10/1/03
18 VAC 80-20-200 through 18 VAC 80-20-270	Amended	19:24 VA.R. 3570	10/1/03
18 VAC 85-20-22 emer	Amended	19:23 VA.R. 3404	7/15/03-7/14/04
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

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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 90-20-30 emer	Amended	19:23 VA.R. 3406	7/15/03-7/14/04
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
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 100-20-53 emer	Added	19:24 VA.R. 3601	7/17/03-7/16/04
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

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18 VAC 120-40-10	Amended	19:23 VA.R. 3361	8/27/03
18 VAC 120-40-20	Amended	19:23 VA.R. 3361	8/27/03
18 VAC 120-40-30	Repealed	19:23 VA.R. 3362	8/27/03
18 VAC 120-40-40 through 18 VAC 120-40-140	Amended	19:23 VA.R. 3362-3363	8/27/03
18 VAC 120-40-170 through 18 VAC 120-40-260	Amended	19:23 VA.R. 3363-3365	8/27/03
18 VAC 120-40-290	Amended	19:23 VA.R. 3365	8/27/03
18 VAC 120-40-350	Amended	19:23 VA.R. 3365	8/27/03
18 VAC 120-40-380	Amended	19:23 VA.R. 3365	8/27/03
18 VAC 120-40-400	Amended	19:23 VA.R. 3366	8/27/03
18 VAC 120-40-430	Amended	19:23 VA.R. 3366	8/27/03
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
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

Cumulative Table of VAC Sections Adopted, Amended, or Repealed

SECTION NUMBER	ACTION	CITE	EFFECTIVE DATE
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 135-50-10	Amended	19:24 VA.R. 3571	9/10/03
18 VAC 135-50-30	Amended	19:24 VA.R. 3571	9/10/03
18 VAC 135-50-40	Repealed	19:24 VA.R. 3571	9/10/03
18 VAC 135-50-50	Amended	19:24 VA.R. 3571	9/10/03
18 VAC 135-50-70 through 18 VAC 135-50-110	Amended	19:24 VA.R. 3571-3572	9/10/03
18 VAC 135-50-140	Amended	19:24 VA.R. 3573	9/10/03
18 VAC 135-50-150	Repealed	19:24 VA.R. 3574	9/10/03
18 VAC 135-50-190	Amended	19:24 VA.R. 3574	9/10/03
18 VAC 135-50-200	Amended	19:24 VA.R. 3574	9/10/03
18 VAC 135-50-210	Amended	19:24 VA.R. 3577	9/10/03
18 VAC 135-50-212	Added	19:24 VA.R. 3577	9/10/03
18 VAC 135-50-215	Added	19:24 VA.R. 3577	9/10/03
18 VAC 135-50-217	Added	19:24 VA.R. 3577	9/10/03
18 VAC 135-50-220	Amended	19:24 VA.R. 3577	9/10/03
18 VAC 135-50-230	Repealed	19:24 VA.R. 3577	9/10/03
18 VAC 135-50-240	Repealed	19:24 VA.R. 3577	9/10/03
18 VAC 135-50-250	Repealed	19:24 VA.R. 3577	9/10/03
18 VAC 135-50-270	Amended	19:24 VA.R. 3577	9/10/03
18 VAC 135-50-290	Amended	19:24 VA.R. 3577	9/10/03
18 VAC 135-50-300	Amended	19:24 VA.R. 3577	9/10/03
18 VAC 135-50-330	Amended	19:24 VA.R. 3577	9/10/03
18 VAC 135-50-350	Amended	19:24 VA.R. 3578	9/10/03
18 VAC 135-50-390	Amended	19:24 VA.R. 3578	9/10/03
18 VAC 135-50-400	Amended	19:24 VA.R. 3578	9/10/03
18 VAC 135-50-420	Amended	19:24 VA.R. 3578	9/10/03
18 VAC 135-50-440 through 18 VAC 135-50-470	Amended	19:24 VA.R. 3578	9/10/03
18 VAC 135-50-510	Amended	19:24 VA.R. 3578	9/10/03
18 VAC 135-50-530	Amended	19:24 VA.R. 3578	9/10/03
18 VAC 135-50-560 through 18 VAC 135-50-590	Repealed	19:24 VA.R. 3579	9/10/03
18 VAC 135-60-10 through 18 VAC 135-60-60	Added	19:24 VA.R. 3579	9/10/03
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 19. Public Safety			
19 VAC 30-170-5	Repealed	19:23 VA.R. 3367	7/3/03
19 VAC 30-170-10	Repealed	19:23 VA.R. 3368	7/3/03
19 VAC 30-170-15	Added	19:23 VA.R. 3368	7/3/03
19 VAC 30-170-20	Repealed	19:23 VA.R. 3368	7/3/03
19 VAC 30-170-30	Amended	19:23 VA.R. 3369	7/3/03
19 VAC 30-170-40	Repealed	19:23 VA.R. 3370	7/3/03
19 VAC 30-170-50	Amended	19:23 VA.R. 3370	7/3/03
19 VAC 30-170-60	Repealed	19:23 VA.R. 3370	7/3/03
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 5-312-120	Amended	19:24 VA.R. 3579	1/1/04
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

Cumulative Table of VAC Sections Adopted, Amended, or Repealed

SECTION NUMBER	ACTION	CITE	EFFECTIVE DATE
Title 21. Securities and Retail Franchising			
21 VAC 5-10-10	Amended	19:23 VA.R. 3373	7/1/03
21 VAC 5-20-70	Amended	19:23 VA.R. 3373	7/1/03
21 VAC 5-20-85	Amended	19:23 VA.R. 3373	7/1/03
21 VAC 5-20-155	Amended	19:23 VA.R. 3373	7/1/03
21 VAC 5-20-220	Amended	19:23 VA.R. 3373	7/1/03
21 VAC 5-20-225	Added	19:23 VA.R. 3373	7/1/03
21 VAC 5-20-240	Amended	19:23 VA.R. 3373	7/1/03
21 VAC 5-20-250	Repealed	19:23 VA.R. 3375	7/1/03
21 VAC 5-20-260	Amended	19:23 VA.R. 3375	7/1/03
21 VAC 5-20-270	Repealed	19:23 VA.R. 3375	7/1/03
21 VAC 5-20-280	Amended	19:23 VA.R. 3375	7/1/03
21 VAC 5-30-10	Amended	19:23 VA.R. 3379	7/1/03
21 VAC 5-30-40	Amended	19:23 VA.R. 3380	7/1/03
21 VAC 5-30-70	Repealed	19:23 VA.R. 3380	7/1/03
21 VAC 5-30-80	Amended	19:23 VA.R. 3380	7/1/03
21 VAC 5-30-90	Repealed	19:23 VA.R. 3380	7/1/03
21 VAC 5-40-30	Amended	19:23 VA.R. 3380	7/1/03
21 VAC 5-40-100	Amended	19:23 VA.R. 3381	7/1/03
21 VAC 5-40-120	Repealed	19:23 VA.R. 3381	7/1/03
21 VAC 5-40-140	Amended	19:23 VA.R. 3381	7/1/03
21 VAC 5-40-150	Amended	19:23 VA.R. 3381	7/1/03
21 VAC 5-40-160	Added	19:23 VA.R. 3381	7/1/03
21 VAC 5-45-10	Added	19:23 VA.R. 3381	7/1/03
21 VAC 5-45-20	Added	19:23 VA.R. 3381	7/1/03
21 VAC 5-80-40	Amended	19:23 VA.R. 3381	7/1/03
21 VAC 5-80-190	Amended	19:23 VA.R. 3382	7/1/03
21 VAC 5-80-200	Amended	19:23 VA.R. 3382	7/1/03
21 VAC 5-80-210	Amended	19:23 VA.R. 3384	7/1/03
21 VAC 5-100-10	Amended	19:23 VA.R. 3384	7/1/03
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
22 VAC 40-11-10	Amended	19:24 VA.R. 3581	9/10/03
22 VAC 40-11-30	Amended	19:24 VA.R. 3581	9/10/03
22 VAC 40-11-40	Amended	19:24 VA.R. 3581	9/10/03
22 VAC 40-11-50	Amended	19:24 VA.R. 3581	9/10/03
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
22 VAC 40-375-10 through 22 VAC 40-375-60	Added	19:24 VA.R. 3582-3584	9/10/03
22 VAC 40-685-10	Added	19:24 VA.R. 3584	9/1/03
22 VAC 40-685-20	Added	19:24 VA.R. 3584	9/1/03

Cumulative Table of VAC Sections Adopted, Amended, or Repealed

SECTION NUMBER	ACTION	CITE	EFFECTIVE DATE
22 VAC 40-685-30	Added	19:24 VA.R. 3584	9/1/03
22 VAC 40-910-10 through 22 VAC 40-910-110	Added	19:24 VA.R. 3584-3585	9/1/03
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 action 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 3. ALCOHOLIC BEVERAGES

ALCOHOLIC BEVERAGE CONTROL BOARD

Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 2.2-4007 of the Code of Virginia that the Alcoholic Beverage Control Board intends to consider amending regulations entitled **3 VAC 5-40, Requirements for Product Approval** and **3 VAC 5-70, Other Provisions**. The purpose of the proposed action is to carry out the mandate of Chapters 1029 and 1030 of the 2003 Acts of Assembly to establish regulations to implement the creation of wine and beer shippers' licenses. The proposed action will create the process for applying for such licenses, and establish the recordkeeping and reporting requirements for such licensees.

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

Statutory Authority: §§ 4.1-103 and 4.1-112.1 of the Code of Virginia.

Public comments may be submitted until September 10, 2003.

Contact: W. Curtis Coleburn, III, Chief Operating Officer, Department of Alcoholic Beverage Control, 2901 Hermitage Rd., Richmond, VA 23220, telephone (804) 213-4409, FAX (804) 213-4411 or e-mail wccolen@abc.state.va.us.

VA.R. Doc. No. R03-271; Filed July 10, 2003, 10:39 a.m.

TITLE 11. GAMING

VIRGINIA RACING COMMISSION

† Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 2.2-4007 of the Code of Virginia that the Virginia Racing Commission intends to consider amending regulations entitled **11 VAC 10-50, Regulations Pertaining to Horse Racing with Pari-Mutuel Wagering: Racing Officials**. The purpose of the proposed action is to amend the regulations for racing officials to bring them into conformance with neighboring jurisdictions. The commission will amend the duties and responsibilities of certain racing officials, replace the term "Standardbred racing" with the preferred term "harness racing," and repeal the sections pertaining to clocker, gap attendant, stall superintendent and track superintendent, which have previously been moved to 11 VAC 10-60.

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

Statutory Authority: § 59.1-369 of the Code of Virginia.

Public comments may be submitted until October 1, 2003.

Contact: William H. Anderson, Director of Policy and Planning, Virginia Racing Commission, P.O. Box 208, New Kent, VA 23124, telephone (804) 966-7404, FAX (804) 966-7418 or e-mail Anderson@vrc.state.va.us.

VA.R. Doc. No. R03-304; Filed July 31, 2003, 2:03 p.m.

† Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 2.2-4007 of the Code of Virginia that the Virginia Racing Commission intends to consider amending regulations entitled **11 VAC 10-60, Regulations Pertaining to Horse Racing with Pari-Mutuel Wagering: Participants**. The purpose of the proposed action is to amend the current regulations pertaining to participants in pari-mutuel horse racing thereby bringing them into conformance with neighboring jurisdictions. The regulations

Notices of Intended Regulatory Action

will be amended to account for emergency permits and change fees for applications for permits. Various categories of participants employed by the licensee's satellite wagering facilities may be merged.

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

Statutory Authority: § 59.1-369 of the Code of Virginia.

Public comments may be submitted until October 1, 2003.

Contact: William H. Anderson, Director of Policy and Planning, Virginia Racing Commission, P.O. Box 208, New Kent, VA 23124, telephone (804) 966-7404, FAX (804) 966-7418 or e-mail Anderson@vrc.state.va.us.

VA.R. Doc. No. R03-305; Filed July 31, 2003, 2:04 p.m.

† Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 2.2-4007 of the Code of Virginia that the Virginia Racing Commission intends to consider amending regulations entitled **11 VAC 10-70, Regulations Pertaining to Horse Racing with Pari-Mutuel Wagering: Stewards**. The purpose of the proposed action is to amend the current regulations pertaining to the appointment of stewards to bring them into conformance with neighboring jurisdictions.

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

Statutory Authority: § 59.1-369 of the Code of Virginia.

Public comments may be submitted until October 1, 2003.

Contact: William H. Anderson, Director of Policy and Planning, Virginia Racing Commission, P.O. Box 208, New Kent, VA 23124, telephone (804) 966-7404, FAX (804) 966-7418 or e-mail Anderson@vrc.state.va.us.

VA.R. Doc. No. R03-306; Filed July 31, 2003, 2:04 p.m.

TITLE 12. HEALTH

STATE BOARD OF HEALTH

† Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 2.2-4007 of the Code of Virginia that the State Board of Health intends to consider repealing regulations entitled **12 VAC 5-60, Virginia Emergency Medical Services Plan**. The purpose of the proposed action is to repeal the statewide EMS plan as a regulation, followed by the development of a replacement plan to serve as a guidance document, allowing for more timely revisions and updates as medical advancements and new system needs are identified. The statewide EMS plan must be dynamic and able to be modified in a timely manner to address changes in funding, staffing, national events and emergencies and system developments.

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

Statutory Authority: § 32.1-111.3 of the Code of Virginia.

Public comments may be submitted until September 24, 2003.

Contact: Scott Winston, Assistant Director, Office of Emergency Medical Services, Department of Health, 1538 E. Parham Rd., Richmond, VA 23228, telephone (804) 371-3500, FAX (804) 371-3543, toll-free 1-800-523-6019, or e-mail swinston@vdh.state.va.us.

VA.R. Doc. No. R03-310; Filed August 4, 2003, 10:31 a.m.

Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 2.2-4007 of the Code of Virginia that the State Board of Health intends to consider amending regulations entitled **12 VAC 5-585, Biosolids Use Regulations**. The purpose of the proposed action is to amend 12 VAC 5-585-500 to provide requirements that would permit biosolids field storage.

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

Statutory Authority: § 32.1-164 of the Code of Virginia.

Public comments may be submitted until September 12, 2003.

Contact: C.M. Sawyer, Director, Division of Wastewater Engineering, Department of Health, 1500 E. Main St., Room 109, Richmond, VA 23219, telephone (804) 786-1755, FAX (804) 786-5567 or e-mail csawyer@vdh.state.va.us.

VA.R. Doc. No. R03-243; Filed July 11, 2003, 9:29 a.m.

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 30-50, 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.

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

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

Public comments may be submitted until 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 (804) 786-7959, FAX (804) 787-1680 or e-mail vsimmons@dmass.state.va.us.

Notices of Intended Regulatory Action

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 action after publication in the Virginia Register.

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

Public comments may be submitted until 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 (804) 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 30-90, Methods and Standards for Establishing Payment Rates; Long-Term Care**. The purpose of the proposed action is to require a minimum holding period by the individual or small chain owner and seller of a nursing facility in order for the sale to result in the reimbursement of capital costs, after the sale, under the full Fair Rental Value methodology.

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

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

Public comments may be submitted until September 10, 2003, to N. Stanley Fields, Director, Division of Cost Settlement, 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@dmas.state.va.us.

VA.R. Doc. No. R03-293; Filed July 18, 2003, 7:43 a.m.

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 action 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 action 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.

DEPARTMENT 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 Department of Health Professions intends to consider adopting regulations entitled **18 VAC 76-40, Regulations Governing Emergency Contact Information**. The purpose of the proposed action is to replace emergency rules for the collection of phone and fax numbers and email addresses to be used in the event of a public health emergency.

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

Statutory Authority: § 54.1-2506.1 of the Code of Virginia.

Public comments may be submitted until 5 p.m. on September 24, 2003.

Contact: Elaine J. Yeatts, Regulatory Coordinator, Department of Health Professions, 6603 W. Broad St., Richmond, VA 23230-1712, telephone (804) 662-9918, FAX (804) 662-9914 or e-mail elaine.yeatts@dhp.state.va.us.

VA.R. Doc. No. R03-314; Filed August 6, 2003, 10:25 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 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 action 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 action 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 action 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.

Notices of Intended Regulatory Action

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 action 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 FOR 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 action after publication in the Virginia Register.

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

Public comments may be submitted until August 27, 2003.

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. R03-265; 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 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 action 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 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. R03-269; Filed July 9, 2003, 11:32 a.m.

DEPARTMENT OF PROFESSIONAL AND OCCUPATIONAL REGULATION

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).

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

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

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.

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



TITLE 22. SOCIAL SERVICES

STATE BOARD OF SOCIAL SERVICES

Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 2.2-4007 of the Code of Virginia that the State Board of Social Services intends to consider repealing regulations entitled **22 VAC 40-660, Child Day Care Services Policy**. The purpose of the proposed action is to repeal the current regulation pertaining to child care policy under the Child Care and Development Fund so that new regulations can be promulgated. New federal regulations and changes in policies in Virginia necessitate that new regulations replace the existing 22 VAC 40-660.

The agency does not intend to hold a public hearing on the proposed action after publication.

Notices of Intended Regulatory Action

Statutory Authority: §§ 63.2-217, 63.2-319, 63.2-611, and 63.2-616 of the Code of Virginia, Child Care and Development Block Grant of 1990 as amended by the Personal Responsibility and Work Opportunity Act of 1996 (Public Law 104-193) and the Balanced Budget Act of 1997 (Public Law 105-33).

Public comments may be submitted until September 10, 2003.

Contact: Dottie Wells, Child Care Program Manager, Division of Child Care and Development, Department of Social Services, 730 E. Broad St., Richmond, VA 23219, telephone (804) 692-1210, FAX (804) 692-2425 or e-mail dgw2@email1.dss.state.va.us.

VA.R. Doc. No. R03-291; Filed July 17, 2003, 10:06 a.m.

Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 2.2-4007 of the Code of Virginia that the State Board of Social Services intends to consider promulgating regulations entitled **22 VAC 40-661, Child Care Services**. The purpose of the proposed action is to promulgate new regulations for the Child Care and Development Fund (CCDF) program in Virginia. The Department of Social Services is the lead agency for the CCDF. The purpose of the Child Care and Development Fund is to increase the availability, affordability and quality of child care services.

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

Statutory Authority: §§ 63.2-217, 63.2-319, 63.2-611, and 63.2-616 of the Code of Virginia, Child Care and Development Block Grant of 1990 as amended by the Personal Responsibility and Work Opportunity Act of 1996 (Public Law 104-193) and the Balanced Budget Act of 1997 (Public Law 105-33).

Public comments may be submitted until September 10, 2003.

Contact: Dottie Wells, Child Care Program Manager, Division of Child Care and Development, Department of Social Services, 730 E. Broad St., Richmond, VA 23219, telephone (804) 692-1210, FAX (804) 692-2425 or e-mail dgw2@email1.dss.state.va.us.

VA.R. Doc. No. R03-292; Filed July 17, 2003, 10:06 a.m.

PROPOSED REGULATIONS

For information concerning Proposed Regulations, see Information Page.

Symbol Key

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

TITLE 1. ADMINISTRATION

DEPARTMENT OF HUMAN RESOURCE MANAGEMENT

Title of Regulation: 1 VAC 55-20. Commonwealth of Virginia Health Benefits Program (amending 1 VAC 55-20-20, 1 VAC 55-20-30, 1 VAC 55-20-40, 1 VAC 55-20-60 through 1 VAC 55-20-90, 1 VAC 55-20-110, 1 VAC 55-20-130, 1 VAC 55-20-160, 1 VAC 55-20-210, 1 VAC 55-20-230 through 1 VAC 55-20-260, 1 VAC 55-20-280, 1 VAC 55-20-290, 1 VAC 55-20-300, 1 VAC 55-20-320 through 1 VAC 55-20-410, 1 VAC 55-20-430, 1 VAC 55-20-450 and 1 VAC 55-20-460; repealing 1 VAC 55-20-10, 1 VAC 55-20-50, 1 VAC 55-20-120 and 1 VAC 55-20-420).

Statutory Authority: §§ 2.2-1204 and 2.2-2218 of the Code of Virginia.

Public Hearing Date: N/A

Public comments may be submitted until 5 p.m. on October 31, 2003.

(See Calendar of Events section for additional information)

Agency Contact: Charles Reed, Associate Director, Department of Human Resource Management, 101 N. Fourteenth Street, Richmond, VA 23219, telephone (804) 786-3124, FAX (804) 371-0231, or e-mail creed@dhrm.state.va.us.

Basis: Section 2.2-2818 of the Code of Virginia authorizes the Department of Human Resource Management (DHRM) to establish a plan for providing health benefits to state employees. Section 2.2-1204 authorizes DHRM to establish a plan for providing health benefits to employees of local municipalities.

United States Code

29 USC § 1181, HIPAA, Portability, Certification of Prior Coverage provisions

29 USC § 1182, HIPAA, Prohibiting Discrimination based on an individual's health status

26 USC § 125, Cafeteria Plan rules

Purpose: The purpose of these amendments is to bring 1 VAC 55-20 into compliance with legislation that has been passed on the state and federal level. The State Employee Health Benefits Program is now required by the Code of Virginia to incorporate an independent medical review program. The Code of Virginia has changed the name of the Department of Personnel and Training to the Department of Human Resource Management, and has extended active coverage for surviving spouses of employees. Legislation has

been passed that removes authority for a Health Benefits Advisory Council and a Local Advisory Council.

On the federal level, the Health Insurance Portability and Accountability Act (HIPAA) has required the plan to change the way it sets coverage effective dates. HIPAA has caused the plan to eliminate any preexisting condition or evidence of insurability provisions. IRS § 125 regulations now require plan participants to make plan election changes on a prospective basis.

The administration of the program is moving into the electronic age. The plan now uses electronic enrollment over the web, so the regulations need to reflect this paperless method of administration.

Finally, there is a need to clarify some of the plan's administrative procedures, as they have been refined over the years.

Substance: It has been many years since these regulations have been updated. Since that time there have been numerous laws passed both at the state and federal levels that change the way the state health benefits plan operates. Additionally, the Commonwealth is moving into the electronic age and many of the terms used for the enrollment process have become antiquated.

At the federal level the Health Insurance Portability and Accountability Act (HIPAA) and the final regulations to IRS § 125 have had a major impact on the administration of the state's health benefit plan. HIPAA requires that health benefit plans offer special enrollment rights to plan members, forbids discrimination based on an individual's health status, severely restricts the administration of any preexisting provision and requires the plan to send out certificates of creditable coverage to all plan members who terminate coverage. The final IRS § 125 regulations have clarified when and how an enrollee may change coverage and membership levels under a 125-premium conversion plan. In doing so, they have updated the change in status rules and added a section on cost and coverage provisions.

At the state level, the Code of Virginia changed the name of the Department of Personnel and Training to the Department of Human Resource Management. The state health benefits plan was required to offer continuation coverage to surviving spouses of state employees along with continuing such coverage for a period of 30 days following the employee's death. The office of the Ombudsman was created in conjunction with provisions for an independent health entity. Both of these were established to provide employees with a vehicle to assist them with claim problems. The Human Resource Council was established eliminating the need for the Health Benefits Advisory Council and the Local Advisory Council. The Medical College of Virginia was made an authority, making MCV employees ineligible for the state health benefits plan.

Issues: The changes will allow the regulations to reflect current plan administrative practices and are necessary to make the plan compliant with state and federal law. With the exception of IRS § 125, which restricts when an employee may enroll in the plan, these changes to the regulation generally provide employees with greater freedom and rights. Except for the restrictions placed on employee enrollment and membership changes (noted above), there will be no disadvantages to the general public, or employees of the Commonwealth, due to the implementation of these regulations.

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 § 2.2-2818 of the Code of Virginia that the Department of Human Resource Management (DHRM) establish a plan for providing health benefits to state employees. Section 2.2-1204 of the Code of Virginia authorizes DHRM to establish a plan for providing health benefits to employees of local municipalities.

The regulation proposes to (i) reduce the minimum number of hours per week that state employees have to work in order to be eligible for the health benefits from 40 hours per week to 32 hours per week, (ii) change the way state health benefits plans handle the discovery of an employee or other plan participant who was ineligible for coverage, (iii) add language that prevents employees of the state residing in another country and eligible for health coverage in that country from claiming state health benefits, and (iv) reduce the maximum period for which an employee who is reinstated can claim retroactive health benefits from 90 days to 60 days.

The proposed regulation also makes changes to the existing regulation in order to bring it into compliance with legislation passed at the state and federal level. The regulation also includes housekeeping changes that make it more consistent with current practice.

Estimated economic impact. (1) The proposed regulation reduces the minimum number of hours per week that state employees have to work in order to be eligible for health benefits from 40 hours per week to 32 hours per week. In the current budget environment, many state agencies are cutting back on staff, by laying off employees and/or reducing the number of hours worked by them. Either because of the experience and expertise that employees have accumulated on the job or because of the likelihood of having to hire and

retrain staff down the road once the budget situation improves, agencies often prefer reducing the number of hours worked by employees to laying them off. By providing full health benefits at a lower number of hours worked per week, the proposed change is intended to help state agencies retain employees who otherwise might have chosen to seek employment elsewhere rather than work the reduced hours.

Employee compensation consists of two parts: wages and benefits (including health benefits). Under current policy, reducing the number of hours worked to below 40 hours per week would save agencies wage and benefits costs. Under the proposed regulation, reducing the number of hours worked to below 40 hours per week will save agencies wage costs, but not health benefits costs.

The short-term impact of the proposed change will be to raise the average hourly compensation of employees. While the hourly wages remain unchanged, employees will now receive higher hourly benefits, i.e., employees will receive the same health benefits they received at 40 hours per week despite the fact that they are working only 32 hours per week. Thus, the proposed change will reduce the cost saving to the state from reducing the number of hours worked. On the other hand, the proposed change will have the benefit of helping the state retain employees whose expertise and experience is considered valuable or of saving the state hiring and retraining costs down the road. Agencies will choose to reduce the hours worked by their employees rather than laying them off only if the cost of providing higher hourly compensation is outweighed by the benefit of retaining employees who might have chosen to leave state employment.

The proposed regulation could also have an unintended long-term impact. The long-term impact will depend on whether all employees working reduced hours return to working at least 40 hours per week. If all employees working the reduced hours return to working at least 40 hours per week, the average hourly compensation will return to its current level. However, if some employees voluntarily choose to work the shorter hours now that they can retain their health benefits, hourly compensation will remain higher than the current level in the long-term. Agencies will choose to allow employees to work less than 40 hours a week only if the costs of paying a higher hourly compensation rate are outweighed by the benefits (in terms of attracting and retaining employees) of providing state employees with the additional flexibility.

Thus, the proposed change is likely to affect the contract entered into by the state and its employees in the short term and in the long term. It will give state agencies and state employees additional flexibility to negotiate the terms of the contract between them. However, while the proposed change affects the contracting agreement between the state and its employees, it is not likely to have a significant economic impact on the Commonwealth as a whole.

(2) The proposed regulation changes the way state health benefits plans handle the discovery of an employee or other plan participant who was ineligible for coverage. Under current policy, if an employee has an ineligible dependent on their plan, the employee is reimbursed in the amount of the overpaid premium over the past six months. However, the

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employee is then required to pay the higher premium (even though the dependent is no longer covered) until open enrollment or a qualifying midyear event when they can remove the ineligible dependent. Thus, the current policy is inconsistent. While an employee who has not removed an ineligible dependent from their plan is refunded the amount of the overpaid premium, the employee is then penalized going forward by having to pay the higher premium until they can next make changes to their health plan. The proposed change is intended to make the regulation more consistent. It removes the requirement that the state health benefits plans reimburse employees for the amount of the overpaid premium over the past six months.

The change is not likely to have a significant economic impact. To the extent that it makes the regulation more consistent, it will have a small positive economic impact. However, to the extent that it increases the penalty on state employees for having ineligible persons on the plan, it is likely to have a small negative economic impact. DHRM estimates that between 30 and 60 employees and retirees per year are found to have ineligible persons on their health plan.

(3) The proposed regulation prevents employees of the state residing in another country and eligible for health coverage in that country from claiming state health benefits. Thus, in effect, the proposed change will lower the compensation package (wages and benefits) provided by the state to such employees from existing levels. However, to the extent that these employees can substitute health benefits provided by the foreign country for Virginia health benefits, they will be no worse off than they are at present. Currently, such a situation would arise only in relation to the Virginia Commonwealth University School of Arts in Qatar (VCU-Qatar) if a Qatari national employed by VCU-Qatar claims health benefits Virginia health benefits plans. To date, there have been no claims that would fall into this category. According to DHRM, this change is being proposed to make the regulation consistent with common practice regarding the provision of health benefits to foreign nationals.

The net economic impact of the proposed change is not likely to be significant. The proposed change will affect the contract entered into by the state and the foreign nationals it employs that live and work outside the United States. The state will save on benefits costs. However, the change might have negative consequences in terms of the quality of employees the state will attract at the lower compensation rate.

(4) The proposed regulation reduces the maximum period for which an employee who is reinstated can claim retroactive health benefits from 90 days to 60 days. Under current policy, employees who are reinstated with back pay (following suspension or termination) can have their health benefits reinstated up to a maximum of 90 days. The proposed regulation reduces the maximum period for which health benefits can be reinstated to 60 days. The change is being proposed to make the regulation consistent with the current contractual provisions of the state's HMO contracts.

The proposed change is not likely to have a significant economic impact. It is likely to have a small positive economic impact by making the regulation more consistent and

improving implementation. However, it also likely to have a small negative economic impact by reducing the maximum period for which a reinstated employee can claim retroactive health benefits.

The proposed regulation also makes several changes mandated by law: by the Code of Virginia and by the United States Code.

At the state level, the Code of Virginia now requires that the Department of Personnel and Training be renamed the Department of Human Resource Management, the State Employee Health Benefits Program incorporate an independent medical review program, active coverage for surviving spouses of employees be extended for one month following the employee's death, the authority of the Health Benefits Advisory Council and the Local Advisory Council be removed and the Human Resource Council be established, and the Medical College of Virginia (MCV) be established as an authority, making MCV employees ineligible for state health benefits plans.

At the federal level, the United States Code now requires that state health benefits plans no longer discriminate between individuals based on their health status (states are no longer allowed to have any pre-existing condition or evidence of insurability provisions in their regulations), all plan participants make changes to their state health benefits plans on a prospective basis rather than a rolling basis, state health benefits plans change the way coverage effective days are set, and state health benefits plans send out a certificate of creditable coverage to all plan participants who terminate coverage.

These changes are not likely to change current practice as they have been in effect for the past several years and are not likely to have a significant economic impact on Virginia.

The regulation also proposes several changes intended to make the regulation more consistent with current practice such as introducing language in the regulation allowing for web-based enrollment, adding language pertaining to the Virginia Sickness and Disability Program and the Long-Term Disability Program (both programs were not offered prior to January 2000), increasing the age that children who are not full-time students can be covered by their parents' plans from 19 to 23, and updating the section dealing with coordination of benefits to the latest version as it appears in the employees' handbook.

These changes are not likely to have a significant economic impact. In fact, to the extent that these changes improve understanding and implementation of the regulation, they are likely to have a small positive economic impact.

Businesses and entities affected. The proposed regulation will affect all state employees eligible for state health benefits.

Localities particularly affected. The proposed regulation will affect all localities participating in the local choice program and providing health benefit coverage for their employees through the state health benefits plan.

Projected impact on employment. The proposed regulation will allow some state employees to work reduced hours while

still retaining their health benefits. In the short term, the proposed change is likely to help state agencies retain employees who otherwise might have chosen to seek employment elsewhere rather than work the reduced hours. Thus, the proposed regulation might reduce the number of state employees who are laid off or choose to leave state employment. In the long term, allowing employees to work reduced hours with full health benefits might lead to some employees voluntarily choosing to work shorter hours. This could result in the state hiring more people in order to make up for the shorter hours worked by some employees.

Effects on the use and value of private property. The proposed regulation is not likely to have a significant impact on the use and value of private property.

Agency's Response to the Department of Planning and Budget's Economic Impact Analysis: The agency concurs with the Economic Impact Analysis prepared by the Department of Planning and Budget regarding the changes being made to the Commonwealth of Virginia Health Benefits Program.

Summary:

The proposed amendments (i) bring the regulation into compliance with legislation passed at the state and federal level; (ii) reduce the minimum number of hours per week from 40 to 32 that state employees must work in order to be eligible for health benefits; (iii) change the manner in which the state health benefits plans handle the discovery of a plan participant who is ineligible for coverage; (iv) prohibit employees of the state residing in another country and eligible for health coverage in that country from claiming state health benefits; (v) reduce the maximum period from 90 to 60 days for which an employee who is reinstated can claim retroactive health benefits; (vi) set standards that must be met by an independent health entity before it is selected by the state health benefits program to perform independent medical reviews of denied claims; and (vii) make housekeeping changes to provide consistence with current practice.

1 VAC 55-20-10. Authority. (Repealed.)

~~These regulations are promulgated by the Department of Human Resource Management (the "department") pursuant to §§ 2.1-20.1 and 2.1-20.1:02 of the Code of Virginia.~~

1 VAC 55-20-20. Definitions.

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

"Accident or health plan" means a plan described in the Internal Revenue Code § 105.

"Administrative services arrangement" means an arrangement whereby a third party ~~provider~~ *administrator* agrees to administer all or part of the health benefits program.

"Adoption agreement" means an agreement executed between a local employer and the department specifying the terms and conditions of the local employer's participation in the health benefits program.

"Alternative health benefits plans" means optional medical benefits plans, inclusive of but not limited to HMOs and PPOs, which are offered pursuant to the health benefits program in addition to the basic ~~plan~~ *statewide plan(s)*.

"Basic ~~plan~~ *statewide plan(s)*" means the statewide hospitalization, medical and major medical plan offered at a uniform rate to all state employees pursuant to § ~~2.1-20.4~~ *2.2-2818* of the Code of Virginia.

"Benefits administrator" means the person or office designated in the application and adoption agreement to be responsible for the day-to-day administration of the health benefits program at the local level. *The benefits administrator is an employee of the agency or local employer that employs the benefits administrator. The benefits administrator is not an agent of the health insurance plan or the Department of Human Resource Management.*

"Coordinated service" means a health care service or supply covered under both the program and another health plan. The coordinated service will be provided under the program only to the extent it is not excluded or limited under the program.

"Coordination of benefits" means the establishment of a priority between two or more underwriters which provide health benefits protection covering the same claims incident.

"Department" means the Department of ~~Personnel~~ *and Training Human Resource Management*.

"Dependent" means any person who is determined to be an eligible family member of an employee pursuant to subsection E of 1 VAC 55-20-320.

"Director" means the Director of the Department of ~~Personnel~~ *and Training Human Resource Management*.

"Dual membership" means the coverage in the health benefits program of the employee and either the spouse or one dependent. This definition does not include coverage of retirees or employees or their spouses who are otherwise covered by Medicare.

"Effective date of coverage" means the date on which a participant is enrolled for benefits under a plan or plans elected under the health benefits program.

"Employee" means a person employed by an employer participating in the health benefits program or, where demanded by the context of this chapter, a retired employee of such an employer. The term "employee" shall include state employees and employees of local employers.

"Employee health insurance fund" or ~~fund~~ *health insurance funds* means ~~an account~~ *accounts* established by the state treasury and maintained by the ~~Department of Accounts~~ *department* within which contributions to the plan shall be deposited.

"Employer" means the entity with whom a person maintains a common law employee-employer relationship. The term "employer" is inclusive of each state agency and of a local employer.

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"Employer application" or "application" means the form, to be provided by the department, to be used by the local employer for applying to participate in the health benefits program.

"Enrollment form" means the form, to be provided by the ~~carrier~~ department, to be used by participants to enroll in a plan or to indicate a change in coverage.

"Enrollment action" means providing the information, which would otherwise be contained on an enrollment form, through an alternative means such as through the world wide web or through an interactive voice response system, for the purpose of securing or changing membership or coverage in the employee health benefits program. Submitting a properly completed enrollment form and taking an enrollment action through an employee self-service system are used interchangeably to indicate equivalent actions.

"Experience adjustment" means the adjustment *determined by the department*, consistent with ~~generally accepted~~ its actuarial practices, to ~~current contributions for benefits that reflects deviations in claims experience premiums for the year in which a local employer withdraws from the plan.~~

"Family membership" means the coverage in the health benefits program of the employee and two or more ~~persons comprising the spouse or dependents, or both eligible dependents.~~

"Health Maintenance Organization" or "HMO" means an entity created under federal law, "The Health Maintenance Organization Act of 1973" (Title XIII of the Public Health Service Act), as amended, or one defined under state law.

"Health benefits program" or "program" means, individually or collectively, the plan or plans the department may establish pursuant to §§ 2.2-1204 and 2.2-2818 of the Code of Virginia.

"Health plan" means:

1. A plan or program offering benefits for, or as a result of, any type of health care service when it is:
 - a. Group or blanket insurance (including school insurance programs);
 - b. Blue Cross, Blue Shield, group practice (including HMOs and PPOs), individual practice (including IPAs), or any other prepayment arrangement (including this program) when;
 - (1) An employer contributes any portion of the premium, or
 - (2) An employer contracts for the group coverage on behalf of employees, or
 - (3) It is any labor-management trustee plan, union welfare plan, employer organization plan, or employee benefit organization plan.

2. The term "health plan" refers to each plan or program separately. It also refers to any portion of a plan or program which reserves the right to take into account benefits of other health plans when determining its own benefits. If a health plan has a coordination of benefits provision which

applies to only part of its services, the terms of this section will be applied separately to that part and to any other part.

3. A prepaid health care services contract or accident or health plan meeting all the following conditions is not a health plan:

- a. One that is individually underwritten;
- b. One that is individually issued;
- c. One that provides only for accident and sickness benefits; and
- d. One that is paid for entirely by the subscriber.

A contract or policy of the type described in this subdivision 3 is not subject to coordination of benefits.

"Impartial health entity" means an organization, which upon written request from the Department of Human Resource Management examines the adverse health benefits claim decision made by the Commonwealth's Third Party Administrator (TPA). The impartial health entity should determine whether the TPA's decision is objective, clinically valid, compatible with established principles of health care, and appropriate under the terms of the contractual obligations to the covered person.

"Insured arrangement" means an accident or health plan underwritten by an insurance company wherein the department's only obligation as it may relate to claims is the payment of insurance company premiums.

"Independent hearing officer" means an individual requested by the director of the department from a list maintained by the Executive Secretary of the Supreme Court to arbitrate disputes which may arise in conjunction with these regulations or the health benefits program.

~~"Local advisory committee" or "committee" is a committee established pursuant to §2.1-20.1-02 of the Code of Virginia which shall provide guidance to the department concerning the administration of the health benefits program.~~

"Local employees" or "employees of local governments" means all officers and employees of the governing body of any county, city, or town, and the directing or governing body of any political entity, subdivision, branch, or unit of the Commonwealth or of any commission or public authority or body corporate created by or under an act of the General Assembly specifying the power or powers, privileges or authority capable of exercise by the commission or public authority or body corporate, as distinguished from §§ 45.1-20, 45.1-24 15.2-1300, 15.2-1303 or similar statutes, provided that the officers and employees of a social services department, welfare board, mental health and mental retardation services board, or library board of a county, city, or town shall be deemed to be the employees of local government.

"Local employer" means any county, city, or town, school board, and the directing or governing body of any political entity, subdivision, branch or unit of the Commonwealth or of any commission or public authority or body corporate created by or under an act of the General Assembly specifying the

power or powers, privileges or authority capable of exercise by the commission or public authority or body corporate, as distinguished from §§ ~~45.1-20, 45.1-24~~ 15.2-1300, 15.2-1303 of the Code of Virginia, or similar statutes.

"Local officer" means the treasurer, registrar, commissioner of revenue, attorney for the Commonwealth, clerk of a circuit court, sheriff, or constable of any county or city or deputies or employees of any of the preceding local officers.

"Local retiree" means a former local employee who has met the terms and conditions for early, normal or late retirement from a local employer.

"Open enrollment" means the period during which an employee may elect to commence, to waive or to change membership or plans offered pursuant to the health benefits program.

"Part-time employee," as defined by each local employer, means an employee working less than full time ~~who~~ whom a local employer has determined to be eligible to participate in the program. The conditions of participation for these employees shall be decided by the local employer *in a nondiscriminatory manner*.

"Participant" means any person actively enrolled and covered by the health benefits program.

"Plan administrator" means the department.

"Preferred provider organization" or "PPO" means an entity through which a group of health care providers, such as doctors, hospitals and others, agree to provide specific medical and hospital care and some related services at a negotiated price.

"Preexisting condition" means a condition which, in the opinion of the plan's medical advisors, displayed signs or symptoms before the participant's effective date of coverage. These signs or symptoms must be ones of which the participant was aware or should reasonably have been aware. The condition is considered preexisting whether or not the participant was seen or treated for the condition. It is also considered preexisting whether or not the signs and symptoms of the condition were correctly diagnosed.

"Primary coverage" means the health plan which will provide benefits first. It does not matter whether or not a claim has been filed for benefits with the primary health plan.

"Retiree" means any person who meets the definition of either a state retiree or a local retiree.

"Secondary coverage" means the health plan under which the benefits may be reduced to prevent duplicate or overlapping coverage.

~~"Self-insured~~ *Self-funded arrangement*" means a facility through which the plan sponsor agrees to assume the risk associated with the type of benefit provided without using an insurance company.

"Single membership" means coverage of the employee only under the health benefits program.

"State" means the Commonwealth of Virginia.

"State agency" means a court, department, institution, office, board, council, or other unit of state government located in the legislative, judicial or executive departments or group of independent agencies, as shown in the Appropriation Act, and which is designated in the Appropriation Act by title and a three-digit agency code.

~~"State employee" means a state employee as defined in §§51-111.10 and 51-111.10:01 [Repealed.] of the Code of Virginia, employee as defined in §51-144 [Revised, §51.1-201] of the Code of Virginia, the Governor, Lieutenant Governor and Attorney General, judge as defined in §51-161 [Revised, §51.1-30 (Amended, Act 1993, c. 895)] of the Code of Virginia and judges, clerks and deputy clerks of regional juvenile and domestic relations, county juvenile and domestic relations, and district courts of the Commonwealth, and interns and residents employed by the Medical College of Virginia of Virginia Commonwealth University and the School of Medicine and Hospital of the University of Virginia. The Athletic Department of Virginia Polytechnic Institute and State University is a local auxiliary whose members are considered state employees for purposes of eligibility for the program.~~

"State employee" means any person who is regularly employed full time on a salaried basis, whose tenure is not restricted as to temporary or provisional appointment, in the service of, and whose compensation is payable, no more often than biweekly, in whole or in part, by the Commonwealth or any department, institution, or agency thereof. "State employee" shall include the Governor, Lieutenant Governor, Attorney General, and members of the General Assembly. It includes "judge" as defined in § 51.1-301 of the Code of Virginia and judges, clerks and deputy clerks of regional juvenile and domestic relations, county juvenile and domestic relations, and district courts of the Commonwealth.

~~"State health benefits advisory council" or "advisory council" is an advisory council established pursuant to § 2.1-20.1:01 of the Code of Virginia.~~

"State retiree" means a former state employee who has met the terms and conditions for early, normal or late retirement from the Commonwealth.

"Teacher" means any employee of a county, city, or other local public school board.

1 VAC 55-20-30. Designee and delegations of authority.

Pursuant to § ~~2.1-20.1~~ 2.2-2818 of the Code of Virginia, the Department of ~~Personnel and Training~~ *Human Resource Management* shall establish a health benefits program (the "program"), subject to the approval of the Governor, for providing accident or health benefit protection, including but not limited to chiropractic treatment, hospitalization, medical, surgical and major medical coverage for state employees and the employees of participating local employers.

The Director of the Department of ~~Personnel and Training~~ *Human Resource Management* hereby delegates to the Director of the Office of Health Benefits the authority to:

1. Propose, design, and administer one or more accident or health plans, or both. All such approved plans will, in the aggregate, constitute the health benefits program. Any plan

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or plans proposed by the Office of Health Benefits shall be subject to the approval of the Director of the Department of ~~Personnel and Training~~ *Human Resource Management*.

2. Propose regulations at any time for the purpose of the implementation, communication, funding, and administration of the health benefits program.

3. Enter into one or more contracts for the purpose of implementing, communicating, funding or administering the health benefits program. To this end, but not exclusively, such contract or contracts may be for the underwriting, the funding, and administration, including claims processing and claims adjudication, of the program. Such contracts may be for the legal, accounting and actuarial services as well as communication, statistical analysis and any other item that may be needed to effectively review and maintain the health benefits program.

4. Evaluate the effectiveness of the health benefits program or any plan which may constitute a component part, as it might relate to the objectives of such program or such component plan and make recommendations regarding the effectiveness of such program or plan in meeting such stated objectives.

1 VAC 55-20-40. State advisory council.

In the administration of the health benefits program or any component plan or plans comprising such program, the department shall take into consideration the recommendations of the state ~~health benefits~~ *human resource* advisory council (the "council" or "advisory council"). The council is created pursuant to § ~~2.1-20.1-04~~ 2.2-2675 of the Code of Virginia and operated in accordance therewith. Such advisory council will serve to advise the Secretary of Administration on *among other things*, issues and concerns of active and retired employees of the Commonwealth who are participating in the health benefits program, such as the type and amount of benefits provided by the program, the cost to employees to participate in the program and ways to effectively control claims experience. The department shall consider the findings and recommendations of the council in its decision-making process. Further, the department may request the council's guidance on other issues of concern to the department.

1 VAC 55-20-50. Local advisory committee. (Repealed.)

~~In the administration of the health benefits program or any component plan or plans comprising such program, the department shall take into consideration the recommendations of the local advisory committee (the "committee" or "advisory committee"). The committee is created pursuant to § 2.1-20.1-02 of the Code of Virginia and operated in accordance therewith. Such advisory committee will serve to advise the department on issues and concerns of active and retired employees of local employers who are participating in the health benefits program, such as the type and amount of benefits provided by the program, the cost to employees to participate in the program, and ways to effectively control claims experience. The committee shall make all recommendations and findings to the department.~~

~~The department shall consider the findings and recommendations of the committee in its decision-making~~

~~process. Further, the department may request the committee's guidance on other issues of concern to the department.~~

1 VAC 55-20-60. Types of plans.

A. The administration and underwriting of the plans shall be at the discretion of the department and may include but not be limited to ~~self-insured~~ *self-funded* arrangements, insured arrangements, administrative services arrangements, health maintenance organizations, and preferred provider organizations. The department is authorized to exercise judgment and discretion in the establishment, procurement and implementation of all underwriting and other services necessary for the establishment, maintenance, and administration of such plans and will be deemed to do so in good faith.

B. The department, as it deems necessary or prudent, may contract for outside services, including but not limited to actuarial, consulting, and legal counsel. The department may contract such services on an individual basis or in conjunction with other services.

1 VAC 55-20-70. Procurement.

The department shall comply with the Virginia Public Procurement Act, Chapter ~~7~~ 43 (§ ~~44-35~~ 2.2-4300 et seq.) of Title 44 2.2 of the Code of Virginia, as it may relate to any services to which such Act shall apply.

In an effort to stabilize the administration and maintenance of the health benefits program, the department may contract for services applicable to such program for a period of time not exceeding 10 years, with the department reserving the right, in its sole discretion, to cancel such contracts annually upon 90 days written notice to the contractor.

1 VAC 55-20-80. Plan assets.

A. The assets of the health benefits program, together with all appropriations, contributions and other payments, shall be deposited in the employee health insurance ~~fund~~ *fund(s)* (the "~~fund~~ *health insurance fund(s)*") from which payments for claims, premiums or other contributions cost containment and administrative expenses shall be withdrawn from time to time.

B. The health insurance fund for state employees shall be maintained separate and apart from the health insurance fund for retirees of the state eligible for Medicare and from the health insurance fund for local employees. All such funds shall be maintained for the exclusive benefit of the employees participating currently in the respective health insurance plans.

~~B.~~ C. The department may designate with the approval of the Department of the Treasury one or more insurance companies, banks or any such similar institution as a direct recipient of premiums or other contributions for part or all coverage under the health benefits program from local and state employers.

~~C.~~ D. The assets of the fund shall be held for the sole benefit of the employee health insurance fund and to that end, employees participating in the health benefits program.

Any interest on unused balances in the fund shall revert back to the credit of the fund. The State Treasurer shall charge

reasonable fees to recover the actual costs of investing the assets held in the fund.

1 VAC 55-20-90. Appeals.

A. The director of the department shall be the final arbiter of any disputes arising under this chapter. The director may not redelegate this authority other than to an independent hearing officer *except as provided under subsection C of this section*.

All disputes arising under this chapter shall be submitted to the department, which shall have the responsibility for interpreting and administering this chapter. All disputes shall be made in writing in such manner as may be reasonably required by the department and shall set forth the facts which the applicant believes to be sufficient to entitle to relief hereunder. The department may adopt forms for such submissions in which case all appeals shall be filed on such forms.

B. Appeals not filed within the time frames established herein shall be ~~automatically~~ denied.

Requests for review of procurements under the provisions of the VPPA shall be filed within 10 days of the department's notice of intent to award a contract.

Requests for relief from local employers or state agencies with respect to any action of the department other than a procurement shall be filed within 30 days of the action grieving the applicant. Requests for relief from state or local employees with respect to any action of the department other than a procurement shall be filed within 60 days of the action grieving the employee.

C. Upon receipt by the department for a request for review under this section, it shall determine all facts which are necessary to establish the right of an applicant for relief. The department shall approve, deny or investigate any and all disputes arising hereunder. Upon request, the department will afford the applicant the right of a hearing with respect to any finding of fact or determination related to any claim under this section. In the event of an adverse decision by the department, the applicant shall be notified of such decision as hereinafter provided. *Reviews for treatment authorizations or medical claims that have been denied will be sent to an impartial health entity. The impartial health entity shall examine the final denial of claims or treatment authorizations to determine whether the decision is objective, clinically valid, and compatible with established principles of health care. The decision of the impartial health entity shall (i) be in writing, (ii) contain findings of fact as to the material issues in the case and the basis for those findings, and (iii) be final and binding if consistent with law and policy.*

D. The applicant shall be notified in writing of any adverse decision with respect to his claim within 90 days after its submission. The notice shall be written in a manner calculated to be understood by the applicant and shall include:

1. The specific reason or reasons for the denial;
2. Specific references to law, this chapter, contracts awarded pursuant to this chapter, or the Health Insurance Manual/Local Administrative Manual and related instructions on which the denial is based;

3. A description of any additional material or information necessary to the applicant to perfect the claim and an explanation why such material or information is necessary; and

4. An explanation of the review process.

If special circumstances require an extension of time for processing an initial application, the department shall furnish written notice of the extension and the reason therefore to the applicant before the end of the initial 90-day period. In no event shall such extension exceed 90 days.

E. Standards, credentials, and qualifications of the impartial health entity.

1. In order to qualify to perform either standard or expedited external reviews pursuant to this chapter or the Code of Virginia, an impartial health entity shall have and maintain written policies and procedures that govern all aspects of the standard and expedited external review processes that include, at a minimum, a quality assurance mechanism in place that ensures that:

a. External reviews are conducted within the specified time frames and required notices are provided in a timely manner;

b. The selection of qualified and impartial clinical peer reviewers to conduct external reviews on behalf of the impartial health entity and suitable matching of reviewers to specific cases; and

c. The confidentiality of medical records is maintained in accordance with the confidentiality and disclosure laws of the Commonwealth and/or the Health Insurance Portability and Accountability Act.

2. All clinical peer reviewers assigned by an impartial health entity to conduct external reviews shall be physicians or other appropriate health care providers who meet the following minimum qualifications:

a. Are expert in the treatment of the covered person's medical condition that is the subject of the external review;

b. Are knowledgeable about the recommended health care service or treatment through recent or current actual clinical experience treating patients with the same or similar medical conditions as the covered person's;

c. Hold a nonrestricted license in a state of the United States and, for physicians, a current certification by a recognized American medical specialty board in the area or areas appropriate to the subject of the external review; and

d. Have no history of disciplinary actions or sanctions, including loss of staff privileges or participation restrictions, that have been taken or are pending by any hospital, governmental agency or unit, or regulatory body that raise a substantial question as to the clinical peer reviewer's physical, mental or professional competence or moral character.

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3. An impartial health entity shall not be affiliated with or a subsidiary of nor be owned or controlled by a health plan, a trade association of health plans, or a professional association of health care providers.

4. In determining whether an independent review organization or a clinical peer reviewer of the impartial health entity has a material, professional, familial or financial conflict of interest, the director may take into consideration situations where the characteristics of that relationship or connection are such that they are not materially sufficient to disqualify the impartial health entity or the clinical peer reviewer from conducting the external review.

1 VAC 55-20-110. Authority to withhold revenues.

In the event of default by any employer participating in the health insurance program authorized by § ~~2-1-20.1-02~~ 2.2-1204 of the Code of Virginia in the remittance of premiums or other fees and costs of the program, the State Comptroller is hereby authorized to pay such premiums and costs and to recover such payments from any funds appropriated and payable by the Commonwealth to the employer for any purpose. The State Comptroller shall make such payments, and recover an equivalent amount if possible, from an employer's appropriated funds upon receipt of notice from the director of the department that such payments are due and unpaid from the employer.

1 VAC 55-20-120. ~~Effective date. (Not set out) (Repealed.)~~

1 VAC 55-20-130. Develop health benefits program.

A. The department shall develop a health benefits program which shall be flexible in its form and content so as to accommodate a structure which permits the creation of multiple accident and health plans. *The department, however, may offer a single health insurance plan if it determines that that is the most effective use of plan resources.* The department has full authority to make changes in plan terms including, but not limited to, benefits and contributions, or to change underwriters and administrators as it deems appropriate.

B. The department shall supplement these regulations by providing administrative guidance through the Health Insurance Manual, Local Administrative Manual, *Flexible Benefits Administrative Manual*, memoranda, and other communications.

1 VAC 55-20-160. Establishing contribution rates and accounting for contributions and claims.

A. The department shall establish one or more pools for establishing contribution rates and for accounting for claims and contributions for state employees and participating local employers. The plan for local employers shall be rated separately from the plan established for state employees. There are hereby authorized pools based on geographic and demographic characteristics and employment relationships. Such pools may include but shall not be limited to:

1. Active state employees, including retirees under age 65 and not eligible for Medicare;

2. Active local employees (excluding separately rated employees of public school systems);

3. Active employees of public school systems;

4. Retired state employees over age 65 and retired state employees eligible for Medicare;

5. Retired local employees (excluding separately rated employees of public school systems);

6. Retired employees of public school systems; and

7. Active employees whose employer does not sponsor a health insurance plan.

Participating employers shall make applicable contributions to the employee health insurance fund.

B. Such contributions may take into account the characteristics of the group, such as the demographics of employees, inclusive of age, sex and dependent status of the employees of an employer; the geographic location of the employer or employees; claims experience of the employer; and the pool of the employers (for example, see subdivisions 1 through 6 of 1 VAC 55-20-160 A), ~~applied according to generally accepted actuarial practices.~~ Additionally, any such contributions may further be determined by spreading large losses, as determined by the department, across pools. Further, the department reserves the right to recognize, in its sole discretion, the claims experience of groups of sufficient size, regardless of their pool, where future claim levels can be predicted with an acceptable degree of credibility. The application of this rule by the department shall be exercised in a uniform and consistent manner.

C. The contribution rate in the aggregate will be composed of two factors; first, the current contribution and second, the amortization of experience adjustments. The current contributions will reflect the anticipated incurred claims and administrative expenses for the period; an experience adjustment will reflect gains and losses determined in accordance with ~~generally accepted an~~ actuarial practices estimate. An experience adjustment will be part of the contributions for the succeeding year; however, the department may authorize the amortization of the experience adjustment for a period not to exceed three years.

D. The department will notify a terminating local employer of any adverse experience adjustment within ~~90 days~~ three calendar months of the time the local employer terminates participation in the program. Further, the department reserves the right to modify the amount of the experience adjustment applicable to a terminating local employer for a period not to exceed 12 months from the end of the plan year in which such termination occurred. The experience adjustment shall be payable by the local employer in 12 equal monthly installments beginning 30 days after the date of notification by the department. In the event that a terminating local employer requests in writing an extension beyond a period of 12 months, the department may approve an extension up to 36 months provided the local employer agrees to pay interest at the statutory rate on any extended payments.

1 VAC 55-20-210. Oversight.

The department has the responsibility and authority to maintain the health benefits program and take any action it deems necessary to maintain the financial and administrative integrity of the program.

A. The department shall review local administration, including state agency administration of the health benefits program to determine compliance with this chapter, law, and administrative directives. Deficiencies shall be reported to the governing body or agency administrator, who shall take prompt action to remedy the noted deficiencies. To this end, the department shall provide guidance to responsible parties regarding their duties and responsibilities in the administration of the program. Failure to correct noted deficiencies may result in the unilateral termination of participation (in the case of a local employer) in the health benefits program, or a revocation of the agency's administrative responsibility for the health benefits program (in the case of a state agency) and the imposition of a special employer contribution on the state agency to pay for the cost of direct administration of the program by the department. The cost of direct administration shall be determined by the department.

B. The department may exclude from coverage any person who is not eligible for coverage notwithstanding the participation of the state agency or local employer in the health benefits program or the payment of contributions or the previous payment of claims on behalf of such person.

~~If a person is determined to be ineligible for coverage, contributions paid by that person shall be returned to said person for the six months prior to such determination. Contributions for periods preceding this six-month period shall not be returned. Claims claims paid by the program during this same six-month period of ineligibility shall be recouped by the program from providers of care and from the ineligible employee to the extent practicable as determined by the department. Additional claims need not be recouped unless, in the sole discretion of the department, such re-coupment, coupled with the return of additional contributions to the employee, is required to prevent material damage to the group (see classification in 1VAC55-20-160 A and as subsequently expanded by administrative direction).~~

Employer contributions on behalf of ineligible persons shall not be returned to the participating employer in as much as the employer agrees by participating in the health benefits program that the amount of such contributions constitute liquidated damages for enrolling ineligible employees and/or their dependents. *Employee contributions will not be refunded, and the membership level and contributions rate will be maintained, at the level they had been prior to the removal of the ineligible dependent, until such time as the employee makes a membership change due to a consistent qualifying midyear event, or during open enrollment.*

C. The department may exclude from coverage for a period of three years any employee (and dependent) who is found by the department to have enrolled in the health benefits program through fraud, deceit, or misrepresentation of a dependent who is not eligible for the program. A signed enrollment form

or equivalent enrollment action shall be deemed prima facie evidence of misrepresentation.

D. The department may refuse, notwithstanding any agreement or assignment from a participant or third party, to make a payment on behalf of a participant for covered services to a provider of care who has been determined by the department to be abusing or defrauding the program. A pattern of billing for services not rendered, misrepresenting the complexity or length of the procedures or services actually rendered, or similar abuses shall compel the department to make such a determination. For the purposes of this section, a "pattern" constitutes a number of instances over a period of at least three months which are so similar as to suggest that the abuse is present in 5.0% or more of the services or procedures billed.

1 VAC 55-20-230. Entrance into the health benefits program.

A. Any local employer desiring to participate in the health benefits program shall complete an employer application provided by the department and execute an adoption agreement acknowledging the rights, duties and responsibilities of the department and the local employer.

As a condition of participation, the department may require the local employer to complete the application in its entirety and deliver it to the department no less than 120 days prior to the effective date of coverage under the health benefits program. The application shall include the designation of a local administrator and include a list of other individuals whose responsibilities may be such that the department may have cause to contact them.

The application of a local employer may be withdrawn without penalty any time within the first 30 days after the department's delivery of rates to the employer. A 15-day extension will be available upon written request by the employer. Thereafter, the department may levy a processing charge not to exceed \$500 to cover the cost of processing the application.

B. Except in unusual circumstances to be determined by the department, ~~neither evidence of insurability nor~~ the completion of any required waiting periods will *not* be required of employees of local employers joining the program at the time of a local employer's initial participation.

C. Local employers may include in the program their active employees, or their active employees and their retirees. Local employers may not elect to cover only retirees. *If the local employer wishes to provide benefits to their Medicare-eligible retirees it must also provide coverage for non-Medicare retirees.* The local employer's ~~qualified~~ *qualified* beneficiaries ~~qualified~~ under the ~~Comprehensive Consolidated Omnibus Budget Reconciliation Act of 1985 (COBRA) or similar legislation~~ may also participate in the program. Coverage will not be available to a new employee unless the employee is on the payroll a minimum of 16 calendar days.

1 VAC 55-20-240. Payment of contributions.

A. Contributions due. It is the sole responsibility of the local employer to remit local employer and local employee contributions to the department or its designee. The local

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employer is responsible for remitting such contributions for both active and, retired, and COBRA-participating employees. Health benefits program contributions are to be made monthly, in advance, and are due at the department on the first of each month. If the first day of the month falls on a weekend or holiday, the payment is due at the department on the first business day of the month.

B. Nonpayment of contributions. A 10-day grace period for the nonpayment of contributions is hereby provided. If the full and complete payment of contributions is not received by the 10th of the month, a notice will be sent to the local employer by the department or its designee. Additionally, there shall be imposed an interest penalty of 12% per annum of the outstanding balance unpaid as of the 10th.

In the event that payment is not received by the 20th of the month, the department shall place a notice of nonpayment of contributions in a newspaper of general circulation in the locality of the local employer notifying the employees of such local employer that claims incurred after the end of the current month will not be paid until all outstanding contributions and interest have been paid.

Furthermore, the department reserves the right to collect from a local employer the greater of the monthly contribution or any amounts incurred for claims during a period of nonpayment as well as any other costs related thereto.

C. Nonpayment as breach. The nonpayment of contributions by a local employer shall be considered constitute a breach of the adoption agreement and the local employer may be obligated to pay damages. In the event that the local employer terminates participation, such termination can only be prospective and the employer shall be obligated to pay the greater of past contributions or actual claims incurred during such period and any interest and damages that may be associated with such nonpayment.

D. Coverage and contribution period. ~~In the event a local employee should elect to enroll in the health benefits program in his first month of employment, such coverage shall begin on the first day of the month next following commencement of employment. Should a local employee commence employment on the first working day of the month and coverage is elected within that month, then such coverage shall commence on the local employee's date of hire or the first day of the month of hire, whichever is earlier but see 1VAC55-20-370 B.~~ Except as noted here, coverage elections including those made by new employees are made on a prospective basis, that is, effective the first of the month coinciding with or following the receipt of the election form. However, if an election form is received by a new employee on the first business day of the month, coverage for the employee will commence on the first day of that month, (see 1 VAC 55-20-370). Coverage elections made for newborns, adoption or placement for adoptions are effective the date the child is born, adopted or placed for adoption, so long as the employee makes the coverage election within 31 days of the event. Coverage terminations are effective the end of the month following receipt of an election notice, except for terminations that are required by the plan. Coverage terminations required by the plan are effective the end of the

month that the event takes place. Examples of coverage terminations required by the plan are such things as a divorce, termination of employment or a dependent child losing eligibility.

Contributions shall always be for full calendar months. Local employees who terminate employment within a calendar month shall have coverage through the end of the month in which they terminate. In the event that a terminating local employee becomes covered under an accident or health plan of another employer prior to the end of the month in which the local employee terminates, ~~the~~ this health benefits program shall be a secondary payor to the former local employee's new coverage.

1 VAC 55-20-250. Enrollment.

The local employer is responsible for providing local employees with enrollment forms for participation in the health benefits program. Such forms shall be provided to the local employer by the department or its designee. It is the responsibility of the local employer to provide information to local employees concerning the benefits offered in each of the plans comprising the health benefits program at such time and in such manner that it can be expected that the local employee can make an informed decision regarding the types of coverage that are being offered.

The local employer is responsible for ensuring that enrollment forms for participation made by local employees are fully completed on a timely basis, signed and certified. ~~Thirty~~ No later than 30 days prior to the effective date of coverage, the local employer shall forward the enrollment forms to the department or its designee, as may be appropriate. The department shall be responsible for notifying the local employer as to the location and manner of delivery of all such local employee enrollment forms. Further, the local employer shall be responsible for reporting any changes in benefit coverage in a manner similar to the reporting of an initial application with the department having the ability to waive the 30-day notice requirement.

1 VAC 55-20-260. Minimum local employer contributions.

A. The department shall require, as a condition of local employer participation in the health benefits program, that a local employer pay a minimum portion of the plan contribution attributable to an active local employee's coverage. Contributions toward the cost of retiree coverage are permitted but not required. Unless otherwise specified in a local employer's adoption agreement, participating local employers shall contribute, at a minimum, 80% of the cost of single coverage, and 20% of the cost of dependent coverage as a condition of participation ~~the following percentages of total required plan contributions on behalf of active participating employees:~~ In the event that an employer enrolls 75% or more of all eligible employees, the employer will not be required to contribute the above amounts towards the cost of dependent coverage.

Contribution	Percentage
Minimum Local Employer Contributions	Attributable to

~~In Years Single Additional Coverage~~

1990-1991	50%	0%
1991-1992	60%	10%
1992-1993	70%	10%
1993-1994	80%	20%
1994-1995	80%	20%
and after		

~~For example, in the 1991-1992 plan year, a local employer would contribute, at a minimum, 60% of a single employee's membership. If an employee elects dual or family membership, a local employer would contribute, at a minimum, 60% of the single cost and 10% of any additional costs. In the event that an employer enrolls 75% or more of all eligible employees, the employer will not be required to contribute the above amounts for additional coverage.~~

~~B. Local employers allowing part-time employees to participate in the program must contribute a minimum of 50% of the amounts listed in 1 VAC 55-20-260A amount they contribute toward active employee coverage (at all membership levels) on behalf of their participating part-time employees. For example, in the 1991-1992 plan year, a local employer would contribute, at a minimum, 30% of a single employee's membership and, if applicable, 5.0% of any additional cost of dual or family membership.~~

For purposes of this section, amounts contributed on behalf of an employee who has requested a reduction in salary pursuant to a plan qualified under § 125 of the Internal Revenue Code (Tax Treatment of Cafeteria Plans) will not be counted as an employer contribution.

1 VAC 55-20-280. Commencement of local employer participation.

Local employers may join initially at any time upon the timely submission of an employer application, but, thereafter, renewals must be as of July 1 of each year. *Local school boards may have an October 1 renewal, if they so elect.* Initial participation by a local employer at any time other than on July 1 ~~shall (October 1) may~~ be for the short *plan* year ending on the June 30 (*September 30*) following initial participation.

There shall be no specified time for local employee enrollment coincident with the local employer's initial participation in the health benefits program provided the department or its designee shall have knowledge of the local employee elections at least 30 days prior to the effective date of coverage. Thereafter the open enrollment period for local employees shall take place during the month of April *or May* of each year with the effective date of coverage then being July 1 of such year.

1 VAC 55-20-290. Reparticipation of local employers.

Local employers having withdrawn from the health benefits program may reenter the program only with the consent of the department, and only on the July 1 (*October 1 for school boards*) following the timely submission of an employer application. *The July 1 (October 1) effective date may be waived for local employers who have been away from the program for more than three years. Normally,* Employees of local employers seeking reparticipation ~~will~~ may be required to

~~furnish evidence of insurability or to serve a waiting period, whichever the department requires.~~

Department consent shall not be granted until all pending contributions, penalties and other assessments have been paid by a local employer and there is no outstanding litigation pending between the department and the local employer. A pending appeal will not prohibit a local employer from reparticipating in the health benefits program.

1 VAC 55-20-300. Ceasing participation in the health benefits program.

A local employer who desires to terminate participation in the health benefits program may do so at any time, as of the last day of any calendar month, with ~~90 days~~ *three months* notice to the department. The local employer shall be obligated to pay any and all contributions otherwise required through the date of termination of participation and interest related thereto. Additionally, a terminating local employer shall be responsible for any adverse experience adjustment which may apply with respect to the year termination occurred and any prior year within which the terminating local employer participated in the program.

Upon the local employer's cessation of participation in the program, all of the local employers' participants, including retirees, dependents of retirees and COBRA beneficiaries will cease to be covered under the program.

1 VAC 55-20-320. Eligible employees.

A. State employees.

1. ~~Only~~ Full-time salaried, classified employees and faculty as defined in 1 VAC 55-20-20 are eligible for membership in the health benefits program. A full-time salaried employee is one who is scheduled to work at least ~~40~~ 32 hours per week or carries a faculty teaching load considered to be full time at his institution.

2. ~~A state employee is one who receives a salaried paycheck from the Commonwealth.~~ Certain full-time employees in auxiliary enterprises (such as food services, bookstores, laundry services, etc.) at the University of Virginia, Virginia Military Institute and the College of William and Mary as well as *other state institutions of higher learning* are also considered state employees even though they do not receive a salaried state paycheck. The Athletic Department of Virginia Polytechnic Institute and State University is *an example of* a local auxiliary whose members are eligible for the program.

~~Medical College of Virginia house staff members are eligible for the program as long as they are on the state payroll and remain in the program. They will have payroll deductions for health benefits premiums even if they rotate to the Veterans' Administration Hospital or other acute care facility.~~

~~A salaried employee is one who receives a paycheck no more often than biweekly and who is not paid on an hourly basis.~~

3. *Certain full-time employees of the Medical College of Virginia Hospital Authority are eligible for the program as*

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long as they are on the authority's payroll and were enrolled in the program on November 1, 1996. They may have payroll deductions for health benefits premiums even if they rotate to the Veterans' Administration Hospital or other acute care facility.

4. Other employees identified in the Code of Virginia as eligible for the program.

~~3-~~ 5. Classified positions include employees who are fully covered by the Virginia Personnel Act, employees excluded from the Virginia Personnel Act by *subdivision 16 of § 2-4-116 (16) of 2.2-2905* of the Virginia Code of Virginia, and employees on a restricted appointment. A restricted appointment is a classified appointment to a position that is funded at least 10% from gifts, grants, donations, or other sources that are not identifiable as continuing in nature. An employee on a restricted appointment must receive a state paycheck in order to be eligible.

B. Local employees.

1. Full-time employees of participating local employers are eligible to participate in the program. A full-time employee is one who meets the definition set forth by the local employer in the employer application.

2. Part-time employees of local employers may participate in the plan if the local employer elects *and the election does not discriminate among part-time employees. In order for the local employer to cover part-time employees, the local employer must provide to the department a definition of what constitutes a part-time employee.*

~~In the event of a leave of absence without pay, the local employer shall not be obligated to continue contributions toward coverage for a part-time employee.~~

The department reserves the right to establish a separate plan for part-time employees.

C. Unavailability of employer-sponsored coverage.

1. Employees, officers, and teachers without access to employer-sponsored health care coverage may participate in the plan. The employers of such employees, officers, and teachers must apply for participation and certify that other employer-sponsored health care coverage is not available. The employers shall collect contributions from such individuals and timely remit them to the department or its designee, act as a channel of communication with the covered employee and otherwise assist the department as may be necessary. The employer shall act as fiduciary with respect to such contributions and shall be responsible for any interest or other charges imposed by the department in accordance with these regulations.

2. Local employees living outside the service area of the plan offered by their local employer shall not be considered as local employees whose local employers do not offer a health benefits plan. For example, a local employee who lives in North Carolina and works in Virginia may live outside the service area of the HMO offered by his employer; however, he may not join the program individually.

3. Employer sponsorship of a health benefits plan will be broadly construed. For example, an employer will be deemed to sponsor health care coverage for purposes of this section and 1 VAC 55-20-260 if it utilizes § 125 of the Internal Revenue Code or any similar provision to allow employees, officers, or teachers to contribute their portion of the health care contribution on a pretax basis.

4. Individual employees and dependents who are eligible to join the program under the provisions of this subsection must meet all of the eligibility requirements pertaining to state employees except the identity of the employer.

D. Retirees.

1. Retirees are not eligible to enroll in the state retiree health benefits group outside of the opportunities provided in this section.

2. Retirees are eligible for membership in the state retiree group if a completed enrollment form is received within 31 days of separation for retirement. Retirees who remain in the health benefits group through a spouse's state employee membership may enroll in the retiree group at one of three later times: (i) future open enrollment, (ii) within 31 days of an ~~eligibility status change~~ *a qualifying mid-year event*, or (iii) within 31 days of being removed from the active state employee spouse's membership.

3. Membership in the retiree group may be provided to an employee's spouse or dependents who were covered in the active employee group at the time of the employee's death in ~~accordance with the provisions of the Health Insurance Manual.~~

4. Retirees who ~~are over~~ *have attained the age of 65* or are otherwise covered or eligible for Medicare may enroll in certain plans as determined by the department provided that they apply for such coverage within 31 days of their separation from active service for retirement. Medicare will be the primary payor and the program shall serve as a supplement to Medicare's coverage.

5. Retirees who are ineligible for Medicare must apply for coverage within 31 days of their separation from active service for retirement. In order to receive coverage, the individual must meet the retirement requirements of his employer and receive an immediate annuity.

6. Local employers may offer retiree coverage at their option.

E. Dependents.

1. The following family members may be covered if the employee elects:

a. The employee's spouse;

b. The employee's unmarried natural or legally adopted children;

c. Unmarried stepchildren living with the employee in a parent-child relationship and dependent on the employee for federal tax purposes;

d. Adult ~~disabled~~ *incapacitated children as long as the child was covered by the plan and the incapacitation existed prior to the termination of coverage due to the child attaining the limiting age;*

e. *Adult incapacitated children of new employees, provided that:*

(1) The enrollment form is submitted within 31 days of hire ~~and;~~

(2) The child has been covered continuously *by group employer coverage* since the disability first occurred; *and*

(3) *The disability commenced prior to the child attaining the limiting age of the plan.*

The enrollment form must be accompanied by a letter from a physician explaining the nature of the ~~handicap~~ *incapacitation*, date of onset and certifying that the dependent is not capable of self-support. *This extension of coverage must be approved by the plan in which the employee is enrolled.*

~~e. f.~~ Other children on an exception basis. Generally, an exception will not be granted unless:

(1) A court orders the eligible employee to assume permanent custody of the child; and

(2) Both of the child's natural parents are deceased, missing, or incarcerated or a court order has found the parents incapable of caring for the child.

Local employers and state agencies do not have the authority to grant exceptions. If the circumstances appear to meet the criteria, the facts of the case must be sent in writing to the department for a determination. Minor children who are adopted, regardless of relationship to the employee, enjoy the same benefits as natural children. Natural or adopted children who are otherwise eligible for coverage may be covered by the employee whether or not they live with the employee.

Children of the spouse of an eligible employee may not be covered as a dependent in the health benefits program unless they live with the employee and meet the criteria for family membership, as given in previous paragraphs.

A child who is self-supporting for federal income tax purposes is ineligible to be covered under the employee's family membership. A child who is otherwise eligible to be covered by family membership may be covered until such time as ~~they become~~ *he becomes* self-supporting.

Coverage for a dependent child stops at the end of the month in which the child marries.

~~f. g.~~ Special rules.

(1) There are certain categories of persons who may not be covered as dependents under the program. These include: dependent siblings, grandchildren, nieces, nephews, and most other children except where the criteria for "other children" are satisfied (see 1 VAC 55-20-320 E 1 e f). Parents, grandparents,

aunts and uncles are not eligible for coverage regardless of dependency status.

(2) Under the ~~basic plan and HMOs~~, *health benefits program*, eligible children may be covered to the end of the year in which they turn age 19 ~~if not a full-time student~~. ~~Children who are full-time students may be covered to the end of the month in which they turn 23, or cease to be full-time students, whichever occurs first~~ *23 regardless of student status, if the child lives at home, is not married and is not self-supporting. In the case of natural or adopted children, living at home may mean living with the other parent if the employee is divorced. Also, a child who is away at school may be covered.*

Children may be covered regardless of the age if incapable of self-support because of a severe physical or mental ~~handicap~~ *incapacitation*, which was diagnosed while coverage was in force. An enrollment form for continued coverage for a disabled child is required within 31 days ~~of the prior to~~ the child's age attainment (above) to maintain coverage (see 1 VAC 55-20-330).

(3) Under the ~~PPO plan or plans~~, *eligible children may be covered to the end of the year in which they turn age 23, regardless of student status, if the child lives at home and is not self-supporting. Living at home is characteristic of the child who is not self-supporting. In the case of natural or adopted children, living at home may mean living with the other parent. Also, a child who is away at school may be covered.*

~~Children may be covered regardless of age if incapable of self-support because of a severe physical or mental handicap which was diagnosed while coverage was in force. An enrollment form for continued coverage for a disabled child is required within 31 days of the child's age attainment (above) to maintain coverage (see 1 VAC 55-20-330).~~

1 VAC 55-20-330. Enrollment form or enrollment action.

A. No coverage is available unless an employee files an enrollment form *or takes an equivalent enrollment action*. No changes in coverage are effective unless an employee files an enrollment form *or takes an equivalent enrollment action*. Employees alone are responsible for knowing when an enrollment ~~form~~ *action* is required, for ~~completing the enrollment form~~ *taking the action*, and for certifying that the information ~~contained therein~~ *conveyed* is complete and true.

B. The employer is responsible for checking that the employee fills in the form completely and accurately. The employer will certify each enrollment form in the space provided on the form.

C. The effective date of coverage shall be determined from the date the enrollment form is stamped as received by a designee of the department *or the date of the equivalent enrollment action*. *This is generally the first of the month following receipt.*

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Except as noted here, coverage elections including those made by new employees are made on a prospective basis, that is, effective the first of the month following the receipt of the election form or enrollment action. However, if the receipt of the form or the date of the enrollment action is the first of the month, then the effective date will be the first of the month. Additionally, if an election form or enrollment action is received from a new employee on the first business day of the month, coverage for the new employee will commence on the first day of that month (see 1 VAC 55-20-370). Coverage elections made on account of a newborn, adoption or placement for adoption are effective the date the child is born, adopted or placed for adoption, as long as the employee makes the coverage election within 31 days of the event. Coverage terminations are effective the end of the month following receipt of an election notice, except for terminations that are required by the plan. Coverage terminations required by the plan are effective the end of the month that the event takes place. Examples of coverage terminations required by the plan are such things as a divorce, termination of employment or a dependent child losing eligibility.

1 VAC 55-20-340. Payment of contributions.

A. Active employees shall pay their portion, if any, of contributions through payroll deduction.

B. State retirees ~~who retired prior to January 1, 1991,~~ will have their contributions deducted from VRS or other retirement system. If the retirement payment is not sufficient to pay the entire contribution, they may pay their contributions directly to the department's designee. ~~State retirees retiring after January 1, 1991, shall have their contributions deducted from benefits payable from the Virginia Retirement System (VRS) or other retirement system. If the payment is not made by the retirement plan, the retirees may make payment directly to the department's designee. There will may be an administrative fee of \$10 per bill for direct payment. Such fee may be waived by the department if payment is made monthly by bank draft.~~

A credit toward the cost of coverage is made by the Commonwealth on behalf of retired state employees as provided in § ~~2-1-20.4-20~~ 51.1-1400 of the Code of Virginia.

C. Retired employees of local employers shall pay contributions by either of two methods. The retired employee may authorize contributions to be deducted from the retiree's pension payment, whether it be through the VRS or otherwise. Alternatively, if the employer so provides, the retiree may pay his contribution to the employer who shall be responsible for remitting the contributions to the department or its designee. *In either case the employer is responsible for collecting and submitting the premium to the plan at the time that the active premium is submitted.*

1 VAC 55-20-350. Membership.

A. Type of membership. Participants have a choice of three types of membership under the program:

1. Single (employee only). If a participant chooses employee only membership, the health benefits program does not cover the employee's dependents (spouse or children). A woman with single membership under the program does have maternity coverage. However, the

newborn child is covered only for routine hospital nursery care, unless the mother changes to dual or family membership *within 31 days of the date of birth.*

2. Dual (employee and one eligible dependent). ~~This type of membership is available to local employer plans July 1, 1990, and to state employees January 1, 1991.~~

3. Family membership (employee and *two or more* eligible dependents).

B. Changing type of membership.

1. Employees may change ~~from family or dual membership to single membership at any time subject to 1 VAC 55-20-370 A. Also, employees may change from family to dual membership at any time subject to 1VAC55-20-370 A.~~

a. *During open enrollment.*

b. *Within 31 days of a qualifying mid-year event. Any such change in membership must be on account of and consistent with the event.*

c. *Within 31 days of a cost and coverage change, as acknowledged by the department.*

~~2. The change from single to dual or family membership the change from dual to family membership may be made only at the following times:~~

a. ~~Within 31 days of employment;~~

b. ~~Within 31 days of return from a leave without pay, but only if all coverage or dual or family membership was dropped during the leave;~~

c. ~~During the open enrollment period;~~

d. ~~Within 31 days of a change in eligibility status. If a change in eligibility status occurs during a leave without pay, dual or family membership may be elected within 31 days of returning from the leave; or~~

e. ~~Infrequently, an employee is hired from a foreign country and the spouse or eligible children remain for a period of time in that country. The employee may enroll in single membership initially and submit an enrollment form for dual or family membership within 31 days of the family's arrival in this country. Coverage will be effective the first of the month after the family's arrival.~~

~~2. All changes in membership must be made on a prospective basis except for the birth, adoption or placement for adoption of a child.~~

3. If the change is from single to dual or family membership or vice versa because of a ~~change in eligibility status, qualifying mid-year event,~~ the employee must certify ~~on~~ *in* the enrollment ~~form~~ *action* the type of ~~status change event~~ and the date of the ~~change event~~.

1 VAC 55-20-360. Choice of plans.

A. During the annual open enrollment period, state employees *and non-Medicare retirees* eligible to participate in the health benefits program have a choice of enrolling in any plan offered by their employer, which may often include ~~the basic plan or~~

an alternative health benefits plan offered by the department. To be eligible for membership in the health benefits program, the employee or retiree must live *or* work within the service area of the particular plan.

B. Employees of ~~other~~ participating *local* employers have a choice of enrolling in the plans offered by their respective employers. Local employers have the option of requiring that employees live within the service area of the plan the employee chooses to join or of allowing employees to join a plan if they live or work in the service area.

C. An enrollment ~~form~~ *action* will not be accepted outside of open enrollment except for an employee ~~whose employment status or personal status changes in specified ways addressed in the Health Insurance Manual/Local Administrative manual published by the department who experiences a qualifying mid-year event.~~

D. The employer's contribution toward coverage, if any, shall be determined by the employer except with respect to the minimum contribution rate applicable to local employers.

1 VAC 55-20-370. Effective date of coverage.

A. General. Coverage and changes in coverage or membership are generally prospective, effective on the first day of the month following the month in which the enrollment ~~form~~ *action* is received by the department's designee.

B. Date coverage begins. Coverage begins on the first day of the first full month of employment ~~if the employee's enrollment form for coverage is received within 31 days of employment following the receipt of the employee's enrollment action.~~ Employees who begin work on the first working day of the month are considered employed effective the first of the month. *Thus, if an employee submits the completed enrollment action on or prior to the first working day of the month, coverage will be effective the first of the month in which employment commenced.* Coverage will not be available to the new employee unless the employee is on the payroll for a minimum of 16 calendar days. *Employees who work less than 16 days will have any premiums refunded and any claims retracted.*

C. Exceptions. With prior approval from the department, coverage may be allowed to commence on an earlier date in limited circumstances when prior coverage is unavailable; for example, a new employee who has moved out of the service area of an HMO.

D. Eligibility changes. ~~In the event of an eligibility change as addressed under 1VAC55-20-350, coverage may be retroactive to the date of the event provided an enrollment form for the change is submitted to the department's designee within 31 days of the event.~~

1 VAC 55-20-380. Leaves of absence.

Note: This section addresses various aspects of employee leave and may or may not be applicable to a local employer.

A. Leave of absence with full pay. As long as an employee is still receiving full pay, health benefits coverage continues ~~automatically~~ with the employer making its contribution. Nothing *special* must be done to maintain coverage.

Local employers are not required to contribute toward coverage for any part-time employee granted any type of leave of absence.

B. Virginia Sickness and Disability Program, Long-Term Disability (VSDP-LTD)

1. Coverage with the employer contribution continues to the end of the month in which the LTD benefits begin, unless benefits begin on the first day of the month, in which case the employer contribution will end on the last day of the preceding month. Thereafter, employees may continue coverage by paying the entire cost of the coverage.

2. Employees receiving LTD benefits may enroll in the State Retiree Health Benefits Program upon service retirement regardless of whether they have maintained health coverage in the state program provided that the individuals have been continuously covered and have had no break in long-term disability benefits prior to service retirement. The LTD participant has 31 days from the date of retirement to enroll in the State Retiree Health Benefits Program. Coverage in the retiree group begins on the first day of the first full month of retirement.

~~B.~~ C. Educational leave - full or partial pay. An official educational leave is a leave for educational reasons with partial or full pay maintained for the leave, not for work rendered. It is possible to maintain health coverage on an educational leave even when less than full pay is given provided that at least half pay is given. Coverage may continue for the duration of the leave up to 24 months.

~~C.~~ D. Leave of absence without pay.

1. Coverage with the employer contribution continues to the end of the month in which the leave without pay begins provided the first day of the leave is after the first work day of the month. *If the person returns from leave the following month and works at least half of the workdays in the month, coverage will be continuous.* If the leave without pay begins on or before the first work day of the month, coverage ~~with~~ and the employer contribution ceases on the ~~first~~ last calendar day of ~~that~~ the previous month.

~~If the person returns from leave the following month and works at least half of the work days in the month, coverage will be continuous.~~

~~2. If the leave without pay extends beyond the end of the month when coverage would cease, it is possible for an employee to maintain coverage (except on a military leave). Arrangements to continue coverage must be made with the employer. Employees should contact their benefits administrator for more information.~~

~~3.~~ 2. Employees who do not want to continue coverage will be asked to sign a waiver.

~~4. The conditions under which coverage may continue, the length of time coverage may extend while on leave without pay and whether the employer contribution continues are set forth in the Health Insurance Manual /Local Administrative Manual published by the department.~~

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~~D. E. Changing coverage while on leave. Coverage changes may be made while on leave in the same manner that changes may be made while actively employed. The same procedures and rules apply.~~

~~An employee enrolled in an alternative health benefits plan who moves out of the plan's service area while on a leave of absence may change to another plan offered by the department in his new location by ~~filing~~ *taking* an enrollment ~~form~~ *action* within 31 days of the date of the move. The employee may change back to an alternative health benefits plan within 31 days of returning to the plan's service area. A new enrollment form must be completed.~~

~~E. F. Returning from leave without pay.~~

~~1. Employees who have maintained coverage while on leave without pay. If the employee has maintained coverage while on leave, the employee's coverage in the health benefits program (with the employer making its contribution) will begin on the first of the month in which the employee returns to work if he works at least half of the working days in the month following the date the employee returns to full-time employment. However, if the return to work falls on the first day of the month then the employer contributions may begin immediately. It is not necessary for the employee to file take a new enrollment form action.~~

~~Employees may change from single to dual or family membership within 31 days of returning from leave without pay if the employee dropped dual or family membership during the leave or if there was a change in eligibility status qualifying mid-year event during the leave. A new enrollment form action must be filed taken. In the case of an eligibility status change a qualifying mid-year event, the effective date would follow the rule on initiating dual or family membership at the time of the particular eligibility status change qualifying mid-year event.~~

~~2. Employees who have not maintained coverage while on leave will be treated in the same manner as new employees, unless they have exercised their rights under the Family Medical Leave Act. If these rights are exercised, they will have all rights that are required by law.~~

~~a. It shall be necessary to file take a new enrollment form action to receive coverage. The enrollment form action shall indicate the date the employee returned to work as the date that the employee's continuous full-time employment commenced. If the employee remained continuously eligible, waiting periods must be credited accordingly. Family members will have to serve new waiting periods as prescribed in 1VAC55-20-420.~~

~~b. The employee has a choice of type of membership and plan.~~

~~c. The usual deadlines for filing apply. Coverage begins according to the rules and procedures for new employees.~~

~~3. Employees returning from military leave for active service. Employees returning from military leave of six months or more have the same choice of coverage as a new employee. If the employee returning from a military~~

~~leave applies for coverage within 31 days of discharge, the coverage will begin on either the first day of the month of discharge or the first of the following month, whichever is necessary to effect continuous coverage. If the employee chooses a plan with waiting periods, the employee should be given credit toward the waiting periods for the amount of time on military leave. Dependents also are credited if they were covered under the state program prior to the leave.~~

~~4. Employees returning from leave in a country with national health coverage who reside outside of the United States will not be eligible for coverage under the state health benefits program if they are also eligible for national health care from the country in which they are residing. Upon the return to the United States these employees must apply for coverage within 31 days of returning to the United States to have waiting periods credited and to have a choice of effective dates. The effective date for coverage will be the first of the month that the person returned to the United States or the first of the following month, whichever is necessary to effect continuous coverage.~~

~~5. Taking a second leave without pay. If an employee returns from a leave without pay and is employed full-time on every scheduled work day for at least one full calendar month before taking another leave without pay, the second leave will be treated as a new leave.~~

~~If there is less than one calendar month of full-time employment between leaves without pay, the leaves will be treated as one, regardless of the types of leave. The length of time that coverage may be continued will depend on the current type of leave.~~

1 VAC 55-20-390. Termination of coverage.

~~A. Coverage ends at the end of the month in which an employee terminates the employment relationship, otherwise loses group eligibility, or on the last day of the month for which premiums are paid.~~

~~B. Coverage ends on the date of a participant's death. Coverage for family members continues until the end of the month following the month in which the participant died.~~

~~1. A surviving beneficiary may enroll in the state retiree group if:~~

~~a. The dependent is eligible for an annuity under the VRS death-in-service provision;~~

~~b. The employee had submitted a disability retirement application naming the dependent under the survivor option before his death and the employee died prior to achieving the retirement date; or~~

~~c. The death was job related.~~

~~To continue coverage, the family member must apply within 31 days of the date the coverage would otherwise end due to the death.~~

~~2. Survivors of deceased employees who are not eligible for an annuity from VRS can nonetheless be covered under the State Health Benefits Program if they had coverage at the~~

time the employee died. To continue coverage, the family member must apply within 60 days of the employee's death.

C. In the event that an employee on leave without pay notifies the employer that he is terminating employment, coverage ends on the last day of the month in which the leave without pay ceases.

1 VAC 55-20-400. Termination of employment.

A. Coverage continues to the end of the month in which an employee terminates. Each terminating employee may elect continuation of coverage pursuant to Internal Revenue Code section 4980B and accompanying regulations.

B. Terminating employees *may* also have the option of converting to a non-group policy. The carrier will send the employee a letter offering non-group coverage. The employee will have 30 days after the date of the letter to reply in order for coverage to be continuous. *All terminating employees will be given certificates of coverage as required by the Health Insurance Portability and Accountability Act.*

1 VAC 55-20-410. Suspension and reinstatement.

A. General.

1. Coverage generally continues through the end of the month in which the suspension began. However, if the suspension was effective on or before the first work day of the month, there will be no coverage for that month unless the employee is reinstated in time to work half of the work days in the month. For example, if a suspension is effective on April 19, the employee will have coverage through the end of April. If the suspension is effective April 1, the employee will have no coverage in April. By the same token, if the suspension is effective April 2 and the employee's first workday in April is April 3, the employee will not have coverage in April. If the employee is reinstated in time to work half of the workdays in the month following the month in which the suspension began, there will be continuous coverage.

2. If the employee is suspended pending court action or pending an official investigation, the suspension may go beyond one pay period. In these cases, coverage will continue to the end of the month in which the suspension began. If the employee is reinstated in time to work half of the workdays of the month following the month in which the suspension began, there would be no break in coverage. Suspension beyond that period should be handled in the same way as a leave without pay with no employer contribution. The employee may remain in the group by paying monthly contributions to the employer in advance. Group coverage may continue until a court decision is issued or the official investigation is completed, or up to a period of 12 months, whichever is less.

3. If the employee is reinstated with back benefits, the employer should refund the employee the amount of the employer contribution during the period the employee paid the full premium. Single membership should be reinstated retroactive to the date the employee was removed from the group up to a limit of ~~three months~~ 60 days. Retroactive dual or family membership will be available up to a

maximum period of ~~three months~~ 60 days. Appropriate contributions must be made to cover the retroactive period. Alternatively, the family membership may begin the first full month of reinstatement if the employee applies within 31 days of reinstatement. ~~If there is a lapse in dual or family membership, waiting periods, where applicable, will be in force on dependent coverage unless the reinstated employee chooses the three months' retroactive family coverage.~~

B. Termination and grievance reinstatement.

1. Employees who are terminated and file a grievance shall be treated as terminated employees and may elect extended coverage or nongroup coverage. In the event such an employee is reinstated with back pay, ~~they~~ *he* will be given single membership retroactive up to ~~three months~~ 60 days. Retroactive dual or family membership will be available up to a maximum period of ~~three months~~ 60 days. Appropriate contributions must be made to cover the period.

2. If the employee is reinstated without full back pay, no retroactive coverage is available, ~~and both the reinstated employee and the dependents must serve waiting periods, unless the reinstatement order specifically addresses health benefits.~~

1 VAC 55-20-420. Waiting periods. (Repealed.)

~~A. General. With the exception of coverage under HMOs, waiting periods apply for certain services and preexisting conditions.~~

~~There is a 12-month waiting period for the following services:~~

- ~~1. Pregnancy, if conception occurred prior to the effective date of coverage;~~
- ~~2. Hernias of any type or location;~~
- ~~3. Tonsil or adenoid operations;~~
- ~~4. Sterilizations;~~
- ~~5. Tuberculosis;~~
- ~~6. Acquired Immune Deficiency Syndrome;~~
- ~~7. Elective surgical services. This is nonemergency surgery. "Elective" means that the surgery can safely be postponed for 72 hours.~~
- ~~8. Preexisting conditions (the waiting period also applies to complications or increases in severity of the preexisting condition).~~

~~B. Twelve-month waiting period for major medical services. There is also a 12-month waiting period for services paid for under the major medical provisions of the plans or under the comprehensive plan. This waiting period begins on the participant's effective date. However, this waiting period is only for preexisting conditions and there is one exception. After 90 consecutive days during which the participant has not received any health care services or supplies for a preexisting condition, major medical services for that preexisting condition will be covered. The 90 day period may begin before the participant's effective date of coverage but must end on or after the participant's effective date.~~

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C. Preexisting conditions.

1. These waiting periods do not apply to a participant's child who has been covered under the program since birth.
2. Participants will not be required to serve waiting periods if enrolling under the program directly from an HMO in which the participant is enrolled as a state or local employee or as a spouse or dependent of a state or local employee.
3. Dependents of reinstated employees may not have to serve waiting periods if the employee elects retroactive coverage in accordance with 1VAC55-20-410 A.

1 VAC 55-20-430. Coordination of benefits.

A. General. All covered services a participant receives are subject to this section. If a participant is eligible for coverage under two or more health plans (as defined below), benefits will be coordinated to avoid duplicate payments. The health plans involved will share the responsibility for benefits according to the priority rules listed below. Except as otherwise provided, benefits under this section will not be increased by virtue of this section.

B. Special rules. The following rules apply when participants have a claim for a coordinated service:

1. If the other health plan does contain a coordination of benefits provision of similar purpose to the one in this section, the following will apply in the order of priority listed:
 - a. Primary coverage will be the health plan which lists the person receiving services as the participant, not as a dependent;
 - b. Primary coverage for an enrolled child will be the health plan which lists the parent whose month and day of birth occurs earliest in the calendar year as a participant, except in the following circumstances:
 - (1) When the parents are separated or divorced and the parent with custody of the child has not remarried. Primary coverage will be the health plan which covers the child as a dependent of the parent with custody.
 - (2) When the parents are divorced and the parent with custody of the child has remarried, primary coverage will be the health plan which covers the child as a dependent of the parent with custody. In this case, the health plan of the husband or wife of the remarried parent with custody may provide primary coverage if the remarried parent with custody does not have a health plan which covers the child.
 - c. Notwithstanding subdivisions (1) and (2) of 1VAC55-20-430 B 1 b, if there is a court order which requires one parent to provide medical or hospital coverage for the child, primary coverage will be that parent's health plan.
2. If subdivisions a and b of 1VAC55-20-430 B 1 do not apply, primary coverage will be the health plan which has covered the participant for the longest uninterrupted period of time, except when both health plans have the same priority rules for retired or laid-off employees. In this case, primary coverage will be the health plan which covers the participant as a working employee or dependent of a

working employee. Secondary coverage will be the health plan which covers the participant as a retired or laid-off employee or dependent of such an employee.

3. If a health plan does not have a coordination of benefits provision of similar purpose to the one in this Part IV (1VAC55-20-320 et seq.), that health plan will be the primary coverage.

C. Payment of coordinated benefits.

1. At the option of the health plan, payments may be made to anyone who paid for coordinated services received. These benefit payments by the health plan are ones which normally would have been made to the participant or on his behalf to a covered facility or provider. The benefit payments made by the health plan will satisfy the obligation of the health plan for covered services.

2. A participant is required to notify the health plan that he is enrolled under another health plan. The health plan is not required to investigate to determine whether or not a participant is covered by another health plan. The health plan will determine coordinated services when the health plan is made aware of enrollment under another health plan.

D. Right of recovery.

1. If the health plan provided primary coverage and discovers later that it should have provided secondary coverage, the health plan has the right to recover any excess payment from any person or organization, including the participant. If the plan requests a refund, it will send a written notice to the participant.

2. If excess benefit payments are made, the participant must cooperate with the plan in exercising its right of recovery.

E. Right to receive and release necessary information.

1. As a condition of coverage under the program, the participant is obligated to supply the health plan the information needed to administer this section. This must be done before the participant is entitled to receive benefits under this section.

2. The health plan has the right to obtain or release information about covered services or benefits received. This right will be used when working with another person or organization to settle payments for coordinated services. Prior consent of the participant is not required.

A. Employees are required to notify the plan administrator that they or a covered dependent are enrolled under another plan. If a plan participant is eligible for coverage under two or more plans, the plans involved will share the responsibility for the participant's benefits according to these rules.

B. If the other health benefit plan contains a coordination of benefits provision establishing the substantially same order of benefit determination rules as the ones in this section, the following will apply in the order of priority listed:

1. The plan that lists the person receiving services as the enrollee, insured or policyholder, not as a dependent, will

provide primary coverage. There is one exception. If the person is also entitled to Medicare, and as a result of federal law Medicare is (i) secondary to the plan covering the person as a dependent; and (ii) primary to the plan covering the person as other than a dependent (e.g., a retired employee), then the benefits of the plan covering the person as a dependent are determined before those of the plan covering the person as other than a dependent.

2. Primary coverage for an enrolled child will be the plan which lists the parent whose month and day of birth occurs earliest in the calendar year as an enrollee, insured, or policyholder, except in the following circumstances:

a. When the parents are separated or divorced, primary coverage will be the plan that covers the child as a dependent of the parent with custody. The plan of the husband or wife of a remarried parent with custody may provide primary coverage if the remarried parent with custody does not have a plan that covers the child.

b. Despite subdivision 2 a of this subsection, if there is a court order that requires one parent to provide hospital or medical/surgical coverage for the child, primary coverage will be that parent's plan. If the specific terms of a court decree state that the parents will share joint custody and the court decree does not state that one of the parents is responsible for health care expenses of the child, then the rule set forth in the first sentence of subdivision 2 of this subsection, the birthday rule, will apply.

3. If subdivisions 1 and 2 of this subsection do not apply, primary coverage will be the plan that has covered the participant for the longest uninterrupted period of time. There are two exceptions to this rule:

a. The benefits of the plan that covers the person as a working employee (or the employee's dependent) will be determined before those of the plan that covers the person as a laid-off or retired employee (or the employee's dependent).

b. The benefits of the plan that covers the person as an employee (or the employee's dependent) will be determined before those of the plan that covers the person under a right of continuation pursuant to federal or state law.

C. If a plan does not have a coordination of benefits provision establishing substantially the same order of benefit determination rules as the ones in this section, that plan will be the primary coverage.

D. If, under the priority rules, the state plan is the primary coverage, participants will receive unreduced benefits for covered services to which they are entitled under this plan.

E. If the other plan is the primary coverage, the participant's benefits will be reduced so that the total benefit paid under this plan and the other plan will not exceed the benefits payable for covered services under this plan absent the other plan. In calculating benefits that would have been paid under this plan absent the other plan, any reduction in benefits for failure to receive a referral will not be considered. Benefits that would have been paid if the participant had filed a claim under

the primary coverage will be counted and included as benefits provided. In a calendar year, benefits will be coordinated as claims are received.

F. When a health benefit plan provides benefits in the form of services, a reasonable cash value will be assigned to each covered service. This cash value will be considered a "benefit payment."

G. At the option of the plan administrator, payments may be made to anyone who paid for the coordinated services the participant received. These benefit payments by the administrator are ones that normally would have been made to the employee or on the employee's behalf to a facility or provider. The benefit payments made by the administrator will satisfy the obligation to provide benefits for covered services.

H. If the administrator provided primary coverage and discovers later that it should have provided secondary coverage, the administrator has the right to recover the excess payment from the employee or any other person or organization. If excess benefit payments are made on behalf of the employee, the employee must cooperate with the administrator in exercising its right of recovery.

I. Employees are obligated to supply the plan administrator all information needed to administer this coordination of benefits provision. This must be done before an employee is entitled to receive benefits under this plan. Further, the employees must agree that the administrator has the right to obtain or release information about covered services or benefits received. This right will be used only when working with another person or organization to settle payments for coordinated services. The employee's prior consent is not required.

1 VAC 55-20-450. Basic plan.

The department provides a medical and hospitalization plan (the "basic plan"). This plan is available to eligible participants wherever they reside. The coverage is divided into two major parts: may provide self-funded plan(s) administered by a third party administrator including, but not limited to, an exclusive provider organization (EPO) and a point of service plan (POS). These plans are described in the employee handbooks, which are distributed to employees upon enrollment. The department shall denote a self-funded plan as the "basic plan," which is required by code to be available throughout the state and shall provide the basis for all employer contributions.

1. Hospital and physician coverage - pays for covered hospital expenses; pays for covered doctor's care and other medical services up to the usual, customary, and reasonable allowance (UCR).

2. Major Medical - supplements the basic plan with a lifetime maximum for services such as local ambulance services, private duty nursing, and other services. Major medical payments for covered services are made subject to a deductible and coinsurance. When a participant's covered expenses exceed a specified amount in a calendar year, major medical pays 100% UCR for the balance of the calendar year. This 100% payment does not apply to outpatient mental and nervous services. Employees are also eligible for an outpatient prescription drug program.

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1 VAC 55-20-460. Alternative health benefit plans.

The department also offers several health maintenance organization and preferred provider organization plans which are available to participants residing in the service area of the HMO or PPO. A list of these plans is available upon request to the department.

Non-Medicare-eligible retirees have the same enrollment options as active employees.

Retirees must enroll in a plan within 31 days of separation for retirement. A separating employee who defers retirement will not be eligible to enroll in a retiree medical plan when the former employee seeks retirement benefits.

NOTICE: The forms used in administering 1 VAC 55-20, Commonwealth of Virginia Health Benefits Program, 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 Human Resource Management, 101 N. Fourteenth Street, Richmond, Virginia, or at the office of the Registrar of Regulations, General Assembly Building, 2nd Floor, Richmond, Virginia.

FORMS

Adoption Agreement.

Health Benefits Program Application.

Enrollment Application/Waiver Form SHBP (rev. 4/94 3/01).

~~Notification of Student Status.~~

~~Out of Area Exception Form.~~

Name/Address Change.

Claim Forms.

Extended Coverage.

~~Medical Hospitalization Payment Summary.~~

~~Explanation of Benefits.~~

Interagency Transfer Invoice.

~~Commonwealth of Virginia Application for Employment, DPT Form 10-012 (rev. 5/93).~~

~~Supplemental Experience DPT Form 10-012A (rev. 5/93).~~

HIPAA Certificate.

VA.R. Doc. No. R02-220; Filed August 4, 2003, 3:38 p.m.

TITLE 6. CRIMINAL JUSTICE AND CORRECTIONS

STATE BOARD OF JUVENILE JUSTICE

Extension of Public Comment Period

Title of Regulation: 6 VAC 35-160. Regulations Governing Juvenile Record Information and The Virginia Juvenile Justice Information System (establishing 6 VAC 35-160-10 through 6 VAC 35-160-180).

The State Board of Juvenile Justice noticed a public comment period on the proposed Regulations Governing Juvenile Record Information and The Virginia Juvenile Justice Information System (6 VAC 35-160) in the December 30, 2002, issue of the Virginia Register (19:8 VA.R. 1151-1154 December 16, 2002).

The board is extending the public comment period on the proposal until September 30, 2003. A copy of comments received to date and changes being contemplated to the proposed regulation as published may be obtained from the contact below.

Agency Contact: Donald R. Carignan, Regulatory Coordinator, Department of Juvenile Justice, P.O. Box 1110, Richmond, VA 23208-1110, telephone (804) 371-0743, FAX (804) 371-0773 or e-mail carigndr@djj.state.va.us.

VA.R. Doc. No. R03-311; Filed August 1, 2003, 10:22 a.m.

Title of Regulation: 6 VAC 35-170. Minimum Standards for Research Involving Human Subjects or Records of the Department of Juvenile Justice (adding 6 VAC 35-170-10 through 6 VAC 35-170-230).

Statutory Authority: § 66-10.1 of the Code of Virginia.

Public Hearing Date: N/A

Public comments may be submitted until 5 p.m. on October 31, 2003.

(See Calendar of Events section for additional information)

Agency Contact: Donald Carignan, Regulatory Coordinator, Department of Juvenile Justice, P.O. Box 1110, Richmond, VA 23218-1110, telephone (804) 371-0743, FAX (804) 371-0773, or e-mail carigndr@djj.state.va.us.

Basis: Section 66-10.1 of the Code of Virginia directs the Board of Juvenile Justice to promulgate regulations pursuant to the Administrative Process Act to effectuate the provisions of Chapter 5.1 (§ 32.1-162.16 et seq.) of Title 32.1 of the Code of Virginia for human research to be conducted or authorized by the department. Thus, the regulation is mandatory.

Section 66-10 of the Code of Virginia gives the Board of Juvenile Justice the power and the duty "to promulgate such regulations as may be necessary to carry out the provisions of

this title and other laws of the Commonwealth administered by the Director of the Department."

Purpose: The regulation is needed to protect the health, safety, confidentiality and informed consent rights of the subjects of human research in accordance with § 66-10.1 and Chapter 5.1 (§ 32.1-162.16 et seq.) of Title 32.1 of the Code of Virginia. Human research, by definition, may expose subjects to risk of harm. This regulation implements the protections outlined in statute to minimize those risks.

The goals of the new regulation are to provide a fair and thorough review of proposals to conduct human research, including review by a specially established human research review committee, periodic reports by researchers, and annual reports by the department to the Governor, the General Assembly and the Board of Juvenile Justice to ensure that human research is conducted with appropriate oversight.

Substance: 6 VAC 35-170-20 establishes general requirements of external researchers.

6 VAC 35-170-40 details the confidentiality requirements of all research, and requires that disclosures be in accordance with § 16.1-300 of the Code of Virginia,

6 VAC 35-170-50 establishes the conditions for department approval of external research, which shall be determined in the department's sole discretion.

6 VAC 35-170-60 requires a formal research agreement signed by the director.

6 VAC 35-170-70 details requirements specific to human research. All human research shall comply with all applicable laws, particularly Chapter 5.1 (§ 32.1-162.16 et seq.) of Title 32.1 of the Code of Virginia. Research involving known and substantive risk to subjects and all experimental medical, pharmaceutical or cosmetic research are specifically prohibited. Incentives to participate in research are discouraged but not prohibited.

6 VAC 35-170-80 reiterates the informed consent required for human research as set forth in § 32.1-162.18 of the Code of Virginia.

6 VAC 35-35-90 identifies exemptions from the requirements governing human research, as set forth in § 32.1-162.17 of the Code of Virginia. These activities may, however, be subject to the nonhuman research review and approval process established by the department.

6 VAC 35-170-100 sets out detailed requirements for the form and content of external research proposals.

6 VAC 35-170-110 describes the initial review by coordinator of external research.

6 VAC 35-170-120 establishes time frames for reviewing and approving research proposals that do not involve human research.

6 VAC 35-170-130 mandates creation of a Human Research Review Committee in accordance with § 32.1-162.19 of the Code of Virginia and sets parameters for its operation.

6 VAC 35-170-140 establishes the timeline for review of human research proposals and provides for an expedited review when certain conditions are met.

6 VAC 35-170-150 establishes criteria to be used by the human research review committee in recommending approval of human research proposals.

6 VAC 35-170-160 addresses informed consent provisions. Modified consent procedures are permitted when specific conditions are met.

6 VAC 35-170-170 describes the options available to the human research committee in making a recommendation to the director; requires the director to act with 10 days; and requires that a signed Research Agreement be in place before the project may begin.

6 VAC 35-170-180 requires an annual review of human research activities.

6 VAC 35-170-190 requires an annual report to the Governor, the General Assembly, and the director, in accordance with § 66-10.1 of the Code of Virginia, and also to the Board of Juvenile Justice.

6 VAC 35-170-200 authorizes the department to require progress reports on any research project.

6 VAC 35-170-210 states that the department may use, as they are published, all data, summaries, charts, graphs or other illustrations resulting from the research project.

6 VAC 35-170-220 requires that a formal final report be submitted to the coordinator of external research to include a disclaimer that the department does not necessarily endorse the research findings.

Issues: The primary advantage to juveniles and their families is that their health, safety, confidentiality and informed consent rights will be protected by a formal process. The primary advantage to researchers is a fair, equitable process for evaluating research proposals and monitoring the progress of research under way. The primary advantage to the department is having clear, consistent guidance on the factors to consider in approving research proposals. There are no known disadvantages to the general public, to researchers, to human subjects, or to the department of juvenile justice.

Fiscal Impact: There will be no cost to the state to implement the proposed regulation. As a matter of practice, the department has in place a process for receiving, evaluating and approving research proposals. The regulation merely standardizes and formalizes the process. There is no projected cost to localities to implement the proposed regulation. The regulation will most directly affect academic and social science researchers, and the individuals who are the subjects of human research. Any research inherently involves costs of time and resources, and the added costs to the researcher to comply with the regulation would be marginal. These added costs would include the time required to consult with the head of the organizational unit where the research would take place (if applicable), and the cost of progress reports and final reports required by the department. In recent years, the department has received fewer than a dozen formal research proposals each year. There is no

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reason to expect the volume of proposals to increase or decrease due to the adoption of this regulation.

Department of Planning and Budget's Economic Impact Analysis: The Department of Planning and Budget (DPB) has analyzed the economic impact of this proposed regulation in accordance with § 2.2-4007 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 allows the State Board of Juvenile Justice in § 66-10 of the Code of Virginia to promulgate regulations as may be necessary to carry out provisions of Title 66 (Youth Services) and other laws of the Commonwealth administered by the director of the Department of Juvenile Justice. Section 66-10.1 of the Code of Virginia mandates that the State Board of Juvenile Justice promulgate regulations to implement the provisions of Chapter 5.1 of Title 32.1 regarding human research conducted or authorized by the Department of Juvenile Justice.

The proposed regulation establishes minimum requirements for research on human subjects under the care of the Department of Juvenile Justice (DJJ) and a process for the review and approval of research proposals involving human subjects. It also establishes a process for reviewing and approving research proposals on DJJ records and data that do not involve human subjects. The standards and requirements established in the proposed regulation are similar to DJJ's existing practice for receiving, evaluating, and approving research proposals that involve human subjects and/or involve access to DJJ data.

Estimated economic impact. Rationale: Prior to 1992, human research conducted or authorized by various state agencies was required to meet standards and requirements established by the Department of Mental Health, Mental Retardation, and Substance Abuse Services. In 1992, Chapter 603 of the 1992 Acts of Assembly amended the Code of Virginia to require each department that conducted or authorized human research to promulgate regulations establishing minimum standards for research on human subjects. The Code requires each agency that conducts or authorizes human research to establish a human research committee in order to ensure a competent, complete, and professional review of human research activities conducted by the agency. The committee is required to submit reports at least once a year on human research projects reviewed and approved during that year and report all significant deviations from the proposals as approved. The Code also requires that all human research projects obtain informed consent either from the person who is to be the human subject or their legally authorized

representative. An exemption from these requirements is provided for certain categories of human research.

Description of the regulation: The proposed regulation establishes minimum requirements for research on human subjects under the care of DJJ and a process for the review and approval of research proposals involving human subjects. It also establishes a process for reviewing and approving research on DJJ records and data that do not involve human subjects.

All external research proposals are to be submitted in accordance with the requirements of the regulation. If the proposed research is to be conducted in a particular organizational unit, the proposals are to be submitted only after the researcher has obtained preliminary approval from the head of that organizational unit. Moreover, the regulation specifies information to be included in the research proposal in order for the proposal to be considered by DJJ.

Research proposals not involving human subjects are to be reviewed by designated staff members at DJJ and a recommendation for approval or denial of the proposal made to the director of the agency within 20 days of receiving a complete research proposal. The director then has 10 days to approve or deny the proposal.

For research proposals involving human subjects, the proposed regulation prohibits experimental medical, pharmaceutical, and cosmetic research and research that involves known physical, mental, or emotional risk to the subject. For all other types of human research, the regulation establishes informed consent requirements and requirements for a human research review committee. Informed consent is to be obtained either from the person who is to be the human subject or their legally authorized representative. The human research review committee is to be set up to evaluate all human research proposals received by DJJ. The criteria to be used by the committee in evaluating research proposals are specified in the regulation. The proposed regulation also establishes reporting requirements for the human research committee. The committee is required to review all human research activities at least once a year to ensure that they are being conducted in conformance with the proposal as approved. The committee is also required to submit reports at least once a year to the Governor, the General Assembly, and DJJ on human research projects approved during the past year, the status of those projects, and any significant deviations from the proposals as approved.

For external research proposals involving human subjects, the human research review committee is required to review the proposal within 30 days of receiving it (an expedited review can be conducted under certain circumstances). The review is to include an evaluation of the research proposal in terms of the methodology used, the qualification of the researchers, and other criteria specified in the regulation. Moreover, the review is also required to include an evaluation of the informed consent procedures, including whether it can be waived or modified. Following the review, the committee is required to make a recommendation to the director of the agency to approve, deny, or conditionally approve the

proposal. Based on the committee's recommendation, the director then has 10 days to approve or deny the proposal.

External researchers are also required to meet some general requirements such as having the relevant academic or professional credentials to conduct the proposed research, adhering to standards of ethics of professional societies such as the American Psychological Association, submitting a formal final report at the time of completion of the project, and possibly submitting periodic progress reports to DJJ while the project is ongoing.

The regulation also establishes confidentiality requirements for research involving human subjects and/or involving access to DJJ data, conditions for DJJ approval of research projects, and exemptions from the requirements governing human research. In addition to the Code-required exemptions, the regulation allows experimental medical treatment to be provided to subjects in the care of DJJ under certain circumstances. According to DJJ, the additional exemption allowing for experimental medical treatment is consistent with American Correctional Association standards.

Estimated economic impact: According to DJJ, the proposed regulation is similar to existing requirements the agency has in place for receiving, evaluating, and approving research proposals. Following the 1992 Act of Assembly, the Board of Juvenile Justice was set up in September 1993 and the current process for reviewing and approving research projects was put in place in October 1998. DJJ believes that current requirements for reviewing and approving research projects are consistent with the requirements of other agencies such as the Department of Social Services and the Department of Mental Health, Mental Retardation, and Substance Abuse Services and consistent with the requirements of similar regulations in other states.

Each year DJJ receives approximately 20-24 research proposals involving human subjects and 60 research proposals involving the use of DJJ data.

The proposed regulation is not likely to have a significant economic impact. It is not likely to impose any additional costs on the state. DJJ already has a process in place for reviewing research proposals (including a human research review committee to evaluate research involving human subjects) and the proposed regulation simply formalizes that process. Moreover, it is not likely to impose any additional costs on researchers seeking to conduct research involving juveniles under DJJ care or involving DJJ data. The requirements of the regulation, such as consulting with the head of the organizational unit where the research is to be conducted and providing DJJ with progress reports and a final report, have been in place since 1998. To the extent that the proposed regulation, by formalizing existing practice, clarifies and leads to a more uniform application of current policy, it may produce some economic benefits.

Businesses and entities affected. According to DJJ, the agency receives approximately 20-24 research proposals involving human subjects and 60 research proposals involving the use of DJJ data each year. The proposed regulation is not likely to impose any additional costs on individuals seeking to do research involving juveniles under DJJ care and/or using

DJJ data. To the extent the proposed regulation clarifies and standardizes existing practice, it is may produce some economic benefits.

Localities particularly affected. The proposed regulation is not likely to have a significant impact on localities in the Commonwealth.

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. The proposed regulation is not likely to have a significant effect on the use and value of private property.

Agency's Response to the Department of Planning and Budget's Economic Impact Analysis: The Department of Juvenile Justice concurs with the Economic Impact Analysis prepared by the Department of Planning and Budget.

Summary:

In order to effectuate the provisions of Chapter 5 (§ 32.1-162.16 et seq.) of Title 32.1 of the Code of Virginia, the regulation establishes minimum standards for research on human subjects under the care of the Department of Juvenile Justice. It requires that the department establish a human research review committee, provides criteria for that committee to use in evaluating proposals involving human research, provides for informed consent by human subjects or their authorized representatives, establishes minimum requirements for researchers, and requires annual reports to the Governor, the General Assembly and the Board of Juvenile Justice on human research projects. The regulation also establishes a process for reviewing and approving research on records and data of the department when human research is not involved.

CHAPTER 170.

MINIMUM STANDARDS FOR RESEARCH INVOLVING HUMAN SUBJECTS OR RECORDS OF THE DEPARTMENT OF JUVENILE JUSTICE.

6 VAC 35-170-10. Definitions.

Unless the context clearly indicates otherwise, the following words and terms when used in this regulation shall have the following meanings, consistent with the definitions offered in § 32.1-162.16 of the Code of Virginia:

"Coordinator of external research" is the department employee designated by the director to receive research proposals from external entities and ensure that the proposals are reviewed in accordance with this regulation and related department procedures.

"Department" means the Department of Juvenile Justice.

"Director" means the Director of the Department of Juvenile Justice, or his designee.

"Human subject" means any individual who is under the department's care, custody or supervision, or a member of the family of such an individual, who is or who is proposed to be a subject of human research.

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"Human research" means any systematic investigation using human subjects, that may expose those subjects to physical or psychological injury, and that departs from the application of established and accepted therapeutic methods appropriate to meet the subject's needs.

"Informed consent" means the knowing and voluntary agreement without undue inducement or any element of force, fraud, deceit, duress, or other form of constraint or coercion of a person who is capable of exercising free choice. The basic elements necessary for informed consent regarding human research include:

1. A reasonable and comprehensible explanation to the person of the proposed procedures and protocols to be followed, their purposes, including descriptions of any attendant discomforts, and risks and benefits reasonably to be expected;
2. A disclosure of any alternative procedures or therapies that might be helpful to the person;
3. An instruction that the person may withdraw his consent and stop participating in the human research at any time without prejudice to him;
4. An explanation of any costs or compensation that may accrue to the person and whether third party reimbursement is available for the proposed procedures or protocols; and
5. An offer to answer, and answers to, any questions by the person about the procedures and protocols.

"Legally authorized representative" means the parent or parents having custody of a prospective subject; the legal guardian of a prospective subject; or any person or judicial or other body authorized by law to consent on behalf of a prospective subject to such subject's participation in the particular human research, including an attorney in fact appointed under a durable power of attorney, provided the power grants the authority to make such a decision and the attorney in fact is not employed by the person, institution, or agency conducting the human research. No official or employee of the institution or agency conducting or authorizing the research shall act as a legally authorized representative.

"Minimal risk" means that the risks of harm anticipated in the proposed research are not greater, considering probability and magnitude, than those ordinarily encountered in daily life or during the performance of routine physical or psychological examinations or tests.

"Nontherapeutic research" means human research in which there is no reasonable expectation of direct benefit to the physical or mental condition of the human subject.

"Organizational unit head" means the person in charge of a juvenile correctional center, halfway house, court service unit, regional office or other organizational unit of the department.

"Principal researcher" means the individual who is responsible for the research design, the conduct of research, supervision of any research staff, and the research findings.

"Research" means the systematic development of knowledge essential to effective planning and rational decision-making. It involves the assessment of current knowledge on conceptual problems selected, statement of those problems in researchable format, design of methodologies appropriate to the problems, and the application of statistical techniques to organize and analyze data. Research findings should provide valuable information to management for policy options.

"Researcher" means an individual conducting research.

"Research project" means the systematic collection of information, analysis of the data, and the preparation of a report of findings.

6 VAC 35-170-20. General requirements of external researchers.

A. The principal researcher shall have academic or professional standing in the pertinent field or job-related experience in the areas of study or be directly supervised by such a person.

B. The principal researcher is responsible for (i) the conduct of the research staff, (ii) the protection of the rights of subjects involved in the project, and (iii) providing the information required by the coordinator of external research, organizational unit heads, and the Human Research Review Committee.

6 VAC 35-170-30. Professional ethics.

The research shall conform to the standards of ethics of professional societies such as the American Correctional Association, the American Psychological Association, the American Sociological Association, the National Association of Social Workers, or their equivalent.

6 VAC 35-170-40. Confidentiality requirements of all research.

A. Research findings shall not identify individual subjects.

B. All records and all information given by research subjects or employees of the department shall be kept confidential in accordance with § 16.1-300 of the Code of Virginia, and applicable rules and regulations regarding confidentiality of juvenile records.

C. Persons who breach confidentiality shall be subject to sanctions in accordance with applicable laws, regulations, policies and procedures.

D. Confidentiality does not preclude reporting results in a consolidated form that protects the identity of individuals, or giving raw data to the department for possible further analysis.

6 VAC 35-170-50. Conditions for department approval of external research.

The department will approve research projects only when it determines, in its sole discretion, that:

1. The department has sufficient financial resources and staff to support the research project, and that on balance the benefits of the research justify the department's involvement;

2. The proposed research will not interfere significantly with department programs or operations, particularly those of the operating units that would participate in the proposed research; and

3. The proposed research is compatible with the purposes and goals of the juvenile justice system and with the department's organization, operations, and resources.

6 VAC 35-170-60. Formal agreement required.

No external research shall begin until all reviews required by this regulation and department procedure have been completed and the principal researcher is given a copy of the research agreement signed by the director.

6 VAC 35-170-70. Requirements specific to human research.

A. All human research shall comply with all applicable laws, particularly Chapter 5.1 (§ 32.1-162.16 et seq.) of Title 32.1 of the Code of Virginia regarding human research.

B. Research involving known and substantive physical, mental, or emotional risk to subjects, including the withholding of any prescribed program of treatment, and all experimental medical, pharmaceutical or cosmetic research, are specifically prohibited.

C. Offering incentives to participate in research is discouraged, but not prohibited. Incentives offered shall be appropriate to the juveniles' custodial status and shall be proportionate to the situation.

D. No human research shall be conducted without the approval of the Human Research Review Committee.

6 VAC 35-170-80. Informed consent required for human research (see § 32.1-162.18 of the Code of Virginia).

A. If a human subject is competent, informed consent shall be given in writing by the subject and witnessed.

B. If a human subject is not competent, informed consent shall be given in writing by the subject's legally authorized representative and witnessed.

C. If a human subject is a minor who is otherwise capable of giving informed consent, informed consent shall be given in writing by both the minor and his legally authorized representative.

D. Notwithstanding consent by a legally authorized representative, no person who is otherwise capable of giving informed consent shall be forced to participate in any human research.

E. A legally authorized representative may not consent to nontherapeutic research unless the Human Research Review Committee determines that such nontherapeutic research will present no more than a minimal risk to the human subject.

F. No informed consent form shall include any language through which the human subject waives or appears to waive any legal rights, including any release of any individual, institution, or agency or any agents thereof from liability for negligence (see § 32.1-162.18 of the Code of Virginia).

6 VAC 35-35-90. Exemptions from the requirements governing human research.

In accordance with § 32.1-162.17 of the Code of Virginia, the following categories of human research are not subject to this regulation's provisions governing human research. Except when provided for by law or regulation, these activities may be subject to the nonhuman research review and approval process established by the department.

1. Activities of the Virginia Department of Health conducted pursuant to § 32.1-39 of the Code of Virginia.

2. Research or student learning outcomes assessments conducted in educational settings involving regular or special education instructional strategies; the effectiveness of or the comparison among instructional techniques, curricula, or classroom management methods; or the use of educational tests, whether cognitive, diagnostic, aptitude, or achievement, if the data from such tests are recorded in a manner so that subjects cannot be identified, directly or through identifiers linked to the subject.

3. Research involving solely the observation of public behavior, including observation by participants, or research involving survey or interview procedures unless subjects can be identified from the data either directly or through identifiers linked to the subjects, and either:

a. The information about the subject, if it become known outside the research, could reasonably place the subject at risk of criminal or civil liability or be damaging to the subject's financial standing or employability; or

b. The research deals with sensitive aspects of the subject's own behavior, such as sexual behavior, drug or alcohol use, or illegal conduct.

4. The collection or study of existing data, documents, records, pathological specimens, or diagnostic specimens, if these sources are publicly available or if the subjects cannot be identified from the information either directly or through identifiers linked to the subjects.

5. Medical treatment of an experimental nature intended to save or prolong the life of the subject in danger of death, to prevent the subject from becoming disfigured, physically or mentally incapacitated, or to improve the quality of the subject's life.

6 VAC 35-170-100. Proposal for external research.

A. If the research is proposed to take place in a particular organizational unit, the principal researcher shall present a preliminary research proposal to the head of that organizational unit and get the organizational unit head's endorsement of the proposal, in accordance with procedures established by the department.

B. The principal researcher shall submit to the coordinator of external research a complete research proposal describing the research project, and containing:

1. Name, address, telephone numbers, title and affiliation of the principal researcher;

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2. Name of the person who will immediately supervise the project, if different from the principal researcher;
3. Funding source, if any;
4. Date of the proposal's submission to the department;
5. Title or descriptive name of the proposed research project;
6. Statement of the specific purpose or purposes of the proposed research project with anticipated results, including benefit to the department;
7. A concise description of the research design and techniques for data collection and analysis, and of the likely effects of the research methodology on existing programs and institutional operations;
8. Time frames indicating proposed beginning and ending dates for (i) data collection, (ii) analysis, (iii) preliminary report, and (iv) final report;
9. A listing of any resources the researcher will require from the department or its units, such as staff, supplies, materials, equipment, work spaces, or access to clients and files;
10. Endorsement from the head of the organizational unit where the research will be conducted, if applicable;
11. For student research, endorsement from the researcher's academic advisor or other appropriate persons;
12. For research involving records of juveniles at state and local court service units, endorsement from the appropriate juvenile and domestic relations judge or judges;
13. For human research, endorsement from the institutional review board of the institution or organization with which the researcher is affiliated; and
14. For all research projects, a signed and dated statement that the principal researcher and research staff have read, understand, and agree to abide by these regulations.

6 VAC 35-170-110. Initial review by coordinator of external research.

The coordinator of external research shall receive all research proposals from external researchers and shall:

1. Ensure that the proposals are in the required format and include all required information;
2. Confirm that the proposal complies with basic research standards and applicable laws; and
3. Refer the proposals to appropriate department personnel for review, which shall include, for all proposed human research, the department's human research review committee.

6 VAC 35-170-120. Research proposals not involving human research.

Designated department staff shall review research proposals that do not involve human research and make a

recommendation to the director within 20 days of receiving the proposal. The director shall approve or deny proposals within 10 days of receiving the staff recommendation.

6 VAC 35-170-130. Human research review committee.

A. In accordance with § 32.1-162.19 of the Code of Virginia, the department shall establish a human research review committee composed of persons of various backgrounds to ensure the competent, complete and professional review of human research activities conducted or proposed to be conducted or authorized by the department. No member of the committee shall be directly involved in the proposed human research or have administrative approval authority over the proposed research except in connection with his role on the committee.

B. The committee may ask persons with pertinent expertise and competence to assist in the review of any research proposal or ongoing human research activities.

C. The committee may require additional information from the researcher before making a recommendation to the director.

6 VAC 35-170-140. Timeline for review of human research proposals.

A. The human research review committee will review proposals involving human research within 30 days of receiving a complete research proposal.

B. At the request of the researcher, the committee may conduct an expedited review when the proposed research involves no more than minimal risk to the human subjects and:

1. The proposal has been reviewed and approved by another agency's human research review committee; or
2. The review involves only minor changes to a research project that was previously approved.

6 VAC 35-170-150. Committee review of human research proposals.

In reviewing the human research proposal, the committee will consider the potential benefits and risks to the human subjects, and shall recommend approval only when the benefits outweigh the risks. In addition, the committee shall recommend approval only when:

1. The methodology is adequate for the proposed research;
2. The research, if nontherapeutic, presents no more than a minimal risk to the human subjects;
3. The rights and welfare of the human subjects are adequately protected;
4. Appropriate provisions have been made to get informed consent from the human subjects, as detailed in 6 VAC 35-170-160;
5. The researchers are appropriately qualified;
6. The criteria and means for selecting human subjects are valid and equitable; and

7. The research complies with the requirements set out in this regulation and in applicable department policies and procedures.

6 VAC 35-170-160. Committee review of informed consent provisions.

A. The committee shall review and approve the consent process and all required consent forms for each proposed human research project before recommending approval to the director.

B. The committee may approve a consent procedure that omits or alters some or all of the basic elements of informed consent, or waives the requirement to get informed consent, if the committee finds and documents that:

- 1. Research involves no more than a minimal risk to the subjects;
- 2. The omission, alteration or waiver will not adversely affect the rights and welfare of the subjects;
- 3. The research could not practicably be performed without the omission, alteration or waiver; and
- 4. After participation, the subjects will be given additional pertinent information, when appropriate.

C. The committee may waive the requirement that the researcher get written informed consent for some or all subjects if the principal risk would be potential harm resulting from a breach of confidentiality and the only record linking the subject and the research would be the consent document. The committee may require the researcher to give the subjects and legally authorized representatives a written statement explaining the research. Further, each subject shall be asked whether he wants documentation linking him to the research, and the subject's wishes shall govern.

6 VAC 35-170-170. Recommendation to director and final action.

A. The committee shall make a recommendation to the director to deny, approve, or conditionally approve the proposed human research.

B. The director shall approve or deny the proposal within 10 days of receiving the committee's recommendation.

C. The research agreement shall become effective only after all reviews required by this regulation and department procedures are completed and the director signs the agreement on behalf of the department. The coordinator of external research must send a copy of the signed Research Agreement to the researcher before the project may begin.

6 VAC 35-170-180. Annual review of human research activities.

The human research review committee shall review all human research activities at least annually to ensure that they are being conducted in conformance with the proposals as approved by the director.

6 VAC 35-170-190. Committee reports required.

A. In accordance with § 66-10.1 of the Code of Virginia, the committee shall submit to the Governor, the General Assembly, and the director at least annually a report on human research projects approved by the committee, and the status of such research, including any significant deviations from the proposals as approved.

B. The committee shall also annually submit to the Board of Juvenile Justice the same report as required by subsection A of this section. The report to the board shall also include a summary of human research proposals that were not approved.

6 VAC 35-170-200. Progress reports.

The department may require periodic reports on the progress of any research project. The principal researcher shall be responsible for providing such reports, and any supplementary information requested by the department, in a timely manner.

6 VAC 35-170-210. Department permission to use research findings.

The research agreement shall specify that the department has unrestricted permission to use, as they are published, all data, summaries, charts, graphs or other illustrations resulting from the research project.

6 VAC 35-170-220. Final report.

A. The department shall require that a formal final report be submitted to the coordinator of external research, and may require up to 10 copies of the report.

B. The report shall contain the following statement:

"The findings of this study are the responsibility of the researchers, and cooperation by the Virginia Department of Juvenile Justice in facilitating this research should not be construed as an endorsement of the conclusions drawn by the researchers."

VA.R. Doc. No. R03-27; Filed July 29, 2003, 2:17 p.m.

TITLE 10. FINANCE AND FINANCIAL INSTITUTIONS

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 Regulation: 10 VAC 5-200. Payday Lending (adding 10 VAC 5-200-90).

Statutory Authority: §§ 6.1-457 and 12.1-13 of the Code of Virginia.

Public Hearing Date: Hearing will be scheduled if requested.

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Public comments may be submitted until September 8, 2003.

Agency Contact: Gerald Fallen, Assistant Commissioner, State Corporation Commission, Bureau of Financial Institutions, P.O. Box 640, Richmond, VA 23218, telephone (804) 371-9699, FAX (804) 371-9416, or e-mail gfallen@scc.state.va.us.

Summary:

This regulation establishes the schedule for computing the annual fee to be paid by licensed payday lenders in accordance with § 6.1-457 of the Code of Virginia.

AT RICHMOND, AUGUST 6, 2003

COMMONWEALTH OF VIRGINIA, ex rel.

STATE CORPORATION COMMISSION

CASE NO. BFI-2003-00047

Ex Parte: In re annual fees for licensed payday lenders

ORDER TO TAKE NOTICE

WHEREAS § 6.1-457 of the Code of Virginia requires licensed payday lenders to pay an annual fee calculated in accordance with a schedule set by the State Corporation Commission ("Commission"); and

WHEREAS the Commission, based upon information supplied by the Staff of the Bureau of Financial Institutions, now proposes to promulgate a regulation setting a schedule of annual fees which will promote the efficient and effective examination, supervision, and regulation of licensed payday lenders;

IT IS ORDERED THAT:

(1) The proposed regulation, entitled "Schedule of Annual Fees for the Examination, Supervision and Regulation of Payday Lenders", is appended hereto and made part of the record herein.

(2) On or before September 8, 2003, any person desiring to comment on the proposed regulation shall file written comments containing a reference to Case No. BFI-2003-00047 with the Clerk of the Commission, Document Control Center, P.O. Box 2118, Richmond, Virginia 23219.

(3) The proposed regulation shall be posted on the Commission's website at <http://www.state.va.us/scc/caseinfo.htm>.

(4) AN ATTESTED COPY hereof, together with a copy of the proposed regulation, shall be sent to the Registrar of Regulations for publication in the Virginia Register.

10 VAC 5-200-90. Schedule of annual fees for the examination, supervision, and regulation of payday lenders.

Pursuant to § 6.1-457 of the Code of Virginia, the commission sets the following schedule of annual fees to be paid by

payday lenders required to be licensed under Chapter 18 (§ 6.1-444 et seq.) of Title 6.1 of the Code of Virginia. Such fees are to defray the costs of examination, supervision and regulation of such lenders by the Bureau of Financial Institutions. The fees are related to the actual costs of the bureau, to the number of offices operated by the lenders, to the volume of business of the lenders, and to other factors relating to their supervision and regulation.

The annual fee shall be \$300 per office, authorized and opened, as of December 31, plus \$.18 per payday loan made as of December 31.

The annual fee for each payday lender shall be computed on the basis of the number of offices operated as of December 31, and the number of payday loans as defined in § 6.1-444 of the Code of Virginia made during the calendar year preceding the year of assessment.

Fees shall be assessed on or before September 15 for the current calendar year. By law the fee must be paid on or before October 15.

The annual report, due March 25 each year, of each licensee provides the basis for its assessment, i.e., the number of offices and payday loans made. In cases where a license has been granted between January 1 and September 15 of the year of assessment, the licensee shall pay \$150 per office, authorized and opened, as of September 15 of that year.

Fees prescribed and assessed by this schedule are apart from, and do not include, the reimbursement for expenses permitted by subsection B of § 6.1-457 of the Code of Virginia.

VA.R. Doc. No. R03-316; Filed August 6, 2003, 11:52 a.m.



TITLE 12. HEALTH

STATE BOARD OF HEALTH

Title of Regulation: **12 VAC 5-90. Regulations for Disease Reporting and Control (amending 12 VAC 5-90-10, .12 VAC 5-90-40, 12 VAC 5-90-80, 12 VAC 5-90-90, 12 VAC 5-90-110, 12 VAC 5-90-160, and 12 VAC 5-90-180; adding 12 VAC 5-90-220, and 12 VAC 5-90-280 through 12 VAC 5-90-360).**

Statutory Authority: §§ 32.1-12 and 32.1-35 of the Code of Virginia.

Public Hearing Date: N/A -- Public comments may be submitted until October 31, 2003.

(See Calendar of Events section for additional information)

Agency Contact: Diane Woolard, Ph.D., M.P.H., Director, Surveillance and Investigation, Department of Health, P.O. Box 2448, Room 113, Richmond, VA 23218, telephone (804) 786-6261, FAX (804) 371-4050, or e-mail dwoolard@vdh.state.va.us.

Basis: Sections 32.1-35 through 32.1-73 of the Code of Virginia contain mandatory language authorizing the State

Board of Health to promulgate the proposed regulations. Specifically, § 32.1-35 directs the Board of Health to promulgate regulations specifying which diseases occurring in the Commonwealth are to be reportable and the method by which they are to be reported. Further, § 32.1-42 of the Code of Virginia authorizes the Board of Health to promulgate regulations and orders to prevent a potential emergency caused by a disease dangerous to public health. Section 32.1-12 of the Code of Virginia empowers the Board of Health to adopt such regulations as are necessary to carry out provisions of laws of the Commonwealth administered by the commissioner of the Department of Health.

Purpose: In response to the 2002 General Assembly amending §§ 32.1-35 and 32.1-36 of the Code of Virginia, amendments to the Regulations for Disease Reporting and Control are being proposed requiring laboratories to report their inventories and changes in inventories of dangerous microbes and pathogens to the Department of Health. Additionally, changes are proposed to the existing disease reporting and control regulations so that they comply with current public health practices, facilitating efforts to capture, measure and contain emerging diseases and protecting the health of the citizens of the Commonwealth.

Substance:

A. Definitions (12 VAC 5-90-10):

1. Hepatitis C - update the definition of acute infection and add a definition of chronic infection.
2. Immunization - a new definition is proposed.
3. Invasive - add a definition to clarify the use of this term on the reportable disease list.
4. Laboratory - add a definition of laboratory.
5. Lead - strike the requirement that the blood test has to be based on venous blood.
6. Serology - add a definition for use in reporting by laboratories.
7. Tuberculosis - add definitions for active disease, tubercle bacilli, tuberculosis, and tuberculin skin test and update the definition of tuberculosis infection in children age < 4 years.
8. Vaccinia -- add a definition of vaccinia disease or adverse event.

B. Reportable Disease List (12 VAC 5-90-80):

1. In the introductory paragraph, clarify that suspected or confirmed cases are reportable, that reporting should be to the local health department, and that some conditions are reportable within 24 hours and some within 3 days.
2. Designate as rapidly reportable brucellosis, Q fever, smallpox, tularemia, unusual occurrence of disease of public health concern, Vibrio infection, and viral hemorrhagic fever.
3. Add to the list disease caused by an agent that may have been used as a weapon, and designate it as a condition

requiring rapid reporting. This is in response to a new law that went into effect this year.

4. Change the hepatitis B reporting requirement to add chronic infection.

5. Change tuberculosis disease to tuberculosis, active disease.

6. Move the list of conditions reportable by laboratories up to this section, striking it from 12 VAC 5-90-90. See details about changes to the laboratory reporting requirement below.

7. Subsection H – contact tracing. Strike the language from this section and move it under the Local Health Director section of 12 VAC 5-90-90 E. Clarify that contact tracing for tuberculosis is specifically for active tuberculosis disease.

C. Those required to report (12 VAC 5-90-90):

1. Physicians -

- a. Change timing for reporting from 7 days to 3 days.
- b. Note that additional elements are required to be reported by physicians for persons with confirmed or suspected active tuberculosis disease.
- c. Strike provision allowing provider organizations to report on behalf of physicians.
- d. Allow electronic transmission of reports when agreeable to health department and physician.
- e. Require reporting of pregnancy status of females who test positive for HBsAg, if available.

2. Directors of Laboratories -

- a. Update the confirmatory laboratory tests for anthrax, arboviral infection, botulism, brucellosis, chancroid, cholera, cryptosporidiosis, diphtheria, E. coli, gonococcal infection, H. influenzae, hepatitis B, influenza, lead, malaria, measles, meningococcal disease, mycobacterial diseases, syphilis.
- b. Add the following diseases and their confirmatory tests to the list of conditions reportable by laboratory directors: chickenpox, Creutzfeldt-Jakob disease, ehrlichiosis, hepatitis C, psittacosis, Q fever, Rocky Mountain spotted fever, smallpox, Streptococcus pneumoniae infection in children <5 years of age, tularemia, typhus, vaccinia, viral hemorrhagic fever, and yellow fever.

- c. Change timing of reporting from 7 days to 3 days.
- d. Require the reporting of pregnancy status of females who test positive for HBsAg, if available.
- e. Require all laboratories to submit certain isolates to the state lab.
- f. Require Shiga toxin positive stool specimens to be submitted to the state lab.
- g. Allow electronic transmission of reports when agreeable to health department and laboratory.

3. Person in charge of a medical care facility –

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- a. Change the timing of reporting from 7 days to 3 days.
- b. Require the reporting of pregnancy status of females who test positive for HBsAg, if available.
- c. Allow electronic transmission of reports when agreeable to health department and facility.

4. Persons in charge of hospitals, nursing and other facilities (reporting disease in dead body) – Add smallpox, active tuberculosis, vaccinia, and viral hemorrhagic fever to the list of conditions about which a funeral director should be notified.

5. Persons in charge of summer camps -- Require reporting of outbreaks in order to be consistent with the requirements of the Code of Virginia.

6. Employees, Applicants, and Persons in Charge of Food Establishments -- Refer to the reporting requirements of the Food Regulations.

D. Immunization (12 VAC 5-90-110) - Update the immunization schedule for childhood vaccines.

E. Cancer Reporting (12 VAC 5-90-160 and 12 VAC 5-90-180):

1. Update the definition of reportable cancers to encourage the reporting of benign nervous system tumors and exclude the reporting of carcinoma in situ of the cervix.
2. Change the title of 12 VAC 5-90-180 from Data to be Reported to Report Contents and Procedures.

F. Tuberculosis Control (New Section - Part X - 12 VAC 5-90-220):

1. Specify additional data to be reported on persons with active TB disease by physicians, directors of medical care facilities, directors of correctional facilities, and laboratories in initial, secondary, and subsequent reports.
2. Require treatment plans.
3. Require reporting of various laboratory results.

G. Reporting of Dangerous Microbes and Pathogens (New Section - Part XII - 12 VAC 5-90-280 through 12 VAC 5-90-360):

Explain the procedure and requirements for the reporting of dangerous microbes and pathogens by laboratories, including reportable agents, items to report, timing of reports, those required to report, exemption from reporting, and release of reported information. This section is added in response to a new law that went into effect in 2002.

Issues: Advantages to citizens are that the public health system will be conducting surveillance on additional conditions of public health concern, some of which may indicate bioterrorist events, and thus will be in a better position to detect and then respond to reports of these illnesses in a way to protect the health of the public. Disadvantages to businesses are that physicians' offices, laboratories, and hospitals will have additional information to report to the health department and will have to do so in a more timely manner. The overall advantage to the Commonwealth is increased

disease detection, which will trigger response by public health officials.

Fiscal Impact: The Virginia Department of Health plans to absorb the additional responsibilities that result from the amendment. The additional costs to businesses should be minimal in that reporting is already required and procedures are in place to report. The amendment requires additional diseases, most of which occur at low frequencies, to be reported and reported more quickly. Laboratories will have the cost of shipping specimens to the state laboratory.

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 amendments to the regulations will (i) allow reporting of infectious diseases through secure electronic transmissions, (ii) require research laboratories to report dangerous microbe and pathogen supplies, (iii) update the reportable disease list and requirements, (iv) reduce the reporting timeframe for diseases that are public health concerns, (v) establish additional reporting requirements for suspected active cases of tuberculosis, and (vi) require all private laboratories to submit the specimens associated with a number of diseases to the state laboratory for additional testing.

Estimated economic impact. These regulations contain disease-reporting requirements for hospitals, laboratories, nursing homes, and physicians. The list of notifiable diseases includes approximately 70 infectious diseases, toxic effects, and conditions. Surveillance of notifiable diseases is an essential part of public health policy. It allows public health officials to monitor infectious diseases, to identify emerging problems, and to develop an immediate response to the emerging problems. Virginia Department of Health (the department) receives about 35,000 notifications annually. Of these reports, approximately 25,000 are for sexually transmitted diseases.

In addition to its essential role in public health policy, disease surveillance appears to be very cost effective. The reporting costs are usually small and may include a telephone call, filling out a form, mailing or faxing a form, or reporting through other approved electronic means. The potential benefits however appear to be substantial. For example, notification of unusual emergence of bloody diarrhea (a notifiable disease in Washington) in 1993 allowed Washington State Department of Health to identify the hamburgers at a fast food chain

restaurant as the cause of the outbreak.¹ As a result, 250,000 potentially contaminated hamburgers were removed and an estimated 800 cases of infection were prevented. Cooking tests revealed noncompliance with temperature requirements and led to change in restaurant policy nationwide. Also, disease surveillance provides data about incidences of diseases in the community, helps identify unusual trends, promotes early detection and treatment, and prevents unnecessary treatment or treatment of wrong diseases.

Cost effectiveness of disease reporting could be attributed to the nature of communicable diseases. Each occurrence of reportable communicable diseases not only poses health risks to the individual person, but also adds to the risk of an outbreak. Thus, notification of an infectious disease provides benefits to the individual as well as to the community as a whole. In other words, each report indicates an occurrence of an infectious disease and consequently each report has the potential to prevent multiple occurrences of the same disease and provide substantial savings in healthcare and other types of prevention costs.

Recognizing the public health consequences, the Code of Virginia provides up to a \$10,000 fine a day for incidences not reported. In practice, however, this requirement is not currently enforced due to concerns about the enforcement costs. Indeed, enforcement costs would be tremendous if all records in each physician's office are audited. However, it may be possible to develop other types of cost-effective enforcement mechanisms. If a cost-effective enforcement strategy increases the chances of a physician being found in violation of the statutory requirement and being fined accordingly, an increase in compliance would be expected. This would certainly help reducing underreporting of notifiable diseases, which is the most significant problem in public health disease monitoring and surveillance.

The department believes that hospitals and laboratories in Virginia do a good job complying with these regulations. Physicians are believed to report rare and serious diseases accurately. However, the department believes that more common and less serious diseases may be underreported in Virginia, as is the case nationwide. A comprehensive survey of the literature reveals that infectious disease reporting completeness in the United States is disease specific and varies from 9.0% to 99%.² Reporting completeness for tuberculosis, AIDS, and sexually transmitted diseases as a group (79%) is found to be much higher than for all other diseases as a group (49%). The reasons for underreporting generally include the physicians' lack of understanding the importance of health surveillance, the role of the provider as a source of information, the role of the health department, the lack of knowledge as to what diseases are notifiable and how to report them to proper authorities, the assumption that someone else will report the case, the lack of awareness of

the legal requirement, insufficient reward for reporting or penalty for not reporting, and concerns about time involvement and patient confidentiality.³

The presence of underreporting creates a room for significant economic improvement if cost effective strategies could be developed to improve disease reporting. For example, physicians may be encouraged to report through distributions of educational materials, telephone numbers, forms, and information on legal requirements as currently done by the department. In addition to these efforts, however, an automated disease reporting and surveillance system and a cost effective enforcement mechanism may further improve disease reporting. While the implementation of such measures may require additional public resources, given the current situation, it appears that the return on each dollar spent to reduce underreporting within a well designed strategy would easily justify the additional costs and improve the health and safety of Virginians.

One of the proposed changes will allow reporting of diseases by means of secure electronic transmission. Currently the department is working on implementing an electronic disease reporting system which could be an improvement over the paper based system in place. However, this change would also allow an automatic disease reporting system, which could be the integral part of the strategy in reducing underreporting in addition to educating physicians and strengthening enforcement. Current status of provider and laboratory based information management systems makes it possible to establish an automated disease reporting and surveillance system. Such a system would reduce dependence on individual provider behavior for disease surveillance (one of the most important shortfalls of traditional methods of reporting as explained above) without compromising patient privacy and confidentiality. Thus, an automated system has the potential to improve quality and timeliness of disease reporting.

For example, the Hawaii Department of Health implemented an automated disease reporting system for laboratories and achieved very desirable outcomes.⁴ This system automatically extracts disease information from laboratory's information system every day and transfers the encrypted information to the health department. It is found that the automated system increased the number of reports received by 2.3 times relative to the traditional reporting mechanisms, shortened the time for submitting reports by 3.8 days, and

¹ Denise, Koo, 1999, "The Role of Providers and Health Plans in Infectious Disease Surveillance," *American College of Physicians*, vol. 2, no. 5, pp. 247-252.

² Doyle, Timothy J., et al., 2002, "Completeness of Notifiable Infectious Disease Reporting in the United States: An Analytical Literature Review," *American Journal of Epidemiology*, vol. 155, no. 9, pp. 866-874.

³ Denise (1999)
Doyle (2002)

Squires, Susan G., et al., 1998, "Improved Disease Reporting: A Randomized Trial of Physicians," *Canadian Journal of Public Health*, vol. 89, no. 1, pp. 66-69.

Peate, Ian, 1999, *Infectious Diseases: Statutory Notification and Surveillance*, *British Journal of Nursing*, vol. 8, no. 14, pp. 943-947.

MacDonald, Jean K., et al., 1997, "Active and Passive Surveillance for Communicable Diseases in Child Care Facilities, Seattle-King County, Washington," *American Journal of Public Health*, vol. 87, no. 12, pp. 1951-1955.

⁴ Effler, Paul, et al., 1999, "Statewide System of Electronic Notifiable Disease Reporting from Clinical Laboratories: Comparing Automated Reporting with Conventional Methods," *Journal of American Medical Association*, vol. 282, no. 19, pp. 1845-1850.

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resulted in a more complete reporting in terms of the data fields required to be reported on each form. Such a system would require nonnegligible investment in programmer time and in electronic equipment to operationalize the system, but would also provide ongoing cost savings in terms of personnel time required to fill out the forms, make telephone calls etc. associated with the traditional reporting methods.

In short, consistent with national data, infectious disease underreporting is a significant problem in Virginia. Underreporting causes insufficient allocation of public resources in disease prevention and creates healthcare costs that could be avoided. The reasons for underreporting appear to be the lack of physician understanding and education, the reliance on individual provider behavior, and lack of enforcement. An automated electronic reporting system supplemented by other cost effective strategies to educate physicians and to improve compliance by enforcing existing laws seems to have the potential to be the cornerstone of a cost-effective strategy to improve infectious disease reporting. Although initiation of such strategies would require significant start up costs, the savings in terms of avoided healthcare costs and long-term cost savings from an effective automated system could easily exceed the initial implementation costs.

In addition, pursuant to § 32.1-35 of the Code of Virginia, the department proposes to establish regulations for reporting of dangerous microbes and pathogens. Approximately 10 biotechnical research laboratories in Virginia will be subject to the proposed new rules. The types of microbes and pathogens that must be reported are select agents and toxins outlined in federal regulations. The department will initially collect information on the type, quantity, and location of these microbes and pathogens as well as the objective of the work and the identification of persons with access to each agent. Based on this information, the department will create a select agent and toxin registry. The laboratories will be required to send a copy of federal forms filed with Centers for Disease Control addressing destruction or transfer of these agents at their facilities within seven days of their submission to the federal agency so that the state registry can be updated. More importantly, the research laboratories will be required to report to the department suspected release, loss, or theft of any select agent or toxin within 24 hours by the most rapid means available.

The main purpose of these requirements is the surveillance of dangerous microbe or pathogen supplies at research laboratories and rapid identification of potential public health risks. Intentional or unintentional release of these agents or toxins may have devastating consequences. For example, the biological attacks involving intentional distribution of anthrax spores through the mail system after September 2001 infected 22 people, killed five of those who were infected, caused authorities to advise more than 10,000 people to take post-exposure treatment because they were at risk of contracting anthrax, caused an additional 20,000 people to start post-exposure treatment until authorities reassured that exposure for them was unlikely, and worried coworkers,

friends, and family members of those who were exposed.⁵ Unquantified full-scale economic effect of this terrorist activity was probably much greater than just the treatment costs and loss of five human lives.

The most significant benefit of the proposed rapid reporting is to establish an early warning mechanism for the Commonwealth's public health officials to protect civilians who are at risk in the event of an unexpected change in the supply of these bio-chemicals held at research laboratories. Quantification of the benefits of such a low-frequency high-risk event is beyond the scope of this report and cannot be made at this time. However, the costs of the initial reporting to establish and maintain the registry is expected to be small as this will require communication of already available information for federal reporting purposes to the Virginia Department of Health. Similarly, the cost of rapid reporting of unexpected changes in the supply of select agents through telephone or fax should be small relative to potential benefits should such an event occur.

The proposed changes will also modify the reportable disease list and requirements in several ways. Regulated entities will be required to report suspected or confirmed cases of diseases caused by an agent that may have been used as a weapon to the department within 24 hours. Additionally, the department proposes to add 16 diseases, toxic effects, or conditions to the list for rapid reporting.⁶ Also, seven of the already notifiable diseases will be required to be reported within 24 hours rather than three days. Moreover, the sections for laboratories explaining the types of tests used to confirm the reportable diseases and the types of diseases hospitals, nursing homes, assisted living facilities, and correctional facilities required to report will be updated.

The requirements for notification of diseases evolve overtime as new scientific information becomes available and as new threats to public health emerge.⁷ The proposed changes will update the disease list and requirements so that the new scientific information is utilized and emerging threats are better addressed. Particularly for biological agents, inadequate disease reporting may result in delayed recognition of a bioterrorism attack and ineffective response to bioterrorism or other public health emergencies.⁸ On the other hand, increasing the number of diseases that must be reported, increasing the number of diseases that must be reported rapidly, and requiring new test methods to confirm suspected cases will likely introduce some administrative costs on regulated entities. However, the potential benefits

⁵ Herberding, Julie L., et al., 2002, "Bioterrorism Preparedness and Response: Clinicians and Public Health Agencies as Essential Partners," *Journal of American Medical Association*, vol. 287, no. 7, pp. 898-900.

⁶ These are anthrax, botulism, cholera, diphtheria, haemophilus influenzae infection, hepatitis A, measles, meningococcal infection, all types of outbreaks, pertussis, plague, poliomyelitis, psittacosis, rabies in human or animal, active tuberculosis, and yellow fever.

⁷ Roush, Sandra, et al., 1999, "Mandatory Reporting of Diseases and Conditions by Health Care Professionals and Laboratories," *Journal of American Medical Association*, vol. 282, no. 2, pp. 164-170.

⁸ Horton, Heather H., et al., 2002, "Critical Biological Agents: Disease Reporting as a Tool for Determining Bioterrorism Preparedness," *Journal of Law, Medicine, and Ethics*, no. 30, pp. 262-266.

are probably more than enough to outweigh the additional reporting costs.

The department also proposes to reduce the reporting timeframe for diseases that must be reported within seven days to three days. The timeliness of reporting is a major factor in disease surveillance. This change is expected to shorten the timeframe the department becomes aware of the infectious disease occurrence and acts to prevent the further spread. A rapid response would provide some savings in healthcare costs by avoiding an outbreak and improve health and safety of people who would otherwise be exposed to the disease. On the other hand, hospitals, laboratories, and physicians would probably incur some additional costs. These costs may be the result of increased frequency of reporting which could require a change in disease reporting procedure already in place at these facilities. While the potential benefits seem to be disease-specific, potential costs would probably vary from facility to facility depending on the reporting system in place.

Pursuant to the statutory requirements, another change requires additional reporting from physicians and medical care facilities for suspected active cases of tuberculosis. An initial report is required comprising identity of the patient, basic demographic characteristic of the patient, and any pertinent medical information. This report is updated within 1-2 weeks with information on the test results and drugs administered. Subsequent reporting is required when any changes occur in the status of the patient, the treatment, or in test results. The purposes of these additional requirements include making sure that the patient does not develop a drug resistance and reducing exposure to this airborne disease. The department receives notifications for about 300-400 cases of tuberculosis annually. Similar to the other infectious disease requirements, the potential benefits of the reporting of readily available information would probably exceed the administrative costs of reporting.

Finally, all private laboratories will be required to submit the specimens associated with a number of diseases to the state laboratory for additional testing. This requirement currently applies only to laboratories operating in a medical facility. The purpose of the additional testing by state laboratory is to further identify the more specific characteristics of the culture that cannot be done in a regular laboratory. For example, the state laboratory has the capability to identify the genetic code of *E. coli* bacteria or the type of *salmonella* virus. This type of additional information helps the department to effectively respond to reports it receives. Although this requirement may allow the department to more effectively prevent outbreaks, it will probably introduce some costs to several more laboratories for shipment of specimens to the state laboratory.

Businesses and entities affected. The proposed regulations apply to approximately 100 hospitals, 150 laboratories, 250 nursing homes, and about 20,000 physicians.

Localities particularly affected. The proposed regulations are not expected to affect any locality more than others.

Projected impact on employment. The short-term economic impact of proposed changes on labor demand will likely be positive. Hospitals, nursing homes, laboratories, and

physician offices will start reporting more diseases to the department and a number of diseases will have to be reported rapidly. In addition, the research laboratories will start reporting supply of dangerous microbes or pathogens for the purpose of establishing a statewide registry and maintaining it over time. There will also be additional reporting for active cases of tuberculosis and additional shipping of specimens to the public health officials. However, the proposed changes will also allow the use of electronic reporting means. If an automated disease reporting system is implemented, there is likely to be a decrease in labor demand due to the labor-intensive nature of current paper reporting system in place. Thus, the overall long-run economic effect of these changes could be a decrease in labor demand if and when an automated reporting system is implemented.

Effects on the use and value of private property. Similarly, the proposed additional reporting requirements will introduce some administrative costs and may reduce the profits and the value of privately owned regulated entities in the short-run. However, there is a possibility that, if implemented, an automated system could provide savings in administrative costs over time, increase profits, and increase the value of private hospitals, nursing homes, laboratories, and physician offices that are subject to the proposed requirements.

Agency's Response to the Department of Planning and Budget's Economic Impact Analysis: The Department accepts the results of the analysis conducted by the Department of Planning and Budget.

Summary:

The proposed amendments bring the regulations into compliance with recent changes to the Code of Virginia and with recent changes in the field of communicable disease control and emergency preparedness to be implemented to protect the health of the citizens of Virginia. The proposed amendments (i) add and clarify several definitions; (ii) update the reportable disease list and the list of diseases requiring rapid reporting; (iii) add a requirement to report diseases that may be due to a biologic agent used as a weapon; (iv) add information about how laboratories shall report their inventories of dangerous microbes and pathogens; (v) provide additional requirements for the reporting and control of tuberculosis; (vi) update the list of conditions reportable by laboratories and the tests used to confirm those conditions; (vii) require private laboratories to submit designated specimens to the state laboratory for confirmation and further testing; and (viii) reduce the timeframe for reporting diseases from seven days to three days.

12 VAC 5-90-10. Definitions.

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

"Board" means the State Board of Health.

"Cancer" means all carcinomas, sarcomas, melanomas, leukemias, and lymphomas excluding localized basal and squamous cell carcinomas of the skin, except for lesions of the mucous membranes.

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"Carrier" means a person who, with or without any apparent symptoms of a communicable disease, harbors a specific infectious agent and may serve as a source of infection.

"Child care center" means a child day center, child day center system, child day program, family day home, family day system, or registered family day home as defined by § 63.1-195 § 63.2-100 of the Code of Virginia, or a similar place providing day care of children by such other name as may be applied.

"Clinic" means any facility, freestanding or associated with a hospital, that provides preventive, diagnostic, therapeutic, rehabilitative, or palliative care or services to outpatients.

"Commissioner" means the State Health Commissioner, his duly designated officer or agent.

"Communicable disease" means an illness due to an infectious agent or its toxic products which is transmitted, directly or indirectly, to a susceptible host from an infected person, animal, or arthropod or through the agency of an intermediate host or a vector or through the inanimate environment.

"Condition" means any adverse health event that is not technically a disease, such as an infection, a syndrome, or a procedure indicating that an exposure of public health importance has occurred.

"Contact" means a person or animal known to have been in such association with an infected person or animal as to have had an opportunity of acquiring the infection.

"Contact tracing" means the process by which an infected person or health department employee notifies others that they may have been exposed to the infected person in a manner known to transmit the infectious agent in question.

"Department" means the State Department of Health.

"Designee" or "designated officer or agent" means any person, or group of persons, designated by the State Health Commissioner, to act on behalf of the commissioner or the board.

"Epidemic" means the occurrence in a community or region of cases of an illness clearly in excess of normal expectancy.

"Foodborne outbreak" means two or more cases of a similar illness acquired through the consumption of food contaminated with chemicals or an infectious agent or its toxic products. Such illnesses include but are not limited to heavy metal intoxications, staphylococcal food poisoning, botulism, salmonellosis, shigellosis, *Clostridium perfringens* food poisoning, hepatitis A, and *Escherichia coli* O157:H7 illness.

"Hepatitis C, acute" means ~~the case meets the following criteria: (i) discrete onset of illness; (ii) jaundice or serum aminotransferase levels greater than 2.5 times the upper normal limit; (iii) test negative for hepatitis A and hepatitis B; and (iv) antibody to hepatitis (anti-HCV) verified by a supplemental test. Persons who have chronic hepatitis or are anti-HCV positive should not be reported unless they have evidence of an acute illness compatible with viral hepatitis and other causes of acute hepatitis have been excluded. following~~

clinical characteristics are met: (i) discrete onset of symptoms indicative of viral hepatitis and (ii) jaundice or elevated serum aminotransferase levels and the following laboratory criteria are met: (a) serum aminotransferase levels greater than seven times the upper limit of normal; (b) IgM anti-HAV negative; (c) IgM anti-HBc negative (if done) or HBsAg negative; and (d) antibody to hepatitis C virus (anti-HCV) positive verified by a repeat anti-HCV positive test by EIA and confirmed by a more specific assay or positive by RIBA, nucleic acid test, or anti-HCV by EIA with a signal-to-cutoff ratio of 3.8 or greater.

"Hepatitis C, chronic" means that the laboratory criteria specified in clauses (b), (c) and (d) listed above for an acute case are met but clinical symptoms of acute viral hepatitis are not present and serum aminotransferase levels do not exceed seven times the upper limit of normal. This category will include cases that may be acutely infected but not symptomatic.

~~"Immunization" means a procedure which renders an individual less susceptible to the pathologic effects of a disease or provides a measure of protection against the disease (e.g., inoculation, vaccination) that increases the protective response of an individual's immune system to specified pathogens.~~

"Independent pathology laboratory" means a nonhospital or a hospital laboratory performing surgical pathology, including fine needle aspiration biopsy and bone marrow specimen examination services, which reports the results of such tests directly to physician offices, without reporting to a hospital or accessioning the information into a hospital tumor registry.

"Invasive" means the organism is affecting a normally sterile site, including but not limited to blood or cerebrospinal fluid.

"Investigation" means an inquiry into the incidence, prevalence, extent, source, mode of transmission, ~~and~~ causation of, *and other information pertinent to* a disease occurrence.

"Isolation" means separation for the period of communicability of infected persons or animals from others in such places and under such conditions as to prevent or limit the direct or indirect transmission of an infectious agent from those infected to those who are susceptible. The means of isolation shall be the least restrictive means appropriate under the facts and circumstances as determined by the commissioner.

"Laboratory" as used herein means a clinical laboratory that examines materials derived from the human body for the purpose of providing information on the diagnosis, prevention, or treatment of disease.

"Laboratory director" means any person in charge of supervising a laboratory conducting business in the Commonwealth of Virginia.

"Lead-elevated blood levels" means a child or children 15 years of age and younger with a confirmed ~~venous~~ blood level greater than or equal to 10 micrograms of lead per deciliter (ug/dL) of whole blood, a person older than 15 years of age with a venous blood lead level greater than or equal to 25 ug/dL, or such lower blood lead level as may be

recommended for individual intervention by the department or the ~~United States Department of Health and Human Services, Public Health Services, Centers for Disease Control and Prevention.~~

"Medical care facility" means any hospital or nursing home licensed in the Commonwealth, or any hospital operated by or contracted to operate by an entity of the United States government or the Commonwealth of Virginia.

"Midwife" means any person who is licensed as a nurse midwife by the Virginia Boards of Nursing and Medicine or who possesses a midwife permit issued by the State Health Commissioner.

"Nosocomial outbreak" means any group of illnesses of common etiology occurring in patients of a medical care facility acquired by exposure of those patients to the disease agent while confined in such a facility.

"Nurse" means any person licensed as a professional nurse or as a licensed practical nurse by the Virginia Board of Nursing.

"Occupational outbreak" means a cluster of illness or disease that is indicative of an occupational health problem. Such diseases include but are not limited to silicosis, asbestosis, byssinosis, and tuberculosis.

"Outbreak" means the occurrence of more cases of a disease than expected.

"Period of communicability" means the time or times during which the etiologic agent may be transferred directly or indirectly from an infected person to another person, or from an infected animal to a person.

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

"Quarantine" means generally, a period of detention for persons or domestic animals that may have been exposed to a reportable, contagious disease for purposes of observation or treatment.

1. Complete quarantine. The formal limitation of freedom of movement of well persons or animals exposed to a reportable disease for a period of time not longer than the longest incubation period of the disease in order to prevent effective contact with the unexposed. The means of complete quarantine shall be the least restrictive means appropriate under the facts and circumstances, pursuant to 12 VAC 5-90-90 E or as determined by the commissioner.

2. Modified quarantine. A selective, partial limitation of freedom of movement of persons or domestic animals, determined on the basis of differences in susceptibility, or danger of disease transmission. Modified quarantine is designed to meet particular situations and includes but is not limited to, the exclusion of children from school and the prohibition or restriction of those exposed to or suffering from a communicable disease from engaging in a particular occupation. The means of modified quarantine shall be the least restrictive means appropriate under the facts and circumstances, pursuant to 12 VAC 5-90-90 E or as determined by the commissioner.

3. Segregation. The separation, for special control or observation, of one or more persons or animals from other persons or animals to facilitate control or surveillance of a reportable disease. The means of segregation shall be the least restrictive means available under the facts and circumstances, as determined by the commissioner.

"Reportable disease" means an illness due to a specific toxic substance, occupational exposure, or infectious agent, which affects a susceptible individual, either directly, as from an infected animal or person, or indirectly through an intermediate host, vector, or the environment, as determined by the board.

"School" means (i) any public school from kindergarten through grade 12 operated under the authority of any locality within the Commonwealth; (ii) any private or parochial school that offers instruction at any level or grade from kindergarten through grade 12; (iii) any private or parochial nursery school or preschool, or any private or parochial child care center licensed by the Commonwealth; and (iv) any preschool handicap classes or Head Start classes.

"Serology" means the testing of blood, serum, or other body fluids for the presence of antibodies or other markers of an infection or disease process. For the purpose of this regulation, serology includes the concept that a positive test result is defined as one that is outside the normal range of results as determined by the laboratory performing the test.

"Surveillance" means the ongoing systematic collection, analysis, and interpretation of outcome-specific data for use in the planning, implementation and evaluation of public health practice. A surveillance system includes the functional capacity for data analysis as well as the timely dissemination of these data to persons who can undertake effective prevention and control activities.

"Toxic substance" means any substance, including any raw materials, intermediate products, catalysts, final products, or by-products of any manufacturing operation conducted in a commercial establishment, that has the capacity, through its physical, chemical or biological properties, to pose a substantial risk of death or impairment either immediately or over time, to the normal functions of humans, aquatic organisms, or any other animal but not including any pharmaceutical preparation which deliberately or inadvertently is consumed in such a way as to result in a drug overdose.

"Tuberculosis, active disease" (also "active tuberculosis disease" and "active TB disease"), as defined by § 32.1-49.1 of the Code of Virginia, means a communicable disease caused by an airborne microorganism and characterized by the presence of either (i) a specimen of sputum or other bodily fluid or tissue that has been found to contain tubercle bacilli as evidenced by culture or nucleic acid amplification, including preliminary identification by rapid methodologies, (ii) a specimen of sputum or other bodily fluid or tissue that is suspected to contain tubercle bacilli as evidenced by smear, and sufficient clinical and radiographic evidence of active tuberculosis disease is present as determined by a physician licensed to practice medicine in Virginia, or (iii) sufficient clinical and radiographic evidence of active tuberculosis disease as determined by the commissioner is present, but a

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specimen of sputum or other bodily fluid or tissue containing or suspected to contain tubercle bacilli is unobtainable.

"Tubercle bacilli" means disease-causing organisms belonging to the Mycobacterium tuberculosis complex and includes Mycobacterium tuberculosis, Mycobacterium bovis and Mycobacterium africanum or other members as established by the commissioner.

"Tuberculosis" means a disease caused by tubercle bacilli.

~~"Tuberculosis disease" means bacteriological confirmation of Mycobacterium tuberculosis or, in the absence of such confirmation, a significant reaction to a Mantoux tuberculin skin test accompanied by an improvement in the chest radiograph and/or clinical course of disease while on multiple anti-tuberculosis medications.~~

~~"Tuberculosis infection in children ages <4 years" means a significant reaction resulting from a 0.1 ml intradermal injection of a 5 tuberculin unit (TU) dose of PPD-S (Mantoux tuberculin skin test) with no chest x-ray or clinical indication of active tuberculosis disease in children from birth up to their fourth birthday. A significant reaction is 5 mm induration in known contacts to tuberculosis disease and HIV seropositive persons and 10 mm in all others.~~

"Tuberculosis infection in children age less than 4 years" means a significant reaction resulting from a tuberculin skin test (TST) or other approved test for latent infection without clinical or radiographic evidence of active tuberculosis disease, in children from birth up to their fourth birthday.

"Tuberculin skin test (TST)" means a test for infection with tubercle bacilli, performed according to the Mantoux method, in which 5 tuberculin units (5TU=0.1cc) of a standardized preparation of purified protein derivative (PPD-S) are injected intradermally on the volar surface of the arm and the reaction read as the transverse diameter of the palpable area of induration, recorded in mm of induration. The significance of the measured induration is based on existing national and state guidelines.

"Vaccinia, disease or adverse event" means serious or unexpected events in persons who received the smallpox vaccine or their contacts, including but not limited to bacterial infections, eczema vaccinatum, erythema multiforme, generalized vaccinia, progressive vaccinia, inadvertent inoculation, post-vaccinial encephalopathy or encephalomyelitis, ocular vaccinia, and fetal vaccinia.

"Vancomycin-resistant Staphylococcus aureus" means any Staphylococcus aureus culture that demonstrates intermediate or greater resistance to vancomycin.

"Waterborne outbreak" means two or more cases of a similar illness acquired through the ingestion of or other exposure to water contaminated with chemicals or an infectious agent or its toxic products. Such illnesses include but are not limited to giardiasis, viral gastroenteritis, cryptosporidiosis, hepatitis A, cholera, and shigellosis. A single case of laboratory-confirmed primary amebic meningoencephalitis or of waterborne chemical poisoning is considered an outbreak.

12 VAC 5-90-40. Administration.

A. The State Board of Health ("board") has the responsibility for promulgating regulations pertaining to the reporting and control of diseases of public health importance.

B. The State Health Commissioner ("commissioner") is the executive officer for the State Board of Health with the authority of the board when it is not in session, subject to the rules and regulations of and review by the board.

C. The local health director is responsible for the surveillance and investigation of those diseases specified by this chapter which occur in his jurisdiction. He is further responsible for reporting all such surveillance and investigations to the department *Office of Epidemiology*. In cooperation with the commissioner, he is responsible for instituting measures for disease control, which may include quarantine, isolation, or segregation as required by the commissioner.

D. The Office of Epidemiology, an organizational part of the department, is responsible for the statewide surveillance of those diseases specified by this chapter, for coordinating the investigation of those diseases with the local health director, and for providing direct assistance where necessary. The Director of the Office of Epidemiology acts as the commissioner's designee in reviewing reports and investigations of diseases and recommendations by local health directors for quarantine or isolation. However, authority to order quarantine or isolation resides solely with the commissioner, unless otherwise expressly provided by him.

E. All persons responsible for the administration of this chapter shall ensure that the anonymity of patients and practitioners is preserved, according to *state and federal law including the provisions of §§ 32.1-38, 32.1-41, and 32.1-71, and 32.1-71.4* of the Code of Virginia.

12 VAC 5-90-80. Reportable disease list.

A. The board declares *suspected or confirmed cases* of the following named diseases, toxic effects, and conditions to be reportable by the persons enumerated in 12 VAC 5-90-90. Conditions identified by an asterisk (*) require rapid communication *to the local health department within 24 hours of suspicion or confirmation*, as defined in subsection B C of this section: *Other conditions should be reported within three days of suspected or confirmed diagnosis.*

Acquired Immunodeficiency Syndrome (AIDS)

Amebiasis

*Anthrax

Arboviral infections (e.g., EEE, LAC, SLE, WNV)

*Botulism

*Brucellosis

Campylobacter infection

Chancroid

Chickenpox

Chlamydia trachomatis infections

<p>*Cholera</p> <p>Creutzfeldt-Jakob disease if < 55 years of age</p> <p>Cryptosporidiosis</p> <p>Cyclosporiasis</p> <p>*Diphtheria</p> <p><i>*Disease caused by an agent that may have been used as a weapon</i></p> <p>Ehrlichiosis</p> <p>Escherichia coli O157:H7 and other enterohemorrhagic E. coli infections</p> <p>Giardiasis</p> <p>Gonorrhea</p> <p>Granuloma inguinale</p> <p>*Haemophilus influenzae infection, invasive</p> <p>Hantavirus pulmonary syndrome</p> <p>Hemolytic uremic syndrome (HUS)</p> <p>*Hepatitis A (IgM +)</p> <p>Hepatitis B: <i>(acute and chronic)</i> Acute disease (IgM +) HBsAg positive pregnant women</p> <p>Hepatitis C (acute and chronic)</p> <p>Hepatitis, other acute viral</p> <p>Human immunodeficiency virus (HIV) infection</p> <p>Influenza</p> <p>Kawasaki syndrome</p> <p>Lead-elevated blood levels</p> <p>Legionellosis</p> <p>Leprosy (Hansen disease)</p> <p>Listeriosis</p> <p>Lyme disease</p> <p>Lymphogranuloma venereum</p> <p>Malaria</p> <p>*Measles (Rubeola)</p> <p>*Meningococcal infection</p> <p><i>*Monkeypox</i></p> <p>Mumps</p> <p>Ophthalmia neonatorum</p> <p>*Outbreaks, all (including foodborne, nosocomial, occupational, toxic substance-related, waterborne, and other outbreaks)</p> <p>*Pertussis (Whooping cough)</p>	<p>*Plague</p> <p>*Poliomyelitis</p> <p>*Psittacosis</p> <p>*Q fever</p> <p>*Rabies, human and animal</p> <p>Rabies treatment, post-exposure</p> <p>Rocky Mountain spotted fever</p> <p>Rubella (German measles), including congenital rubella syndrome</p> <p>Salmonellosis</p> <p><i>*Severe Acute Respiratory Syndrome (SARS)</i></p> <p>Shigellosis</p> <p><i>*Smallpox (Variola)</i></p> <p>Streptococcal disease, Group A, invasive</p> <p>Streptococcus pneumoniae, invasive in <5 years of age</p> <p>Syphilis (report *primary and *secondary syphilis by rapid means)</p> <p>Tetanus</p> <p>Toxic shock syndrome</p> <p>Toxic substance-related illness</p> <p>Trichinosis (Trichinellosis)</p> <p>*Tuberculosis, <i>active</i> disease</p> <p>Tuberculosis infection in children ages <4 years (Mantoux tuberculin skin test reaction \geq10 mm)</p> <p>*Tularemia</p> <p>Typhoid fever</p> <p>Typhus</p> <p>*Unusual occurrence of disease of public health concern</p> <p><i>*Vaccinia, disease or adverse event</i></p> <p>Vancomycin-resistant Staphylococcus aureus</p> <p>*Vibrio infection</p> <p>*Viral hemorrhagic fever</p> <p>*Yellow Fever</p> <p><i>B. Diseases reportable by directors of laboratories.</i></p> <p><i>Amebiasis - by microscopic examination, antigen detection method or serology</i></p> <p><i>*Anthrax - by culture or polymerase chain reaction or other nucleic acid amplification method</i></p> <p><i>Arboviral infection - by viral isolation, serology or polymerase chain reaction or other nucleic acid amplification method</i></p> <p><i>*Botulism - by identification of toxin in stool, serum or gastric aspirate or by culture</i></p>
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**Brucellosis - by culture, serology or polymerase chain reaction or other nucleic acid amplification method of Brucella spp. in a clinical specimen*

Campylobacter infection - by culture

Chancroid - by culture, immunofluorescence or polymerase chain reaction or other nucleic acid amplification method

Chickenpox - by culture or serology

Chlamydia trachomatis infection - by culture or by antigen or nucleic acid detection

methods

**Cholera - by culture or serology*

Creutzfeldt-Jakob disease - presumptive diagnosis via histopathology in patients 55 years of age and under

Cryptosporidiosis - by microscopic examination of stool or biopsy specimens, antigen detection method, immunofluorescent antibody or polymerase chain reaction or other nucleic acid amplification method

Cyclosporiasis - by microscopic examination of stool

**Diphtheria - by culture*

Ehrlichiosis - by serology, polymerase chain reaction, other nucleic acid amplification method or culture

Escherichia coli O157:H7 - by isolation of E. coli O157:H7, E. coli O157, or other Shiga toxin-producing enterohemorrhagic E. coli from a clinical specimen.

Giardiasis - by microscopic examination or antigen detection method

Gonococcal infection - by culture, microscopic examination of a urethral smear specimen (males only) or by nucleic acid detection method

**Haemophilus influenzae infection - by culture, immunofluorescence, EIA, or polymerase chain reaction or other nucleic acid amplification method of a normally sterile site*

**Hepatitis A - by serology specific for IgM antibodies*

Hepatitis B - Report either of the following:

- 1. Serology specific for IgM antibodies*
- 2. HBsAg positive results*

Hepatitis C – by laboratory results that indicate: (i) serum aminotransferase levels greater than seven times the upper limit of normal; (ii) IgM anti-HAV negative; (iii) IgM anti-HBc negative (if done) or HBsAg negative; and (iv) antibody to hepatitis C virus (anti-HCV) positive verified by a repeat anti-HCV positive test by EIA and confirmed by a more specific assay or positive by RIBA, nucleic acid test, or anti-HCV by EIA with a signal-to-cutoff ratio of 3.8 or greater

Human immunodeficiency virus (HIV) infection - by laboratory results which indicate the presence of HIV antigen, nucleic acid, or antibodies such as at least two enzyme-linked immunosorbent assays (done in duplicate at the same time or

singly at different times), and a supplemental test such as the western blot or by rapid tests with confirmation)

Influenza - by culture, serology or antigen detection method (report total number per week and by type, if available)

Lead-elevated blood levels - blood lead level greater than or equal to 10µg/dL in children ages 0-15 years or greater than or equal to 25 µg/dL in persons older than 15 years of age

Legionellosis - by culture, direct fluorescent antibody test, serology, urine antigen detection method or polymerase chain reaction or other nucleic acid amplification method

Listeriosis - by culture

Malaria - by microscopic examination, polymerase chain reaction or other nucleic acid amplification method or antigen detection method

**Measles - by serology specific for IgM antibodies, paired sera results indicating a significant rise in antibody level, by culture or polymerase chain reaction or other nucleic acid amplification method*

**Meningococcal Infection – by culture or antigen detection of a normally sterile site*

**Monkeypox - by nucleic acid amplification method or culture*

Mumps - by serology specific for IgM antibodies or paired sera results indicating a significant rise in antibody level or by culture

**Mycobacterial diseases – (See 12 VAC 5-90-220 B) Report any of the following:*

- 1. Acid fast bacilli - on smear*
- 2. Mycobacterial identification - preliminary identification by rapid methodologies and/or by culture or polymerase chain reaction*
- 3. Drug susceptibility test results for M. tuberculosis.*

**Pertussis - confirmed by culture or polymerase chain reaction or other nucleic acid amplification method or suspected by direct fluorescent antibody test*

**Plague - by culture or direct fluorescent antibody test*

**Poliomyelitis - by culture or serology*

**Psittacosis – by culture, antigen detection method or polymerase chain reaction or other nucleic acid amplification method*

**Q fever – by serology, immunofluorescent antibody, polymerase chain reaction or other nucleic acid amplification method or enzyme linked immunosorbent assay*

**Rabies, human and animal - by direct fluorescent antibody test*

Rocky mountain spotted fever – by serology, indirect immunofluorescent antibody, enzyme immunoassay, polymerase chain reaction or other nucleic acid amplification method or immunohistochemical staining

Rubella - by serology specific for IgM antibodies or paired sera results indicating a significant rise in antibody level or by culture

Salmonella infection - by culture

** Severe Acute Respiratory Syndrome - by nucleic acid amplification method, serology, or culture*

Shigella infection - by culture

**Smallpox (variola) - by culture or polymerase chain reaction or other nucleic acid amplification method via reference laboratory*

Streptococcal disease, Group A - by culture from a normally sterile site

Streptococcus pneumoniae, invasive – by culture from a normally sterile site in a child under the age of five years

**Syphilis - by serology, dark field examination, direct fluorescent antibody, or equivalent methods*

Trichinosis - by serology or microscopic examination of a muscle biopsy

**Tularemia – by culture, paired serology, polymerase chain reaction or other nucleic acid amplification method or direct immunofluorescent assay*

Typhus - by immunofluorescent assay, enzyme immunoassay, complement fixation or immunohistochemical staining

**Vaccinia - by nucleic acid amplification method or culture*

Vaccinia – by polymerase chain reaction or other nucleic acid amplification method or electron microscopy

Vancomycin-resistant Staphylococcus aureus - by antimicrobial susceptibility testing conducted on culture

**Vibrio infection - by culture*

**Viral hemorrhagic fever - by polymerase chain reaction or other nucleic acid amplification method, immunofluorescent assay, complement fixation, virus isolation or enzyme linked immunosorbent assay*

**Yellow fever - by virus isolation, enzyme linked immunosorbent assay, polymerase chain reaction or other nucleic acid amplification method or immunofluorescent assay.*

B. C. Reportable diseases requiring rapid communication. Certain of the diseases in the list of reportable diseases, because of their extremely contagious nature or their potential for greater harm, or both, require immediate identification and control. Reporting of persons confirmed or suspected of having these diseases, listed below and identified by asterisks in subsection A of this section and 12 VAC 5-90-90 B, shall be made within 24 hours by the most rapid means available, preferably that of telecommunication (e.g., telephone, telephone transmitted facsimile, telegraph, teletype pagers, etc.) to the local health director or other professional employee of the department. (These same diseases are also identified by an asterisk (*) in subsection A of this section and 12 VAC 5-90-90 B).

Anthrax

Botulism

Brucellosis

Cholera

Diphtheria

Disease caused by an agent that may have been used as a weapon

Haemophilus influenza infection, invasive

Hepatitis A

Measles (Rubeola)

Meningococcal infection

Momkeypox

Outbreaks, all

Pertussis

Plague

Poliomyelitis

Psittacosis

Q fever

Rabies in man, human and animals animal

Smallpox (Variola)

Syphilis, primary and secondary

Tuberculosis, active disease

Tularemia

Unusual occurrence of disease of public health concern

Vaccinia, disease or adverse event

Vibrio infection

Viral hemorrhagic fever

Yellow Fever

~~C. D. Diseases to be reported by number of cases. The following disease in the list of reportable diseases shall be reported as number-of-cases only:~~

~~Influenza (by type, if available)~~

~~D. E. Human immunodeficiency virus (HIV) infection.~~

Every physician practicing in this Commonwealth shall report to the local health department any patient of his who has tested positive for human immunodeficiency virus (HIV). Every person in charge of a medical care facility shall report the occurrence in or admission to the facility of a patient with HIV infection unless there is evidence that the occurrence has been reported by a physician. When such a report is made, it shall include the information required in 12 VAC 5-90-90 A. Only individuals who have laboratory results which indicate the presence of HIV antigen, nucleic acid, or antibodies (such as at least two enzyme-linked immunosorbent assays (done in

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duplicate at the same time or singly at different times), and a supplemental test such as the western blot or by rapid tests with confirmation) are considered to have HIV infection.

~~E-F.~~ Toxic substance-related ~~diseases or illnesses.~~

All toxic substance-related ~~diseases or illnesses~~, including pesticide and heavy metal poisoning or illness ~~or disease~~ resulting from exposure to an occupational dust or fiber or radioactive substance, shall be reported.

If such ~~disease or illness~~ is verified or suspected and presents an emergency or a serious threat to public health or safety, the report of such ~~disease or illness~~ shall be by rapid communication as in subsection ~~B C~~ of this section.

~~F-G.~~ Outbreaks. The occurrence of outbreaks or clusters of any illness which may represent a group expression of an illness which may be of public health concern shall be reported to the local health department by the most rapid means available.

~~G-H.~~ Unusual or ill-defined diseases or emerging or reemerging pathogens. Unusual or emerging conditions of public health concern shall be reported to the local health department by the most rapid means available. In addition, the commissioner or his designee may establish temporary surveillance systems for diseases or conditions that are not on the list of reportable diseases. Such surveillance may be established to identify cases (delineate the magnitude of the situation), to identify the mode of transmission and risk factors for the disease, and to identify and implement appropriate action to protect public health. Any person reporting information at the request of the department for special surveillance or other epidemiological studies shall be immune from liability as provided by § 32.1-38 of the Code of Virginia.

H. Contact tracing.

~~When notified about a disease specified in subsection A of this section, the local health department shall perform contact tracing for HIV infection, infectious syphilis, and tuberculosis and may perform contact tracing for the other diseases if deemed necessary to protect the public health. The local health director shall have the responsibility to accomplish contact tracing by either having patients inform their potential contacts directly or through obtaining pertinent information such as names, descriptions, and addresses to enable the health department staff to inform the contacts. All contacts of HIV infection shall be afforded the opportunity for appropriate counseling, testing, and individual face-to-face disclosure of their test results. In no case shall names of informants or infected persons be revealed to contacts by the health department. All information obtained shall be kept strictly confidential.~~

12 VAC 5-90-90. Those required to report.

A. Physicians. Each physician who treats or examines any person who is suffering from or who is suspected of having a reportable disease or condition shall report that person's name, address, age ~~or~~, date of birth ~~or both~~, sex, race, name of disease diagnosed or suspected, and the date of onset of illness, except that influenza should be reported by number of cases only (and type of influenza, if available). *The pregnancy*

status of females who test positive for HbsAg should be reported, if available. Reports are to be made to the local health department serving the jurisdiction where the physician practices. A physician may designate someone to report on his behalf, *but the physician remains responsible for ensuring that the appropriate report is made.* ~~Provider organizations, such as health maintenance organizations, may assume the responsibility for reporting on behalf of their member physicians.~~ Any physician, designee, or organization making such report as authorized herein shall be immune from liability as provided by § 32.1-38 of the Code of Virginia.

Such reports shall be made on a form to be provided by the department (Epi-1), a computer generated ~~facsimile of printout containing the data items requested on Form Epi-1,~~ or a Centers for Disease Control and Prevention (CDC) surveillance form that provides the same information and shall be made within ~~seven~~ *three* days of the ~~identification suspicion or confirmation~~ of disease unless the disease in question requires rapid reporting under 12 VAC 5-90-80. *Reporting may be done by means of secure electronic transmission upon agreement of the physician and the department.*

Pursuant to § 32.1-49.1 of the Code of Virginia, additional elements are required to be reported for individuals with confirmed or suspected active tuberculosis disease. Refer to Part X for details on these requirements.

B. Directors of laboratories. Any person who is in charge of a laboratory conducting business in the Commonwealth shall report any laboratory examination of any specimen derived from the human body, whether performed in-house or referred to an out-of-state laboratory, which yields evidence, by the laboratory method(s) indicated or any other confirmatory test, of a disease listed ~~below in~~ *12 VAC 5-90-80 B:*

~~Amebiasis by microscopic examination or antigen detection method or serology~~

~~*Anthrax by culture~~

~~Arboviral infection by viral isolation or serology~~

~~*Botulism by identification of toxin in stool or serum or by culture~~

~~Brucellosis by culture or serology or immunofluorescence of Brucella spp. in a clinical specimen~~

~~Campylobacter infection by culture~~

~~Ghancroid by culture~~

~~Chlamydia trachomatis infection by culture or by antigen or nucleic acid detection method~~

~~*Cholera by culture~~

~~Cryptosporidiosis by microscopic examination of stool or biopsy specimens or by antigen detection method~~

~~Cyclosporiasis by microscopic examination of stool~~

~~*Diphtheria by culture or histopathologic diagnosis~~

~~Escherichia coli O157:H7 by isolation of E. coli O157:H7 or other enterohemorrhagic E. coli from a specimen or isolation~~

~~of Shiga toxin-producing E. coli O157 nonmotile (unable to detect flagellar factor) from a clinical specimen~~

~~Giardiasis—by microscopic examination or antigen detection method~~

~~Gonococcal infection—by culture or microscopic examination or by antigen or nucleic acid detection method~~

~~*Haemophilus influenzae infection—by culture or polymerase chain reaction of a normally sterile site~~

~~*Hepatitis A—by serology specific for IgM antibodies~~

~~Hepatitis B—by serology specific for IgM antibodies~~

~~Human immunodeficiency virus (HIV) infection—by laboratory results which indicate the presence of HIV antigen, nucleic acid, or antibodies (such as at least two enzyme-linked immunosorbent assays (done in duplicate at the same time or singly at different times), and a supplemental test such as the western blot or by rapid tests with confirmation)~~

~~Influenza—by culture or serology~~

~~Lead elevated blood levels—venous blood lead level greater than or equal to 10 μ /dL in children ages 0-15 or greater than or equal to 25 μ /dL in persons older than 15 years of age~~

~~Legionellosis—by culture, direct fluorescent antibody test, serology, urine antigen detection method or polymerase chain reaction~~

~~Listeriosis—by culture~~

~~Malaria—by microscopic examination or polymerase chain reaction~~

~~*Measles—by serology specific for IgM antibodies or paired sera results indicating a significant rise in antibody level or by culture~~

~~*Meningococcal infection—by culture of a normally sterile site~~

~~Mumps—by serology specific for IgM antibodies or paired sera results indicating a significant rise in antibody level or by culture~~

~~*Mycobacterial diseases—Report any of the following:~~

- ~~1. Acid fast bacilli on smear~~
- ~~2. Mycobacterial identification—preliminary identification by rapid methodologies and/or by culture~~
- ~~3. Drug susceptibility test results for M. tuberculosis~~

~~*Pertussis—confirmed by culture or polymerase chain reaction or suspected by direct fluorescent antibody test~~

~~*Plague—by culture or direct fluorescent antibody test~~

~~*Poliomyelitis—by culture or serology~~

~~*Rabies in animals—by direct fluorescent antibody test~~

~~Rubella—by serology specific for IgM antibodies or paired sera results indicating a significant rise in antibody level or by culture~~

~~Salmonella infection—by culture~~

~~Shigella infection—by culture~~

~~Streptococcal disease, Group A—by culture from a normally sterile site~~

~~*Syphilis—by serology or dark field examination~~

~~Trichinosis—by serology or microscopic examination of a muscle biopsy~~

~~Vancomycin-resistant Staphylococcus aureus—by antimicrobial susceptibility testing conducted on culture~~

~~Vibrio infection—by culture~~

Each report shall give the source of the specimen and the laboratory method and result; the name, age, date of birth or both, race, sex, and address of the person from whom the specimen was obtained; and the name and address of the physician or medical facility for whom the examination was made. When the influenza virus is isolated, the type should be reported, if available. *The pregnancy status of females who test positive for HBsAg should be reported, if available.* Reports shall be made within seven ~~three~~ days of identification of evidence of disease, except that those identified by an asterisk shall be reported within 24 hours by the most rapid means available, to the local health department serving the jurisdiction in which the laboratory is located. Reports shall be made on Form Epi-1 or on the laboratory's own form if it includes the required information. Computer generated reports containing the required information may be submitted. *Reporting may be done by means of secure electronic transmission upon agreement of the laboratory director and the department.* Any person making such report as authorized herein shall be immune from liability as provided by § 32.1-38 of the Code of Virginia.

A laboratory operating within a medical care facility shall fulfill its responsibility to report anthrax, cholera, diphtheria, E. coli O157:H7, H. influenzae infection, *Listeria* meningococcal infection, Mycobacterium tuberculosis (see 12 VAC 5-90-220), pertussis, plague, poliomyelitis, Salmonella infection, Shigella infection, invasive Group A streptococcal infection, and other diseases as may be requested by the health department by both notifying the health department of the positive culture and submitting the initial culture to the Virginia Division of Consolidated Laboratory Services (DCLS). ~~The culture Stool specimens that test positive for Shiga toxin shall be submitted to DCLS for organism identification.~~ All specimens must be identified with the patient and physician information required in this subsection. At times, other laboratories may also be requested to submit specimens to the Virginia Division of Consolidated Laboratory Services.

Laboratories operating within a medical care facility shall be considered to be in compliance with the requirement to report to the health department when the director of that medical care facility assumes the reporting responsibility.

C. Person in charge of a medical care facility. Any person in charge of a medical care facility shall make a report to the local health department serving the jurisdiction where the facility is located of the occurrence in or admission to the facility of a patient with a reportable disease listed in 12 VAC

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5-90-80 A unless he has evidence that the occurrence has been reported by a physician. Any person making such report as authorized herein shall be immune from liability as provided by § 32.1-38 of the Code of Virginia. The requirement to report shall include all inpatient, outpatient and emergency care departments within the medical care facility. Such report shall contain the patient's name, age ~~or~~, date of birth ~~or both~~, address, sex, race, name of disease being reported, the date of admission, hospital chart number, date expired (when applicable), and attending physician. Influenza should be reported by number of cases only (and type of influenza, if available). *The pregnancy status of females who test positive for HBsAg should be reported, if available.* Reports shall be made within ~~seven~~ *three* days of the ~~identification~~ *suspicion or confirmation* of disease unless the disease in question requires rapid reporting under 12 VAC 5-90-80 and shall be made on Form Epi-1, a computer generated ~~facsimile of printout containing the data items requested on Form Epi-1~~, or a Centers for Disease Control and Prevention (CDC) surveillance form that provides the same information. *Reporting may be done by means of secure electronic transmission upon agreement of the medical care facility and the department.*

A person in charge of a medical care facility may assume the reporting responsibility on behalf of the director of the laboratory operating within the facility.

D. Person in charge of a school ~~or~~, child care center, *or summer camp*. Any person in charge of a school ~~or~~, child care center, *or summer camp* shall report immediately to the local health department the presence or suspected presence in his school or child care center of children who have common symptoms suggesting an epidemic or outbreak situation. Any person so reporting shall be immune from liability as provided by § 32.1-38 of the Code of Virginia.

E. Local health director. The local health director shall forward within ~~seven~~ *three* days of receipt to the Office of Epidemiology of the State Health Department any report of a disease or report of evidence of a disease which has been made on a resident of his jurisdiction. This report shall be by telecommunication if the disease is one requiring rapid communication, as required in 12 VAC 5-90-80. All such rapid reporting shall be confirmed in writing and submitted to the Office of Epidemiology within seven days. Furthermore, the local health director shall immediately forward to the appropriate local health director any disease reports on individuals residing in the latter's jurisdiction or to the Office of Epidemiology on individuals residing outside Virginia.

When notified about a disease specified in 12 VAC 5-90-80, the local health department shall perform contact tracing for HIV infection, infectious syphilis, and active tuberculosis disease and may perform contact tracing for the other diseases if deemed necessary to protect the public health. The local health director shall have the responsibility to accomplish contact tracing by either having patients inform their potential contacts directly or through obtaining pertinent information such as names, descriptions, and addresses to enable the health department staff to inform the contacts. All contacts of HIV infection shall be afforded the opportunity for appropriate counseling, testing, and individual face-to-face

disclosure of their test results. In no case shall names of informants or infected persons be revealed to contacts by the health department. All information obtained shall be kept strictly confidential.

The local health director *or his designee* shall review reports of diseases received from his jurisdiction and follow up such reports, when indicated, with an appropriate investigation in order to evaluate the severity of the problem. He shall determine, in consultation with the Director of the Office of Epidemiology and the commissioner, if further investigation is required and if complete or modified quarantine will be necessary.

Modified quarantine shall apply to situations in which the local health director on the scene would be best able to judge the potential threat of disease transmission. Such situations shall include, but are not limited to, the temporary exclusion of a child with a communicable disease from school and the temporary prohibition or restriction of any individual(s), exposed to or suffering from a communicable disease, from engaging in an occupation such as foodhandling that may pose a threat to the public. Modified quarantine shall also include the exclusion, under § 32.1-47 of the Code of Virginia, of any unimmunized child from a school in which an outbreak, potential epidemic, or epidemic of a vaccine preventable disease has been identified. In these situations, the local health director may be authorized as the commissioner's designee to order the least restrictive means of modified quarantine.

Where modified quarantine is deemed to be insufficient and complete quarantine or isolation is necessary to protect the public health, the local health director, in consultation with the Director of the Office of Epidemiology, shall recommend to the commissioner that a quarantine order or isolation order be issued.

F. Person in charge of hospitals, nursing facilities or nursing homes, ~~adult care residences~~ *assisted living facilities*, and correctional facilities. In accordance with § 32.1-37.1 of the Code of Virginia, any person in charge of a hospital, nursing facility or nursing home, adult care residence or correctional facility shall, at the time of transferring custody of any dead body to any person practicing funeral services, notify the person practicing funeral services or his agent if the dead person was known to have had, immediately prior to death, an infectious disease which may be transmitted through exposure to any bodily fluids. These include any of the following infectious diseases:

Creutzfeldt-Jakob disease
Human immunodeficiency virus infection
Hepatitis B
Hepatitis C
Monkeypox
Rabies
Smallpox
~~Infectious~~ Syphilis, *infectious*

Tuberculosis, active disease

Vaccinia, disease or adverse event

Viral hemorrhagic fever

G. Employees, applicants, and persons in charge of food establishments. 12 VAC 5-421-80 of the Food Regulations requires a food employee or applicant to notify the person in charge of the food establishment when diagnosed with certain diseases that are transmissible through food. 12 VAC 5-421-120 requires the person in charge of the food establishment to notify the health department. Refer to the appropriate sections of the Virginia Administrative Code for further guidance and clarification regarding these reporting requirements.

12 VAC 5-90-100. Methods.

The "Methods of Control" sections of the ~~Sixteenth~~ 17th Edition of the Control of Communicable Diseases Manual (1995 2000) published by the American Public Health Association shall be complied with by the board and commissioner in controlling the diseases listed in 12 VAC 5-90-80 A, except to the extent that the requirements and recommendations therein are outdated, inappropriate, inadequate, or otherwise inapplicable. The board and commissioner reserve the right to use any legal means to control any disease which is a threat to the public health.

12 VAC 5-90-110. Dosage and age requirements for immunizations; obtaining immunizations.

A. Every child in Virginia shall be immunized against the following diseases by receiving the specified number of doses of vaccine by the specified ages, *unless replaced by a revised schedule of the U.S. Public Health Service*:

1. Diphtheria, Tetanus, and Pertussis (Whooping cough) Vaccine - ~~four~~ three doses by ~~18 months~~ one year of age of toxoids of diphtheria and tetanus, combined with pertussis vaccine with the remaining two doses administered in accordance with the most recent schedule of the American Academy of Pediatrics or the U.S. Public Health Service.

2. Poliomyelitis Vaccine, trivalent type - three doses by age ~~18 months~~ of attenuated (live) trivalent oral polio virus vaccine or inactivated poliomyelitis vaccine or combination, preferably by one year of age and no later than 18 months of age. Attenuated (live virus) oral polio virus vaccine may be used if the attending physician feels it is clinically appropriate for a given patient.

3. Measles (Rubeola) Vaccine - one dose at ~~12-15 months~~ of age of further attenuated (live) measles virus vaccine between 12-15 months of age and no later than two years of age. A second dose shall also be required at the time of initial entry to school. For those children who did not receive a second dose at initial school entry, a second dose shall be required at the time of entry to grade six.

4. Rubella (German measles) Vaccine - one dose at ~~12-15 months~~ of age of attenuated (live) rubella virus vaccine between 12-15 months of age and no later than two years of age.

5. Mumps Vaccine - one dose at ~~12-15 months of age or by age two years~~ of mumps virus vaccine (live) between 12-15 months of age and no later than two years of age.

6. Haemophilus influenzae type b (Hib) Vaccine - a maximum of four doses of Hib vaccine for children up to 30 months of age as appropriate for the child's age and in accordance with current recommendations of either the American Academy of Pediatrics or the U.S. Public Health Service.

7. Hepatitis B Vaccine - three doses by ~~18 months of age~~ 12 months of age and no later than 18 months of age. For children not receiving three doses between 12-18 months of age, three doses will be required at initial school entry and at entry into the sixth grade.

8. Varicella (Chickenpox) Vaccine - one dose of varicella vaccine between 12-18 months of age. For those children who did not receive a dose of vaccine between 12-18 months of age, a dose will be required at initial school entry.

B. The required immunizations may be obtained from a physician licensed to practice medicine or from the local health department.

12 VAC 5-90-160. Reportable cancers and tumors.

Clinically or pathologically diagnosed cancers, as defined in 12 VAC 5-90-10, and ~~benign brain tumors~~ shall be reported to the Virginia Cancer Registry in the department. *The reporting of benign tumors of the brain and central nervous system is encouraged. Carcinoma in situ of the cervix is not reportable.*

12 VAC 5-90-180. ~~Data to be reported.~~ Report contents and procedures.

Each report shall include the patient's name, address (including county or independent city of residence), age, date of birth, sex, date of diagnosis, date of admission or first contact, primary site of cancer, histology (including type, behavior, and grade), basis of diagnosis, social security number, race, ethnicity, marital status, usual occupation, usual industry, sequence number, laterality, stage, treatment, recurrence information (when applicable), name of reporting facility, vital status, cause of death (when applicable), date of last contact, history of tobacco and alcohol use, and history of service in Vietnam and exposure to dioxin-containing compounds.

Reporting shall be by electronic means where possible. Output file formats shall conform to the most recent version of the North American Association of Central Cancer Registries' standard data file layout. Facilities without electronic reporting means and physicians shall submit the required information on the Virginia Cancer Registry Reporting Form. A copy of the pathology report(s) should accompany each completed reporting form, when available. Medical care facilities and clinics reporting via the reporting form should also submit a copy of the admission form and discharge summary.

Reports shall be made within six months of the diagnosis of cancer and submitted to the Virginia Cancer Registry on a monthly basis. Cancer programs conducting annual follow-up on patients shall submit follow-up data monthly in an electronic format approved by the Virginia Cancer Registry.

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PART X. TUBERCULOSIS CONTROL.

12 VAC 5-90-225. Additional data to be reported related to persons with active tuberculosis disease (confirmed or suspected).

A. Physicians and directors of medical care facilities are required to submit all of the following:

1. An initial report to be completed when there are reasonable grounds to suspect that a person has active TB disease, but no later than when antituberculosis drug therapy is initiated. The reports must include the following: the affected person's name; date of birth; gender; address; pertinent clinical, radiographic, microbiologic and pathologic reports, whether pending or final; such other information as may be needed to locate the patient for follow-up; and name and address of the treating physician.

2. A secondary report to be completed simultaneously or within one to two weeks following the initial report. The report must include: the date and results of tuberculin skin test (TST); the date and results of the initial and any follow-up chest radiographs; the dates and results of bacteriologic or pathologic testing, the antituberculosis drug regimen, including names of the drugs, dosages and frequencies of administration, and start date; the date and results of drug susceptibility testing; HIV status; contact screening information; and name and address of treating physician.

3. Subsequent reports are to be made when updated information is available. Subsequent reports are required when: clinical status changes, the treatment regimen changes; treatment ceases for any reason; or there are any updates to laboratory results, treatment adherence, name and address of current provider, patient location or contact information, or other additional clinical information.

4. Physicians and/or directors of medical care facilities responsible for the care of a patient with active tuberculosis disease are required to develop and maintain a written treatment plan. This plan must be in place no later than the time when antituberculosis drug therapy is initiated. Patient adherence to this treatment plan must be documented. The treatment plan and adherence record are subject to review by the local health director or his designee at any time during the course of treatment.

5. The treatment plan for the following categories of patients must be submitted to the local health director or his designee for approval no later than the time when antituberculosis drug therapy is started or modified:

a. For individuals who are inpatients or incarcerated, the responsible provider or facility must submit the treatment plan for approval prior to discharge or transfer.

b. Individuals, whether inpatient, incarcerated, or outpatient, who also have one of the following conditions:

(1) HIV infection

(2) Known or suspected active TB disease resistant to rifampin, rifabutin, rifapentine or other rifamycin with or without resistance to any other drug.

(3) A history of prior treated or untreated active TB disease, or a history of relapsed active TB disease.

(4) A demonstrated history of nonadherence to any medical treatment regimen.

B. Laboratories are required to submit the following:

1. Results of smears that are positive for acid fast bacilli.

2. Results of cultures positive for any member of the *M. tuberculosis* complex (i.e., *M. tuberculosis*, *M. bovis*, *M. africanum*).

3. Results of rapid methodologies, including acid hybridization or nucleic acid amplification, which are indicative of *M. tuberculosis* complex.

4. Results of drug susceptibility tests performed on cultures positive for any member of the *M. tuberculosis* complex.

5. For each patient in whom one or more cultures are positive for any member of the *M. tuberculosis* complex, the submission of a viable, representative sample of at least the initial culture to the Virginia Division of Consolidated Laboratory Services for additional testing is encouraged.

PART XII. REPORTING OF DANGEROUS MICROBES AND PATHOGENS.

12 VAC 5-90-280. Definitions.

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

"Biologic agent" means any microorganism (including, but not limited to, bacteria, viruses, fungi, rickettsiae, or protozoa), or infectious substance, or any naturally occurring, bioengineered, or synthesized component of any such microorganism or infectious substance, capable of causing death, disease, or other biological malfunction in a human, an animal, a plant, or other living organism; deterioration of food, water, equipment, supplies, or material of any kind; or deleterious alteration of the environment.

"Select agent or toxin" or "select agent and toxin" means all those biological agents or toxins as defined below:

1. Health and Human Services (HHS) select agents and toxins, as outlined in 42 CFR 73.4;

2. HHS overlap select agents and toxins, as outlined in 42 CFR 73.5.

"CDC" means the Centers for Disease Control and Prevention of the Department of Health and Human Services.

"Diagnosis" means the analysis of specimens for the purpose of identifying or confirming the presence of a select agent or toxin, provided that such analysis is directly related to protecting the public health or safety.

"Responsible official" means any person in charge of directing or supervising a laboratory conducting business in the Commonwealth of Virginia. At colleges and universities, the responsible official shall be the president of the college or

university or his designee. At private, state or federal organizations, the responsible official shall be the laboratory director or a chief officer of the organization or his designee.

"Proficiency testing" means a sponsored, time-limited analytical trial whereby one or more analytes, previously confirmed by the sponsor, are submitted to the testing laboratory for analysis and where final results are graded, scores are recorded and provided to participants, and scores for participants are evaluated.

"Toxin" means the toxic material or product of plants, animals, microorganisms (including, but not limited to, bacteria, viruses, fungi, rickettsiae, or protozoa), or infectious substances, or a recombinant or synthesized molecule, whatever their origin and method of production, and includes any poisonous substance or biological product that may be engineered as a result of biotechnology, produced by a living organism; or any poisonous isomer or biological product, homolog, or derivative of such a substance.

"Verification" means the process required to assure the accuracy, precision, and the analytical sensitivity and specificity of any procedure used for diagnosis.

12 VAC 5-90-290. Authority.

Chapter 2 (§ 32.1-35 et seq.) of Title 32.1 of the Code of Virginia authorizes the reporting of dangerous microbes and pathogens to the department. Specifically, § 32.1-35 directs the board to promulgate regulations specifying which dangerous microbes and pathogens are to be reportable and the method and timeframe by which they are to be reported by laboratories.

12 VAC 5-90-300. Administration.

The dangerous microbes and pathogens will be known as "select agents and toxins." The select agent and toxin registry will be maintained by the Virginia Department of Health, Office of Epidemiology, Division of Surveillance and Investigation.

12 VAC 5-90-310. Reportable agents.

The board declares the select agents and toxins outlined in 42 CFR 73.4 and 42 CFR 73.5 to be reportable, and adopts it herein by reference including subsequent amendments and editions. The select agents and toxins are to be reportable by the persons enumerated in 12 VAC 5-90-340.

12 VAC 5-90-320. Items to report.

Each report shall be made on a form determined by the department and shall contain the following: name, source and characterization information on select agents and toxins and quantities held; objectives of the work with the agent; location (including building and room) where each select agent or toxin is stored or used; identification information of persons with access to each agent; identification information of the person in charge of each of the agents; and the name, position and identification information of one responsible official as a single point of contact for the organization. The report shall also indicate whether the laboratory is registered with the CDC Select Agent Program and may contain additional information as required by 42 CFR Part 73 or the department.

12 VAC 5-90-330. Timing of reports.

Initial reports shall be made (within 90 days of the effective date of these regulations). Thereafter, reports shall be made to the department within seven calendar days of submission of an application to the CDC Select Agent Program. By January 31 of every year, laboratories shall provide a written update to the department, which shall include a copy of the federal registration certificate received through the CDC Select Agent Program.

In the event that a select agent or toxin that has previously been reported to the department is destroyed, a copy of federal forms addressing the destruction of a select agent or toxin must be submitted to the department within seven calendar days of submission to the CDC Select Agent Program.

In the event that a select agent or toxin, or a specimen or isolate from a specimen containing a select agent or toxin, has previously been reported to the department and is subsequently transferred to a facility eligible for receiving the items, a copy of federal forms addressing the transfer of a select agent or toxin must be submitted to the department within seven calendar days of submission to the CDC Select Agent Program.

In the event of a suspected release, loss or theft of any select agent or toxin, the responsible official at a laboratory shall make a report to the department within 24 hours by the most rapid means available, preferably that of telecommunication (e.g., telephone, telephone transmitted facsimile, pagers, etc.) The rapid report shall be followed up by a written report within seven calendar days and shall include the following information:

1. The name of the biologic agent and any identifying information (e.g., strain or other characterization information);
2. An estimate of the quantity released, lost or stolen;
3. An estimate of the time during which the release, loss or theft occurred; and
4. The location (building, room) from or in which the release, loss or theft occurred. The report may contain additional information as required by 42 CFR Part 73 or the department.

The department must be notified in writing of any changes to information previously submitted to the department. If a new application or an amendment to an existing application is filed with the CDC Select Agent Program, a copy of the application or amendment must be submitted to the department within seven calendar days of submission to the CDC Select Agent Program.

12 VAC 5-90-340. Those required to report.

The responsible official in charge of a laboratory conducting business in the Commonwealth shall be responsible for annual reporting of select agents and toxins to the Virginia Department of Health and for the reporting of any changes within the time periods as specified within these regulations. Such reports shall be made on forms to be determined by the

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department. Any person making such reports as authorized herein shall be immune from liability as provided by § 32.1-38 of the Code of Virginia.

12 VAC 5-90-350. Exemption from reporting.

A person who detects a select agent or toxin for the purpose of diagnosing a disease, verification or proficiency and either transfers the specimens or isolates containing the select agent or toxin to a facility eligible for receiving them or destroys them onsite is not required to make a report. Proper destruction of the agent must take place through auto-claving, incineration or by a sterilization or neutralization process sufficient to cause inactivation. The transfer or destruction must occur within seven calendar days after identification of a select agent or toxin used for diagnosis or testing and within 90 calendar days after receipt for proficiency testing.

Any additional exemptions from reporting under 42 CFR 73.6, including subsequent amendments and editions, are also exempt from reporting under this regulation; however, the department must be notified of the exemption by submitting a copy of federal forms addressing the exemption within seven calendar days of submission to the CDC Select Agent Program.

12 VAC 5-90-360. Release of reported information.

Reports submitted to the select agent and toxin registry shall be confidential and shall not be a public record pursuant to the Freedom of Information Act. Release of information on select agents or toxins shall be made only by order of the State Health Commissioner to the Centers for Disease Control and Prevention and state and federal law-enforcement agencies in any investigation involving the release, theft or loss of a select agent or toxin required to be reported to the department under this regulation.

DOCUMENTS INCORPORATED BY REFERENCE

Control of Communicable Diseases Manual, 46th 17th Edition, American Public Health Association, 1995-2000

VA.R. Doc. No. R03-25; Filed August 5, 2003, 11:13 a.m.



TITLE 13. HOUSING

VIRGINIA HOUSING DEVELOPMENT AUTHORITY

<p>REGISTRAR'S NOTICE: The Virginia Housing Development Authority is exempt from the Administrative Process Act (§ 2.2-4000 et seq. of the Code of Virginia) pursuant to § 2.2-4002 A 4; however, under the provisions of § 2.2-4031, it is required to publish all proposed and final regulations.</p>
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Title of Regulation: 13 VAC 10-40. Rules and Regulations for Single Family Mortgage Loans to Persons and Families of Low and Moderate Income (amending 13 VAC 10-40-120, 13 VAC 10-40-130, 13 VAC 10-40-160, 13 VAC 10-40-190, 13 VAC 10-40-210, and 13 VAC 10-40-230).

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

Public Hearing Date: September 4, 2003 - 10 a.m.

Public comment may be submitted until 10:30 a.m. on September 4, 2003.

Agency Contact: J. Judson McKellar, Jr., General Counsel, Virginia Housing Development Authority, 601 S. Belvidere Street, Richmond, VA 23220, telephone (804) 343-5540, FAX (804) 783-6701, or e-mail hearing@vhda.com.

Summary:

The proposed amendments will (i) in the tax-exempt bond financed program, authorize the implementation of a new loan product that does not require mortgage insurance, subject to the applicant or applicants satisfying more restrictive eligibility criteria; (ii) authorize the authority to permit substitution of properties and transfer of locked interest rates when the applicant or applicants can document that the need for such substitution or transfer is caused by circumstances beyond their control; (iii) authorize the authority to offer alternative pricing (e.g., fewer points in exchange for an increased interest rate) in the tax-exempt bond financed program; (iv) authorize the authority to create alternative financing terms for financing manufactured housing; (v) revise the eligibility requirements for a condominium to provide that a condominium must meet either Fannie Mae or Freddie Mac guidelines; and (vi) revise the regulations governing the flexible alternative program to (a) permit the refinance of VHDA loans, (b) provide a process for a streamlined refinance of VHDA loans, (c) provide for refinances in which the applicants receive limited cash out of the transaction, (d) in the case of acquisition loans, permit additional subordinate financing, and (e) provide that the home access program may be used to provide for improvements to provide for visitability by disabled individuals.

13 VAC 10-40-120. Mortgage insurance requirements.

Unless the loan is an FHA, VA or Rural Development loan, the borrower or borrowers are required to purchase at time of loan closing full private mortgage insurance (25% to 100% coverage, as the authority shall determine) on each loan the amount of which exceeds 80% of the lesser of sales price or appraised value of the property to be financed. Such insurance shall be issued by a company acceptable to the authority. The originating agent is required to escrow for annual payment of mortgage insurance, unless an alternative payment plan is approved by the authority. If the authority requires FHA, VA or Rural Development insurance or guarantee, the loan will either, at the election of the authority, (a) be closed in the authority's name in accordance with the procedures and requirements herein or (b) be closed in the originating agent's name and purchased by the authority once

the FHA Certificate of Insurance, VA Guaranty or Rural Development Guarantee has been obtained or subject to the condition that such FHA Certificate of Insurance, VA Guaranty or Rural Development Guarantee be obtained. In the event that the authority purchases an FHA, VA or Rural Development loan, the originating agent must enter into a purchase and sale agreement on such form as shall be provided by the authority. For assumptions of conventional loans (i.e., loans other than FHA, VA or Rural Development loans), full private mortgage insurance as described above is required unless waived by the authority.

The executive director may waive the requirements for private mortgage insurance in the preceding paragraph for a loan having a principal amount in excess of 80% of the lesser of sales price or appraised value of the property to be financed if the applicant satisfies the criteria set forth in subdivisions 11 through 17 of 13 VAC 10-40-230 or if the executive director otherwise determines that the financial integrity of the program is protected by the financial strength of the applicant or applicants or the terms of the financing.

13 VAC 10-40-130. Underwriting.

A. In general, to be eligible for authority financing, an applicant or applicants must satisfy the following underwriting criteria which demonstrate the willingness and ability to repay the mortgage debt and adequately maintain the financed property.

1. The applicant or applicants must document the receipt of a stable current income which indicates that the applicant or applicants will receive future income which is sufficient to enable the timely repayment of the mortgage loan as well as other existing obligations and living expenses.

2. The applicant or, in the case of multiple applicants, the applicants individually and collectively must possess a credit history which reflects the ability to successfully meet financial obligations and a willingness to repay obligations in accordance with established credit repayment terms.

3. An applicant having a foreclosure instituted by the authority on his property financed by an authority mortgage loan will not be eligible for a mortgage loan hereunder. The authority will consider previous foreclosures (other than on authority financed loans) on an exception basis based upon circumstances surrounding the cause of the foreclosure, length of time since the foreclosure, the applicant's subsequent credit history and overall financial stability. Under no circumstances will an applicant be considered for an authority loan within three years from the date of the foreclosure. The authority has complete discretion to decline to finance a loan when a previous foreclosure is involved.

4. The applicant or applicants must document that sufficient funds will be available for required down payment and closing costs.

a. The terms and sources of any loan to be used as a source for down payment or closing costs must be reviewed and approved in advance of loan approval by the authority.

b. Sweat equity, the imputed value of services performed by an eligible borrower or members of his family (brothers and sisters, spouse, ancestors and lineal descendants) in constructing or completing the residence, generally is not an acceptable source of funds for down payment and closing costs. Any sweat equity allowance must be approved by the authority prior to loan approval.

5. Proposed monthly housing expenses compared to current monthly housing expenses will be reviewed. If there is a substantial increase in such expenses, the applicant or applicants must demonstrate his ability to pay the additional expenses.

6. All applicants are encouraged to attend a home ownership educational program to be better prepared to deal with the home buying process and the responsibilities related to homeownership. The authority may require all applicants applying for certain authority loan programs to complete an authority approved homeownership education program prior to loan approval.

B. In addition to the requirements set forth in subsection A of this section, the following requirements must be met in order to satisfy the authority's underwriting requirements for conventional loans. However, additional or more stringent requirements may be imposed (i) by private mortgage insurance companies with respect to those loans on which private mortgage insurance is required or (ii) on loans as described in the last paragraph of 13 VAC 10-40-120.

1. The following rules apply to the authority's employment and income requirement.

a. Employment for the preceding two-year period must be documented. Education or training for employment during this two-year period shall be considered in satisfaction of this requirement if such education or training is related to an applicant's current line of work and adequate future income can be anticipated because such education and training will expand the applicant's job opportunities. The applicant must be employed a minimum of six months with present employer. An exception to the six-month requirement can be granted by the authority if it can be determined that the type of work is similar to previous employment and previous employment was of a stable nature.

b. Note: Under the tax code, the residence may not be expected to be used in trade or business. (See 13 VAC 10-40-50 C.) Any self-employed applicant must have a minimum of two years of self-employment with the same company and in the same line of work. In addition, the following information is required at the time of application:

(1) Federal income tax returns for the two most recent tax years.

(2) Balance sheets and profit and loss statements prepared by an independent public accountant.

In determining the income for a self-employed applicant, income will be averaged for the two-year period.

c. The following rules apply to income derived from sources other than primary employment.

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(1) When considering alimony and child support. A copy of the legal document and sufficient proof must be submitted to the authority verifying that alimony and child support are court ordered and are being received. Child support payments for children 15 years or older are not accepted as income in qualifying an applicant or applicants for a loan.

(2) When considering social security and other retirement benefits. Social Security Form No. SSA 2458 must be submitted to verify that applicant is receiving social security benefits. Retirement benefits must be verified by receipt or retirement schedules. VA disability benefits must be verified by the VA. Educational benefits and social security benefits for dependents 15 years or older are not accepted as income in qualifying an applicant or applicants for a loan.

(3) All part-time employment must be continuous for a minimum of 24 months, except that the authority may consider part-time employment that is continuous for more than 12 months but less than 24 months if such part-time employment is of a stable nature and is likely to continue after closing of the mortgage loan.

(4) Overtime earnings must be guaranteed by the employer or verified for a minimum of two years. Bonus and commissions must be reasonably predictable and stable and the applicant's employer must submit evidence that they have been paid on a regular basis and can be expected to be paid in the future.

2. The following rules apply to each applicant's credit:

a. The authority requires that an applicant's previous credit experience be satisfactory. Poor credit references without an acceptable explanation will cause a loan to be rejected. Satisfactory credit references and history are considered to be important requirements in order to obtain an authority loan.

b. An applicant will not be considered for a loan if the applicant has been adjudged bankrupt within the past two years. If longer than two years, the applicant must submit a written explanation giving details surrounding the bankruptcy. The authority has complete discretion to decline a loan when a bankruptcy is involved.

c. An applicant is required to submit a written explanation for all judgments and collections. In most cases, judgments and collections must be paid before an applicant will be considered for an authority loan.

3. The authority reserves the right to obtain an independent appraisal in order to establish the fair market value of the property and to determine whether the dwelling is eligible for the mortgage loan requested.

4. The applicant or applicants satisfy the authority's minimum income requirement for financing if the monthly principal and interest (at the rate determined by the authority), tax, insurance ("PITI") and other additional monthly fees such as condominium assessments (60% of the monthly condominium assessment shall be added to the

PITI figure), townhouse assessments, etc. do not exceed 32% of monthly gross income and if the monthly PITI plus outstanding monthly debt payments with more than six months duration (and payments on debts lasting less than six months, if making such payments will adversely affect the applicant's or applicants' ability to make mortgage loan payments in the months following loan closing) do not exceed 40% of monthly gross income (see Exhibit B). However, with respect to those mortgage loans on which private mortgage insurance is required, the private mortgage insurance company may impose more stringent requirements. If either of the percentages set forth are exceeded, compensating factors may be used by the authority, in its sole discretion, to approve the mortgage loan.

5. Funds necessary to pay the downpayment and closing costs must be deposited at the time of loan application. The authority does not permit an applicant to borrow funds for this purpose unless approved in advance by the authority. If the funds are being held in an escrow account by the real estate broker, builder or closing attorney, the source of the funds must be verified. A verification of deposit from the parties other than financial institutions authorized to handle deposited funds is not acceptable.

6. A gift letter is required when an applicant proposes to obtain funds as a gift from a third party. The gift letter must confirm that there is no obligation on the part of an applicant to repay the funds at any time. The party making the gift must submit proof that the funds are available.

C. The following rules are applicable to FHA loans only.

1. The authority will normally accept FHA underwriting requirements and property standards for FHA loans. However, the applicant or applicants must satisfy the underwriting criteria set forth in subsection A of this section and most of the authority's basic eligibility requirements including those described in 13 VAC 10-40-30 through 13 VAC 10-40-100 hereof remain in effect due to treasury restrictions or authority policy.

2. The applicant's or applicants' mortgage insurance premium fee may be included in the FHA acquisition cost and may be financed provided that the final loan amount does not exceed the authority's maximum allowable sales price. In addition, in the case of a condominium, such fee may not be paid in full in advance but instead is payable in annual installments.

3. The FHA allowable closing fees may be included in the FHA acquisition cost and may be financed provided the final loan amount does not exceed the authority's maximum allowable sales price.

4. FHA appraisals are acceptable. VA certificates of reasonable value (CRV's) are acceptable if acceptable to FHA.

D. The following rules are applicable to VA loans only.

1. The authority will normally accept VA underwriting requirements and property guidelines for VA loans. However, the applicant or applicants must satisfy the

underwriting criteria set forth in subsection A of this section and most of the authority's basic eligibility requirements (including those described in 13 VAC 10-40-30 through 13 VAC 10-40-100) remain in effect due to treasury restrictions or authority policy.

2. The funding fee can be included in loan amount provided the final loan amount does not exceed the authority's maximum allowable sales price.

3. VA certificates of reasonable value (CRV's) are acceptable in lieu of an appraisal.

E. The following rules are applicable to Rural Development loans only.

1. The authority will normally accept Rural Development underwriting requirements and property standards for Rural Development loans. However, the applicant or applicants must satisfy the underwriting criteria set forth in subsection A of this section and most of the authority's basic eligibility requirements including those described in 13 VAC 10-40-30 through 13 VAC 10-40-100 remain in effect due to treasury restrictions or authority policy.

2. The Rural Development guarantee fee can be included in loan amount provided the final loan amount does not exceed the authority's maximum allowable sales price.

F. With respect to FHA, VA, RD and conventional loans, the authority permits the deposit of a sum of money (the "buydown funds") by a party (the "provider") with an escrow agent, a portion of which funds are to be paid to the authority each month in order to reduce the amount of the borrower's or borrowers' monthly payment during a certain period of time. Such arrangement is governed by an escrow agreement for buydown mortgage loans (see Exhibit V) executed at closing (see 13 VAC 10-40-180 for additional information). The escrow agent will be required to sign a certification (Exhibit X) in order to satisfy certain insurer or guarantor requirements. For the purposes of underwriting buydown mortgage loans, the reduced monthly payment amount may be taken into account based on insurer or guarantor guidelines then in effect (see also subsection C, D or E of this section, as applicable).

G. Unlike the program described in subsection E of this section which permits a direct buydown of the borrower's or borrowers' monthly payment, the authority also from time to time permits the buydown of the interest rate on a conventional, FHA or VA mortgage loan for a specified period of time.

13 VAC 10-40-160. Reservations/fees.

A. The authority currently reserves funds for each mortgage loan on a first come, first serve basis. Reservations are made by specific originating agents or field originators with respect to specific applicants and properties. No substitutions are permitted. Similarly, locked-in interest rates are also nontransferable. *However, if the applicant can document circumstances beyond the applicant's control constituting good cause, the executive director may permit such substitution and transfer.* Funds will not be reserved longer than 60 days unless the originating agent requests and

receives an additional one-time extension prior to the 60-day deadline. Locked-in interest rates on all loans, including those on which there may be a VA Guaranty, cannot be reduced under any circumstances.

B. The applicant or applicants, including an applicant or applicants for a loan to be guaranteed by VA, may request a second reservation if the first has expired or has been cancelled. If the second reservation is made within 12 months of the date of the original reservation, the interest rate will be the greater of (i) the locked-in rate or (ii) the current rate offered by the authority at the time of the second reservation. *However, if the applicant can document circumstances beyond the applicant's control constituting good cause, the executive director may waive the requirement in the preceding sentence.*

C. The originating agent or field originator shall collect a nonrefundable reservation fee in such amount and according to such procedures as the authority may require from time to time. Under no circumstances is this fee refundable. A second reservation fee must be collected for a second reservation. No substitutions of applicants or properties are permitted.

D. The following other fees shall be collected.

1. In connection with the origination and closing of the loan, the originating agent shall collect at closing or, at the authority's option, simultaneously with the acceptance of the authority's commitment, an amount equal to 1.0% of the loan amount (please note that for FHA loans the loan amount for the purpose of this computation is the base loan amount only); provided, however, that the executive director may require the payment of an additional fee not in excess of 1.0% of the loan amount in the case of a step loan (i.e., a loan on which the initial interest rate is to be increased to a new interest rate after a fixed period of time). If the loan does not close, then the origination fee shall be waived.

2. The originating agent shall collect at the time of closing an amount equal to 1.0% of the loan amount.

If the executive director determines that the financial integrity of the program is protected by an adjustment to the rate of interest charged to the applicant or applicants or otherwise, the authority may provide the applicant or applicants with the option of an alternative fee requirement.

13 VAC 10-40-190. Property guidelines.

A. For each application the authority must make the determination that the property will constitute adequate security for the loan. That determination shall in turn be based solely upon a real estate appraisal's determination of the value and condition of the property. Such appraisal must be performed by an appraiser licensed in the Commonwealth of Virginia.

All properties must be structurally sound and in adequate condition to preserve the continued marketability of the property and to protect the health and safety of the occupants. Eligible properties must possess features which are acceptable to typical purchasers in the subject market area and provide adequate amenities. Eligible properties must

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meet FNMA and FHLMC property guidelines unless otherwise approved by the authority.

In addition, manufactured housing (~~mobile homes~~), both new construction and certain existing, may be financed only if the loan is insured 100% by FHA (see subsection C of this section). *The authority may also impose other property requirements and offer other financing terms for manufactured housing, provided that the executive director determines that such property requirements and financing terms adequately protect the financial integrity of the program.*

B. The following rules apply to conventional loans.

1. The following requirements apply to both new construction and existing housing to be financed by a conventional loan: (i) all property must be located on a state maintained road; provided, however, that the authority may, on a case-by-case basis, approve financing of property located on a private road acceptable to the authority if the right to use such private road is granted to the owner of the residence pursuant to a recorded right-of-way agreement providing for the use of such private road and a recorded maintenance agreement provides for the maintenance of such private road on terms and conditions acceptable to the authority (any other easements or rights-of-way to state maintained roads are not acceptable as access to properties); (ii) any easements, covenants or restrictions which will adversely affect the marketability of the property, such as high-tension power lines, drainage or other utility easements will be considered on a case-by-case basis to determine whether such easements, covenants or restrictions will be acceptable to the authority; (iii) property with available water and sewer hookups must utilize them; and (iv) property without available water and sewer hookups may have their own well and septic system; provided that joint ownership of a well and septic system will be considered on a case-by-case basis to determine whether such ownership is acceptable to the authority, provided further that cisterns will be considered on a case-by-case basis to determine whether the cistern will be adequate to serve the property.

2. New construction financed by a conventional loan must also meet Uniform Statewide Building Code and local code.

C. The following rules apply to FHA, VA or Rural Development loans.

1. Both new construction and existing housing financed by an FHA, VA or Rural Development loan must meet all applicable requirements imposed by FHA, VA or Rural Development.

2. Manufactured housing (~~mobile homes~~) being financed by FHA loans must also meet federal manufactured home construction and safety standards, satisfy all FHA insurance requirements, be on a permanent foundation to be enclosed by a perimeter masonry curtain wall conforming to standards of the Uniform Statewide Building Code, be permanently affixed to the site owned by the borrower or borrowers and be insured 100% by FHA under its section 203B program. In addition, the property must be classified

and taxed as real estate and no personal property may be financed.

13 VAC 10-40-210. Condominium requirements.

A. For conventional loans, the originating agent must provide evidence that the condominium is approved by any two of the following: ~~FNMA, FHLMC or VA meets the eligibility requirements of either FNMA or FHLMC.~~ The originating agent must submit evidence at the time the borrower's or borrowers' application is submitted to the authority for approval.

B. For FHA, VA or Rural Development loans, the authority will accept a loan to finance a condominium if the condominium is approved by FHA, in the case of an FHA loan, by VA, in the case of a VA loan or be Rural Development, in the case of a Rural Development loan.

C. The executive director may waive any requirements in subsections A and B of this section if he determines that any additional risk as a result of such waiver is adequately compensated or otherwise covered by the terms of the mortgage loan or the financial strength or credit of the applicant or applicants.

13 VAC 10-40-230. Flexible alternative mortgage loan programs.

The executive director may establish flexible alternative mortgage loan programs. 13 VAC 10-40-10 through 13 VAC 10-40-220 shall apply to such flexible alternative mortgage loan programs, with the following modifications:

1. The following requirements shall not apply: (i) the new mortgage requirement; (ii) the requirements as to the use of the property in a trade or business; (iii) the requirements as to acquisition cost and sales price of the property to be financed; (iv) the requirement that each applicant shall not have had a present ownership interest in his principal residence within the preceding three years; (v) the net worth requirement; (vi) the requirements for the payment by the seller of an amount equal to 1.0% of the loan in 13 VAC 10-40-160 D 2; and (vii) the lot size restriction in 13 VAC 10-40-50 C 3.

2. The gross income of the applicant or applicants shall not exceed 120% of the applicable median family income without regard to household size, provided, however, that the authority may increase such percentage of applicable median family income, not to exceed 150%, if the executive director determines that it is necessary to provide financing in underserved areas identified by the executive director to persons with disabilities (i.e., physically or mentally disabled, as determined by the executive director on the basis of medical evidence from a licensed physician or other appropriate evidence satisfactory to the executive director), to applicants with a household size of two or more persons, or other similarly underserved individuals identified by the executive director.

3. At the time of closing, each applicant must occupy or intend to occupy within 60 days (90 days in the case of new construction) the property to be financed as his principal residence.

4. The property to be financed must be one of the following types: (i) a single family residence (attached or detached); (ii) a unit in a condominium or PUD which is approved for financing by FNMA or FHLMC or satisfies the requirements for such financing, except that the executive director may waive any of such requirements if he determines that any additional risk as a result of such waiver is adequately compensated or otherwise covered by the terms of the mortgage loan or the financial strength or credit of the applicant or applicants; or (iii) a doublewide manufactured home permanently affixed to the land.

5. The land, residence and all other improvements on the property to be financed must be expected to be used by the borrower or borrowers primarily for residential purposes.

6. Personal property which is related to the use and occupancy of the property as the principal residence of the borrower or borrowers and is customarily transferred with single family residences may be included in the real estate contract, transferred with the residence and financed by the loan; however, the value of such personal property shall not be considered in the appraised value.

7. The principal amount of the mortgage loan shall not exceed the limits established by FNMA or FHLMC for single family residences.

~~8. Loan proceeds may be used to refinance an applicant's or the applicants' existing mortgage loan or loans on the property only if (i) the applicant or applicants receive no proceeds of the authority's loan; (ii) such loan proceeds are not used to refinance any authority mortgage loan or to refinance any bridge loan which refinanced any authority mortgage loan; and (iii) the existing mortgage loan was closed more than one year prior to submission of the application for the authority mortgage loan, and no advances on such existing mortgage loan have been made within the 12 months preceding the submission of such application. Clause (iii) shall not apply to existing mortgage loans which financed an applicant's or the applicants' acquisition of the property if the authority loan will not exceed the lesser of the sales price for such acquisition or the current appraised value. The maximum loan amount shall be calculated as follows:~~

a. If the authority loan will be used to acquire the residence, the loan amount (plus all subordinate debt to be secured by the property after closing of the authority loan) may not exceed the lesser of appraised value or sales price. In the case of loans to finance such acquisition, the executive director may approve additional subordinate financing if he determines that any additional risk as a result of such additional subordinate financing is adequately compensated or otherwise covered by the terms of the mortgage loan or the financial strength or credit of the applicant or applicants.

b. If the loan proceeds will not be used to finance the acquisition of the residence, the loan amount (plus all subordinate debt to be secured by the property after closing of the authority loan) may not exceed the lesser of the current appraised value of the property or the sum of (i) the payoff (if any) of the applicant's existing first

mortgage loan; (ii) the payoff (if any) of applicant's or applicants' subordinate mortgage loans (provided such loans do not permit periodic advancement of loan proceeds) closed for not less than 12 months preceding the date of the closing of the authority loan and the payoff (if any) of applicant's or applicants' home equity line of credit loan (i.e., loan that permits periodic advancement of proceeds) with no more than \$2,000 in advances within the 12 months preceding the date of the closing of the authority loan, excluding funds used for the purpose of documented improvements to the residence; (iii) improvements to be performed to the property after the closing of the authority loan and for which loan proceeds will be escrowed at closing; (iv) closing costs, discount points, fees and escrows payable in connection with the origination and closing of the authority loan; and (v) up to \$500 to be payable to applicant or applicants at closing.

c. If the applicant or applicants request to receive loan proceeds at closing in excess of the limit set forth in clause (v) of subdivision 8 b of this section, the loan amount (plus all subordinate debt to be secured by the property after closing of the authority loan) may be increased to finance such excess cash up to a loan amount not in excess of 95% of the current appraised value. To be eligible for such increased financing, the applicant's or applicants' credit score may be no less than 660, and the financial integrity of the flexible alternative program must be protected by an upward adjustment to the rate of interest charged to the applicant or applicants or otherwise.

d. If the applicant's or applicants' existing mortgage loan to be refinanced is an authority mortgage loan, the applicant or applicants may request a streamlined refinance of the authority mortgage loan in which the authority may require less underwriting documentation (e.g., verification of employment) and may charge reduced points and fees. For such streamlined refinances, the loan amount (plus all subordinate debt to be secured by the property after closing of the authority loan) is limited to (i) the payoff of the existing authority mortgage loan and (ii) required closing costs, discount points, fees and escrows payable in connection with the origination and closing of the new authority loan, provided, however, that the loan amount (plus all subordinate debt to be secured by the property after closing of the authority loan) may not exceed 100% of the greatest of original appraised value, current real estate tax assessment, current appraised value or other alternative valuation method approved by the authority. To be eligible for such streamlined refinance, the applicant's or applicants' payment history on the current authority loan may not include any 30 day late payments within the previous 24-month period (12 months for applicants whose current authority loans do not carry mortgage insurance) and no bankruptcy since the closing of the original mortgage loan. In approving such streamlined refinance, the executive director must determine that any additional risk is outweighed by the demonstrated satisfactory payment history of applicant to the authority.

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e. In addition to the foregoing maximum loan amounts under this section, the executive director may approve the disbursement of additional amounts to finance closing costs and fees and costs of rehabilitation and improvements to be completed subsequent to the closing. Except for loans financed under the program described in subdivision 24 of this subsection, these additional amounts may not exceed 5.0% of the lesser of sales price (if any) or appraised value, provided, however, that in addition to such 5.0%, amounts not to exceed 5.0% of the lesser of sales price (if any) or appraised value may be funded for the costs of rehabilitation and improvements to retrofit the residence or add accessibility features to accommodate the needs of a disabled occupant or to provide for visitability by disabled individuals.

9. Mortgage insurance shall not be required, except that in the case of manufactured homes mortgage insurance shall be required in accordance with ~~this chapter~~ 13 VAC 10-40-120.

~~10. The maximum combined loan amount (including any other loans, such as existing mortgage loans to be subordinated to the authority loan, to be secured by the property at the time of closing) shall be 100% of the lesser of appraised value or sales price. The executive director may approve the disbursement of additional amounts to finance closing costs and fees and costs of rehabilitation and improvements to be completed subsequent to the closing. Except for loans financed under the program described in subdivision 24 of this section, these additional amounts may not exceed 5.0% of the lesser of sales price or appraised value; provided however, that in addition to such 5.0%, amounts not to exceed 5.0% of the lesser of sales price or appraised value may be funded for the costs of rehabilitation and improvements to retrofit the residence or add accessibility features to accommodate the needs of a disabled occupant. (Reserved.)~~

11. The applicant or applicants must have a history of receiving stable income from employment or other sources with a reasonable expectation that the income will continue in the foreseeable future; typically, verification of two years' stable income will be required; and education or training in a field related to the employment of the applicant or applicants may be considered to meet no more than one year of this requirement.

12. The applicant or applicants must possess a credit history as of the date of loan application satisfactory to the authority and, in particular, must satisfy the following: (i) for each applicant, no bankruptcy or foreclosure within the preceding three years; for each applicant, no housing payment past due for 30 days in the preceding 24 months; for a single applicant individually and all multiple applicants collectively, no more than one payment past due for 30 days or more on any other debt or obligation within the preceding 12 months; for each applicant, no outstanding collection, judgment, charge off, repossession or 30-day past due account; and a minimum credit score of 620 if the loan-to-value ratio is 95% or less or 660 if the loan-to-value ratio exceeds 95% (credit scores as referenced in these regulations shall be determined by obtaining credit scores

for each applicant from a minimum of three repositories and using the middle score in the case of a single applicant and the lowest middle score in the case of multiple applicants); or (ii) for each applicant, no previous bankruptcy or foreclosure; for a single applicant individually and all multiple applicants collectively, no outstanding collection, judgment, charge off or repossession within the past 12 months or more than one 30-day past due account within the past 12 months and no more than four 30-day past due accounts within the past 24 months; for each applicant, no previous housing payment past due for 30 days; for a single applicant individually and all multiple applicants collectively, minimum of three sources of credit with satisfactory payment histories for the most recent 24-month period; for a single applicant individually and all multiple applicants collectively, no more than nine accounts currently open; and for a single applicant individually and all multiple applicants collectively, no more than three new accounts opened in the past 12 months (in establishing guidelines to implement the flexible alternative mortgage loan programs, the authority may refer to the credit requirements in clause (i) of this subdivision as the "alternative" credit requirements and the requirements in clause (ii) of this subdivision as the "standard" credit requirements).

If the executive director determines it is necessary to protect the financial integrity of the flexible alternative program, the executive director may require that applicant or applicants for loans having loan-to-value ratios in excess of 97% meet the alternative credit requirements in clause (i) of this subdivision.

13. Homeownership education approved by the authority shall be required for any borrower who is a first time homeowner if the loan-to-value ratio exceeds 95%. This requirement shall be waived if the applicant or applicants have a credit score of 660 or greater (see subdivision 12 of this section for the manner of determining credit scores);.

14. Seller contributions for closing costs and other amounts payable by the borrower or borrowers in connection with the purchase or financing of the property shall not exceed 4.0% of the contract price.

15. Sources of funds for the down payment and closing costs payable by the borrower shall be limited to the borrower's or borrowers' funds, gifts or unsecured loans from relatives, grants from employers or nonprofit entities not involved in the transfer or financing of the property, and unsecured loans on terms acceptable to the authority (payments on any unsecured loans permitted under this subdivision shall be included in the calculation of the debt/income ratios described below), and documentation of such sources of funds shall be in form and substance acceptable to the authority.

16. The maximum debt ratios shall be 35% and 43% in lieu of the ratios of 32% and 40%, respectively, set forth in 13 VAC 10-40-130 B 4.

17. Cash reserves at least equal to two months' loan payments must be held by the applicant or applicants if the loan-to-value ratio exceeds 95%; cash reserves at least equal to one month's loan payment must be held by the

applicant or applicants if the loan-to-value ratio is greater than 90% and is less than or equal to 95%; and no cash reserves shall be required if the loan-to-value ratio is 90% or less.

18. The payment of points (a point being equal to 1.0% of the loan amount) in addition to the origination fee shall be charged as follows: if the loan-to-value ratio is 90% or less, one-half of one point shall be charged; if the loan-to-value ratio is greater than 90% and is less than or equal to 95%, one point shall be charged; and if the loan-to-value ratio exceeds 95%, one and one-half point shall be charged. If the executive director determines that the financial integrity of the flexible alternative program is protected, by an adjustment to the rate of interest charged to the applicant or applicants or otherwise, the authority may provide the applicant or applicants with the option of an alternative point requirement ~~not in excess of the preceding sentence~~.

In addition to the above, a reduction of one-half of one point will be made to the applicant or applicants meeting the credit requirements in clause 12 (i) above with a credit score of 700 or greater (see subdivision 12 of this section for the manner of determining credit scores).

19. The interest rate which would otherwise be applicable to the loan shall be reduced by .25% if the loan-to-value ratio is 80% or less.

20. The documents relating to requirements of the federal tax code governing tax-exempt bonds shall not be required.

21. For assumptions of loans, the above requirements for occupancy of the property as the borrower's or borrowers' principal residence, the above income limit, and the underwriting criteria in the regulations as modified by this section must be satisfied.

22. The authority may require that any or all loans financed under such alternative mortgage programs be serviced by the authority.

23. The authority may accept an approval of an automated underwriting system in lieu of satisfaction of the foregoing requirements for the flexible alternative program if the executive director determines that such delegated underwriting system is designed so as to adequately protect the financial integrity of the flexible alternative program.

24. The executive director may establish a flexible alternative rehabilitation mortgage loan program. The regulations set forth in subdivisions 1 through 23 of this section shall apply to such flexible alternative rehabilitation mortgage loan program, with the following modifications:

a. At the time of closing, each applicant must occupy or intend to occupy within 180 days the property to be financed as his principal residence;

b. The provision of clause (iii) of subdivision 4 of this section permitting the financing of a doublewide manufactured home permanently affixed to the land shall not apply.

c. The maximum loan amount for a purchase shall be 100% of the lesser of (i) the sum of purchase price plus

rehabilitation costs; or (ii) the as completed appraised value. The maximum loan amount for a refinance shall be 100% of the lesser of (i) the outstanding principal balance plus rehabilitation costs; or (ii) the as completed appraised value.

d. The rehabilitation costs to be financed may not exceed an amount equal to 50% of the as completed appraised value.

e. Loan proceeds may be used to finance the purchase and installation of eligible improvements. Improvements that are eligible for financing are structural alterations, repairs, additions to the residence itself, or other improvements (including appliances) upon or in connection with the residence. In order to be eligible, such improvements must substantially protect or improve the basic livability or utility of the residence. Improvements that are physically removed from the residence but that are located on the property occupied by the residence may be eligible for financing if these improvements substantially protect or improve the basic livability or utility of the residence (i.e., installation of a septic tank or the drilling of a well). Luxury items (such as swimming pools and spas) shall not be eligible for financing hereunder.

f. Loan proceeds may not be used to finance any improvements that have been completed at the time the application is submitted to the authority.

g. All work financed with the loan proceeds shall be performed by a contractor duly licensed in Virginia to perform such work and be performed pursuant to a validly issued building permit, if required, and shall comply with all applicable state and local health, housing, building, fire prevention and housing maintenance codes and other applicable standards and requirements. Compliance with the foregoing shall be evidenced by such documents and certifications as shall be prescribed by the executive director.

h. The executive director may require the applicant or applicants to establish a contingency fund for the mortgage loan in an amount adequate to ensure sufficient reserve funds for the proper completion of the proposed improvements in the event of cost over runs. The executive director may also require a holdback from each disbursement of loan proceeds until completion of the residence.

i. The executive director may approve originating agents to originate the acquisition/rehabilitation loans. To be so approved, the originating agent must have a staff with demonstrated ability and experience in acquisition/rehabilitation mortgage loan origination, processing and administration.

j. In addition to the payment of points set forth in subdivision 18 of this section, the originating agent may collect an escrow administration fee and an inspection fee in an amount determined by the executive director to compensate the originating agent for administering the

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disbursement of the mortgage loan during the rehabilitation of the residence.

Except as modified hereby, all of the requirements, terms and conditions set forth in 13 VAC 10-40-10 through 13 VAC 10-40-220 shall apply to the flexible alternative mortgage loan programs.

VA.R. Doc. No. R03-313; Filed August 5, 2003, 2:33 p.m.

◆ ————— ◆

TITLE 14. INSURANCE

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 Regulation: 14 VAC 5-310. Rules Governing Actuarial Opinions and Memoranda (amending 14 VAC 5-310-10, 14 VAC 5-310-20, 14 VAC 5-310-30, 14 VAC 5-310-40, 14 VAC 5-310-50, 14 VAC 5-310-80, 14 VAC 5-310-90, and 14 VAC 5-310-100; adding 14 VAC 5-310-105; repealing 14 VAC 5-310-60, 14 VAC 5-310-70, and 14 VAC 5-310-110).

Statutory Authority: §§ 12.1-13, 38.2-223, and 38.2-3127.1 of the Code of Virginia.

Public Hearing Date: Hearing will be scheduled if requested.
Public comments may be submitted until October 15, 2003.

Agency Contact: Ernest L. Johnson, III, Life Actuary, State Corporation Commission, Bureau of Insurance, P.O. Box 1157, Richmond, VA 23218, telephone (804) 371-9589, FAX (804) 371-9511, or e-mail ejohnson@scc.state.va.us.

Summary:

The proposed revisions amend the rules governing actuarial opinions and memoranda required of life and health insurers by repealing 14 VAC 5-310-60, 14 VAC 5-310-70, and 14 VAC 5-310-110, adding 14 VAC 5-310-105 to address notification requirements for opinions in error and amended opinions, and revising all other sections of the chapter to require that companies subject to the provisions of § 38.2-3127.1 of the Code of Virginia annually file actuarial opinions, which, as defined by the rules, must be prepared by qualified appointed actuaries and based on an asset adequacy analysis that is to be documented in a confidential asset adequacy memorandum with a regulatory (confidential) asset adequacy issues summary. The proposed revisions delete provisions in current rules that describe authorized exemptions and filing exceptions. The proposed revisions also delete provisions that have allowed companies to file a statement of actuarial opinion not including asset adequacy analysis. The proposed revisions adopt for Virginia many of the provisions, including recommended language for actuarial opinions, adopted by

the National Association of Insurance Commissioners in 2001 for its Actuarial Opinion and Memorandum Regulation.

AT RICHMOND, AUGUST 5, 2003

COMMONWEALTH OF VIRGINIA

At the relation of the

STATE CORPORATION COMMISSION

Ex Parte: In the matter of CASE NO. INS-2003-00165
Adopting Revisions to the Rules
Governing Actuarial Opinions
and Memoranda

ORDER TO TAKE NOTICE

Section 12.1-13 of the Code of Virginia provides that the Commission shall have the power to promulgate rules and regulations in the enforcement and administration of all laws within its jurisdiction, and § 38.2-223 of the Code of Virginia provides that the Commission may issue any rules and regulations necessary or appropriate for the administration and enforcement of Title 38.2 of the Code of Virginia.

Section 38.2-3127.1 of the Code of Virginia provides that the Commission shall promulgate regulations governing the specifics of the annual actuarial opinion required pursuant to that section.

The rules and regulations issued by the Commission pursuant to § 38.2-223 of the Code of Virginia are set forth in Title 14 of the Virginia Administrative Code.

The Bureau of Insurance has submitted to the Commission proposed revisions to Chapter 310 of Title 14 of the Virginia Administrative Code entitled "Rules Governing Actuarial Opinions and Memoranda," which amend the rules at 14 VAC 5-310-10 through 14 VAC 5-310-50, and 14 VAC 5-310-80 through 14 VAC 5-310-100, propose a new rule at 14 VAC 5-310-105, and repeal the rules at 14 VAC 5-310-60, 14 VAC 5-310-70, and 14 VAC 5-310-110.

The proposed revisions adopt for Virginia many of the provisions adopted by the National Association of Insurance Commissioners in 2001 for its Actuarial Opinion and Memorandum Regulation.

The Commission is of the opinion that the proposed revisions submitted by the Bureau of Insurance should be considered for adoption with an effective date of December 31, 2003.

IT IS THEREFORE ORDERED THAT:

(1) The proposed revisions to the "Rules Governing Actuarial Opinions and Memoranda," which amend the rules at 14 VAC 5-310-10 through 14 VAC 5-310-50, and 14 VAC 5-310-80 through 14 VAC 5-310-100, propose a new rule at 14 VAC 5-310-105, and repeal the rules at 14 VAC 5-310-60, 14 VAC 5-310-70, and 14 VAC 5-310-110, be attached hereto and made a part hereof.

(2) All interested persons who desire to comment in support of or in opposition to, or to request a hearing to oppose the adoption of, the proposed revisions shall

file such comments or hearing request on or before October 15, 2003, in writing with the Clerk of the Commission, Document Control Center, P.O. Box 2118, Richmond, Virginia 23218, in accordance with the Commission's Rules of Practice and Procedure and shall refer to Case No. INS-2003-00165.

(3) If no written request for a hearing on the proposed revisions is filed on or before October 15, 2003, the Commission, upon consideration of any comments submitted in support of or in opposition to the proposed revisions, may adopt the revisions proposed by the Bureau of Insurance.

(4) An attested copy hereof, together with a copy of the proposed revisions, shall be sent by the Clerk of the Commission to the Bureau of Insurance in care of Deputy Commissioner Douglas C. Stolte, who forthwith shall give further notice of the proposed adoption of the revisions to the rules by mailing a copy of this Order, together with the proposed revisions, to all companies subject to the provisions of § 38.2-3127.1 of the Code of Virginia, including fraternal benefit societies licensed under Chapter 41 of Title 38.2, and all other companies licensed by the Commission to write or reinsure policies or agreements providing any form of life, life insurance, or annuity benefits, and all life insurers licensed by the Commission to write or reinsure accident and sickness insurance.

(5) The Commission's Division of Information Resources forthwith shall cause a copy of this Order, together with the proposed revisions, to be forwarded to the Virginia Registrar of Regulations for appropriate publication in the Virginia Register of Regulations.

(6) On or before August 11, 2003, the Commission's Division of Information Resources shall make available this Order and the attached proposed revisions on the Commission's website, <http://www.state.va.us/scc/caseinfo/orders.htm>.

(7) The Bureau of Insurance shall file with the Clerk of the Commission an affidavit of compliance with the notice requirements of paragraph (4) above.

CHAPTER 310.
RULES GOVERNING ACTUARIAL OPINIONS AND
MEMORANDA.

14 VAC 5-310-10. Purpose.

The purpose of this chapter (14 VAC 5-310-10 ~~et seq.~~) is to prescribe:

1. ~~Guidelines and standards~~ *Requirements* for statements of actuarial opinion ~~which that~~ are to be submitted in accordance with § 38.2-3127.1 ~~B 4~~ of the Code of Virginia, and for memoranda in support thereof;
2. ~~Guidelines and standards for statements of actuarial opinion which are to be submitted when a company is exempt from filing the actuarial opinion prescribed by § 38.2-3127.1 B 1 of the Code of Virginia; and~~

~~3.2. Rules applicable to the appointment of an appointed actuary; and~~

3. *Guidance as to the meaning of "adequacy of reserves."*

14 VAC 5-310-20. Authority; effective date.

This chapter (14 VAC 5-310-10 ~~et seq.~~) is adopted and promulgated by the commission pursuant to §§ 12.1-13, 38.2-223, and 38.2-3127.1 of the Code of Virginia. This chapter will take effect for annual statements for the year-ending December 31, 1992. *Except as otherwise specifically provided, revisions to this chapter shall be effective upon adoption by the commission and applicable as to annual statements and actuarial opinions, memoranda, and statements of reserves filed with the commission for periods ending on or after December 31 of the year in which the revision is adopted.*

~~If a foreign or alien company's state of domicile makes provision in its insurance code or regulations for a later effective date, this later effective date will apply to the company, but under no circumstances will the effective date apply beyond December 31, 1993.~~

14 VAC 5-310-30. Scope.

A. This chapter (14 VAC 5-310-10 ~~et seq.~~) shall apply to all companies subject to the provisions of § 38.2-3127.1 of the Code of Virginia, including fraternal benefit societies licensed under Chapter 41 (§ 38.2-4100 et seq.) of Title 38.2 and all other companies licensed under Title 38.2 of the Code of Virginia to write and reinsure policies or agreements providing any form of life, life insurance, or annuity benefits as those terms are defined in §§ 38.2-102 through 38.2-107.1 of the Code of Virginia *and also to any life insurer authorized to write or reinsure accident and sickness insurance as defined in § 38.2-109 of the Code of Virginia.*

B. This chapter shall be applied in a manner that allows the appointed actuary to utilize professional judgment in performing the asset analysis and developing the actuarial opinion and supporting memoranda, consistent with relevant actuarial standards of practice unless the commission determines particular specifications are necessary for an acceptable opinion to be rendered relative to the adequacy of reserves and related items. Particular specifications, including specific methods of actuarial analysis and actuarial assumptions, may be promulgated by rule or order of the commission or by an administrative letter issued by the Commissioner of Insurance.

C. This chapter, as reflected in rules adopted by the commission by order entered November 5, 1992, in Case No. INS920377, shall be applicable to all annual statements filed with the commission ~~on or after the effective date of this chapter December 15, 1992, and before December 31, 2003. Except with respect to companies which are exempted pursuant to 14 VAC 5-310-60 of this chapter,~~ *On and after December 31, 2003, a statement of opinion on the adequacy of the reserves and related actuarial items based on an asset adequacy analysis in accordance with 14 VAC 5-310-80 of this chapter, and a memorandum in support thereof in accordance with 14 VAC 5-310-90 of this chapter, shall be required each year in accordance with rules as revised and*

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~~adopted by order of the commission entered in Case No. INS-2003-00165. Any company so exempted must file a statement of actuarial opinion pursuant to 14 VAC 5-310-70 of this chapter.~~

~~B. Notwithstanding the foregoing, the Commission may require any company otherwise exempt pursuant to this chapter to submit a statement of actuarial opinion and to prepare a memorandum in support thereof in accordance with 14 VAC 5-310-80 and 14 VAC 5-310-90 of this chapter if, in the opinion of the Commission, an asset adequacy analysis is necessary with respect to the company.~~

14 VAC 5-310-40. Definitions.

As used in this chapter unless the context clearly indicates otherwise:

"Actuarial opinion" means the opinion of an appointed actuary regarding the adequacy of reserves and related actuarial items based on an asset adequacy analysis in accordance with 14 VAC 5-310-80 and with applicable Actuarial Standards of Practice.

"Actuarial Standards Board" means the board established by the American Academy of Actuaries to develop and promulgate standards of actuarial practice.

"Annual statement" means that statement required by § 38.2-1300 of the Code of Virginia to be filed by the company with the commission annually.

"Appointed actuary" means any individual who is appointed or retained in accordance with the requirements set forth in 14 VAC 5-310-50 C of this chapter to provide the actuarial opinion and supporting memorandum as required by § 38.2-3127.1 of the Code of Virginia.

"Asset adequacy analysis" means an analysis that meets the standards and other requirements referred to in 14 VAC 5-310-50 D of this chapter. It may take many forms, including, but not limited to, cash flow testing, sensitivity testing or applications of risk theory.

"Commission" means the Virginia State Corporation Commission.

"Commissioner" means the *Commissioner of Insurance in Virginia unless specific reference is made to another state, in which case "commissioner" means the Insurance Commissioner, Director, Superintendent or other supervising regulatory official of a given state who is responsible for administering the insurance laws of said that state.*

"Company" means a life insurer, company or fraternal benefit society subject to the provisions of this chapter.

"NAIC" means the National Association of Insurance Commissioners.

~~"Non-investment grade bonds" are those which are (i) rated 3, 4, 5 or 6 by the NAIC Securities Valuation Office, or (ii) if not rated by the Securities Valuation Office, are rated in an equivalent grade by a national rating agency recognized by the Commission.~~

"Qualified actuary" means any individual who meets the requirements set forth in 14 VAC 5-310-50 B of this chapter.

14 VAC 5-310-50. General requirements for actuarial opinions.

A. ~~Submission of~~ *The following requirements apply to all companies submitting a statement of actuarial opinion in compliance with § 38.2-3127.1 of the Code of Virginia.*

1. ~~There is to be included on or attached to Page 1 of the annual statement for each year beginning with the year in which this chapter (14 VAC 5-310-10 et seq.) becomes effective ending on or after December 31, 1992, the statement of an appointed actuary, entitled "Statement of Actuarial Opinion," setting forth an opinion relating to reserves and related actuarial items held in support of policies and contracts, in accordance with 14 VAC 5-310-80 of this chapter; provided, however, that any company exempted pursuant to 14 VAC 5-310-60 of this chapter from submitting a statement of actuarial opinion in accordance with 14 VAC 5-310-80 of this chapter shall include on or attach to Page 1 of the annual statement a statement of actuarial opinion rendered by an appointed actuary in accordance with 14 VAC 5-310-70 of this chapter.~~

~~2. If in the previous year a company provided a statement of actuarial opinion in accordance with 14 VAC 5-310-70 of this chapter, and in the current year fails the exemption criteria of 14 VAC 5-310-60 C 1, 2 or 5 of this chapter to again provide an actuarial opinion in accordance with 14 VAC 5-310-70, the statement of actuarial opinion in accordance with 14 VAC 5-310-80 shall not be required until August 1 following the date of the annual statement. In this instance, the company shall provide a statement of actuarial opinion in accordance with 14 VAC 5-310-70 with appropriate qualification noting the intent to subsequently provide a statement of actuarial opinion in accordance with 14 VAC 5-310-80.~~

~~3. In the case of a statement of actuarial opinion required to be submitted by a foreign or alien company, the Commissioner may accept the statement of actuarial opinion filed by such company with the commissioner of another state if the Commission determines that the opinion reasonably meets the requirements applicable to a company domiciled in Virginia.~~

~~4. 2. Upon written request by the company, the commission may grant an extension of the date for submission of the statement of actuarial opinion.~~

B. ~~Qualified actuary.~~ A "qualified actuary" is an individual who:

1. Is a member in good standing of the American Academy of Actuaries; ~~and~~

2. Is qualified to sign statements of actuarial opinion for life and health insurance company annual statements in accordance with the American Academy of Actuaries qualification standards for actuaries signing such statements; ~~and~~

3. Is familiar with the valuation requirements applicable to life and health insurance companies; ~~and~~

4. Has not been found by the commission (or if so found has subsequently been reinstated as a qualified actuary), following appropriate notice and hearing, to have:

- a. Violated any provision of, or any obligation imposed by Title 38.2 of the Code of Virginia or other law in the course of his ~~or her~~ dealings as a qualified actuary; ~~or~~
- b. Been found guilty of fraudulent or dishonest practices; ~~or~~
- c. Demonstrated his ~~or her~~ incompetency, lack of cooperation, or untrustworthiness to act as a qualified actuary; ~~or~~
- d. Submitted to the commission during the past five years, pursuant to this chapter, an actuarial opinion or memorandum that the commission rejected because it did not meet the provisions of this chapter, including standards set by the Actuarial Standards Board; or
- e. Resigned or been removed as an actuary within the past five years as a result of acts or omissions indicated in any adverse report on examination or as a result of failure to adhere to generally acceptable actuarial standards; and

5. Has not failed to notify the commission of any action taken by the commissioner of any other state similar to that under subdivision 4 ~~above of this subsection.~~

~~C. Appointed actuary.~~ An "appointed actuary" is a qualified actuary who is appointed or retained to prepare the statement of actuarial opinion required by this chapter, either directly by or by the authority of the board of directors through an executive officer of the company *other than the qualified actuary*. The company shall give the commission timely written notice of the name, title (and, in the case of a consulting actuary, the name of the firm) and manner of appointment or retention of each person appointed or retained by the company as an appointed actuary and shall state in such notice that the person meets the requirements set forth in 14 VAC 5-310-50 B. Once notice is furnished, no further notice is required with respect to this person, provided that the company shall give the commission timely written notice in the event the actuary ceases to be appointed or retained as an appointed actuary or to meet the requirements set forth in 14 VAC 5-310-50 B. If any person appointed or retained as an appointed actuary replaces a previously appointed actuary, the notice shall so state and give the reasons for replacement.

~~D. Standards for asset adequacy analysis.~~ The asset adequacy analysis required by this chapter *shall*:

- 1. ~~Shall~~ Conform to the *Actuarial Standards of Practice* as promulgated from time to time by the Actuarial Standards Board and on any additional standards under this chapter, which standards are to form the basis of the statement of actuarial opinion in accordance with ~~14 VAC 5-310-80 of this chapter; and~~
- 2. ~~Shall~~ Be based on methods of analysis as are deemed appropriate for such purposes by the Actuarial Standards Board.

~~E. Liabilities to shall be covered- in conformity with the following:~~

1. Under authority of § 38.2-3127.1 of the Code of Virginia, the statement of actuarial opinion shall apply to all in-force business on the statement date, *whether directly issued or assumed*, regardless of when or where issued, e.g., reserves reported in reportable for 2002 in Exhibits 8, 9, 5, 5A, 6, and 40 7 of the NAIC annual statement for life insurers, ~~and~~; claim liabilities reported in Exhibit 44- 8 (2002) in Part I of ~~such the life insurer's annual statement;~~ and equivalent items in ~~the any separate account statement(s) statement~~ or other annual financial statements filed pursuant to §§ 38.2-1300, 38.2-1301 or 38.2-4126 of the Code of Virginia.

2. If the appointed actuary determines as the result of asset adequacy analysis that a reserve should be held in addition to the aggregate reserve held by the company and calculated in accordance with methods set forth ~~for policies providing life insurance, annuity or endowment benefits in §§38.2-3137, 38.2-3138, 38.2-3141, and 38.2-3142 of the Code of Virginia; for policies providing disability, accident and sickness benefits in the Commission's Rules Governing Reserve Standards for Accident and Sickness Insurance Contracts Policies, Chapter 320, 14 VAC 5-320-10 et seq. of this title, and any supplemental and related rules and regulations; and, for certain other companies affected by this chapter, in §§ 38.2-1311, 38.2-3816, 38.2-3923, 38.2-4010, 38.2-4011 and , or § 38.2-4125 of the Code of Virginia; Article 3 (§ 38.2-3136 et seq.) of Chapter 31 of Title 38.2 of the Code of Virginia; a rule or regulation of the commission applicable to the company; or any additional or further guidance provided by the NAIC Accounting Practices and Procedures Manual, whether in a Statement of Statutory Accounting Principle or in an actuarial guideline or other appendix,~~ the company shall establish ~~such the~~ additional reserve.

~~3. For years ending prior to December 31, 1994, the company may, in lieu of establishing the full amount of the additional reserve in the annual statement for that year, set up an additional reserve in an amount not less than the following:~~

~~December 31, 1992: The additional reserve divided by three.~~

~~December 31, 1993: Two times the additional reserve divided by three.~~

4-3. Additional reserves established under subdivisions ~~subdivision 2 or 3 above of this subsection~~ and deemed not necessary in subsequent years may be released. Any amounts released ~~must shall~~ be disclosed in the actuarial opinion for the applicable year. The release of such reserves would not be deemed an adoption of a lower standard of valuation.

14 VAC 5-310-60. Required opinions. (Repealed).

~~A. In accordance with § 38.2-3127.1 of the Code of Virginia, every company doing business in Virginia shall annually submit the opinion of an appointed actuary as provided for by this chapter (14 VAC5-310-10 et seq.). The type of opinion submitted shall be determined by the provisions set forth in~~

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~~this section and shall be in accordance with the applicable provisions in this chapter.~~

~~B. Company categories. For purposes of this chapter, companies shall be classified as follows based on the admitted assets as of the end of the calendar year for which the actuarial opinion is applicable:~~

- ~~1. Category A shall consist of those companies whose admitted assets do not exceed \$20 million;~~
- ~~2. Category B shall consist of those companies whose admitted assets exceed \$20 million but do not exceed \$100 million;~~
- ~~3. Category C shall consist of those companies whose admitted assets exceed \$100 million but do not exceed \$500 million; and~~
- ~~4. Category D shall consist of those companies whose admitted assets exceed \$500 million.~~

~~C. Exemption eligibility tests.~~

~~1. Any Category A company that, for any year beginning with the year in which this chapter, 14 VAC 5-310-10 et seq., becomes effective, meets all of the following criteria shall be eligible for exemption from submission of a statement of actuarial opinion in accordance with 14 VAC 5-310-80, for the year in which these criteria are met. The ratios in subdivisions a, b and c below shall be calculated based on amounts as of the end of the calendar year for which the actuarial opinion is applicable.~~

~~a. The ratio of the sum of capital and surplus to the sum of cash and invested assets is at least equal to 0.10.~~

~~b. The ratio of the sum of the reserves and liabilities for annuities and deposits to the total admitted assets is less than 0.30.~~

~~c. The ratio of the book value of the non-investment grade bonds to the sum of capital and surplus is less than 0.50.~~

~~d. The company has not been designated by the National Association of Insurance Commissioners (NAIC) as a first priority company in any of the two calendar years preceding the calendar year for which the actuarial opinion is applicable, or a second priority company in each of the two calendar years preceding the calendar year for which the actuarial opinion is applicable, or the company has resolved the first or second priority status to the satisfaction of the commissioner of the state of domicile and said commissioner has so notified the chair of the NAIC Life and Health Actuarial Task Force and the NAIC Staff and Support Office.~~

~~2. Any Category B company that, for any year beginning with the year in which this chapter (14 VAC 5-310-10 et seq.) becomes effective, meets all of the following criteria shall be eligible for exemption from submission of a statement of actuarial opinion in accordance with 14 VAC 5-310-80 of this chapter for the year in which the criteria are met. The ratios in subdivisions a, b and c below shall be calculated based on amounts as of the end of the calendar year for which the actuarial opinion is applicable.~~

~~a. The ratio of the sum of capital and surplus to the sum of cash and invested assets is at least equal to 0.07.~~

~~b. The ratio of the sum of the reserves and liabilities for annuities and deposits to the total admitted assets is less than 0.40.~~

~~c. The ratio of the book value of the non-investment grade bonds to the sum of capital and surplus is less than 0.50.~~

~~d. The company has not been designated by the National Association of Insurance Commissioners (NAIC) as a first priority company in any of the two calendar years preceding the calendar year for which the actuarial opinion is applicable, or a second priority company in each of the two calendar years preceding the calendar year for which the actuarial opinion is applicable, or the company has resolved the first or second priority status to the satisfaction of the commissioner of the state of domicile and said commissioner has so notified the chair of the NAIC Life and Health Actuarial Task Force and the NAIC Staff and Support Office.~~

~~3. Any Category A or Category B company that meets all of the criteria set forth in subdivisions 1 or 2 of this subsection, whichever is applicable, is exempted from submission of a statement of actuarial opinion in accordance with 14 VAC 5-310-80 of this chapter unless the Commission specifically indicates to the company that the exemption is not to be taken.~~

~~4. Any Category A or Category B company that, for any year beginning with the year in which this chapter becomes effective, is not exempted under subdivision 3 of this subsection shall be required to submit a statement of actuarial opinion in accordance with 14 VAC 5-310-80 of this chapter for the year for which it is not exempt.~~

~~5. Any Category C company that, after submitting an opinion in accordance with 14 VAC 5-310-80, meets all of the following criteria shall not be required, unless required in accordance with subdivision 6 below, to submit a statement of actuarial opinion in accordance with 14 VAC 5-310-80 more frequently than every third year. Any Category C company which fails to meet all of the following criteria for any year shall submit a statement of actuarial opinion in accordance with 14 VAC 5-310-80 for that year. The ratios in subdivisions a, b and c below shall be calculated based on amounts as of the end of the calendar year for which the actuarial opinion is applicable.~~

~~a. The ratio of the sum of capital and surplus to the sum of cash and invested assets is at least equal to 0.05.~~

~~b. The ratio of the sum of the reserves and liabilities for annuities and deposits to the total admitted assets is less than 0.50.~~

~~c. The ratio of the book value of the non-investment grade bonds to the sum of the capital and surplus is less than 0.50.~~

~~d. The company has not been designated by the National Association of Insurance Commissioners (NAIC) as a first priority company in any of the two calendar years preceding the calendar year for which the actuarial~~

~~opinion is applicable, or a second priority company in each of the two calendar years preceding the calendar year for which the actuarial opinion is applicable, or the company has resolved the first or second priority status to the satisfaction of the commissioner of the state of domicile and said commissioner has so notified the chair of the NAIC Life and Health Actuarial Task Force and the NAIC Staff and Support Office.~~

~~6. Any company which is not required by this section to submit a statement of actuarial opinion in accordance with 14 VAC 5-310-80 for any year shall submit a statement of actuarial opinion in accordance with 14 VAC 5-310-70 of this chapter for that year unless as provided for by 14 VAC 5-310-30. B. The Commission requires a statement of actuarial opinion in accordance with 14 VAC 5-310-80.~~

~~D. Large companies. Every Category D company shall submit a statement of actuarial opinion in accordance with 14 VAC 5-310-80 of this chapter for each year beginning with the year in which this chapter becomes effective.~~

14 VAC 5-310-70. Statement of actuarial opinion that does not include an asset adequacy analysis. *(Repealed)*.

~~A. General description. The statement of actuarial opinion required by this section shall consist of a paragraph identifying the appointed actuary and his or her qualifications; a regulatory authority paragraph stating that the company is exempt pursuant to this chapter (14 VAC 5-310-10 et seq.) from submitting a statement of actuarial opinion based on an asset adequacy analysis and that the opinion, which is not based on an asset adequacy analysis, is rendered in accordance with this section; a scope paragraph identifying the subjects on which the opinion is to be expressed and describing the scope of the appointed actuary's work; and an opinion paragraph expressing the appointed actuary's opinion as required by §38.2-3127.1 of the Code of Virginia.~~

~~B. Recommended language. The following language provided is that which is typical circumstances would be included in a statement of actuarial opinion in accordance with this section. The language may be modified as needed to meet the circumstances of a particular case, but the appointed actuary should use language which clearly expresses his or her professional judgment. However, in any event the opinion shall retain all pertinent aspects of the language provided in this section.~~

~~1. The opening paragraph should indicate the appointed actuary's relationship to the company. For a company actuary, the opening paragraph of the actuarial opinion should read as follows:~~

~~"I, [name of actuary], am [title] of [name of company] and a member of the American Academy of Actuaries. I was appointed by, or by the authority of, the Board of Directors of said insurer to render this opinion as stated in the letter to the Commission dated [insert date]. I meet the Academy qualification standards for rendering the opinion and am familiar with the valuation requirements applicable to life and health companies."~~

~~For a consulting actuary, the opening paragraph of the actuarial opinion should contain a sentence such as:~~

~~"I, [name and title of actuary], a member of the American Academy of Actuaries, am associated with the firm of [insert name of consulting firm]. I have been appointed by, or by the authority of, the Board of Directors of [name of company] to render this opinion as stated in the letter to the Commission dated [insert date]. I meet the Academy qualification standards for rendering the opinion and am familiar with the valuation requirements applicable to life and health insurance companies."~~

~~2. The regulatory authority paragraph should include a statement such as the following: "Said company is exempt pursuant to Regulation [insert designation] of the [name of state] Insurance Department from submitting a statement of actuarial opinion based on an asset adequacy analysis. This opinion, which is not based on an asset adequacy analysis, is rendered in accordance with 14 VAC 5-310-70."~~

~~3. The scope paragraph should contain a sentence such as the following: "I have examined the actuarial assumptions and actuarial methods used in determining reserves and related actuarial items listed below, as shown in the annual statement of the company, as prepared for filing with state regulatory officials, as of December 31, []."~~

~~The paragraph should list items and amounts with respect to which the appointed actuary is expressing an opinion. The list should include but not be necessarily limited to:~~

- ~~a. Aggregate reserve and deposit funds for policies and contracts included in Exhibit 8 of the NAIC annual statement for life insurers;~~
- ~~b. Aggregate reserve and deposit funds for policies and contracts included in Exhibit 9 of the NAIC annual statement for life insurers;~~
- ~~c. Deposit funds, premiums, dividend and coupon accumulations and supplementary contracts not involving life contingencies included in Exhibit 10 of the NAIC annual statement for life insurers; and~~
- ~~d. Policy and contract claims liability end of current year included in Exhibit 11, Part I of the NAIC annual statement for life insurers.~~

~~4. If the appointed actuary has examined the underlying records, the scope paragraph should also include the following:~~

~~"My examination included such review of the actuarial assumptions and actuarial methods and of the underlying basic records and such tests of the actuarial calculations as I considered necessary."~~

~~5. If the appointed actuary has not examined the underlying records, but has relied upon listings and summaries of policies in force prepared by the company or a third party, the scope paragraph should include a sentence such as one of the following:~~

~~"I have relied upon listings and summaries of policies and contracts and other liabilities in force prepared by [name and title of company officer certifying in force records] as certified in the attached statement. (See accompanying affidavit by a company officer.) In other respects my examination included~~

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~~review of the actuarial assumptions and actuarial methods and such tests of the actuarial calculations as I considered necessary."~~

~~OR~~

~~"I have relied upon [name of accounting firm] for the substantial accuracy of the in-force records inventory and information concerning other liabilities, as certified in the attached statement. In other respects my examination included review of the actuarial assumptions and actuarial methods and such tests of the actuarial calculations as I considered necessary."~~

~~The statement of the person certifying should follow the form indicated by subdivision B 10 of this section.~~

~~6. The opinion paragraph should include the following:~~

~~"In my opinion the amounts carried in the balance sheet on account of the actuarial items identified above:~~

~~a. Are computed in accordance with presently accepted actuarial standards consistently applied and are fairly stated in accordance with sound actuarial principles;~~

~~b. Are based on actuarial assumptions which produce reserves at least as great as those called for in any contract provision as to reserve basis and method, and are in accordance with all other contract provisions;~~

~~c. Meet the requirements of Title 38.2 of the Code of Virginia, and related rules, regulations and administrative promulgations [OR: of the insurance law and regulations of the company's state of domicile] and are at least as great as the minimum aggregate amounts required by the state in which this statement is filed;~~

~~d. Are computed on the basis of assumptions consistent with those used in computing the corresponding items in the annual statement of the preceding year end with any exceptions as noted below; and~~

~~e. Include provision for all actuarial reserves and related statement items which ought to be established.~~

~~The actuarial methods, considerations and analyses used in forming my opinion conform to the appropriate Standards of Practice as promulgated by the Actuarial Standards Board, which standards form the basis of this statement of opinion."~~

~~7. The concluding paragraph should document the eligibility for the company to provide an opinion as provided by this section. It shall include the following:~~

~~"This opinion is provided in accordance with Section 7 of the NAIC Actuarial Opinion and Memorandum Regulation. As such it does not include an opinion regarding the adequacy of reserves and related actuarial items when considered in light of the assets which support them.~~

~~Eligibility for section 7 is confirmed as follows:~~

~~a. The ratio of the sum of capital and surplus to the sum of cash and invested assets is [insert amount], which equals or exceeds the applicable criterion based on the admitted assets of the company (14 VAC 5-310-60 C).~~

~~b. The ratio of the sum of the reserves and liabilities for annuities and deposits to the excess of the total admitted assets is [insert amount], which is less than the applicable criteria based on the admitted assets of the company (14 VAC 5-310-60 C).~~

~~c. The ratio of the book value of the non-investment grade bonds to the sum of capital and surplus is [insert amount], which is less than the applicable criteria of 0.50.~~

~~d. To my knowledge, the company has not been designated by the NAIC as a first priority company in any of the two calendar years preceding the calendar year for which the actuarial opinion is applicable, or a second priority company in each of the two calendar years preceding the calendar year for which the actuarial opinion is applicable or the company has resolved the first or second priority status to the satisfaction of the commissioner of the state of domicile and said commissioner has so notified the chair of the NAIC Life and Health Actuarial Task Force and the NAIC Staff and Support Office.~~

~~e. To my knowledge there is not a specific request from any commissioner requiring an asset adequacy analysis opinion.~~

~~_____
Signature of Appointed Actuary~~

~~_____
Address of Appointed Actuary~~

~~_____
Telephone Number of Appointed Actuary"~~

~~8. If there has been any change in the actuarial assumptions from those previously employed, that change should be described in the annual statement or in a paragraph of the statement of actuarial opinion, and the reference in subdivision B 6 d of this section above to consistency should read as follows:~~

~~"...With the exception of the change described on Page [] of the annual statement (or in the preceding paragraph)."~~

~~The adoption for new issues or new claims or other new liabilities of an actuarial assumption which differs from a corresponding assumption used for prior new issues or new claims or other new liabilities is not a change in actuarial assumptions within the meaning of this subdivision.~~

~~(9) If the appointed actuary is unable to form an opinion, he or she shall refuse to issue a statement of actuarial opinion. If the appointed actuary's opinion is adverse or qualified, he or she shall issue an adverse or qualified actuarial opinion explicitly stating the reason(s) for such opinion. This statement should follow the scope paragraph and precede the opinion paragraph.~~

~~(10) If the appointed actuary does not express an opinion as to the accuracy and completeness of the listings and summaries of policies in force, there should be attached to the opinion, the statement of a company officer or~~

~~accounting firm who prepared such underlying data similar to the following:~~

~~"I [name of officer], [title] of [name and address of company or accounting firm], hereby affirm that the listings and summaries of policies and contracts in force as of December 31, [], prepared for and submitted to [name of appointed actuary], were prepared under my direction and, to the best of my knowledge and belief, are substantially accurate and complete.~~

~~_____
Signature of the Officer of the Company or Accounting Firm~~

~~_____
Address of the Officer of the Company or Accounting Firm~~

~~_____
Telephone Number of the Officer of the Company or Accounting Firm"~~

14 VAC 5-310-80. Statement of actuarial opinion based on an asset adequacy analysis.

A. ~~General description.~~ The statement of actuarial opinion submitted in accordance with this section shall consist of:

1. A paragraph identifying the appointed actuary and his ~~or her~~ qualifications (see *and complying with the requirements of subdivision B 1 of this section*);
2. A scope paragraph identifying the subjects on which an opinion is to be expressed and describing the scope of the appointed actuary's work, including a tabulation delineating the reserves and related actuarial items ~~which that~~ have been analyzed for asset adequacy and the method of analysis, (~~see subdivision B 2 of this section~~) and identifying the reserves and related actuarial items covered by the opinion ~~which that~~ have not been so analyzed (see *subdivision B 2 of this section*);
3. A reliance paragraph describing those areas, if any, where the appointed actuary has deferred to other experts in developing data, procedures or assumptions, (e.g., anticipated cash flows from currently owned assets, including variation in cash flows according to economic scenarios (see subdivision B 3 of this section)), supported by a statement of each such expert in the form prescribed by subsection E of this section; ~~and~~
4. An opinion paragraph expressing the appointed actuary's opinion with respect to the adequacy of the supporting assets to mature the liabilities (see subdivision B 6 of this section); ~~and~~
5. One or more additional paragraphs, *which* will be needed in individual company cases *to address matters such as follows the following*:
 - a. If the appointed actuary considers it necessary to state a qualification of his ~~or her~~ *the* opinion;
 - b. ~~If the appointed actuary must disclose the method of aggregation for reserves of different products or lines of business for asset adequacy analysis;~~

~~e. If the appointed actuary must disclose reliance upon any portion of the assets supporting the Asset Valuation Reserve (AVR), Interest Maintenance Reserve (IMR) or other mandatory or voluntary statement reserves for asset adequacy analysis;~~

~~e.b. If the appointed actuary must disclose an inconsistency in the method of analysis or basis of asset allocation used at the prior opinion date with that used for this opinion;~~

~~e.c. If the appointed actuary must disclose whether additional reserves of the prior opinion date are released as of this opinion date, and the extent of the release;~~

~~f.d. If the appointed actuary chooses to add a paragraph briefly describing the assumptions ~~which that~~ form the basis for the actuarial opinion.~~

B. ~~Recommended language.~~ The following paragraphs are to be included in the statement of actuarial opinion in accordance with this section. Language is that which in typical circumstances should be included in a statement of actuarial opinion. The language may be modified as needed to meet the circumstances of a particular case, but the appointed actuary should use language ~~which that~~ clearly expresses his ~~or her~~ professional judgment. However, in any event the opinion shall retain all pertinent aspects of the language provided in this section.

1. The opening paragraph should generally indicate the appointed actuary's relationship to the company and his ~~or her~~ qualifications to sign the opinion. For a company actuary, the opening paragraph of the actuarial opinion should ~~read include a statement such as follows~~:

"I, [name], am [title] of [insurance company name] and a member of the American Academy of Actuaries. I was appointed by, or by the authority of, the Board of Directors of said insurer to render this opinion as stated in the letter to the commission dated [insert date]. I meet the Academy qualification standards for rendering the opinion and am familiar with the valuation requirements applicable to life and health insurance companies."

For a consulting actuary, the opening paragraph should contain a ~~sentence statement~~ such as:

"I, [name], a member of the American Academy of Actuaries, am associated with the firm of [name of consulting firm]. I have been appointed by, or by the authority of, the Board of Directors of [name of company] to render this opinion as stated in the letter to the commission dated [insert date]. I meet the Academy qualification standards for rendering the opinion and am familiar with the valuation requirements applicable to life and health insurance companies."

2. The scope paragraph should include a statement such as the following:

"I have examined the actuarial assumptions and actuarial methods used in determining reserves and related actuarial items listed below, as shown in the annual statement of the company, as prepared for filing with state regulatory officials, as of December 31, 19[]20[]. Tabulated below are those

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reserves and related actuarial items which that have been subjected to asset adequacy analysis.

Table of Reserves and Liabilities
Asset Adequacy Tested Amounts

Formula	Additional	Analysis	Other	Total
Reserves	Actuarial	Method	Amount	Amount
	Reserves á(b)ã	á(b)ã		(1)+(2) +(3)

Statement

Item	(1)	(2)	(3)	(4)
------	-----	-----	-----	-----

—

Exhibit 8

A Life Insurance

B Annuities

C Supplementary

Contracts

Involving

Life

Contingencies

D Accidental

Death Benefit

E Disability—

Active

F Disability—

Disabled

G Miscellaneous

TOTAL (Exhibit

8

Item 1, page 3)

Exhibit 9

A Active Life

Reserve

B Claim Reserve

TOTAL (Exhibit

9

Item 2, Page 3)

Exhibit 10

1. Premiums and

Other Deposit

Funds

1.1 Policyholder

Premiums

(Page 3, Line

10.1)

1.2 Guaranteed

Interest

Contracts

(Page 3, Line

10.2)

1.3 Other Contract

Deposit Funds

(Page 3, Line

10.3)

2. Supplementary

Contracts Not

Involving

Life

Contingencies

(Page 3, Line

3)

3. Dividend and

Coupon

Accumulations

(Page 3, Line

5)

TOTAL (Exhibit

10)

Exhibit 11 Part 1

1. Life (Page 3,

Line 4.1)

2. Health (Page 3,

Line 4.3)

TOTAL (Exhibit

11, Part 1)

Separate Accounts

(Page 3, Line

27)

TOTAL (Sep

Acct)

TOTAL RESERVES

IMR (Page _____, Line _____) á(e)ã

AVR (Page _____, Line _____) á(e)ã

<i>Asset Adequacy Tested Amounts ((1) and (2)) – Reserves and Liabilities</i>					
<i>Statement Item</i>	<i>(1) Formula Reserves</i>	<i>(2) Additional Actuarial Reserves (a)</i>	<i>Analysis Method (b)</i>	<i>(3) Other Amount</i>	<i>(4) Total Amount (1)+(2)+(3)</i>
<i>Exhibit 5</i>					
<i>A. Life Insurance</i>					
<i>B. Annuities</i>					
<i>C. Supplementary Contracts With Life Contingencies</i>					
<i>D. Accidental Death Benefits</i>					
<i>E. Disability – Active Lives</i>					
<i>F. Disability – Disabled Lives</i>					
<i>G. Miscellaneous Reserves</i>					
<i>Total (Exh. 5 – Page 3, Item 1)</i>					
<i>Other actuarial items (Page _____, Line _____)</i>					
<i>Exhibit 6</i>					
<i>A. Active Life Reserve</i>					
<i>B. Claim Reserve</i>					
<i>Total (Exh. 6 – Page 3, Item 2)</i>					
<i>Exhibit 7</i>					
<i>Guaranteed Interest Contracts (Column 2, Line 14)</i>					
<i>Supplemental Contracts and Annuities Certain (Column 3, Line 14)</i>					
<i>Dividend Accumulations or Refunds (Column 4, Line 14)</i>					
<i>Deposit-type Contracts (Column 5, Line 14)</i>					
<i>Other (Column 6, Line 14)</i>					
<i>Total – Exh. 7 Net Balance (Column 1, Line 14)</i>					
<i>Exhibit 8 - Part 1</i>					
<i>1. Life (Page 3, Item 4.1)</i>					
<i>2. Health (Page 3, Item 4.2)</i>					
<i>Total Exhibit 8, Part 1</i>					
<i>Separate Accounts (Page 3 of the Annual Statement of the Separate Accounts, Items 1, 2, 3.1, 3.2, 3.3)</i>					
TOTAL RESERVES					

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IMR (General Account, Page ____ Line ____)	
(Separate Accounts, Page ____ Line ____)	
AVR (Page ____ Line ____)	(c)
Net Deferred and Uncollected Premium	

Notes: ~~(a)~~ a. The additional actuarial reserves are the reserves established under 14 VAC 5-310-50 E 2 or 3 of this chapter.

~~(b)~~ b. The appointed actuary should indicate the method of analysis, determined in accordance with the standards for asset adequacy analysis referred to in 14 VAC 5-310-50 D of this chapter, by means of symbols which should be defined in footnotes to the table.

~~(c)~~ c. Allocated amounts amount of Asset Valuation Reserve (AVR)."

3. If the appointed actuary has relied on other experts to develop certain portions of the analysis, the reliance paragraph should include a statement such as the following:

"I have relied on [name], [title] for [e.g., "anticipated cash flows from currently owned assets, including variations in cash flows according to economic scenarios] and," or "certain critical aspects of the analysis performed in conjunction with forming my opinion,]" as certified in the attached statement. I have reviewed the information relied upon for reasonableness."

OR

~~"I have relied on personnel as cited in the supporting memorandum for certain critical aspects of the analysis in reference to the accompanying statement."~~

Such a statement of reliance on other experts should be accompanied by a statement by each of such experts of in the form prescribed by subsection E of this section.

4. If the appointed actuary has examined the underlying asset and liability records, the reliance paragraph should also include the following a statement such as:

"My examination included such review of the actuarial assumptions and actuarial methods and of the underlying basic asset and liability records and such tests of the actuarial calculations as I considered necessary. I also reconciled the underlying basic asset and liability records to [exhibits and schedules listed as applicable] of the company's current annual statement."

5. If the appointed actuary has not examined the underlying records, but has relied upon data (e.g., listings and summaries of policies in-force and/or asset records) prepared by the company or a third party, the reliance paragraph should include a sentence statement such as:

"In forming my opinion on [specify type of reserves], I have relied upon listings and summaries [of policies and contracts, of asset records] data prepared by [name and title of company officer certifying in-force records or other data] as certified in the attached statements. I evaluated that data for reasonableness and consistency. I also reconciled that data to [exhibits and schedules to be

listed as applicable] of the company's current annual statement. In other respects my examination included such review of the actuarial assumptions and actuarial methods and such tests of the actuarial calculations as I considered necessary."

OR

~~"I have relied upon [name of accounting firm] for the substantial accuracy of the in-force records inventory and information concerning other liabilities, as certified in the attached statement. In other respects my examination included review of the actuarial assumptions and actuarial methods and tests of the actuarial calculations as I considered necessary."~~

~~Such a section must~~ This part of the statement shall be accompanied by a statement by each person relied upon of in a form substantially similar to that prescribed by Section 8E [subsection E of this section].

6. The opinion paragraph should include the following a statement such as:

"In my opinion the reserves and related actuarial values concerning the statement items identified above:

a. Are computed in accordance with presently accepted actuarial standards consistently applied and are fairly stated, in accordance with sound actuarial principles;

b. Are based on actuarial assumptions which that produce reserves at least as great as those called for in any contract provision as to reserve basis and method, and are in accordance with all other contract provisions;

c. Meet the requirements of Title 38.2 of the Code of Virginia and related rules, regulations and administrative promulgations [OR: the insurance law and regulation of the state of domicile] and are at least as great as the minimum aggregate amounts required by the state in which this statement is filed;

d. Are computed on the basis of assumptions consistent with those used in computing the corresponding items in the annual statement of the preceding year-end (with any exceptions noted below); and

e. Include provision for all actuarial reserves and related statement items which ought to be established.

The reserves and related items, when considered in light of the assets held by the company with respect to such reserves and related actuarial items including, but not limited to, the investment earnings on such the assets, and the considerations anticipated to be received and retained under such the policies and contracts, make adequate provision, according to presently accepted actuarial standards of practice, for the anticipated cash flows required by the contractual obligations and related expenses of the company.

The actuarial methods, considerations and analyses used in forming my opinion conform to the appropriate Actuarial Standards of Practice as promulgated by the Actuarial Standards Board, which standards form the basis of this statement of opinion."

AND ONE OF THE FOLLOWING TWO PARAGRAPHS, WHICHEVER IS APPLICABLE:

"This opinion is updated annually as required by statute. To the best of my knowledge, there have been no material changes from the applicable date of the annual statement to the date of the rendering of this opinion which should be considered in reviewing this opinion."

OR:

"The following material change(s), which occurred between the date of the statement for which this opinion is applicable and the date of this opinion, should be considered in reviewing this opinion:" [Describe the change or changes.]

AND:

"The impact of unanticipated events subsequent to the date of this opinion is beyond the scope of this opinion. The analysis of asset adequacy portion of this opinion should be viewed recognizing that the company's future experience may not follow all the assumptions used in the analysis.

Signature of Appointed Actuary

Address of Appointed Actuary

Telephone Number of Appointed Actuary

Date"

C. ~~Assumptions for new issues.~~ The adoption for new issues or new claims or other new liabilities of an actuarial assumption ~~which that~~ differs from a corresponding assumption used for prior new issues or new claims or other new liabilities is not a change in actuarial assumptions within the meaning of this section.

D. ~~Adverse opinions.~~ If the appointed actuary is unable to form an opinion, ~~then he or she~~ shall refuse to issue a statement of actuarial opinion. If the appointed actuary's opinion is adverse or qualified, ~~then he or she~~ shall issue an adverse or qualified actuarial opinion explicitly stating the ~~reason(s) reason or reasons~~ for ~~such the~~ opinion. This statement should follow the scope paragraph and precede the opinion paragraph.

E. ~~Reliance on data furnished by other persons.~~ If the appointed actuary ~~does not express an opinion as to~~ *relies on the certification of others on matters concerning the accuracy and or completeness of the listings and summaries of policies in force and/or asset oriented information, there shall be attached to the opinion the statement of a company officer or accounting firm who prepared such underlying data similar to the following: any data underlying the actuarial opinion, or the appropriateness of any other information used by the appointed actuary in forming the actuarial opinion, the actuarial opinion should so indicate the persons the actuary is relying upon and a precise identification of the items subject to reliance. In addition, the persons on whom the appointed actuary relies shall provide a certification that precisely identifies the items on which the person is providing information and a statement as to the accuracy, completeness or reasonableness, as applicable, of the items. This certification shall include the signature, title, company,*

address, and telephone number of the person rendering the certification, as well as the date on which it is signed.

~~"I [name of officer], [title], of [name of company or accounting firm], hereby affirm that the listings and summaries of policies and contracts in force as of liabilities prepared for and submitted to [name of appointed actuary] were prepared under my direction and, to the best of my knowledge and belief, are substantially accurate and complete~~

Signature of the Officer of the Company or Accounting Firm

Address of the Officer of the Company or Accounting Firm

Telephone Number of the Officer of the Company or Accounting Firm"

AND/OR

~~"I, [name of officer], [title] of [name of company, accounting firm, or security analyst], hereby affirm that the listings, summaries and analyses relating to data prepared for and submitted to [name of appointed actuary] in support of the asset oriented aspects of the opinion were prepared under my direction and, to the best of my knowledge and belief, are substantially accurate and complete.~~

Signature of the Officer of the Company, Accounting Firm or the Security Analyst

Address of the Officer of the Company, Accounting Firm or the Security Analyst

Telephone Number of the Officer of the Company, Accounting Firm or the Security Analyst"

14 VAC 5-310-90. Description of actuarial memorandum issued for an asset adequacy analysis and regulatory asset adequacy issues summary.

A. ~~General~~ *The following general provisions shall apply with respect to the preparation and submission of the asset adequacy memorandum required by § 38.2-3127.1 of the Code of Virginia.*

- 1. In accordance with § 38.2-3127.1 of the Code of Virginia, the appointed actuary shall prepare a memorandum to the company describing the analysis done in support of his or her opinion regarding the reserves ~~under a 14 VAC 5-310-80 opinion.~~ The memorandum shall be made available for examination by the commission upon its request but shall be returned to the company after such examination and shall not be considered a record of the ~~insurance department Bureau of Insurance~~ or subject to automatic filing with the commission.

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2. In preparing the memorandum, the appointed actuary may rely on, and include as a part of his or her memorandum, memoranda prepared and signed by other actuaries who are qualified within the meaning of 14 VAC 5-310-50 B, with respect to the areas covered in such memoranda, and so state in their memoranda.

3. If the commission requests a memorandum and no such memorandum exists or if the commission finds that the analysis described in the memorandum fails to meet the standards of the Actuarial Standards Board or the standards and requirements of this chapter, the commission may designate a qualified actuary to review the opinion and prepare such supporting memorandum as is required for review. The reasonable and necessary expense of the independent review shall be paid by the company but shall be directed and controlled by the commission.

4. The reviewing actuary shall have the same status as an examiner for purposes of obtaining data from the company and the work papers and documentation of the reviewing actuary shall be retained by the commission; provided, however, that any information provided by the company to the reviewing actuary and included in the work papers shall be considered as material provided by the company to the commission and shall be kept confidential to the same extent as is prescribed by law with respect to other material provided by the company to the commission pursuant to the statute governing this chapter, ~~14 VAC 5-310-10 et seq.~~ The reviewing actuary shall not be an employee of a consulting firm involved with the preparation of any prior memorandum or opinion for the insurer pursuant to this chapter for any one of the current year or the preceding three years.

5. *In accordance with § 38.2-3127.1 of the Code of Virginia, the appointed actuary shall prepare a regulatory asset adequacy issues summary, the contents of which are specified in subsection C of this section. The regulatory asset adequacy issues summary shall be submitted no later than March 15 of the year following the year for which a statement of actuarial opinion based on asset adequacy is required. The regulatory asset adequacy issues summary is to be kept confidential to the same extent and under the same conditions as the actuarial memorandum.*

~~B. Details of the memorandum section documenting asset adequacy analysis (14 VAC 5-310-80).~~

~~When an actuarial opinion under 14 VAC 5-310-80 is provided, B. A section of the memorandum shall demonstrate document asset adequacy testing by demonstrating that the analysis has been done in accordance with the standards for asset adequacy referred to in 14 VAC 5-310-50 D and any additional standards under this chapter, ~~14 VAC 5-310-10 et seq.~~ It shall specify:~~

1. For reserves:

- a. Product descriptions including market description, underwriting and other aspects of a risk profile, and the specific risks the appointed actuary deems significant;
- b. Source of liability in force;

c. Reserve method and basis;

d. Investment reserves;

e. Reinsurance arrangements-;

f. Identification of any explicit or implied guarantees made by the general account in support of benefits provided through a separate account policy or contract and the methods used by the appointed actuary to provide for the guarantees in the asset adequacy analysis; and

g. Documentation of assumptions to test reserves for (i) lapse rates, whether base or excess, (ii) interest crediting rate strategy, (iii) mortality, (iv) policyholder dividend strategy, (v) competitor or market interest rate, (vi) annuitization rates, (vii) commission and expenses, and (viii) morbidity.

The documentation of the assumptions shall be such that an actuary reviewing the actuarial memorandum could form a conclusion as to the reasonableness of the assumption.

2. For assets:

a. Portfolio descriptions, including a risk profile disclosing the quality, distribution and types of assets;

b. Investment and disinvestment assumptions;

c. Source of asset data;

d. Asset valuation bases-; and

e. Documentation of assumptions made for (i) default costs, (ii) bond call function, (iii) mortgage prepayment function, (iv) determining market value for assets sold due to disinvestment strategy, and (v) determining yield on assets acquired through the investment strategy.

The documentation of the assumptions shall be such that an actuary reviewing the actuarial memorandum could form a conclusion as to the reasonableness of the assumption.

3. For the analysis basis:

a. Methodology;

b. Rationale for ~~inclusion/exclusion~~ inclusion or exclusion of different blocks of business and how pertinent risks were analyzed;

c. Rationale for degree of rigor in analyzing different blocks of business, *including the rationale for the level of "materiality" that was used in determining how rigorously to analyze different blocks of business;*

d. Criteria for determining asset adequacy, *including in the criteria the precise basis for determining if assets are adequate to cover reserves under "moderately adverse conditions" or other conditions as specified in relevant actuarial standards of practice; and*

~~e. Effect~~ *Whether the impact of federal income taxes, was considered and the method of treating reinsurance and other relevant factors in the asset adequacy analysis.*

4. A Summary of ~~results~~ material changes in methods, procedures, or assumptions from prior year's asset adequacy analysis;

5. ~~Conclusion(s)~~. Summary of results; and

6. Conclusion.

C. The regulatory asset adequacy issues summary shall contain the name of the company for which the regulatory asset adequacy issues summary is being supplied and shall be signed and dated by the appointed actuary rendering the actuarial opinion. The regulatory asset adequacy issues summary also shall include each of the following:

1. Descriptions of the scenarios tested, including whether those scenarios are stochastic or deterministic, and the sensitivity testing done relative to those scenarios. If negative ending surplus results under certain tests in the aggregate, the actuary should describe those tests and the amount of additional reserve as of the valuation date which, if held, would eliminate the negative aggregate surplus values. Ending surplus values shall be determined by either extending the projection period until the in-force and associated assets and liabilities at the end of the projection period are immaterial or by adjusting the surplus amount at the end of the projection period by an amount that appropriately estimates the value that reasonably can be expected to arise from the assets and liabilities remaining in force;

2. The extent to which the appointed actuary uses assumptions in the asset adequacy analysis that are materially different from the assumptions used in the previous asset adequacy analysis;

3. The amount of reserves and the identity of the product lines that had been subjected to asset adequacy analysis in the prior opinion but were not subject to analysis for the current opinion;

4. Comments on any interim results that may be of significant concern to the appointed actuary;

5. The methods used by the actuary to recognize the impact of reinsurance on the company's cash flows, including both assets and liabilities, under each of the scenarios tested; and

6. Whether the actuary has been satisfied that all options whether explicit or embedded, in any asset or liability, including but not limited to those affecting cash flows embedded in fixed income securities, and equity-like features in any investments have been appropriately considered in the asset adequacy analysis.

D. ~~Conformity to standards of practice.~~ The actuarial methods, considerations, and analyses shall conform to appropriate standards of practice and the memorandum shall include a the following statement:

"Actuarial methods, considerations and analyses used in the preparation of this memorandum conform to the appropriate Standards of Practice as promulgated by the Actuarial Standards Board, which standards form the basis for this memorandum."

E. An appropriate allocation of assets in the amount of Interest Maintenance Reserve (IMR), whether positive or negative, shall be used in any asset adequacy analysis. Analysis of risks regarding asset default shall include an appropriate allocation of assets supporting the Asset Valuation Reserve (AVR); these AVR assets shall not be applied for any other risks with respect to reserve adequacy. Analysis of these and other risks shall include assets supporting other mandatory or voluntary reserves available to the extent not used for risk analysis and reserve support. The amount of the assets used for the AVR shall be disclosed in the Table of Reserves and Liabilities of the opinion and in the memorandum. The method used for selecting particular assets or allocated portions of assets shall be disclosed in the memorandum.

14 VAC 5-310-100. Additional considerations for analysis Record retention.

A. ~~Aggregation.~~ For the asset adequacy analysis for the statement of actuarial opinion provided in accordance with 14 VAC 5-310-80 of this chapter, reserves and assets may be aggregated by either of the following methods:

1. ~~Aggregate the reserves and related actuarial items, and the supporting assets, for different products or lines of business, before analyzing the adequacy of the combined assets to mature the combined liabilities. The appointed actuary must be satisfied that the assets held in support of the reserves and related actuarial items so aggregated are managed in such a manner that the cash flows from the aggregated assets are available to help mature the liabilities from the blocks of business that have been aggregated.~~

2. ~~Aggregate the results of asset adequacy analysis of one or more products or lines of business, the reserves for which prove through analysis to be redundant, with the results of one or more products or lines of business, the reserves for which prove through analysis to be deficient. The appointed actuary must be satisfied that the asset adequacy results for the various products or lines of business for which the results are so aggregated:~~

a. ~~Are developed using consistent economic scenarios, or~~

b. ~~Are subject to mutually independent risks, i.e., the likelihood of events impacting the adequacy of the assets supporting the redundant reserves is completely unrelated to the likelihood of events impacting the adequacy of the assets supporting the deficient reserves.~~

~~In the event of any aggregation, the actuary must disclose in his or her opinion that such reserves were aggregated on the basis of method 1, 2 a or 2 b above, whichever is applicable, and describe the aggregation in the supporting memorandum.~~

B. ~~Selection of assets for analysis.~~ The appointed actuary shall analyze only those assets held in support of the reserves which are the subject for specific analysis, hereafter called "specified reserves." A particular asset or portion thereof supporting a group of specified reserves cannot support any other group of specified reserves. An asset may be allocated over several groups of specified reserves. The annual statement value of the assets held in support of the reserves shall not exceed the annual statement value of the specified reserves, except as provided in subsection C below. If the

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~~method of asset allocation is not consistent from year to year, the extent of its inconsistency should be described in the supporting memorandum.~~

~~C. Use of assets supporting the interest maintenance reserve and the asset valuation reserve. An appropriate allocation of assets in the amount of the Interest Maintenance Reserve (IMR), whether positive or negative, must be used in any asset adequacy analysis. Analysis of risks regarding asset default may include an appropriate allocation of assets supporting the Asset Valuation Reserve (AVR); these AVR assets may not be applied for any other risks with respect to reserve adequacy. Analysis of these and other risks may include assets supporting other mandatory or voluntary reserves available to the extent not used for risk analysis and reserve support.~~

~~The amount of the assets used for the AVR must be disclosed in the Table of Reserves and Liabilities of the opinion and in the memorandum. The method used for selecting particular assets or allocated portions of assets must be disclosed in the memorandum.~~

~~D. Required interest scenarios. For the purpose of performing the asset adequacy analysis required by this chapter, the qualified actuary is expected to follow standards adopted by the Actuarial Standards Board; nevertheless, the appointed actuary must consider in the analysis the effect of at least the following interest rate scenarios:~~

- ~~1. Level with no deviation;~~
- ~~2. Uniformity increasing over 10 years at a 0.5% per year and then level;~~
- ~~3. Uniformly increasing at 1.0% per year over five years and then uniformly decreasing at 1.0% per year to the original level at the end of 10 years and then level;~~
- ~~4. An immediate increase of 3.0% and then level;~~
- ~~5. Uniformly decreasing over 10 years at a 0.5% per year and then level;~~
- ~~6. Uniformly decreasing at 1.0% per year over five years and then uniformly increasing at 1.0% per year to the original level at the end of 10 years and then level; and~~
- ~~7. An immediate decrease of 3.0% and then level.~~

~~For these and other scenarios which may be used, projected interest rates for a five year Treasury Note need not be reduced beyond the point where such five year Treasury Note yield would be at 50% of its initial level.~~

~~The beginning interest rates may be based on interest rates for new investment as of the valuation date similar to recent investments allocated to support the product being tested or be based on an outside index, such as Treasury yields, of assets of the appropriate length on a date close to the valuation date. Whatever method is used to determine the beginning yield curve and associated interest rates should be specifically defined. The beginning yield curve and associated interest rates should be consistent for all interest rate scenarios.~~

~~E. Documentation. The appointed actuary shall retain on file, for at least seven years, sufficient documentation so that it will be possible to determine the procedures followed, the analyses performed, the bases for assumptions and the results obtained.~~

14 VAC 5-310-105. Notification of an opinion in error; amended opinion.

A. The insurer required to furnish an actuarial opinion shall require its appointed actuary to notify its Board of Directors or its audit committee, in writing, within five business days after any determination by the appointed actuary that the opinion or other valuation submitted to the domiciliary commissioner was in error as a result of reliance on data or other information, other than assumptions, that, as of the balance sheet date, was factually incorrect. The opinion shall be considered to be in error if the opinion would not have been issued or would have been materially altered had the correct data or other information been used. The opinion shall not be considered in error if it would have been materially altered or not issued solely because of data or information concerning events subsequent to the balance sheet date or because actual results differ from those projected.

B. Notification shall be required when a determination prescribed by this section is made between the issuance of the opinion and the balance sheet date for which the next opinion will be issued. The notification shall include a summary of such findings and an amended opinion.

C. An insurer that is notified pursuant to subsections A or B of this section shall forward a copy of the summary and amended opinion to the domiciliary commissioner within five business days of receipt of such report and shall provide the appointed actuary making the notification with notice of the transmittal and a copy of the summary and amended opinion being furnished to the domiciliary commissioner. If the appointed actuary fails to receive the notice and prescribed copies within the five-business-day period referred to in the previous sentence, that appointed actuary shall notify the domiciliary commissioner within the next five business days that the submitted opinion should no longer be relied.

D. If the actuary learns that the data or other information relied upon was factually incorrect, but cannot determine what, if any, changes are needed in the statement of opinion, the actuary and the company shall undertake as quickly as is reasonably practicable those procedures necessary for the actuary to make the determination described in subsection A of this section. If the insurer does not provide the necessary data corrections and other support, including financial support, within 10 business days, the actuary shall proceed to notify the domiciliary commissioner in accordance with provisions in subsection C of this section.

E. No qualified actuary shall be liable in any manner to any person for any statement made pursuant to this section if the statement is made in a good faith effort to comply with this section.

14 VAC 5-310-110. Opinion and memorandum submission dates. (Repealed).

~~The opinions and memoranda filed with the Commission pursuant to this chapter and §38.2-3127.1 of the Code of Virginia shall be subject to submission and due dates as given in this chapter and summarized in Exhibit A attached to this chapter (14 VAC 5-310-10 et seq.).~~

VA.R. Doc. No. R03-317; Filed August 6, 2003, 11:52 a.m.

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TITLE 18. PROFESSIONAL AND OCCUPATIONAL LICENSING

BOARD OF ACCOUNTANCY

Title of Regulation: 18 VAC 5-30. Continuing Professional Education Sponsor Registration Rules and Regulations (Repealing).

Statutory Authority: §§ 54.1-4403 and 54.1-4410 of the Code of Virginia.

Public Hearing Date: N/A

Public comments may be submitted until October 31, 2003.
(See Calendar of Events section for additional information)

Agency Contact: Nancy Taylor Feldman, Executive Director, Board of Accountancy, 3600 West Broad Street, Suite 696, Richmond, VA 23230-4916, telephone (804) 367-8505, FAX (804) 367-2174, or e-mail boa@boa.state.va.us.

Basis: According to § 54.1-4403 of the Code of Virginia, the Board of Accountancy has the power and duty to "promulgate regulations in accordance with the Administrative Process Act (§ 2.2-4000 et seq.) necessary to assure continued competency, to prevent deceptive or misleading practices by practitioners and to effectively administer the regulatory system."

The board also has the statutory authority, according to § 54.1-4410, to "promulgate regulations establishing procedures and requirements for the renewal of a CPA certificate granted by the Board," which include requirements for continuing professional education (CPE). Subsections B and C of this section state that, with regards to the board's CPE requirements, the "certificate holder may choose the areas of study and courses."

Finally, this action is being submitted in compliance with § 2.2-4016 of the Administrative Process Act, which states that "a regulation may be repealed after its effective date only in accordance with the provisions of this chapter that govern the adoption of regulations."

Purpose: The National Association of State Boards of Accountancy (NASBA), a national organization to which the Virginia Board of Accountancy belongs, along with 53 other state boards of accountancy, has several divisions that strictly monitor CPE and CPE sponsors nationwide. These divisions include: (i) the Regulatory Compliance Services, which offers

programs to assist state boards and their licensees to determine high quality CPE sponsors, (ii) the National Registry of CPE Sponsors, which lists organizations that provide high quality CPE in accordance with nationally recognized standards, (iii) the Quality Assurance Service, which recognizes organizations that provide self-study CPE courses of the highest caliber, (iv) the CPE Advisory Committee, which reviews the methodology of maintaining qualitative aspects of the National Registry of CPE Sponsors and advises the NASBA Board of Directors about innovations in CPE, and (v) the Statement on Standards of CPE Programs, which were developed jointly by NASBA and the American Institute of Certified Public Accountants (AICPA).

After a review of the substance and purpose of the existing CPE Sponsor Registration regulations, and of the programs provided by NASBA, the Board of Accountancy determined that such regulations in the Commonwealth were no longer necessary to fulfill the board's statutory mandate, enumerated in § 54.1-4403, to establish qualifications for licensure, and CPE standards as a condition for the issuance or renewal of a CPA certificate. The board deemed these regulations as repetitious and unduly burdensome on CPE sponsors in the Commonwealth in light of regulations and programs at the national level. Further, the board determined that the repeal of these regulations would not jeopardize the public's safety or welfare in the Commonwealth.

On July 19, 1999, the board unanimously voted to repeal the existing CPE Sponsor Registration regulations, which were effective October 23, 1991. Therefore, the purpose of this action is to repeal these regulations.

Substance: The purpose of this action is to repeal the board's existing CPE Sponsor Registration Rules and Regulations (18 VAC 5-30).

Issues: The repeal of the board's existing CPE Sponsor Registration regulations will not disadvantage the public or the Commonwealth because national organizations such as NASBA and AICPA strictly monitor CPE and CPE sponsors.

Fiscal Impact: The repeal of the board's existing CPE Sponsor Registration regulations will not have a fiscal impact on the state or localities (since no costs will be necessary to implement this action), or on individuals or businesses.

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.

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Summary of the proposed regulation. The Board of Accountancy (board) proposes to repeal the Continuing Professional Education Sponsor Registration Rules and Regulations.

Estimated economic impact. The Virginia Board of Accountancy Regulations (18 VAC 5-21) require that individuals meet Continuing Professional Education (CPE) requirements in order to obtain and renew their board-issued CPA certificates.¹ CPAs who perform services for the public are required to "... obtain 120 hours of CPE during each CPE reporting cycle with a minimum of 20 hours per CPE reporting year. The CPA certificate holder may choose the areas of study and courses." The reporting cycle is three years. CPAs who perform services for only nonpublic clients or who are employed as an educator in the field of accounting are required to meet the following CPE requirements as a condition of renewal of the person's CPA certificate: (i) for the three-year reporting period beginning July 1, 2002, a minimum of 45 credit hours with a minimum of 10 hours per year; (ii) for the three-year reporting period beginning July 1, 2005, a minimum of 90 credit hours with a minimum of 15 hours per year; and (iii) for the three-year reporting periods beginning on or after July 1, 2008, a minimum of 120 credit hours with a minimum of 20 hours per year. The CPA certificate holder may choose the areas of study and courses.²

The Continuing Professional Education Sponsor Registration Rules and Regulations (18 VAC 5-30) require that "individuals seeking registration as a Virginia-approved (CPE) sponsor ... apply on a form provided by the board and submit an application fee of \$165." According to the board, the application package is extensive and takes a considerable amount of time to fill out. Registration lasts two years. The renewal fee is \$165. The sponsor regulations also require that sponsor courses "contribute to the professional competence of participants."

The board proposes to repeal the Continuing Professional Education Sponsor Registration Rules and Regulations, which will save CPE sponsors the \$165 application and renewal fee, as well as the time and effort required to complete the application package and renewal forms. The lower cost of becoming and remaining a sponsor may induce more individuals to become sponsors and offer CPE courses. The lower cost to sponsors and increased supply of courses may result in the availability of lower-priced CPE courses for CPAs. CPE requirements will remain for individuals seeking to obtain or retain a board-issued CPA certificate.

The board conducts 30 to 40 audits every month of CPA-certificate holders to check whether they are in compliance with their CPE requirements.³ The board will accept as evidence of CPE credit hours documents from sponsors that include any of the following designations: CE (continuing education), CPE (continuing professional education), CLE (continuing legal education), Cme (continuing medical

education) or QAS (quality assurance service).⁴ The board will not require that the sponsor be licensed, registered, certified, or evaluated in any way by any outside organization. The course can potentially be on any topic; the subject matter does not need to be related to accounting.⁵ For example, the course could be on how to meet and obtain new clients. The CPA-certificate holder does not need to demonstrate that he has gained any knowledge or acquired any new skill.

The proposed repeal of the Continuing Professional Education Sponsor Registration Rules and Regulations allows CPAs to acquire CPE credits from sponsors who have not been evaluated in any way by any outside organization. Under the sponsor regulations, sponsors are evaluated by the board and are restricted to offering courses that "contribute to the professional competence of participants." Thus, the proposed repeal will likely lessen the frequency that CPAs will take courses that contribute to their professional competence. They may choose instead to take courses that may or may not relate to their business (procuring more clients, etc.), but do not enhance or update their competence in providing CPA services.

The board refers to the sponsor regulations as "repetitious and unduly burdensome on CPE sponsors in the Commonwealth, in light of regulations and programs at the national level."⁶ However, there are no federal regulations pertaining to CPE sponsors for CPAs. Also, though there is a national organization that evaluates CPE sponsors for CPAs, the National Association of State Boards of Accountancy (NASBA), the board does not require that sponsors participate in NASBA programs or that of any other organization. As described above, repealing the sponsor regulations saves costs for sponsors and potentially for CPA certificate holders as well through potentially lower fees and greater choice of courses. But the repeal also effectively lets anyone sponsor a course for CPA CPE credit, regardless of his ability or the quality or content of his course. It could be argued that CPAs are intelligent people who can determine for themselves whether a course offering will be of value to them. But if that is true, it is not at all clear why there should be a requirement that CPAs take CPE courses at all. They can choose on their own whether the course is worth their time. If the purpose of the CPE requirement is to compel CPAs to keep their knowledge and skills relevant to CPA services up to date, who otherwise would fail to do so, then there should be a mechanism to ensure that the qualifying CPE courses that they take effectively impart the relevant knowledge and skills. Perhaps requiring that sponsors earn course certification through either NASBA, some other approved certifying organization, or through the board itself would accomplish this purpose. If the board believes that the requirements of the current sponsor regulations are too burdensome, it can eliminate the regulations' unnecessarily burdensome aspects and just retain those portions that help provide some assurance toward the quality and relevance of the proposed course.

¹ There are additional requirements.

² Individuals under other circumstances have different CPE credit minimums.

³ Source: Board of Accounting

⁴ Ibid

⁵ Ibid

⁶ Source: Virginia Regulatory Town Hall Proposed Regulation Agency Background Document

Requiring CPE is costly for CPAs in time and fees, and it does not provide any true assurance that CPAs have continued to have sufficient knowledge to practice competently in their profession, particularly when the courses need not be on subjects related to enhancing or updating their professional competence. The public is informed via the Virginia Board of Accountancy Regulations (18 VAC 5-21) that CPE is defined as "an integral part of the lifelong learning required to provide competent service to the public; the formal set of activities that enables accounting professionals to maintain and increase their professional competence." Upon hearing that CPAs are required to complete CPE in order to retain their CPA certificates and that CPE is defined this way, the public may be misled into believing that holders of CPA-certificates have demonstrated up-to-date knowledge in subjects directly related to CPA services such as, for example, the latest changes to tax law. As discussed above, CPAs can in practice meet their CPE requirement without taking courses that enable them to maintain and increase their professional competence. This potential misapprehension by the public is costly in that clients may pay for a CPA's services believing that he has skills and knowledge that he does not actually possess. Potential clients may forego searching for another CPA who does have the desired skills and knowledge because of the misapprehension.

This problem may be partially alleviated if CPA certificate holders are required to disclose the courses that they have taken to meet their CPE requirement to their clients. Potential clients would have a better idea of whether a CPA has kept current on developments in the service area of interest for the client. In addition, if CPAs know that clients and potential clients will see the names of the courses that they have taken to meet their CPE requirement and the names of the course providers, it is probable that some CPAs will take more of their CPE courses in areas related to accounting than they otherwise would without a disclosure requirement. But if there is no oversight of sponsors whatsoever, sponsors may offer courses with misleading titles which CPAs could use to impress clients, but which do not actually pertain much to accounting.

There may be an even better probability that CPAs will stay current in applicable knowledge and skills if the approvable CPE credits are restricted to courses on subjects relevant to performing CPAs services. Eliminating CPE credit requirements altogether and replacing them with continued competency testing would most likely be significantly more effective and efficient in providing accurate assurance of continued competency of CPAs than do CPE requirements.⁷ Passing a continued competency exam provides significantly more information to the public concerning a CPA's knowledge and skills than do CPE requirements. This would reduce the likelihood that potential clients would misallocate their resources by hiring an individual whose skill and knowledge set were not what the client expected. Under competency testing, CPAs who are able to obtain the knowledge and skills needed to remain competent with less than 120 hours of CPE

over three years could potentially use their time and dollars more productively on other endeavors. However, they would remain free to take as many CPE courses as they wish. Hence, continued competency testing is more efficient. CPAs who fail to obtain the knowledge and skills needed to remain competent will be more accurately identified as such with continued competency testing than with CPE requirements. Being thus identified, many of these individuals would likely be compelled to make the extra effort necessary to remain competent.

Another possibility would be to eliminate CPE requirements and not have competency testing.⁸ CPAs would save on time and fees for courses that they would not have taken without the requirements; clients and potential clients would have the assurance that licensed CPAs had the knowledge and skills necessary to at one time pass their CPA exams and become licensed, without being misled about their current knowledge and skill level. Clients and potential clients could then determine on their own whether they believed that an individual CPA had been keeping up with relevant developments in the field; reputation from other satisfied or dissatisfied clients could help in this determination. Since the current CPE requirements, as interpreted by the board, allow for credit from courses that do not cover subjects relevant to performing CPA services, eliminating the CPE requirement does not actually eliminate an accurate assurance that CPAs maintain up to date knowledge and skills. It is likely that the CPE requirement compels some CPAs to take courses that improve their knowledge and skills relevant for CPA services, but as discussed above, competency testing would more effectively and efficiently compel CPAs to remain up to date and would provide clearer information to clients and potential clients.

Businesses and entities affected. The proposed repeal of the Continuing Professional Education Sponsor Registration Rules and Regulations affects the 203 CPE sponsors registered in Virginia, as well as CPAs and their clients.⁹

Localities particularly affected. The proposed repeal of the Continuing Professional Education Sponsor Registration Rules and Regulations affects all localities in the Commonwealth.

Projected impact on employment. The proposed repeal of the Continuing Professional Education Sponsor Registration Rules and Regulations reduces the costs for individuals to become CPE sponsors in Virginia. According to the board, some individuals that initially expressed interest in registering as a sponsor decided against doing so due to the time and cost involved. Thus, the elimination of the registration requirement may encourage some individuals to offer CPE courses who have chosen not to while the requirement has been in place.

As mentioned above, the elimination of the registration requirement reduces the costs for sponsors. Lower costs will allow sponsors to perhaps charge lower fees and offer courses on different subject matter. This may induce CPAs to

⁷ This is not an option currently available to the board and would require legislative action.

⁸ Ibid

⁹ Source: Board of Accounting

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demand additional CPE courses, which would increase employment hours for sponsors. The potential increase in demand is tempered by the likelihood that a significant percentage of CPAs would not desire to increase their total CPE hours, even with lower fees and additional options, since it is believed that many are currently only taking 120 hours per three years now to comply with the CPA certificate requirement.

Effects on the use and value of private property. The elimination of the registration requirement for sponsors reduces their costs and increases the value of their businesses.

Agency's Response to the Department of Planning and Budget's Economic Impact Analysis: Continuing Professional Education (CPE) is defined in regulation, to mean: "an integral part of the lifelong learning required to provide competent services to the public; the formal set of activities that enables accounting professionals to maintain and increase their professional competence."

Any coursework taken by a CPA to meet the board's CPE requirements shall be constructed in a manner to meet the board's definition of CPE. Any coursework that does not meet the board's definition is not acceptable.

Virginia CPAs and CPA firms spend thousands of dollars every year on CPE. There are many CPE training providers operating throughout the United States. A large percentage of CPE providers are registered with the National Association of State Boards of Accountancy's (NASBA) Regulatory Compliance Services Division. This service offers several programs that assist state boards including Virginia and their licensees by determining high quality CPE providers. The National Registry of CPE Sponsors (Registry) lists organizations that provide high quality CPE in accordance with nationally recognized standards. The Quality Assurance Service (QAS) recognizes organizations that provide self-study CPE courses of the highest caliber. Both programs were developed in response to requests from state boards including Virginia. When contacted by training providers who are designing CPE training programs, the board refers callers to NASBA for information on the effective design and construction of CPE programs. The training provider is not required to register with NASBA but may avail themselves of the program standards.

The board voted to repeal the Continuing Professional Education Sponsor Registration Rules and Regulations in 1999. The board was advised that the regulations had been repealed in October 1999. At that time, the application and renewal process for sponsors was discontinued. As mentioned in the EIA, the board conducts a monthly CPE compliance audit of 30-40 CPAs. After nearly four years, no CPE courses have been identified in the audit that do not comply strictly with the board's definition of CPE. The board believes that the marketplace will weed out those CPE sponsors that do not meet the requirements to provide the type of educational structure necessary for a relevant learning experience.

During the last four years, CPAs and CPA firms in Virginia have had greater flexibility in their selection of CPE and CPE

providers. This change has allowed a more tailored approach for the regulants and the board believes that the result has been enhanced services to the citizens of Virginia. Those enhanced services have cost less as a result of the elimination of the unnecessary requirement to register as a board-approved CPE sponsor.

Summary:

The proposed action repeals the existing Continuing Professional Education (CPE) Sponsor Registration Rules and Regulations (18 VAC 5-30). The board deemed these regulations as repetitious and unduly burdensome on CPE sponsors in the Commonwealth in light of regulations and programs at the national level.

VA.R. Doc. No. R03-28; Filed August 5, 2003, 12:40 p.m.

BOARD FOR BARBERS AND COSMETOLOGY

Title of Regulation: **18 VAC 41-40. Wax Technician Regulations (adding 18 VAC 41-40-10 through 18 VAC 41-40-260).**

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

Public Hearing Date: September 15, 2003 - 3 p.m.

Public comments may be submitted until October 24, 2003.
(See Calendar of Events section for additional information)

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.

Basis: The proposed regulatory action to promulgate regulations governing the licensure and practice of wax technicians under the Board for Barbers and Cosmetology is mandated by Chapter 797 of the 2002 Acts of the Assembly.

Regulations are promulgated under the general authority of Chapter 2 (§ 54.1-200 et seq.) of Title 54.1 of the Code of Virginia. Section 54.1-201(5) provides the board the authority to promulgate regulations to administer the regulatory system.

Purpose: The board proposes to promulgate regulations governing the licensure and practice of waxing as directed by Chapter 797 of the 2002 Acts of the Assembly.

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 instructor 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.

As directed by the 2002 General Assembly, this regulatory action is required to protect the health, safety and welfare of citizens of the Commonwealth in that it will provide for and ensure that licensees have met qualifications that demonstrate competency that protects the health, safety and welfare of citizens of the Commonwealth and that health and

sanitary standards and safety are adequate in shops, salons and schools where waxing services are being provided.

Substance: The proposed regulations contain provisions for the licensing of wax technicians under the Board for Barbers and Cosmetology as directed by Chapter 797 of the 2002 Acts of the Assembly. In addition to establishing the requirements for licensure, these regulations will ensure competency and integrity of all licensees, and provide for and ensure that health and sanitation standards are adequate in facilities where this service is provided.

These regulatory requirements include: (i) definitions of words and terms relative to the practice of providing waxing services that will ensure that licensees understand the scope and limitations of their profession; (ii) general requirements for obtaining a license to provide services as a wax technician or a certification to be a wax technician instructor and licenses to operate a waxing salon or waxing school; (iii) detailed curriculum and training requirements to include minimum clock hours acceptable to sit for the board approved written and practical examinations; (iv) fees for initial, renewal, and reinstatement applications for wax technicians, wax technician instructors, waxing salons, and waxing schools; (v) sanitation and safety standards for salons and schools that address disinfection and storage of implements, sanitation of equipment, and safety standards pertaining to the use of chemical products, the proper handling of blood spills, and client health guidelines.

Issues: The primary advantage of the proposed regulatory action is that it will establish the licensing requirements for the specialized practice of waxing. Currently, only licensed cosmetologists, who are required to complete 1,500 hours of training, are allowed to provide waxing services in the Commonwealth. This proposed regulatory action would allow individuals interested in only providing waxing services, to receive specialized training in the use of physical (wax) depilatory for the removal of hair rather than being required to complete extended cosmetology training provided in the cosmetology program.

The proposed regulatory action will result in an advantage to the public in that it will provide clear and effective regulations to ensure competency and integrity and prevent deceptive or misleading practices by individuals providing wax technician services.

There are no disadvantages to the public or the Commonwealth with regards to regulations governing the licensure and practice of wax technicians.

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 Chapter 797 of the 2002 Acts of Assembly that the Board of Barbers and Cosmetology promulgate regulations for the licensure/certification of wax technicians, wax technician instructors, waxing salons, and waxing schools. An emergency regulation to this effect has been in place since July 1, 2003. Prior to July 1, 2003, individuals and businesses providing waxing-related services and training are required to hold a cosmetology license issued by the Board of Barbers and Cosmetology.

The proposed regulation establishes (i) requirements for obtaining and maintaining a license/certification as a wax technician, a wax technician instructor, a waxing salon, and a waxing school, (ii) conditions for renewing or reinstating an

existing license/certification, (iii) grounds for imposing a fine, renewing or reinstating a license/certification, or revoking, suspending, or denying a license/certification, (iv) fees for issuing, renewing, or reinstating a license, (v) curriculum requirements for schools offering waxing training, and (vi) safety and sanitation procedures and standards of conduct for individuals and businesses providing waxing services and waxing training.

Estimated economic impact. Description of the regulation: The proposed regulation is intended to establish minimum training requirements for individuals providing waxing services and to ensure that individuals and businesses providing waxing services and/or waxing training meet minimum health and safety standards. Prior to July 1, 2003, (when an emergency regulation licensing/certifying wax technicians, wax technician instructors, waxing salons, and waxing schools became effective), individuals and businesses providing waxing services and training are required to hold a cosmetology license issued by the Board of Barbers and Cosmetology (BBC).

Cosmetology, as defined in the Code of Virginia, includes hair care, cosmetic treatments, nail care, and waxing. Rather than getting a cosmetology license, the proposed regulation allows individuals and businesses interested in providing only waxing-related services to do so without having to meet the more extensive requirements associated with obtaining a cosmetology license. Licenses/certifications are to be issued in the following categories: wax technician, wax technician instructor, waxing salon, and waxing school. In addition, the proposed regulation establishes requirements in order for an individual to be a wax technician examiner or chief examiner.

Wax Technicians: Individuals applying for an initial wax technician license are required to pass a BBC-approved examination, administered either by the BBC or by a designated testing service. The examination is to consist of two parts, a written section and a practical section. Applicants who fail one or both parts of the examination are allowed to seek a reexamination in the part(s) they failed within one year of the initial examination date. The regulation caps the fees

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the BBC can charge to take or retake the examination at \$225. The exact amount of the fee will depend on the cost incurred by the BBC in providing and administering the examination. Currently, the BBC charges \$50 from individuals taking or retaking the cosmetology examination. If an applicant does not pass both parts of the wax technician examination within one year, the examination fee is forfeited and the applicant is required to submit a new application and examination fee and retake both the written and practical sections of the examination.

In order to be eligible to take the examination, applicants are required to have completed an approved wax technician training program at a Virginia-licensed waxing school or at a Virginia public school. Out-of-state applicants are required to have completed the same number of hours of training as a Virginia applicant or have completed training substantially equivalent to that provided in Virginia and have six months related work experience in order to be eligible for the examination. The proposed regulation allows licenses to be granted through reciprocity to individuals licensed as wax technicians in states that have training programs and examination requirements that are substantially equivalent to Virginia's programs and requirements. Exceptions to the training requirements include individuals trained as wax technicians at a Virginia state institution (defined as institutions approved by the Department of Education and the Department of Corrections) and individuals with two years of waxing experience in the U.S. armed forces.

Individuals eligible for the examination are issued a temporary license valid for 45 days from their initial examination date. The temporary license allows individuals to wax under the supervision of a licensed wax technician or cosmetologist while they take the examination and get licensed. Temporary licenses cannot be renewed. On passing the wax technician examination, individuals are issued an initial license valid for two years from the last day of the month in which the license is issued. Individuals licensed as wax technicians can renew their license for up to 30 days after it expires and can reinstate it for up to two years after it expires. If a license has been expired for more than two years, the license holder will be required to apply for initial licensure as a new applicant.

Licensees are required to meet certain standards of practice specified in the regulation such as operating under the name in which the license is issued. Violation of state health and sanitation laws, breach of standards of practice specified in the regulation, negligence, fraud, and conviction of a misdemeanor or felony related to waxing can be grounds for imposing a fine and for revoking, suspending, or denying a license.

The regulation proposes to charge applicants \$55 for an initial license, \$55 for a renewal, and \$110 for a reinstatement. Individuals applying under reciprocity will also be required to pay the \$55 initial license fee. The fees being proposed are identical to those currently charged for the issuance of a cosmetologist license.

Wax Technician Instructors: Applicants for a wax technician instructor certification are required to hold a valid Virginia wax technician license. They are also required to either pass a

course in teaching techniques at the post-secondary level, pass a wax technician instructor examination administered by the BBC or by a designated testing service, or complete a BBC-approved instructor training course, under a licensed wax technician instructor or cosmetology instructor and at a licensed waxing or cosmetology school.

Wax technician instructor licenses are valid for as long as the individual's wax technician license is valid. The renewal and reinstatement requirements are identical to those for wax technicians. If the wax technician/wax technician instructor license has been expired for more than two years, the license holder will be required to apply as a new applicant for a wax technician license. Upon receiving the wax technician license, the individual can then apply for a new instructor certification.

Certified instructors are required to meet certain standards of practice specified in the regulation such as operating under the name in which the certification is issued. Violation of state health and sanitation laws, breach of standards of practice specified in the regulation, negligence, fraud, and conviction of a misdemeanor or felony related to waxing can be grounds for imposing a fine and for revoking, suspending, or denying certification.

No fees are to be charged for a wax technician instructor certification. Currently, initial certification as a cosmetology instructor costs \$60, renewal of an existing certification costs \$60, and reinstatement of an existing certification costs \$120.

Waxing salons: Waxing salons are required to obtain a salon license in compliance with § 54.1-704.1 of the Code of Virginia that requires individuals or entities operating barbershops, cosmetology salons, nail care salons, and waxing salons to hold a valid license issued by the BBC. The license is nontransferable. In the event of a change in name, address, or ownership or the closure of a waxing salon, owners are required to notify the BBC within 30 days.

Waxing salons are required to meet safety and sanitation standards specified in the proposed regulation. These include general safety and sanitation standards, requirements for the disinfection and storage of implements, requirements for the sanitation, maintenance, and use of equipment, articles, tools, and products, conditions under which chemical products are to be stored, and client health guidelines. Waxing salons are also required to meet additional standards of practice such as ensuring that no licensee operating at the salon performs services beyond the scope of the wax technician license.

Initial licenses are valid for two years from the last day of the month in which they are issued. A license can be renewed for up to 30 days after it expires and reinstated for up to two years after it expires. If a license has been expired for more than two years, the license holder will be required to apply for initial licensure as a new applicant.

Violation of state health and sanitation laws, breach of standards of practice specified in the regulation, operation of unlicensed wax technicians at the salon, negligence, fraud, and conviction of a misdemeanor or felony related to waxing can be grounds for imposing a fine and for revoking, suspending, or denying a license.

The regulation proposes to charge businesses and individuals seeking to obtain a waxing salon license \$90 for an initial license, \$90 for a renewal, and \$180 for a reinstatement. The proposed fees are identical to those currently charged for the issuance of a cosmetology salon license.

Waxing Schools: Waxing schools are required to obtain a license in compliance with § 54.1-704.2 of the Code of Virginia that requires individuals or entities operating schools providing training in barbering, cosmetology, nail care, and waxing to hold a valid licenses issued by the BBC. The application for a license is to be submitted to the BBC at least 60 days prior to the date for which the license is sought. The license is nontransferable. The name of the school and all signs and advertisements used by the school must indicate that it is an educational institution. In the event of a change in name, address, or ownership or the closure of a waxing school, owners are required to notify the BBC within 30 days. Waxing schools operated under the Department of Education and the Department of Corrections are exempt from the licensure requirements of this regulation.

Waxing schools are required to employ a staff of certified wax technician instructors or cosmetology instructors. They are also required to submit their waxing curriculum to the BBC for approval. The proposed regulation specifies curriculum and performance requirements, including the minimum number of clock hours of instruction and the minimum number of waxing performances. Specifically, the regulation requires that the curriculum include modules on (i) school policies, state laws, personal hygiene, and professional ethics, (ii) client consultations, (iii) salon management, (iv) skin care and treatment, (v) skin theory and the structure and composition of skin, (vi) wax treatments, and (vii) waxing procedures. The curriculum is to be completed over a minimum 115 clock hours and include at least 36 waxing performances.

If a school receives compensation for waxing services provided at its clinic, it is required to hold a valid waxing salon license and post a notice informing the public that waxing services are provided by students. Classroom instruction is to be provided in area separate from the clinic where practical instruction is conducted and waxing services are provided. Waxing schools are required to meet safety and sanitation standards specified in the proposed regulation. These include general safety and sanitation standards, requirements for the disinfection and storage of implements, requirements for the sanitation, maintenance, and use of equipment, articles, tools, and products, conditions under which chemical products are to be stored, and client health guidelines. Waxing schools are also required to meet certain additional standards of practice such as ensuring that no licensee or student performs services beyond the scope of their license or training. In addition, waxing schools are required to meet record-keeping and notification requirements specified in the regulation.

Waxing school licenses expire on December 31 of every even numbered year. Licenses can be renewed for up to 30 days after expiry. Following that, the waxing school is required to apply for reinstatement. An application for reinstatement requires the school to provide the BBC with reasons for the failure to renew and a notarized statement to the effect that currently enrolled students and students seeking to enroll

have been notified about the expiry of the license. The school is also required to consent and pass an inspection of the school. The BBC can then choose to reinstate the school's license, require requalification, or both. If the reinstatement application and fees are not received six months after the expiry of the license, graduates of the unlicensed school will no longer be eligible to take the wax technician examination. If the license has been expired for more than two years, the license holder is required to apply for initial licensure as a new applicant.

Violation of state health and sanitation laws, breach of standards of practice specified in the regulation, failure to teach the curriculum as approved, use of uncertified wax technician instructors to teach classes, negligence, fraud, and conviction of a misdemeanor or felony related to waxing can be grounds for imposing a fine and for revoking, suspending, or denying a license.

The regulation proposes to charge businesses and individuals seeking to obtain a waxing school license \$120 for an initial license, \$120 for a renewal, and \$240 for a reinstatement. The proposed fees are identical to those currently charged for the issuance of a cosmetology school license.

Examiners: The proposed regulation requires the practical section of the wax technician examination to be administered by examiners and be supervised by a chief examiner meeting BBC criteria. Examiners are required to hold a valid wax technician or cosmetologist license, have three years or more of waxing experience, and be active in the profession. Wax technicians and cosmetology instructors who are currently teaching or are school owners are barred from being examiners. Chief examiners are required to hold a valid wax technician or cosmetologist license, have five years or more of waxing experience, have three years experience as an examiner, and be active in the profession. Examiners and chief examiners are required to attend training workshops sponsored by the BBC and conduct examinations according to procedures established by the BBC.

Estimated economic impact: Under current policy, only individuals and businesses licensed or certified under the existing cosmetology regulation are allowed to provide waxing-related services and training. Rather than getting a cosmetology license, the proposed regulation allows individuals and businesses interested in providing only waxing-related services to do so without having to meet the more extensive, and largely unrelated, requirements associated with obtaining a cosmetology license. The proposed regulation is similar to the existing cosmetology regulation in most of its requirements. However, it modifies the curriculum and performance requirements such that individuals seeking to be trained as wax technicians will not be required to get training in topics unrelated to waxing.

In order to be licensed as a cosmetologist, applicants are required to have completed cosmetology training that covers a wide range of activities including but not limited to waxing. Subjects covered by cosmetology training include hair treatments, wig care, nail care, manicures and pedicures, facials and other skin care treatments, and waxing. Consequently, cosmetologists are licensed to perform various

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types of hair treatments on human hair, wigs, and hairpieces, manicure and pedicure nails, administer cosmetic treatments, and provide waxing services. Under the existing cosmetology regulation, cosmetology training is required to be provided over a minimum of 1,500 clock hours and include at least 525 performances.

The proposed regulation reduces the minimum training and performance requirements to reflect the fact that wax technicians will be providing only a small part of the range of services cosmetologists provide. Wax technician training is to be provided over a minimum of 115 clock hours and include at least 36 waxing performances.

Assuming that the curriculum and performance requirements of the proposed regulation ensure that individuals providing waxing services meet the same minimum health and safety standards that cosmetologists currently do, the proposed regulation is likely to lead to a more efficient allocation of resources and have a net positive economic impact. The efficiency gains arise from the fact that individuals seeking to get waxing training, businesses seeking to hire qualified waxing professionals, and consumers seeking to purchase waxing services will be able to do so at a lower cost and without increasing the risk to public health and safety.

Individuals seeking to provide waxing-related services will be able to get training specific to waxing. Instead of spending 1,500 hours or more than nine months full-time getting trained as a cosmetologist, individuals can get the training required to provide waxing services in a manner that is protective of public health and safety in 115 hours or a little under three weeks. Individuals seeking to be wax technicians will not be required to spend extra resources, in terms of additional time and money spent in meeting cosmetology training requirements, acquiring skills not essential to providing waxing services in a safe and hygienic manner. Moreover, the lower cost of getting the required training is likely to lower the barrier to entry and encourage more individuals to enter the profession.

Businesses (such as tanning salons and nail salons) seeking to provide waxing-related services are likely to be able to do so at a lower cost. Rather than hiring a cosmetologist to provide waxing services, businesses will be able to hire individuals with the same competence in waxing as a cosmetologist, but without the skills that cosmetologists have that are unrelated to waxing. Businesses would then be able to compensate these individuals in a manner that better reflects the value of the services provided by them. Under the policy in effect prior to July 1, 2003, a business seeking to provide waxing-related services would have to hire licensed cosmetologists. In order to be able to do so, these establishments would have to offer wages that are roughly equivalent to what a cosmetologist would earn at a cosmetology salon (assuming no significant slackness in the cosmetologist labor market). In effect, these businesses would be compensating the cosmetologists for skills that are not relevant to waxing and paying wages higher than the value of the services provided by them. By being able to hire individuals with the required competency in waxing but without the other cosmetology skills, businesses will waste fewer resources by paying individuals hired to provide waxing

services wages that are a better reflection of the value of the services provided by them. Moreover, larger number of individuals seeking training and getting licensed as wax technicians will increase competition among wax technicians and exert downward pressure on wages such that wages earned by individuals providing waxing services are equivalent to the value of the services provided by them. Lower costs of operating businesses that provide waxing-related services is likely to reduce the barrier to entry and result in more such businesses being set up in Virginia.

The reduced curriculum and performance requirements for individuals seeking to be licensed as wax technicians, the lower costs of operation for businesses that provide waxing services, and the increased number of qualified individuals and businesses providing these services is likely to reduce the cost of waxing services in Virginia. Consumers seeking to buy waxing services will be able to do so at a lower cost and without an increased risk to their health and safety.

Thus, the proposed regulation is likely to have a positive economic impact by leading to a more efficient allocation of resources. Individuals and businesses seeking to provide waxing services will not be required to waste resources learning or paying for skills not relevant to waxing. Moreover, the proposed regulation is likely to lower the barrier to entry and increase the number of individuals employed as wax technicians. By lowering the costs associated with training and hiring wax technicians and by increasing the number of individuals and businesses providing waxing services, the proposed regulation is likely to lower the price of waxing services in Virginia.

However, the standards being proposed may not necessarily lead to the most efficient allocation of resources. Requiring individuals to complete a minimum of 115 clock hours of waxing training including at least 36 waxing performances appears excessive both compared to current cosmetology requirements and compared to training requirements of other states.

(i) Comparison to Cosmetology Requirements: Currently, individuals seeking to provide waxing services in Virginia are required to complete at least 1,500 hours of training, including a minimum of 525 performances. Only a fraction of that time and those performances are spent on waxing-related subjects. In fact, the cosmetology regulation specifies a minimum of just five performances related to waxing and facials.

Based on an analysis of the cosmetology curriculum at nine cosmetology schools, only 16% of the time is spent on topics that have any relevance to waxing. A breakdown of the hours of cosmetology training by topic is presented in Table 1.

Table 1: Breakdown of Cosmetology Curriculum By Topic

Topic	percentage of time spent on the topic
Hair Care	68%
Nail Care	6%
Esthetics (or skin care)	7%
Miscellaneous	19%

Related to health and safety	12%
Unrelated to health and safety	7%

Waxing-related training is included in esthetics or skin care training provided as part of the cosmetology curriculum. The miscellaneous category includes unassigned time and training in topics such as hygiene, sanitation, state laws, business ethics, salesmanship, career development, and shop management. Of the 19% of time spent on training in the miscellaneous topics, approximately 7% is not essential to reducing the risk to public health and safety. The time is either unassigned or spent on topics such as business management, salesmanship, and the development of communication skills. Training in these areas, especially in business management and salesmanship, are not essential to ensuring that cosmetologists meet required minimum health and safety standards. Thus, only 12% of time in a cosmetology curriculum is spent on miscellaneous topics that have any relevance to health and safety issues as they relate to cosmetology. However, not all the health and safety topics covered by a cosmetology curriculum are likely to be relevant to esthetics (which includes waxing). The following analysis assumes (rather generously) that three-fourths of the health and safety requirements of a cosmetology curriculum are likely to be relevant to esthetics.

Based on the analysis of the cosmetology curriculum, it would appear that a cosmetology student spends approximately 16% of the time on topics with any relevance to esthetics (that includes 7% of time spent on esthetics training and 9% of time spent on relevant health and safety training). Thus, during a 1,500-hour cosmetology curriculum, a student would spend approximately 240 hours on training with any relevance to esthetics.

Based on an analysis of the esthetics curriculum at six schools, only 33% of the time is spent on topics that have any relevance to waxing. A breakdown of the hours of esthetics training by topic is presented in Table 2.

Table 2: Breakdown of Esthetics Curriculum By Topic

Topic	percentage of time spent on the topic
Waxing-related skin care	26%
Waxing-unrelated skin care	57%
Miscellaneous	17%
Related to health and safety	8%
Unrelated to Health and Safety	9%

The miscellaneous category includes unassigned time and training in topics such as hygiene, sanitation, state laws, business ethics, salesmanship, career development, and shop management. Of the 17% of time spent on training in the miscellaneous topics, approximately 9% is not essential to reducing the risk to public health and safety. The time is

either unassigned or spent on topics such as salon management and salesmanship. Training in areas such as salon management and salesmanship are not essential to ensuring that estheticians and wax technicians meet required minimum health and safety standards. Thus, only 8% of time in an esthetics curriculum is spent on miscellaneous topics that have any relevance to health and safety issues as they relate to esthetics. However, not all the health and safety topics covered by an esthetics curriculum are likely to be relevant to waxing. The following analysis assumes (rather generously) that nine-tenths of the health and safety requirements of an esthetics curriculum are likely to be relevant to waxing.

The proposed regulation includes salon management as one of the curriculum requirements. However, training in salon management and business ethics is not essential to ensuring that wax technicians meet required minimum health and safety standards. Inclusion of such topics in the curriculum just serve to increase the time and money spent in getting trained, without any clear benefits to public health and safety from the extra training. By increasing the costs associated with getting trained as a wax technician, extraneous curriculum requirements reduce the net economic benefits of the proposed regulation on employment, on the use and value of private property, and on consumers of waxing services in Virginia.

Based on the analysis of the esthetics curriculum, it would appear that an esthetics student spends approximately 33% of the time on topics with any relevance to waxing (that includes 26% of time spent on waxing-related skin care and 7% of time spent on relevant health and safety training). Thus, of the 240 hours in a cosmetology curriculum spent on esthetics-related training, only 79 hours have any relevance to waxing.

Based on the above analysis, a minimum of 79 clock hours of training for wax technicians would be equivalent to the waxing training currently provided to cosmetologists. In terms of the minimum number of waxing performances, current regulations require cosmetologists to perform just 5 performances related to waxing and facials. Conversations with three beauty schools in Virginia indicate that, in practice, cosmetology schools require students to perform anywhere between 5 to 26 waxing-related performances. Thus, wax technicians should be required to perform anywhere between 5 and 26 waxing performances in order for their training to be equivalent to waxing training currently provided to cosmetologists.

By requiring 115 clock hours of instruction and 36 waxing performances, the proposed regulation appears to impose standards in excess of what is currently required for a cosmetologist licensed to provide waxing services. Curriculum and performance requirements of a minimum of 79 clock hours of instruction and between 5 and 26 waxing performances would provide wax technicians with training equivalent to the waxing-related training currently provided to cosmetologists and would lead to the most efficient allocation of resources.

As the proposed regulation stands, it is likely to impose different curriculum and performance requirements for wax

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technicians and cosmetologists even though they will both be licensed to provide the same service: waxing. The purpose of regulations such as the proposed waxing regulation and the existing cosmetology regulation is to ensure that minimum health and safety standards are met and the risk to public health and safety from such activities is reduced to a level deemed appropriate. If current waxing-related cosmetology curriculum and performance requirements provide the appropriate level of protection, wax technicians should be required to meet the same curriculum and performance requirements. If, on the other hand, the curriculum and performance requirements being proposed in the waxing regulation are the minimum required in order to protect public health and safety, cosmetologists should be required to meet these curriculum and performance requirements. Whichever the case, the standards being proposed should be consistent across wax technicians and cosmetologists and should be the minimum required to reduce the risk to public health and safety from waxing-related activities.

Available data indicate that existing cosmetology curriculum and performance requirements provide an adequate level of protection to public health and safety. There have not been many health- and safety-related complaints against cosmetologists who provide waxing services. According to the Department of Professional and Occupational Regulation (DPOR), there have been less than 10 waxing-related complaints filed against cosmetologists in the fiscal year-to-date (currently there are 39,000 licensed cosmetologists operating in Virginia). Based on available data it would appear that the cosmetology curriculum and performance requirements that relate to waxing are adequate to protect public health and safety. By requiring wax technicians to meet higher curriculum and performance requirements, the proposed regulation is likely to lead to a waste of resources.

(ii) Comparison to Other States: Based on a telephone survey conducted by DPOR, New York is the only other state that issues licenses specifically for waxing. Rather than requiring a cosmetology or an esthetics license, New York allows individuals seeking to provide waxing services to be licensed as wax technicians. Individuals applying for a wax technician license are required to have had a minimum of 75 clock hours of waxing training at an approved waxing school. The curriculum is required to include at least 10 hours of training in professional requirements, 20 hours of training in safety and health issues, 10 hours of training in skin structure, disorders, and diseases, and 35 hours of training in the removal of superfluous hair.

The regulation has been in effect since January 1, 1999 and New York does not currently have any plans to increase the minimum training requirements to more than 75 hours. There are no studies or data available at this time that would indicate that the 75-hour training requirement has led to a significant increase in the risk to public health and safety. Moreover, there are no reports to indicate that the number of complaints against wax technicians is significantly more than the number of complaints against cosmetologists or estheticians providing waxing services.

Compared to existing cosmetology curriculum and performance requirements in Virginia and to existing

curriculum requirements in New York, the curriculum and performance requirements for wax technicians in the proposed regulation are higher than the minimum necessary to protect public health and safety. Thus, the proposed regulation is likely to impose unnecessary costs and lead to an economically inefficient allocation of resources. Individuals training to be wax technicians will be required to waste resources on training not essential to providing waxing services in a safe and hygienic manner. Moreover, the extra training requirements and the higher costs associated with getting the required training will create a barrier to entry and prevent individuals from seeking training and being licensed as a wax technician. Businesses seeking to hire individuals to provide waxing services will be required to waste resources by paying higher wages than if the curriculum and performance requirements were the minimum necessary to protect public health and safety. Moreover, the higher costs associated with operating such businesses are likely to limit the number of facilities providing waxing services. Consumers seeking to buy waxing services will be required to pay more than if the curriculum and performance requirements were the minimum necessary to protect public health and safety. The higher costs associated with getting the required training, the higher costs of operations for businesses providing waxing services, and the decrease in the number of individuals and businesses providing these services is likely to exert an upward effect on the price of these services in Virginia.

Conclusion: The proposed regulation is likely to lead to a more efficient allocation of resources and have a net positive economic impact. Rather than getting a cosmetology license, the proposed regulation allows individuals and businesses interested in providing only waxing-related services to do so without having to meet the more extensive, and largely unrelated, requirements associated with obtaining a cosmetology license. However, compared to existing cosmetology curriculum and performance requirements in Virginia and compared to existing curriculum requirements in New York (the only state that currently issues wax technician licenses), the curriculum and performance requirements being proposed are higher than the minimum required to protect public health and safety.

By imposing curriculum and performance requirements higher than the minimum required protect public health and safety, the proposed regulation is likely to lead to an economically inefficient allocation of resources. The requirements are likely to waste resources, reduce the number of individuals and businesses providing waxing services in Virginia, and raise the price of these services. By imposing higher-than-necessary curriculum and performance requirements and creating a barrier to entry, the regulation is likely to limit the ability of individuals seeking an entry-level job as a wax technician to get the required training and find employment. These individuals tend to be from sections of society that are economically and socially disadvantaged and that have high rates of unemployment. The proposed curriculum and performance requirements will inhibit the ability of these individuals to seek and obtain employment.

Businesses and entities affected. The proposed regulation will affect individuals seeking to be licensed as wax technicians or certified as wax technician instructors and

salons and schools seeking to provide waxing-related services and training. While most of the requirements of the proposed regulation are similar to existing cosmetology requirements, curriculum and performance requirements for wax technician training have been reduced. Thus, individuals and businesses seeking to provide waxing-related services will be able to do so at a lower cost than under the cosmetology regulation. However, compared to existing cosmetology curriculum and performance requirements in Virginia and compared to existing curriculum requirements in New York, the proposed curriculum and performance requirements are higher than what is required to protect public health and safety.

As the proposed regulation creates new categories for licensure and certification, it is not possible at this time to provide an exact number of individuals and businesses that will be affected by the regulation. However, DPOR expects to license 200-300 wax technicians, 50-100 waxing salons, and approximately 160 cosmetology schools currently in operation in Virginia to provide waxing instruction.

Localities particularly affected. The proposed regulation will affect all localities in the Commonwealth. Nail salons and tanning salon located in the beach areas are likely to benefit the most from being able to provide waxing services without having to meet all the requirements of the cosmetology regulation.

Projected impact on employment. The proposed regulation is likely to have a positive impact on employment. By reducing the curriculum and performance requirements for individuals providing waxing services, the proposed regulation is likely to lower the barrier to entry and allow more people to seek training and be licensed as wax technicians. By lowering the costs of businesses providing waxing services, the proposed regulation is likely to increase the number of such establishments. Specifically, the proposed regulation is likely to create job opportunities and benefit the more economically disadvantaged sections of society (especially women) that tend to have the highest unemployment rate. However, by imposing curriculum and performance requirements higher than necessary to protect public health and safety, the full benefits on employment of separating out the waxing requirements from the cosmetology requirements will not be felt.

Effect on the use and value of private property. Overall, the proposed regulation is likely to have a positive impact on the use and value of private property. Businesses will be allowed to provide waxing services without having to hire a licensed cosmetologist. By lowering wage costs, the proposed regulation is likely to lower the costs of operation and raise the asset values of these businesses. While some smaller cosmetology salons that continue to use cosmetologists to provide waxing services may experience a loss of business and some establishments such as tanning and nail salons now able to hire wax technicians to provide waxing services may experience an increase in business, the overall impact of the proposed regulation is likely to be positive. However, by imposing curriculum and performance requirements higher than necessary to protect public health and safety, the full benefits of the proposed regulation on the use and value of businesses providing waxing services will not be felt.

Agency's Response to the Department of Planning and Budget's Economic Impact Analysis:

The Board for Barbers and Cosmetology (board) believes that the curriculum and performances being proposed are not higher than the minimum required to protect public health and safety. The board, after discussions concerning the curriculum and performances, which included the Department of Planning and Budget, adopted as proposed 115 hours and 36 performances.

The board believes that the instruction and percentage of instruction that the Economic Impact Analysis (EIA) deems as not applicable is too high and inaccurate. For example, the EIA states that salon management and salesmanship are not essential. 18 VAC 41-40-190(7), Salon management requires instruction in business ethics and care of equipment, which the board deems necessary. In the proposed curriculum, salesmanship is not included. In 18 VAC 41-40-190(4), Client consultation includes instruction in clients' health conditions, skin analysis, treatments, client expectations, and health forms and questionnaires, which the board believes are necessary for protection of the citizens.

As of June 30, 2003, over 2,000 wax technician licenses have been issued by the board. The board adopted the proposed hours and performances to meet the minimum required to protect public health, safety, and welfare.

Summary:

The proposed regulations establish (i) requirements for obtaining and maintaining a license to provide services as a wax technician and to operate a waxing salon and waxing school; (ii) requirements for obtaining and maintaining certification to be a wax technician instructor; (iii) conditions for renewing or reinstating an existing license or certification; (iv) grounds for imposing a fine, renewing or reinstating a license or certification, or revoking, suspending, or denying a license or certification; (v) fees for issuing, renewing, or reinstating a license; (vi) curriculum requirements for schools offering waxing training; and (vii) safety and sanitation procedures and standards of conduct for individuals and businesses providing waxing services and waxing training.

CHAPTER 40. WAX TECHNICIAN REGULATIONS.

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.

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"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 that 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, whether 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 AC 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 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 holds a current Virginia wax technician license and:

1. Passes a course in teaching techniques at the post-secondary educational level;
2. 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
3. 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 that it is an educational institution.

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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
<i>Individuals:</i>		
Application	\$55	With application
License by Endorsement	\$55	With application
Renewal	\$55	With renewal card prior to expiration date
Reinstatement	\$55	With reinstatement application
<i>Facilities:</i>		
Application	\$90	With application
Renewal	\$90	With renewal card prior to expiration date
Reinstatement	\$90	With reinstatement application
<i>Schools:</i>		
Application	\$120	With application
Renewal	\$120	With renewal card prior to expiration date
Reinstatement	\$120	With reinstatement application

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, 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.

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. 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

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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
Chest	1
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 regulations 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.

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 that 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. Presanitized tools and implements, linens and equipment shall be stored for use in a sanitary enclosed cabinet or covered receptacle.

8. Soiled towels, linens and implements shall be deposited in a container made of cleanable materials and separate from those that are clean or presanitized.

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.

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.

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.

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;

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2. The licensee, certificate holder, temporary license holder or applicant has been convicted of fraud or deceit in the practice or teaching of waxing;

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;

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;

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;

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;

7. The licensee, certificate holder, temporary license holder or applicant publishes or causes to be published any advertisement that is false, deceptive, or misleading;

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 that 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 that 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, whether 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;

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, Wax Technician Regulations, are not being published; however, the name of each form is listed below. The forms are available for public inspection at the Department of Professional and Occupational Regulation, 3600 West Broad Street, Richmond, Virginia, or at the office of the Registrar of Regulations, General Assembly Building, 2nd Floor, Richmond, Virginia.

FORMS

Cosmetology, Nail Technician & Wax Technician Examination Application, 12EX (eff. 7/03)

Training and Experience Verification Form, 12TRESP (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)

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BOARD FOR PROFESSIONAL SOIL SCIENTISTS AND WETLAND PROFESSIONALS

Title of Regulation: 18 VAC 145-30. Wetland Delineators Certification Regulations (adding 18 VAC 145-30-10 through 18 VAC 145-30-160).

Statutory Authority: §§ 54.1-201 and 54.1-2203 of the Code of Virginia.

Public Hearing Date: October 10, 2003 - 10 a.m.

Public comments may be submitted until October 24, 2003.
(See Calendar of Events section for additional information)

Agency Contact: Mark N. Courtney, Executive Director, Department of Professional and Occupational Regulations, 3600 West Broad Street, Richmond, VA 23230-4917, telephone (804) 367-8514, FAX (804) 367-2475, or e-mail SoilScientist@dpor.state.va.us.

Basis: The board's authority to promulgate regulations for certified professional wetland delineators is found in §§ 54.1-201 and 54.1-2203 of the Code of Virginia. The provisions of § 54.1-2203 shall become effective on July 1, 2004. These two sections mandate the board to promulgate regulations for the certification of professional wetland delineators concerning qualifications of applicants, examination of applicants and the proper conduct of certified professional wetland delineators.

Purpose: These regulations are necessary to implement Chapter 784 of the Acts of the 2002 General Assembly and to create the regulatory program for the certification of professional wetland delineators mandated to protect the health, welfare and safety of the public when dealing with persons practicing as a certified professional wetland delineator.

Substance:

The regulations include:

1. Definitions of terms to be used in the regulations;
2. Entry standards for those seeking to practice as a certified professional wetland delineators;
3. Renewal and reinstatement standards for regulants;
4. Standards of practice and conduct; and
5. Grounds for disciplinary action against regulants.

Issues: The advantage to the public is that the public will now have a way of identifying wetland delineators who have met the standards set forth by the board for certification. The only potential disadvantage is that the cost of the voluntary certification program may be passed on from the certificate holders to the public; however, the cost of the program is relatively small. No disadvantages to the public or Commonwealth have been identified.

Fiscal Impact:

	FY 2003	FY 2004	FY 2005	FY 2006
Fund	NGF (0900)	NGF (0900)	NGF (0900)	NGF (0900)
Program/Subprogram	560 44	560 44	560 44	560 44

Impact of Regulatory Changes:

One-Time Costs	700	700	0	0
Ongoing Costs	1,000	10,500	10,500	11,088
Total Fiscal Impact	1,700	11,200	10,500	11,088
FTE	0.00	0.00	0.00	0.00

Description of Costs:

One-Time: Costs associated with additional board meetings to develop regulations and establish the new program.

Ongoing: Costs represent only the additional expenses associated with the new wetlands professionals program. They include travel and per diem for additional board members, staff support for program activities, enforcement activities, legal services, and administrative costs.

Cost to Localities: None anticipated.

Description of Individuals, Businesses, or Other Entities Impacted:

Estimated Number of Regulants: The department expects approximately 100 individuals to obtain certification as wetlands professionals. There are currently approximately 100 soil scientist regulants.

Projected Cost to Regulants: The average total cost to regulants will be approximately \$260 per biennium, or \$130 annually. This represents a completely new cost to individuals who become certified as wetlands professionals. Soil scientists currently pay \$175 per biennium for their licensing fees. This change will increase the average total costs by about \$85 per biennium, or less than \$45 annually.

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

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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. Chapter 784 of the Acts of the 2002 General Assembly created a certification designation for wetland delineators, amended the Virginia Board for Professional Soil Scientists to become the Virginia Board for Professional Soil Scientists and Wetland Professionals, and changed the board's membership to reflect the new certification program. The proposed new regulations set forth: (i) definitions, (ii) qualification standards for the wetland delineator certification, (iii) renewal and reinstatement standards, (iv) standards of practice and conduct, and (v) grounds for disciplinary action. Wetland delineator certification will first become effective on July 1, 2004. With few exceptions, as noted in the text that follows, the board has little discretion in the implementation of this regulation, since most of the specific provisions are contained in the statutory language.

Estimated economic impact. Currently the Commonwealth does not certify wetland delineators. The proposed certification for wetland delineators is optional; individuals will be able to continue to work as wetland delineators without certification. On the other hand, the existence of the state certification program will give certified delineators a decided competitive advantage over noncertified delineators, allowing certified delineators to charge a higher price for their services. This competitive advantage arises for two reasons. First, the certification is likely to be taken as a signal of quality in a field where actual skills are costly to observe. Second, many of the firms needing to hire a delineator may be subject to legal sanction if the wetland delineation is not carried out properly. In that case, hiring a noncertified delineator may be taken as evidence that the firm did not take adequate care and may increase the firm's risk of legal liability. If certification does become a *de facto* standard of care, then hiring noncertified delineators is no longer a realistic option, even if the firm judges that the skills of a noncertified delineator are greater than those of the available certified delineators.

These rules will restrict the supply of certified delineators and will increase the cost of using their services. They will also lower the wages for noncertified delineators. To evaluate the economic impact of this certification program, it is necessary to ask whether the certification standards will actually increase the quality of wetlands delineation work carried out in Virginia and whether any increase in quality, if it does occur, is worth the additional cost that will be imposed on the users of these services who may feel that they have little choice but to use the certified delineators.

Section § 54.1-2206.2.A of the Code of Virginia requires that individuals meet the following requirements for wetland delineator certification: achieve a score acceptable to the Board for Professional Social Scientists and Wetland Professionals (board) on an examination on the principles and practice of wetland delineation, provide three written references from wetland professionals with at least one from a certified wetland delineator, and satisfy one of the following criteria:

1. Hold a bachelor's degree from an accredited institution of higher education in a wetland science, biology, biological engineering, civil and environmental engineering, ecology, soil science, geology, hydrology or any similar biological, physical, natural science or environmental engineering curriculum that has been approved by the board; have successfully completed a course of instruction in state and federal wetland delineation methods that has been approved by the board; and have at least four years of experience in wetland delineation under the supervision of a certified wetland delineator, the quality of which demonstrates to the board that the applicant is competent to practice as a certified professional wetland delineator;
2. Have a record of at least six years of experience in wetland delineation under the supervision of a certified professional wetland delineator, the quality of which demonstrates to the board that the applicant is competent to practice as a certified professional wetland delineator; or
3. Have a record of at least four years of experience in wetland science research or as a teacher of wetlands curriculum in an accredited institution of higher education, the quality of which demonstrates to the board that the applicant is competent to practice as a certified professional wetland delineator.

Section 54.1-2206.2 B waives the requirement for a reference from and supervision by a certified professional wetland delineator for the first two years of the program, i.e., July 1, 2004 to June 30, 2006. Further, § 54.1-2206 B waives the examination requirement for individuals with at least ten years of experience who submit complete applications during that two-year period, but not after.¹

The proposed regulations reiterate these requirements and waivers. In effect, these requirements will allow individuals with ten years of experience to qualify for certification during July 1, 2004 to June 30, 2006 (fiscal years 2005 and 2006, FY05 and 06) without passing an exam, being required to take any courses, or having had supervised experience, but will essentially prevent any individuals who are not wetland science researchers or teachers from becoming certified during July 1, 2006 to June 30, 2008 (FY07 and 08). This is the case because individuals who are not wetland science researchers or teachers are required to be supervised by a certified wetland delineator for at least four years before they are permitted to take a qualifying examination if they are applying for certification after June 30, 2006. But, the certification program starts on July 1, 2004; thus, no one who did not complete their experience requirement before July 1, 2006 will be able to receive four years or more of supervision by a certified wetland delineator prior to July 1, 2008. What is worse, those individuals who already have substantial delineation experience by July 1, 2006, but have not

¹ Sections 54.1-2206.2.A-2206.B waive the examination requirement for an individual who "holds an unexpired certificate or its equivalent issued by a regulatory body of another state, territory or possession of the United States or has been provisionally certified under the U.S. Army Corps of Engineers Wetland Delineator Program of 1993 and is not the subject of any disciplinary proceeding before such a regulatory body, which could result in the suspension or revocation of his certificate..."

completed their experience requirements will find that their experience does not count toward certification. This is not only costly to those individuals seeking certification. It will create an artificial shortage of wetlands delineators and will significantly raise the price for certified delineators for several years.

After the two-year blackout period during FY07 and 08, applicants who have a bachelor's degree in a board-approved field, have acquired a minimum number of course credits in three field areas proposed by the board (see discussion below), have successfully completed a course of instruction in state and federal wetland delineation methods that has been approved by the board, and have at least four years of experience in wetland delineation under the supervision of a certified wetland delineator, will be permitted to take a board-approved examination which they need to pass in order to obtain certification.

After June 30, 2006, individuals who do not satisfy the bachelor degree requirement in a board-approved field or have not acquired the minimum number of course credits in three field areas proposed by the board, will not be permitted to take the qualification exam until July 1, 2010, or thereafter. This is the case because a certified wetland delineator must supervise these individuals for at least six years before they are permitted to take a qualifying examination and, as described above, there will be no certified wetland delineators prior to July 1, 2004.

Ignoring for a moment the substance of the certification standards, the timing of the implementation of these standards will induce a shortage of certified delineators for several years following the July 1, 2004, implementation date. With the exception of researchers in colleges and universities, no new delineators can get certified during FY07 and 08. In addition, only those practitioners who have completed their experience requirement by July 1, 2006 can use their prior experience to count towards the experience requirements for certification. Thus, while few new certified delineators will become available during FY07 and 08, the next few years will also have significantly reduced rates of certification. Those candidates for certification who would have become certified during those years had their experience been counted, will have to start over in earning experience.

A wetlands delineator (without a qualifying bachelor's degree) that began work on June 15, 2000 could qualify for certification by June 30, 2006, with six years of qualifying experience. However, if this same individual had instead begun employment only one month later, on July 15, 2000, she would not have a full six years of experience by the June 30, 2006 deadline. At best, assuming she could acquire a certified supervisor on July 1, 2004 (the earliest possible date), she would need to wait four additional years (until July 2010) before qualifying for certification. This result is not only inequitable; it is not based on policy-relevant differences between the two candidates. It wastes valuable resources with no prospect of a commensurate gain.

The shortage of certified delineators can be expected to artificially raise the rates charged by certified delineators, to lower the wages of those who need extensive apprentice

periods, and to increase costs of those purchasing delineator services.

The proposed regulations specify the type of experience it will approve for certification qualification. For non-researchers and non-teachers, successful applicants must have experience "as a wetlands professional" that satisfies one of the following two requirements:

(1)... the preparation of no less than ten reports, which must be no more than ten years old at time of receipt by the board office, delineating wetlands in accordance with applicable state and federal regulations which include the proper identification of vegetation, soil and hydrology indicators. At least six of the ten reports must be for non-tidal wetlands. At least three of the reports must have confirmation letters from the applicable state or federal regulatory body certifying that they are correct;

Or,

(2) ... the inspection, review or confirmation of no less than ten reports, which must be no more than ten years old at time of receipt by the board office, delineating wetlands in accordance with applicable state and federal regulations which include the proper identification, soil and hydrology indicators. At least six of the ten reports must be for non-tidal wetlands.

The statute provides that, for those applicants seeking certification after at least 6 years of experience, there are no coursework requirements. For those with 10 years of experience prior to July 1, 2006, there are no exam requirements nor any coursework requirements.

The second experience path involving "the inspection, review or confirmation of no less than ten reports" is language chosen by the board to implement a statutory provision aimed at allowing skilled staff at agencies such as the Department of Environmental Quality, who have had the responsibility for implementing wetlands regulations, to be granted grandfathered status. Under this language, one can obtain certification as a wetlands delineator without any test or coursework and having experience that amounts to having inspected, reviewed or confirmed ten wetlands delineation reports over the previous ten years. And there is no requirement that this inspection and review work be evaluated for quality, completeness, accuracy, or technical merit. It is easy to envision cases where such experience could be of very little value in determining how qualified an individual is to make technically sound evaluations of wetlands, and yet the certification will be granted nonetheless.

The design of the experience requirements does not appear to be closely related to the purpose of the certification provisions.² It is unclear why the number of "years of experience" is a relevant factor at all. As recognized in the regulation, years of experience are not directly related to the amount of wetlands delineation work actually carried out

² The statutory framework is very specific about the years of experience requirements and leaves the board with little or no flexibility concerning these requirements.

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during this period. It seems likely that a person having completed five studies in three years would be a much more qualified individual than one who reviewed ten studies in ten years. Yet, the latter person can be certified while the former cannot.

The grandfathering of all delineators who have ten years of experience before July 1, 2006 is particularly troublesome. As already mentioned, these delineators are certified without passing an examination, without course requirements, and without restrictive supervision rules. And yet, these grandfathered certified delineators are the only people who will be available to supervise new candidates for certification.

If the certification standards are intended to serve as a signal of minimum competency, then these grandfathering provisions will do substantial damage to any value that the program might otherwise have. Outside of academic researchers, the only certified wetland delineators available for the first four years of the program (FY04 through FY07) have not demonstrated the level of background or competency considered essential for anyone applying later. This renders the certification highly suspect for the first four years of the program and beyond.

That these grandfathered delineators will be the only people available for supervision of new delineators leads to the likelihood that candidates for certification may be supervised by existing delineators with not only less training but even less actual experience than the candidate. For example, a candidate with a degree in hydrogeology (even an advanced degree) may have four years of supervision by someone with no degree requirement whatsoever. Or a grandfathered delineator who did three studies during the previous ten years may supervise a candidate who has completed five studies during two initial years of supervision. In either case, the grandfathered delineator would not have had to demonstrate even minimal competence by passing the exam required of all other certified delineators.

As currently designed, this proposed government certification program will provide a very inaccurate signal of quality. Individuals who have worked for ten years or more as a delineator prior to July 1, 2006, will be able to obtain certification without an objective demonstration of their abilities. They may be certified without passing a qualification examination and without taking and passing field related courses. Highly trained delineators who may be able to easily pass a qualification exam will not be permitted to become certified from July 1, 2006, to June 30, 2008. Delineators who can pass the qualifying exam and have a bachelor's degree in a relevant field, but who do not have the minimum number of credits in all three of the general fields proposed by the board, will not be permitted to become certified from July 1, 2006, to June 30, 2010. Thus, individuals who may not be able to pass a qualifying exam and who have not taken and passed field related courses could be certified, while highly-skilled, highly-trained delineators who could easily demonstrate their abilities in an objective manner are prevented from obtaining certification. This situation is not just costly to those delineators who are prevented from obtaining certification. It is costly to the public. As discussed in the first paragraph of this section, many purchasers of wetland delineator services will

primarily or perhaps exclusively consider certified providers due to liability concerns and absence of knowledge of delineators' abilities outside of the certification signal.

In the context of wetlands regulation, the hiring of a certified delineator as opposed to an uncertified one may be seen as part of the regulatory program. The use of certified delineators may become essential in demonstrating to regulators that all feasible steps have been taken to comply with the law. It is critical then that the certification program be rationally designed to aid regulatory compliance rather than hinder it. This program appears likely to produce certifications that are not indicative of actual minimum competencies. In addition, the structure of this certification program will generate a significant shortage of certified delineators at a time when demand for these services will be in ever greater demand. This artificially generated shortage is likely to be very costly but is not necessary and could be avoided by modest changes to the design of the program.

Businesses and entities affected. The Department of Professional and Occupational Regulation expects approximately 100 individuals to obtain certification as wetland delineators. Organizations and individuals that hire wetland delineators will be affected as well.

Localities particularly affected. All Virginia localities are potentially affected. Areas with relatively large amounts of wetlands and areas with relatively large amounts of proposed land development will be particularly affected.

Projected impact on employment. The certification program will increase work for delineators who can become certified, and will reduce work for delineators who are unable to become certified. By increasing the cost of obtaining certified delineators, this proposal will increase costs for a number of businesses and could have a small negative effect on employment.

Effects on the use and value of private property. Land developers will likely pay higher fees to delineators. This will reduce by a small amount the value of developing some properties.

Agency's Response to the Department of Planning and Budget's Economic Impact Analysis: Disagree - §§ 54.1-2203 and 54.1-2206.1 (effective July 1, 2004) of the Code of Virginia require the regulations for the professional wetland delineator certification program to be in place by July 1, 2004. The Department of Planning and Budget (DPB) did not approve the proposed regulations for this program due to concerns with the underlying statutes of the program. The content of the statutes is established by the General Assembly and not the board; the proposed regulations the board has adopted are, therefore, constrained by what the statutes permit. Almost all of the entry standards are specified by statute (Chapter 22 of Title 54.1) so the board has very little discretion in crafting the entry standards. There is one issue that DPB notes in the EIA regarding experience via "inspection, review or confirmation" in proposed regulation 18 VAC 145-30-50.2 with which we agree: the provisions of this regulation should be revised and we will raise this issue with the board when it considers final regulations. All other issues raised in the EIA are statutorily mandated.

Summary:

The proposed regulations implement Chapter 784 of the 2002 Acts of Assembly, which established certification standards for wetlands professionals. The proposed regulations establish (i) requirements for entry, renewal, and reinstatement; (ii) minimum standards for certification; (iii) standards of conduct and practice; (iv) grounds for disciplinary actions; and (v) fees.

CHAPTER 30. REGULATIONS GOVERNING CERTIFIED PROFESSIONAL WETLAND DELINEATORS.

PART I. GENERAL.

18 VAC 145-30-10. Definitions.

All terms defined in Chapter 22 (§ 54.1-2200 et seq.) of Title 54.1 of the Code of Virginia are incorporated in this chapter.

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

"Tidal wetlands" means those wetlands defined by § 28.2-1300 of the Code of Virginia.

"Nontidal wetlands" means wetlands except those defined by § 28.2-1300 of the Code of Virginia.

PART II. ENTRY.

18 VAC 145-30-20. Qualifications for certification.

Applicants for certification shall meet the requirements specified in Chapter 22 (§ 54.1-2200 et seq.) of Title 54.1 of the Code of Virginia, as amended, and this chapter.

18 VAC 145-30-30. Receipt of application.

The date the completely documented application and fee are received in the board's office shall determine if the application has been received by the established deadline.

18 VAC 145-30-40. Qualification for examination.

A. In order to qualify for the examination, an applicant shall provide three written references that comply with subsection B of this section and satisfy one of the following criteria:

1. Hold a bachelor's degree from an accredited institution of higher education in a wetland science, biology, biological engineering, civil and environmental engineering, ecology, soil science, geology, hydrology or any similar biological, physical, natural science or environmental engineering curriculum that has been approved by the board; have successfully completed a course of instruction in state and federal wetland delineation methods that has been approved by the board; and have at least four years of experience in wetland delineation under the supervision of a certified professional wetland delineator, the quality of which demonstrates to the board that the applicant is competent to practice as a certified professional wetland delineator;

2. Have a record of at least six years of experience in wetland delineation under the supervision of a certified professional wetland delineator, the quality of which demonstrates to the board that the applicant is competent to practice as a certified professional wetland delineator; or

3. Have a record of at least four years of experience in wetland science research or as a teacher of wetlands curriculum in an accredited institution of higher education, the quality of which demonstrates to the board that the applicant is competent to practice as a certified professional wetland delineator.

B. Every applicant shall provide three written references, on a form provided by the board, from wetland professionals with at least one from a certified professional wetland delineator. Individuals who provide references shall not be related to the applicant and shall have known the applicant for at least one year. Individuals who provide references may not also verify experience, including research or teaching experience.

C. Notwithstanding the requirements of subsections A and B of this section, the requirement for a reference from and supervision by a certified professional wetland delineator shall be waived provided a complete application is received by the board on or before June 30, 2006.

18 VAC 145-30-50. Qualifying experience in wetland delineation.

An applicant shall demonstrate experience in one of the following areas:

1. For those individuals applying pursuant to the provisions of 18 VAC 145-30-40 A 1 or A 2, the experience in wetland delineation must be as a wetland professional and include the preparation of no less than 10 reports, which must be no more than 10 years old at the time of receipt by the board office, delineating wetlands in accordance with applicable state and federal regulations that include the proper identification of vegetation, soil and hydrology indicators. At least six of the 10 reports must be for nontidal wetlands. At least three of the reports must have confirmation letters from the applicable state or federal regulatory body certifying that they are correct;

2. For those individuals applying pursuant to the provisions of 18 VAC 145-30-40 A 1 or A 2, the experience in wetland delineation must be as a wetland professional and include the inspection, review or confirmation of no less than 10 reports, which must be no more than 10 years old at the time of receipt by the board office, delineating wetlands in accordance with applicable state and federal regulations that include the proper identification of vegetation, soil and hydrology indicators. At least six of the 10 reports must be for nontidal wetlands, or

3. For those individuals applying pursuant to the provisions of 18 VAC 145-30-40 A 3, the experience as a wetland science researcher must include the preparation of a minimum of three field studies focused on wetland delineation practice and issues, and the experience as a teacher of wetlands curriculum must have been acquired in an accredited institution of higher education as a field or laboratory instructor of quarter or semester length classes

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for a minimum of six semester hours, or equivalent, within the past 10 years prior to the receipt of the application by the board office.

18 VAC 145-30-60. Course requirements.

The education required pursuant to 18 VAC 145-30-40 A 1 must include the following:

1. For a bachelors degree in any similar biological, physical, natural science or environmental engineering curriculum to be approved by the board, it shall, at a minimum, contain the following:

a. Fifteen semester hours, or equivalent, in biological sciences including courses such as general biology, botany or zoology; general ecology; plant, animal, aquatic or wetlands ecology; invertebrate zoology; taxonomy; marine science; fisheries biology; plant physiology, plant taxonomy, plant pathology, plant morphology; relevant environmental sciences, and similar courses;

b. Fifteen semester hours, or equivalent, in physical sciences including courses in soils, chemistry, hydrology, physics, geology, sedimentology, oceanography, coastal processes, environmental engineering, and similar courses; and

c. Six semester hours, or equivalent, in quantitative sciences including courses in math, computer sciences, basic statistics, popular dynamics, experimental statistics, and similar courses.

2. The applicant must have successfully completed a course of instruction, of a minimum of 40 hours, in state and federal wetland delineation methods that includes the proper identification of vegetation, soil and hydrology indicators and a field component.

18 VAC 145-30-70. Examination.

A. Once approved by the board, an applicant shall be eligible to sit for a board-approved examination.

B. An applicant must meet all eligibility requirements as of the date the completely documented application and fee is received by the board's office. For examination candidates, the completely documented application and fee must be received by the board's office at least 90 days prior to the examination.

C. A candidate approved to take an examination shall do so within one year of the date of approval or submit a new application and fee in accordance with these regulations. If an applicant should not pass the board-approved examination within one year of being approved, the applicant shall be required to submit a new application and fee in accordance with this chapter in order to take the examination.

18 VAC 145-30-80. Waiver from examination.

An applicant may be granted a Virginia certificate without examination, provided that:

1. The applicant holds an unexpired professional wetland delineator certificate or equivalent issued on the basis of equivalent requirements for certification in Virginia, by a

regulatory body of another state, territory or possession of the United States and is not, nor has been, the subject of any disciplinary proceeding before such regulatory body, and such other regulatory body recognizes the certificates issued by this board shall have the requirement for the examination waived provided all other requirements of Chapter 22 (§ 54.1-2200 et seq.) of Title 54.1 of the Code of Virginia, and this chapter are satisfied; or

2. Applicants who submit a complete application so that it is received by the board on or before June 30, 2006, and are found to be qualified pursuant to § 54.1-2206 B of the Code of Virginia (as it becomes effective July 1, 2004) shall have the requirement for the examination waived provided all other requirements of Chapter 22 (§ 54.1-2200 et seq.) of Title 54.1 of the Code of Virginia and this chapter are satisfied.

PART III. FEES, RENEWAL AND REINSTATEMENT REQUIREMENTS.

18 VAC 145-30-90. Fees.

All fees required by the board are nonrefundable and shall not be prorated.

Fee Type	Amount
Application	\$300
Renewal fee	\$260
Late renewal fee	\$25
Reinstatement fee	\$300

18 VAC 145-30-100. Expiration.

Certificates issued under this chapter shall expire two years from the last day of the month in which they were issued, as indicated on the certificate.

18 VAC 145-30-110. Renewal.

A. The department shall mail a renewal notice to the certificate holder at the last known address of record at least 30 days prior to expiration. Failure to receive this notice does not relieve the certificate holder from the requirement to renew the certificate. If the certificate holder fails to receive the renewal notice, a copy of the certificate shall be submitted with the required fee in lieu of the renewal notice.

B. If the renewal fee is not received by the department within 30 calendar days following the expiration date noted on the certificate, a late renewal fee of \$25 shall be required in addition to the regular renewal fee. If the certificate is renewed after 30 days from the expiration date and prior to 180 days of the expiration date, the effective date of the renewal shall be the original renewal date. No certificate may be renewed more than 180 days following the date of expiration noted on the certificate.

C. The date a fee is received by the department or its agent shall determine whether a late renewal fee or the requirement for reinstatement or reapplication is applicable.

D. A certificate suspended by board order shall not be renewed until the period of suspension has ended and all terms and conditions of the board's order have been met. Individuals renewing certificates within 30 days after the suspension is lifted will not be required to pay a late fee.

18 VAC 145-30-120. Reinstatement.

A. If the renewal fee and late renewal fee are not received by the department within 180 days following the expiration date noted on the certificate, the certificate holder shall no longer be considered a certificate holder and will be required to apply for certificate reinstatement. The applicant shall meet the current eligibility standards for certification as a Virginia certified professional wetland delineator. The board may require examination or reexamination. The fee for reinstatement shall include the regular renewal fee plus the reinstatement fee.

B. If the reinstatement application and fee are not received by the department within one year following the expiration date noted on the certificate, the applicant shall apply as a new applicant and shall meet all current entry requirements as may be required by the board.

18 VAC 145-30-130. Denial of application or renewal.

The board may, in its discretion, refuse to grant, renew or reinstate a certificate of any person for any of the reasons specified in Chapters 1, 2 or 22 of Title 54.1 of the Code of Virginia and this chapter including, but not limited to, Part IV (18 VAC 145-30-140 et seq.) of this chapter.

PART IV.

STANDARDS OF PRACTICE AND CONDUCT.

18 VAC 145-30-140. Standards of practice and conduct.

A Virginia certified professional wetland delineator:

1. Shall not submit any false statements, make any misrepresentations or fail to disclose any facts requested concerning any application for certification or recertification.
2. Shall not engage in any fraud, deceit or misrepresentation in advertising, in soliciting or in providing professional services.
3. Shall not knowingly sign any plans, drawings, blueprints, surveys, reports, specifications, maps or other documents not prepared or reviewed and approved by the certificate holder.
4. Shall not knowingly represent a client or employer on a project on which the certificate holder represents or has represented another client or employer without making full disclosure thereof.
5. Shall express a professional opinion only when it is founded on adequate knowledge of established facts at issue and based on a background of technical competence in the subject matter.

6. Shall not knowingly misrepresent factual information in expressing a professional opinion.

7. Shall immediately notify the client or employer and the appropriate regulatory agency if the certificate holder's professional judgment is overruled and not adhered to when advising appropriate parties of any circumstances of a substantial threat to the public health, safety, or welfare.

8. Shall exercise reasonable care when rendering professional services and shall apply the technical knowledge, skill and terminology ordinarily applied by practicing wetland professionals.

9. Shall sign and date all plans, drawings, blueprints, surveys, reports, specifications, maps or other documents prepared or reviewed and approved by the certificate holder. The certified wetland professional delineator shall also indicate that he is a Virginia Certified Wetland Professional Delineator on all plans, drawings, blueprints, surveys, reports, specifications, maps or other documents prepared or reviewed and approved by the certificate holder and include his certificate number.

18 VAC 145-30-150. Grounds for suspension, revocation or other disciplinary action.

The board has the power to fine any certificate holder, and to suspend or revoke any certificate issued under the provisions of Chapter 22 (§ 54.1-2200 et seq.) of Title 54.1 of the Code of Virginia, and the regulations of the board, where the certificate holder has been found to have violated or cooperated with others in violating any provision of Chapters 1, 2 or 22 of Title 54.1 of the Code of Virginia, or any regulation of the board.

18 VAC 145-30-160. Change of address.

A certificate holder shall keep the department informed of his current mailing address. Change of address shall be reported to the department in writing within 30 calendar days of the change.

NOTICE: The forms used in administering 18 VAC 145-30, Wetland Delineators Certification Regulations, are listed and published below.

FORMS

Professional Wetland Delineator Certification Application, 34WDCERT.

Experience Log, 34WDEXP.

Reference Form, 34WDREF.

VA.R. Doc. No. R02-264; Filed July 24, 2003, 11:56 a.m.

10. Which of the following education/experience requirements are you using to qualify for the wetland delineation examination? Select only one.

- Bachelor's degree from an accredited institution of higher education in a wetland science or other related curriculum (see 18 VAC 145-30-40.A.1 in the *Board for Professional Soil Scientists and Wetland Professionals Regulations*); successful completion of a course of instruction in state and federal wetland delineation methods; and at least four years of experience in wetland delineation *;
- ◆ A certified/official transcript or other notarized document verifying the completion of the required courses (18 VAC 145-30-60) and/or degrees must be submitted to the Board for Professional Soil Scientists and Wetland Professionals.
- Six or more years of experience in wetland delineation *; or
- Four or more years of experience in wetland science research or as a teacher of wetlands curriculum in an accredited institution of higher education *.

* Please complete and attach an Experience Log, documenting your experience in wetland delineation, the quality of which must demonstrate to the Board that you are competent to practice as a certified professional wetland delineator. The wetland delineation experience must meet the requirements in 18 VAC 145-30-50 of the *Board for Professional Soil Scientists and Wetland Professionals Regulations*.

11. Do you hold an **expired** professional wetland delineator certificate or its equivalent issued by a regulatory body of another state, territory or possession of the United States?

- No
- Yes

If yes, please complete the following table. You are also required to submit an original Certification of Licensure/Letter of Good Standing◆, dated within the last 60 days, from each regulatory body.

State	License, Certification or Registration Number	Expiration Date

◆ Certifications/Letters must include: 1) the license/certification/registration number; 2) the initial date of licensure; 3) the expiration date of the license or renewal fees; 4) the means of obtaining licensure (i.e., exam, reciprocity, etc.) and the minimum requirements that were met to qualify for licensure; 5) all closed disciplinary actions resulting in violations or undetermined findings; and 6) an original authorized signature and board/department seal.

12. Have you ever been subject to a disciplinary action imposed by any (including Virginia) local, state or national regulatory body?

- No
- Yes

If yes, list the jurisdiction in which the disciplinary action took place and the license number. Provide an explanation of events, including a description of the disciplinary proceeding and the type of sanctions that were imposed (i.e., suspension, revocation, voluntary surrender of license, monetary penalty, fine, reprimand, etc.). Attach copies of any correspondence or documentation (including a copy of the final order, decree or case decision) related to this matter. If necessary, you may attach a separate sheet of paper.

13. Have you ever been convicted in any jurisdiction of **any felony or misdemeanor**? *Any guilty plea or plea of nolo contendere must be disclosed on this application. Do not disclose violations that were adjudicated as a minor in the juvenile court system.*

- No
- Yes

If yes, list the felony and/or misdemeanor conviction(s). Attach a copy of all applicable criminal conviction, state police and court records; information on the current status of incarceration, parole, probation, etc.; and any other information you wish to have considered with this application (i.e., reference letters, documentation of rehabilitation, etc.). If necessary, you may attach a separate sheet of paper.

Proposed Regulations

14. I, the undersigned, certify that the foregoing statements and answers are true, and I have not suppressed any information that might affect the Board's decision to approve this application. I will notify the Department if I am subject to any disciplinary action or convicted of any felony or misdemeanor charges (in any jurisdiction) prior to receiving the requested certification. I also certify that I understand, and have complied with, all the laws of Virginia related to professional soil scientist certification under the provisions of Title 54.1, Chapter 22 of the *Code of Virginia* and the *Virginia Board for Professional Soil Scientist and Wetland Professionals Regulations*.

Signature _____ Date _____

Notarization

In the State of _____, City/County of _____, subscribed and sworn before me, the undersigned Notary Public in and for the City/County aforesaid this ____ day of _____.

My commission expires the ____ day of _____.

Affix official seal here.

Signature of Notary Public

* State law requires every applicant for a license, certificate, registration or other authorization to engage in a business, trade, profession or occupation issued by the Commonwealth to provide a social security number or a control number issued by the Virginia Department of Motor Vehicles.

Commonwealth of Virginia
 Department of Professional and Occupational Regulation
 3600 West Broad Street
 Post Office Box 11066
 Richmond, Virginia 23230-1066
 (804) 367-8506/8512



**Board for Professional Soil Scientists and Wetland Professionals
 EXPERIENCE LOG**

Page _____ of _____

- Name _____
 _____ First _____ Middle _____ Last _____ Generation (SR, JR, III, etc.)
- Social Security Number * - -

Prior to entering information on this form, please make several photocopies of this blank form to ensure that you have additional forms to accommodate all your experience entries. Please be sure to number the pages according to the total number submitted (i.e., 1 of 3, 2 of 3, etc.) in the upper right-hand corner. Enter your most recent experience first.

Starting Month & Year	Ending Month & Year	Name & Signature of Supervisor/ Name & Address of Employer	Position Title Detailed Position Description
		Name _____ Signature _____ Employer's Name & Address _____	Title _____ Position Description _____
Type of Experience (Check all that apply)			
Report			
Preparation <input type="checkbox"/>			
Inspection <input type="checkbox"/>			
Review <input type="checkbox"/>			
Confirmation <input type="checkbox"/>			
Field/Lab Study <input type="checkbox"/>			
Research/Teach <input type="checkbox"/>			
		Name _____ Signature _____ Employer's Name & Address _____	Title _____ Position Description _____
Type of Experience (Check all that apply)			
Report			
Preparation <input type="checkbox"/>			
Inspection <input type="checkbox"/>			
Review <input type="checkbox"/>			
Confirmation <input type="checkbox"/>			
Field/Lab Study <input type="checkbox"/>			
Research/Teach <input type="checkbox"/>			
		Name _____ Signature _____ Employer's Name & Address _____	Title _____ Position Description _____
Type of Experience (Check all that apply)			
Report			
Preparation <input type="checkbox"/>			
Inspection <input type="checkbox"/>			
Review <input type="checkbox"/>			
Confirmation <input type="checkbox"/>			
Field/Lab Study <input type="checkbox"/>			
Research/Teach <input type="checkbox"/>			

* State law requires every applicant for a license, certificate, registration or other authorization to engage in a business, trade, profession or occupation issued by the Commonwealth to provide a social security number or a control number issued by the Virginia Department of Motor Vehicles.

Proposed Regulations

Commonwealth of Virginia
Department of Professional and Occupational Regulation
3600 West Broad Street
Post Office Box 11066
Richmond, Virginia 23230-1066
(804) 367-8506/8512



Board for Professional Soil Scientists and Wetland Delineators REFERENCE FORM

Instructions:

Applicant: Complete items #1 through #3, then forward this form to the individual serving as your reference. Individuals who provide references shall not be related to the applicant and shall have known the applicant for at least *one year*. Any individual designated as a reference on this form may **not** verify experience on your *Experience Log(s)*. References shall be no more than one year old at the time the application is received.

Reference: Complete items #4 through #14. Enclose the form in a sealed envelope with your signature across the sealed flap. Return it to the applicant (for inclusion in their application package) or the Board Section at the address listed above. Your prompt response is appreciated.

1. Applicant's Name _____
First Middle Last Generation (SR, JR, III)
2. Social Security Number * - -
3. Mailing Address _____
City, State, Zip Code _____

4. Reference's Name _____
First Middle Last Generation (SR, JR, III)

5. Mailing Address _____
City, State, Zip Code _____

6. Are you a licensed/certified wetland professional?
No
Yes State _____ License Number _____

7. What is your business relationship to the applicant? _____

8. How many years have you known the applicant? _____

9. In your opinion, is the applicant of good moral character? Yes No

10. How long has the applicant been engaged in wetland delineation work? _____

11. What is the applicant's reputation as a wetland professional? _____

12. Do you have any reservations regarding the applicant? No Yes If yes, please list your concerns. _____

13. Additional comments _____

14. Signature _____ Date _____

* State law requires every applicant for a license, certificate, registration or other authorization to engage in a business, trade, profession or occupation issued by the Commonwealth to provide a social security number or a control number issued by the Virginia Department of Motor Vehicles.

TITLE 20. PUBLIC UTILITIES AND TELECOMMUNICATIONS

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.

The distribution list that is referenced as Appendix A in the following order is not being published. However, the list is available for public inspection at the State Corporation Commission, Document Control Center, Tyler Building, 1st Floor, 1300 East Main Street, Richmond, Virginia 23219, from 8:15 a.m. to 5 p.m., Monday through Friday; or may be viewed at the Virginia Code Commission, General Assembly Building, 2nd Floor, 910 Capitol Street, Richmond, Virginia 23219, during regular office hours.

Titles of Regulations: **20 VAC 5-400. Telecommunications (repealing 20 VAC 5-400-80).**

20 VAC 5-427. Rules for Local Exchange Company Service Quality Standards (adding 20 VAC 5-427-10 through 20 VAC 5-427-180).

Statutory Authority: § 12.1-13 of the Code of Virginia.

Public Hearing Date: Public hearing will be held upon request.

Public comments may be submitted until October 3, 2003.

Agency Contact: Steven C. Bradley, Deputy Director, State Corporation Commission, Division of Communications, P.O. Box 1197, Richmond, VA 23218-1197, telephone (804) 371-9420, FAX (804) 371-9069, or e-mail sbradley@scc.state.va.us.

Summary:

Rules for Local Exchange Company Service Quality Standards, 20 VAC 5-427, are proposed to replace the existing Regulation Governing Service Standards for Local Exchange Telephone Companies; Penalty, 20 VAC 5-400-80 of the Telecommunications regulation.

The regulations apply to all certificated local exchange carriers (carriers) and prescribe a minimum acceptable level of quality of service under normal operating conditions. The regulations call for the design, construction, maintenance, and operation of network facilities in compliance with the latest edition of the National Electric Safety Code of the Institute of Electrical and Electronics Engineers, Inc., and all applicable commission orders and interconnection requirements under federal and state law.

The regulations set carrier reporting and record retention requirements; information disclosure requirements for carriers as to their rates, charges and fees; carrier response requirements for reports of trouble and outage; customer

complaint handling requirements; requirements for providing call intercept and directories; also, standards are proposed to measure carrier service quality performance and transmission standards. Requirements for auditing and remedial action plans are also proposed for carriers.

AT RICHMOND, AUGUST 1, 2003

COMMONWEALTH OF VIRGINIA, ex rel.

STATE CORPORATION COMMISSION

CASE NO. PUC-2003-00110

Ex Parte: Establishment of Rules for Service Quality Standards for the Provision of Local Exchange Telecommunications Services

ORDER PRESCRIBING NOTICE AND GRANTING LEAVE TO COMMENT OR REQUEST HEARING

By Order of June 10, 1993, the State Corporation Commission ("Commission") adopted Regulations Governing Service Standards for Local Exchange Telephone Companies codified at 20 VAC 5-400-80 ("current rules"). The Commission considered revising the current rules in Case No. PUC-1997-00146 but ultimately concluded that the competitive marketplace had changed significantly since those rules were drafted and comments thereon were received.¹

Accordingly, the Commission closed Case No. PUC-1997-00146 and directed the Division of Communications ("Staff") to prepare new rules governing retail service standards, taking into consideration the competitive environment and the differences between incumbent local exchange carriers and competitive local exchange carriers, and to consider standards to measure customer satisfaction. The new rules will be considered in a new docket, which we open by this Order.² This case will consider new rules measuring the health of the telecommunications network and assuring a minimum level of service quality for all consumers.

The Staff has conducted several meetings with the Attorney General's Division of Consumer Counsel, the Virginia Citizens Consumer Council, and members of the telecommunications industry³ to discuss the Staff's development of proposed Rules For Local Exchange Company Service Quality Standards ("Rules"). Following these meetings, the Staff received feedback from these parties, which was also considered in developing the Rules (to be codified at 20 VAC 5-427-10 et seq.).

The Commission will now consider the Staff's proposed Rules, which appear in Attachment A, appended to this Order. In

¹ Commonwealth of Virginia, ex rel. State Corporation Commission, Ex Parte: In the matter of revising rules governing service standards for local exchange telephone companies, Case No. PUC-1997-00146, Order Closing Case at p. 2 issued July 13, 2001 (hereinafter "Order Closing Case").

² Id. at pp. 2-3.

³ Specifically, the Staff has met with members of the Virginia Telecommunications Industry Association ("VTIA"), WorldCom, Inc., and Cavalier Telephone, LLC.

Proposed Regulations

addition, the Commission seeks comment from members of the telecommunications industry and other parties on the following matters that may be addressed in the final rulemaking:

1. Should there be further requirements for telephone directory information in addition to the proposed requirements of 20 VAC 5-427-130 Directories in Attachment A;
2. Should the directory be competitively neutral, and, if so, what are the requirements to ensure neutrality;
3. What standards, if any, should there be to ensure telephone billing accuracy, and what metrics should there be to gauge compliance with any such billing accuracy standards;
4. What standards, if any, should there be to measure the overall intelligibility of the telephone bill, and what methodology should there be for measuring compliance with any such standards?

Finally, the Commission is considering consumer education that reflects the realities of competition in the provision of telecommunications services in the Commonwealth. In that regard, the Staff has prepared a Telecommunications Bill of Rights with the goal of providing consumers a quick reference of important rights and responsibilities relating to telephone service. This Bill of Rights, appended to this Order as Attachment B, was compiled from existing state and federal laws, rules, and regulations. The Commission seeks comment on this Bill of Rights and whether its publication in all Virginia telephone directories should be required in addition to the proposed requirements of 20 VAC 5-427-130 Directories.

NOW THE COMMISSION, pursuant to § 12.1-13 of the Code of Virginia and 5 VAC 5-20-100 of the Commission's Rules of Practice and Procedure, finds that interested parties should be permitted to comment on, propose modifications or supplements to, or request a hearing on the Staff's proposed Rules, which the Commission now considers for replacement of the current rules. Parties are further requested to comment on other matters addressed in this Order consistent with the discussion above.

Accordingly, IT IS ORDERED THAT:

- (1) This matter is docketed and assigned Case No. PUC-2003-00110.
- (2) The Commission's Division of Information Resources shall forward the Staff's proposed Rules For Local Exchange Company Service Quality Standards (Chapter 427), Attachment A herein, to the Registrar of Virginia for publication in the Virginia Register of Regulations.
- (3) On or before August 25, 2003, the Commission's Division of Information Resources shall make a downloadable version of the Staff's proposed Rules For Local Exchange Company Service Quality Standards, Attachment A, and Telecommunications Bill of Rights, Attachment B, available for access by the public at the Commission's website, <http://www.state.va.us/scc/caseinfo/orders.htm>. The Clerk of the Commission shall make a copy of the Staff's

proposed Rules For Local Exchange Company Service Quality Standards and Telecommunications Bill of Rights available for public inspection and provide a copy, free of charge, in response to any written request for one.

(4) Interested persons wishing to comment on, propose modifications or supplements to, or request a hearing on the Rules For Local Exchange Company Service Quality Standards or upon other matters addressed in this Order, consistent with the findings above, shall file an original and fifteen (15) copies of such comments, proposals, or requests with the Clerk of the Commission, State Corporation Commission, P.O. Box 2118, Richmond, Virginia 23218, on or before October 3, 2003, making reference to Case No. PUC-2003-00110. Interested persons desiring to submit comments electronically may do so by following the instructions found on the Commission's website, <http://www.state.va.us/scc/caseinfo/notice.htm>. Requests for hearing shall state with specificity why such concerns cannot be adequately addressed in written comments.

(5) On or before August 25, 2003, the Commission's Division of Information Resources shall publish the following notice as classified advertising in newspapers of general circulation throughout the Commonwealth of Virginia.

**NOTICE TO THE PUBLIC OF A PROCEEDING TO
ADOPT NEW RULES FOR LOCAL TELEPHONE
COMPANY SERVICE QUALITY STANDARDS
CASE NO. PUC-2003-00110**

By Order dated June 10, 1993, the State Corporation Commission ("Commission") adopted Regulations Governing Service Standards for Local Exchange Telephone Companies (20 VAC 5-400-80). These service standards rely upon customer satisfaction models that predate competition and do not reflect the Telecommunications Act of 1996 and the many technological changes that have since occurred.

The Commission's Division of Communications ("Staff") has proposed Rules For Local Exchange Company Service Quality Standards ("proposed rules"), which this Commission is considering for replacement of the Regulations Governing Service Standards for Local Telephone Companies (20 VAC 5-400-80). The Staff has also proposed a Telecommunications Bill of Rights to disseminate consumer information.

Interested parties may obtain a copy of the proposed rules and Telecommunications Bill of Rights by visiting the Commission's website,

<http://www.state.va.us/scc/caseinfo/orders.htm>, or by requesting a copy from the Clerk of the Commission. The Clerk's office will provide a copy of the proposed rules and Telecommunications Bill of Rights to any interested party, free of charge, in response to any written request for one. The proposed

rules will also be forwarded to the Office of the Registrar of Regulations for publication in the Virginia Register of Regulations.

Any person desiring to comment in writing or request a hearing on the proposed rules may do so by directing such comments or requests for hearing on or before October 3, 2003, to the Clerk of the Commission, c/o Document Control Center, P.O. Box 2118, Richmond, Virginia 23218. Interested persons desiring to submit comments electronically may do so by following the instructions found on the Commission's website, <http://www.state.va.us/scc>. Comments and requests for hearing must refer to Case No. PUC-2003-00110. Requests for hearing shall state with specificity why such concerns cannot be adequately addressed in written comments.

VIRGINIA STATE CORPORATION COMMISSION

(6) This matter is continued for further orders of the Commission.

AN ATTESTED COPY hereof shall be sent by the Clerk of the Commission to: C. Meade Browder, Jr., Senior Assistant Attorney General, Division of Consumer Counsel, Office of Attorney General, 900 East Main Street, Second Floor, Richmond, Virginia 23219; all local exchange carriers certificated in Virginia as set out in Appendix A; and the Commission's Office of General Counsel and the Division of Communications.

20 VAC 5-400-80. Regulation governing service standards for local exchange telephone companies; penalty. (Repealed.)

~~Each local exchange telephone company shall provide the necessary equipment, plant facilities, and personnel within its certificated area(s) to deliver high quality customer service.~~

~~There are eight key indicators that shall be used to measure the quality of service being furnished by the local exchange companies. Where applicable, service results from these key indicators shall be banded as follows:~~

- ~~Satisfactory — Represents good service.~~
- ~~Weak spot — Requires management attention and corrective action.~~
- ~~Unsatisfactory — A level of service requiring immediate corrective action and management follow up.~~

~~The eight key indicators and their performance level bands are as follows:~~

~~SERVICE INDICATOR: Commission complaints per 1000 access lines per year.~~

~~DEFINITION: All customer complaints received by the Commission that, upon investigation, prove to be justified.~~

~~PERFORMANCE: Less than one per 1000 access lines per year~~

~~SERVICE INDICATOR: Trouble reports per 100 access lines per month.~~

~~DEFINITION: All customer trouble reports received, whether trouble was found or not found.~~

~~PERFORMANCE:~~

~~0—6.0 Sat.~~

~~6.1—8.0 Wkspt.~~

~~Over 8.0 Unsat.~~

~~SERVICE INDICATOR: Percent repeated trouble reports per month.~~

~~DEFINITION: The incidence of two or more trouble reports received from the same access lines within the same 30 day period, stated as a percent of total trouble reports.~~

~~PERFORMANCE:~~

~~0—16% Sat.~~

~~16.1—20% Wkspt.~~

~~Over 20% Unsat.~~

~~SERVICE INDICATOR: Network reports per 100 access lines per month.~~

~~DEFINITION: All customer trouble reports, whether found or not found, that are charged against the central office.~~

~~PERFORMANCE:~~

~~0—.35 Sat.~~

~~0.36—.45 Wkspt.~~

~~Over .45 Unsat.~~

~~SERVICE INDICATOR: Network switching performance, percent satisfactory per month.~~

~~DEFINITION: An index that measures the overall performance of central office equipment in providing dial tone, switching and connecting customers, and collecting call billing data.~~

~~PERFORMANCE BAND:~~

~~95.5—100% Sat.~~

~~92.0—95.4% Wkspt.~~

~~Under 92% Unsat.~~

~~SERVICE INDICATOR: Business office accessibility, percent per month~~

~~DEFINITION: The percent of all calls to the business office which are answered live within 20 seconds.~~

~~PERFORMANCE BAND:~~

~~85—100% Sat.~~

~~80—84.9% Wkspt.~~

~~Under 80% Unsat.~~

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~~SERVICE INDICATOR: Repair service accessibility, percent per month.~~

~~DEFINITION: The percent of all calls to repair service which are answered live within 20 seconds.~~

~~PERFORMANCE BAND:~~

~~85—100% Sat.~~

~~80—84.9% Wkspt.~~

~~Under 80% Unsat.~~

~~SERVICE INDICATOR: Service orders completed within five working days, percent per month.~~

~~DEFINITION: The percent of all single line new service orders completed within five working days of service application or the customer requested completion date.~~

~~PERFORMANCE BAND:~~

~~90—100% Sat.~~

~~85—89.9% Wkspt.~~

~~Under 85% Unsat.~~

~~Local exchange companies which exceed 20,000 access lines shall report data to the Commission's Division of Communications each month on the above described eight key indicators.~~

~~Nothing in this section shall be deemed to excuse a local exchange company from submitting any additional information requested by the Commission's Division of Communications.~~

~~Violations of this section shall be punishable pursuant to either § 56-483 or § 12.1-33 of the Code of Virginia or both.~~

CHAPTER 427.

RULES FOR LOCAL EXCHANGE COMPANY SERVICE QUALITY STANDARDS.

20 VAC 5-427-10. Applicability; definitions.

A. The provisions of this chapter shall apply to local exchange carriers (LECs) certificated to provide local exchange telecommunications services within the Commonwealth of Virginia.

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

"Bridged tap" means a multiple appearance of the same cable pair at several distribution points or a section of a cable pair not on the direct electrical path between the central office and the user's premises.

"Business office" means any functional entity that accepts service orders, billing inquiries, and processes other related customer requests.

"Busy hour" means the hour of each month in which a telecommunications system carries the most traffic.

"Central office" means a LEC operated switching system, including remote switches and associated transmission

equipment (e.g., digital circuit switches, packet switches, carrier systems).

"Central office serving area" means the geographic area in which local service is provided by a LEC's central office and associated network.

"Commission" means the Virginia State Corporation Commission.

"Competitive local exchange carrier (CLEC)" means an entity, other than a locality, certificated to provide local exchange telecommunications services in Virginia after January 1, 1996, pursuant to § 56-265.4:4 of the Code of Virginia. An incumbent local exchange carrier shall be considered a CLEC in any territory that is outside the territory it was certificated to serve as of December 31, 1995, for which it obtains a certificate to provide local exchange telecommunications services on or after January 1, 1996.

"Customer" means any person, firm, partnership, corporation, municipality, cooperative, organization, or governmental agency using local exchange telecommunications services provided by a LEC that are under the jurisdiction of the commission.

"Emergency" means a sudden or unexpected occurrence involving a clear and imminent danger, demanding immediate action to prevent or mitigate loss of, or damage to, life, health, property, or essential public services.

"Facilities-based LEC" means a LEC that provides local exchange telecommunications services in whole or in part by means of its own network facilities.

"Federal Communications Commission (FCC) reportable outage" means a service outage that meets the FCC criteria for notification of service outage to the FCC as required by 47 CFR 63.100 et seq.

"Final trunk group" means a last-choice trunk group that receives overflow calls and may receive first-route calls for which there is no alternate route.

"In service trouble report" means a customer-reported network trouble that allows calls to be originated or received but affects other aspects of service such as static or hazardous conditions.

"Incumbent local exchange carrier" or "incumbent" or "ILEC" means a public service company providing local exchange telecommunications services in Virginia on December 31, 1995, pursuant to a certificate of public convenience and necessity, or the successors to any such company.

"Intercept" means a redirected call by an operator or a suitable recorded announcement that provides sufficient information as to the reasons for the call diversion, as well as directions to assist in completing the call.

"Justified commission complaint" means a complaint submitted to the commission or staff involving a telecommunications service under the jurisdiction of the commission where it was determined by the commission or the staff that the LEC, its employees or agents either: (i) failed to comply with its tariffs, procedures, or policies; (ii) used poor judgment; (iii) resolved the customer's problem in an untimely

fashion; or (iv) acted in an unreasonable or unprofessional manner.

"Load coil" means an induction device employed in local loops exceeding 18,000 feet to minimize amplitude distortion.

"Local exchange carrier (LEC)" means a certificated provider of local exchange telecommunications services, whether an incumbent or a new entrant.

"Local exchange telecommunications services" means local exchange telephone service as defined by § 56-1 of the Code of Virginia.

"Locality" means a city, town, or county that operates an electric distribution system in Virginia.

"Major service outage" means any network condition that causes 1,000 or more customers to be out of service for 30 or more minutes; causes an unplanned outage of, or completely isolates, a central office for 30 or more minutes; or disrupts 911 emergency call processing for any period.

"Municipal local exchange carrier (MLEC)" means a locality certificated to provide local exchange telecommunications services pursuant to § 56-265.4:4 of the Code of Virginia.

"Network" means a system of central offices and associated outside plant.

"Network access line (NAL)" means a customer dial tone line, or its equivalent, that provides access to the public telecommunications network.

"New entrant" means a CLEC or an MLEC.

"Out of service" means a service condition causing (i) an inability to complete an incoming or outgoing call or (ii) the presence of interference that causes a connected call to be incomprehensible.

"Outside plant" means all remaining facilities not included in the definition of central office (e.g., copper cables, fiber optic cables, coaxial cables, terminals, pedestals, load coils, or any other equipment normally associated with interoffice, feeder and distribution facilities up to and including the rate demarcation point).

"Rate demarcation point" means the point at which a LEC's network ends and a customer's wiring or facilities begin.

"Repeat report" means a customer-reported network trouble that is received by a LEC within 30 days of another network trouble report on the same NAL.

"Speed of answer interval (SAI)" means the period of time measured in seconds following customer direction either at the completion of direct dialing or upon completion of the final selection within an automated answering system and lasting until the call is answered by a live agent or is abandoned by the customer or the LEC.

"Staff" means the commission's Division of Communications and associated personnel.

"Standard load" means transmission loss has been reduced on a cable pair by means of configuring the twisted copper pair loop using a 6,000 foot H spacing loading scheme or

4,500 foot D spacing loading scheme, which may be expressed as 6,000 foot H88 mh load or 4,500 foot d66 mh load scheme.

"Subsequent report" means a customer-reported network trouble received by a LEC while the initial customer trouble report remains open.

"Telecommunications relay service" means a telephone transmission service that provides the ability for an individual with a hearing or speech disability to engage in communication with a hearing individual in a manner functionally equivalent to someone without such a disability.

"Transmission" means a process of sending information from one point to another.

"Trouble" means an impairment of a LEC's network.

"Trouble report" means an initial oral or written notice, including voice mail and e-mail, to any LEC employee or agent of a condition that affects or may affect network service for which there is no pending network trouble report.

"Trunk blockage" means the unavailability of network transmission capacity at the time of a call that prevents call completion and results in the call originator receiving a busy signal or an indication of trunk blockage.

"Unbundled network elements (UNE)" means the physical and functional components of the network, as defined by the FCC, that may be used or leased by a CLEC or a MLEC from an ILEC.

"Virginia universal service plan (VUSP)" means the program under which eligible lower-income customers may obtain certain telecommunications services at reduced monthly charges and may also receive a discount on certain nonrecurring connection or service charges from participating LECs. This program is also referred to as lifeline or link up.

"Voice grade service" means the transmission of communication signals in the range of 0 to 4000 Hertz.

20 VAC 5-427-20. General provisions.

A. The provisions of this chapter prescribe the minimum acceptable level of quality of service under normal operating conditions.

B. The commission may, after investigation, suspend application of any provision of this chapter during periods of emergency, catastrophe, natural disaster, severe storm, or other events affecting large numbers of customers. The commission may also suspend application of the provisions of this chapter for other extraordinary or abnormal conditions, including work stoppage, civil unrest, major transportation disruptions, or other events beyond the control of a LEC.

20 VAC 5-427-30. Network facilities, construction, maintenance, and operation.

A. Network facilities shall be designed, constructed, maintained, and operated in compliance with the latest edition of the National Electric Safety Code of the Institute of Electrical and Electronics Engineers, Inc., applicable commission orders, and all requirements for interconnection under applicable federal and state law.

Proposed Regulations

B. Outside plant shall be designed, constructed, and maintained so as to prevent transmission interference from services provided by other public utilities.

C. A LEC shall participate in operational reviews held at the staff's discretion to ensure that construction, design, maintenance, disaster recovery plans, and any other applicable programs are adequate to meet the needs of a LEC's customers.

D. A LEC shall have the test equipment and technical ability to determine the operating and transmission characteristics of circuit and switching equipment.

20 VAC 5-427-40. Reporting requirements.

A. The reporting requirements as set forth in this section shall apply to a LEC with a total of 20,000 or more NALs.

B. A LEC subject to the reporting requirements of this section shall fulfill its reporting requirements in conformance with 20 VAC 5-427-140. Reports shall be electronically submitted to the staff on a quarterly basis no later than one month following the end of each calendar quarter reporting period. A LEC may use its own report format with the prior approval of the staff. Any reported data resulting in an unsatisfactory rating shall be addressed in an action plan as set forth in 20 VAC 5-427-170 and shall be included in the LEC's required report.

C. A CLEC or an MLEC may request an exemption from any of the reporting requirements in this section if it demonstrates that its services are provided through the resale of an ILEC's tariffed services or through the use or lease of an ILEC's unbundled network elements over which it has no direct control. The commission or staff shall grant or deny a request for exemption on a case-by-case basis.

20 VAC 5-427-50. Availability and retention of records.

A. A LEC shall make available to the commission or staff, upon request, all records, reports, and other information required to determine compliance with this chapter and to permit the commission and staff to investigate and resolve quality of service complaints related to regulated telecommunications services.

B. A LEC shall retain records pursuant to the requirements of 20 VAC 5-427-140, where applicable, for a minimum of three years in a manner that permits audit by the commission or staff.

C. A LEC shall retain customer billing records for a minimum of three years to permit the commission or staff to investigate and resolve billing complaints.

20 VAC 5-427-60. Maintenance of facility maps and records.

A LEC shall maintain maps and records that show the location, description, and capacity fill data of its network.

20 VAC 5-427-70. Rate and special charges information.

A. A LEC shall, upon request, disclose verbally to a current or prospective customer all rates, charges, and fees applicable to a customer's service request or inquiry including, but not limited to, the federal subscriber line charge or its equivalent, or any other rates, charges, and fees that it collects and

retains. In addition, these rates, charges, and fees shall each be disclosed as line items on customer bills separately from governmental fees, taxes, and surcharges.

B. Upon the request of a current or prospective customer, a LEC shall describe and disclose the fees, taxes, and surcharges that it collects and distributes to governmental agencies.

C. Upon the request of a current or prospective customer, a LEC shall provide a copy of the applicable tariff section or pages for the regulated telecommunications service or, at the customer's option, may refer a customer to an Internet website containing its tariffs.

D. Upon the request of a current or prospective customer, a LEC shall provide reasonable access to information and provide assistance necessary to enable the current or prospective customer to obtain the most economical service available to meet the customer's needs, including VUSP or any other discount programs that may be available.

E. Before changing or installing a service, a LEC shall provide to the current or prospective customer an estimate of any special charges not specifically set forth in the LEC's applicable tariff. Special charges include, but are not limited to, any of the following: extraordinary construction, maintenance, and replacement costs; expenses for overtime work to be performed at the customer's request; or special installations, equipment, or assemblies needed to fulfill a customer's request.

20 VAC 5-427-80. Response to trouble reports.

A. A LEC shall take a trouble report from a customer at all times through an automated or live means. A LEC shall take immediate action to clear trouble reports of an emergency nature.

B. A LEC shall make a full and prompt investigation of all trouble reports and shall render reasonable assistance to its customer, whether an end user or another LEC, to identify a cause for the outage that may be corrected by the customer.

C. A LEC shall maintain an accurate record of trouble reports by telephone number or circuit number, as appropriate. The record shall include all of the following information:

1. The customer or service affected;
2. The time, date, and nature of the trouble report;
3. The action taken to clear the trouble or satisfy the complaint; and
4. The date and time the repair was completed or the trouble report was otherwise closed.

20 VAC 5-427-90. Service outage reporting requirements.

A. A service outage report shall be made to the staff according to the following guidelines:

1. A major service outage shall be reported to the staff on the same business day or, if the outage occurs after normal business hours or during a state holiday, at the beginning of the next business day;

2. An FCC reportable service outage shall be reported by a LEC to the staff at the same time it is reported to the FCC; and

3. A central office that experiences two or more unplanned outages within any 30-day period shall be reported by a LEC to the staff at the end of the calendar month in which the second unplanned stoppage occurred.

B. A facilities-based LEC shall notify any affected LEC dependent upon its network, in whole or in part, within 90 minutes of becoming aware of a major or FCC reportable service outage, unless interconnection agreements specify otherwise.

C. Service outages first shall be reported by a LEC to the staff via telephone and followed up with an e-mail or facsimile message and contain the following:

1. The central office, remote switch, or other network facility involved;
2. The date and estimated time of commencement of the outage;
3. The geographic area affected;
4. The estimated number of customers affected;
5. The types of services affected;
6. The duration of the outage (e.g., time elapsed from the commencement of the outage until estimated restoration of full service); and
7. The apparent or known cause of the incident, including the name and type of equipment involved and the specific part of the network affected, and methods used to restore service.

20 VAC 5-427-100. Emergency operation.

A LEC shall make reasonable preparations to continue operations and restore service outages resulting from fire, major electric power failures, other emergencies, and acts of divine providence. A LEC's employees or agents shall be instructed to follow predetermined emergency procedures to prevent or minimize interruption or degradation of service. A central office shall have access to adequate facilities to provide emergency electric power. A LEC shall determine the necessary reserve power capacity requirement based on its operating experience with its energy provider. If a central office does not have power generation equipment installed, a LEC shall design and maintain sufficient battery reserve, within the appropriate ampere hour rating, to allow time for delivery and setup of portable generators.

20 VAC 5-427-110. Customer complaint handling.

A LEC shall establish customer complaint processing procedures in compliance with § 56-247.1 C of the Code of Virginia by:

1. Providing the staff a means for immediate telephone access to company complaint resolution personnel during normal business hours;

2. Providing the staff an escalation list of at least three company contacts responsible for resolving customer complaints received by the commission or staff. This list shall include the names, titles, addresses, telephone numbers, fax numbers, and e-mail addresses of each individual contact. Any changes to the escalation list shall be provided to the staff within 30 days of the change;

3. Making a full and prompt investigation of all customer complaints;

4. Assisting customers who report obscene, threatening, or harassing calls;

5. Providing customers with toll-free numbers to report complaints;

6. Making its customer complaint procedure and its record of the number and type of complaints available to the staff whenever requested;

7. Noting and retaining customer contact records when an inquiry or complaint is resolved. Customer contact records shall be retained for a minimum of three years; and

8. Conducting an investigation upon notification by the staff or a customer inquiry or complaint. Out-of-service complaints shall be resolved immediately. For other complaints, the LEC shall provide a written or e-mail response to the staff detailing its resolution of the complaint within 10 business days following the initial notification by the staff. Upon extraordinary circumstances when the matter cannot be resolved within the 10 business-day period, the LEC shall provide updates to the staff every fifth business day, or sooner, until the matter is finally resolved.

20 VAC 5-427-120. Intercept.

When a customer's telephone number is changed or disconnected, the LEC shall intercept all calls to the former number in accordance with the following:

1. Intercept service shall be provided for changed numbers until the former number is reassigned due to equipment shortages or until it is no longer listed in the current directory; and

2. Intercept service shall be updated daily to reflect the most current service order activity affecting a LEC's customers.

20 VAC 5-427-130. Directories.

A. A LEC responsible for publishing a directory shall make every reasonable effort to resolve directory error disputes in a timely and efficient manner. A LEC responsible for directory publication may be required by the commission or directed by the staff to postpone publication depending upon the nature and severity of a complaint. A LEC responsible for publishing a directory includes, but is not limited to, a LEC that publishes directories, causes directories to be published, or provides customer information for inclusion in directories.

B. A LEC shall publish directories or cause its customers' listing information to be published in directories at yearly intervals. Exceptions to the yearly publication schedule shall be reviewed with the staff.

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C. A LEC shall distribute, or cause to be distributed at no charge to each customer, at least one directory for each NAL that includes listings contained in a customer's local and extended calling areas. In cases where one directory does not include the listings contained in a customer's local and extended calling areas, then a LEC shall provide, upon request, at no charge, any additional directories or supplements that may be required to provide such listings.

D. A LEC shall provide the staff one copy of each directory it publishes or causes to be published.

E. If an error occurs in the listed telephone number of a customer, then the LEC shall, at no charge, offer to intercept or cause to be intercepted calls to the listed number for the remaining life of the directory, provided that it is technically feasible and that the number is not in service for another customer.

F. If an error or omission in the name, address, or telephone number of a customer occurs, a LEC shall, if applicable, include, or cause to be included, the customer's correct name, address, or telephone number in the files of the directory assistance database.

G. If additions or changes to the network or any other operations require changing a telephone number assigned to a customer, then the serving LEC shall give reasonable notice to the customer affected even though the change in telephone number may coincide with the issuance of a directory.

H. A LEC responsible for publishing a directory shall, in the opening pages, include:

1. Information pertaining to accessing emergency services such as fire and police;
2. Information giving the commission's address, telephone number, website information, and regulatory authority;
3. An explanation of the services for which local exchange telecommunications services may be terminated for failure to pay;
4. Information pertaining to accessing the Telecommunications Relay Service. This service is also referred to as Virginia Relay;
5. Information describing illegal telephone use;
6. Information describing procedures for the prevention of damage to underground facilities;
7. Information describing procedures on handling harassing, obscene, abusive, or threatening calls;
8. Information pertaining to consumer rights to privacy including procedures on how to opt out or block services that may lead to the disclosure of personal information; and
9. Information pertaining to procedures on how to prevent solicitation calls.

I. All LECs providing service in an area represented by a directory shall, in the opening pages, include or cause to be included:

1. The LEC's complaint procedure established in compliance with § 56-247.1 C of the Code of Virginia;

2. Contact information necessary to reach directory assistance, repair service, and the appropriate business office;

3. An Internet address directing access to its tariffs. If tariffs are not accessible via the Internet, a LEC shall provide a toll-free telephone number from which a customer can receive assistance in obtaining tariffs directly from the LEC;

4. Instructions for obtaining information on billing and annoyance call procedures; and

5. Information describing the availability of VUSP services.

20 VAC 5-427-140. Service quality performance standards.

A. The rate of trunk blockage is a measure of the effectiveness of a LEC's engineering, forecasting, and maintenance of its circuit-switched inter- and intra-exchange trunk paths. The threshold for satisfactory performance is less than or equal to 1.0. This measurement shall be calculated for a given month, per central office, as illustrated by the following formula:

$$\frac{\text{Busy hour calls blocked}}{\text{Busy hour calls attempted}} \times 100 = \text{Trunk blockage}$$

1. Include in this report the following:

- a. Final trunk groups that carry local traffic;
- b. Final trunk groups that carry two-way local and long distance traffic between a central office and an access tandem switch; and
- c. Umbilicals or links that carry local traffic between central offices, including remotes.

2. Exclude from this report the following:

- a. Trunk groups that alternately route calls to another trunk group in handling public message calls; and
- b. Trunk groups that are dedicated to private or virtual private line use and trunk groups associated with mass calling networks or both.

B. Central office related trouble reports per 100 NALs is a measure of the quality of the switching systems and associated component's performance in processing calls. The threshold for satisfactory performance is less than or equal to 0.35. This measurement shall be calculated for a given month, per central office, as illustrated by the following formula:

$$\frac{\text{Central office related reports}}{\text{NALs at end of month}} \times 100 = \text{Central office related trouble reports}$$

Exclude from this report the following:

1. Reports of trouble from an employee or agent of a LEC discovered through diagnostic or other work done during routine maintenance of equipment;
2. Reports of trouble cleared to the connecting company's network; and
3. A subsequent report.

C. Outside plant trouble reports per 100 NALs is a measure of the design, construction, and maintenance of the outside plant portion of the network associated with a central office. The threshold for satisfactory performance is less than or equal to 3.0. This measurement shall be calculated for a given month, per central office serving area, as illustrated by the following formula:

$$\frac{\text{Outside plant trouble reports}}{\text{NALs at end of month}} \times 100 = \text{Outside plant trouble reports}$$

Excluded from this report are:

1. Reports of trouble from an employee or agent of a LEC discovered through diagnostic or other work done during routine maintenance of equipment;
2. Reports of trouble cleared to the connecting company's network;
3. Reports of trouble on which the employee or agent upon arriving at the customer location is unable to gain access to the rate demarcation point and access is necessary for trouble analysis and clearance; and
4. A subsequent report.

D. Repeat report is a measure of a LEC's failure to resolve a network trouble on the initial attempt. Beginning January 1, 2004, through December 31, 2004, the performance threshold for repeat reports shall be no greater than 16%. As of January 1, 2005, the performance threshold for repeat reports shall be no greater than 14%. As of January 1, 2006, the performance threshold for repeat reports shall be no greater than 12%. As of January 1, 2007, the performance threshold for repeat reports shall be no greater than 10%. This measurement shall be calculated for a given month, per central office serving area, as illustrated by the following formula:

$$\frac{\text{Repeat reports}}{\text{Trouble reports cleared}} \times 100 = \text{Percent repeat reports}$$

Excluded from this report are:

1. Reports of trouble from an employee or agent of a LEC discovered through diagnostic or other work done during routine maintenance of equipment;
2. Reports of trouble in which the employee or agent of a LEC upon arriving at the customer location is unable to gain access to the rate demarcation point necessary for trouble analysis and repair; and
3. A subsequent report.

E. Out-of-service trouble reports repaired within 24 or 48 hours are measures of a LEC's ability to provide timely and effective restoration of a customer's service after receiving a trouble report that calls cannot be received or originated.

1. A LEC shall maintain a performance threshold of 80% or greater cleared within 24 hours. This measurement shall be calculated for a given month, per central office serving area, as illustrated by the following formula:

$$\frac{\text{Out of service trouble reports cleared within 24 hours}}{\text{Out of service trouble reports}} \times 100 = \text{Percentage of out of service trouble reports cleared within 24 hours}$$

2. A LEC shall maintain a performance threshold of 99% or greater cleared within 48 hours. This measurement shall be calculated for a given month, per central office serving area, as illustrated by the following formula:

$$\frac{\text{Out of service trouble reports cleared within 48 hours}}{\text{Out of service trouble reports}} \times 100 = \text{Percentage of out of service trouble reports cleared within 48 hours}$$

3. Excluded from these reports are:

- a. Customer-requested extended interval appointments;
- b. Reports of trouble from an employee or agent of a LEC discovered through diagnostic or other work done during routine maintenance of equipment;
- c. An out-of-service trouble report on which an employee or agent of a LEC upon arriving at the customer location is unable to gain access to the rate demarcation point and access is necessary for trouble analysis and repair; and
- d. A subsequent report.

F. In-service trouble reports cleared within 72 or 96 hours are measures of a LEC's ability to provide timely and effective correction of a customer's service after receiving a trouble report.

1. A LEC shall maintain a performance threshold of 90% or greater cleared within 72 hours. This measurement shall be calculated for a given month, per central office serving area, as illustrated by the following formula:

$$\frac{\text{In service trouble reports cleared within 72 hours}}{\text{In service trouble reports}} \times 100 = \text{Percentage of in service trouble reports cleared within 72 hours}$$

2. A LEC shall maintain a performance threshold of 99% or greater cleared within 96 hours. This measurement shall be calculated for a given month, per central office serving area, as illustrated by the following formula:

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$$\frac{\text{In service trouble reports cleared within 96 hours}}{\text{In service trouble reports}} \times 100 = \text{Percentage of in service trouble reports cleared within 96 hours}$$

3. Excluded from these reports are:

- a. Customer requested extended interval appointments;
- b. Reports of trouble from an employee or agent of a LEC discovered through diagnostic or other work done during maintenance of telecommunications equipment; and
- c. An in-service trouble report on which an employee or agent of a LEC upon arriving at the customer location is unable to gain access to the rate demarcation point and access is necessary for trouble analysis and clearance.

G. Business office access is a measure of a LEC's ability to provide a sufficient number of lines or trunks to reach its business office. A LEC shall maintain a performance threshold of 99% or greater of calls not blocked from entering its automated answering system or reaching a live agent for a LEC not utilizing an automated answering system. This measurement shall be calculated for a given month, based on the busy hour, on a statewide basis, as illustrated by the following formula:

$$\frac{\text{Busy hour calls not blocked}}{\text{Busy hour call attempts}} \times 100 = \text{Business office access percentage}$$

H. Business office answer time is a measure of workforce performance in answering business office calls in a timely manner. The performance threshold for business office answer time shall be an average speed of answer interval ("SAI") of no greater than 30 seconds. A call is considered to have been answered when a live agent is ready to render assistance or accept the information necessary to process the call. Information including, for example, marketing or promotional material provided by an automated answering system, other than that necessary to direct customers to a live agent, during normal hours of operation, shall be included in the cumulative SAI. This measurement shall be calculated for a given month, on a statewide basis, as illustrated by the following formula:

$$\frac{\text{Cumulative SAI in seconds}}{\text{Calls answered by a live agent}} = \text{Business office answer time}$$

Exclude from this report the following:

- 1. Customer initiated web transactions; and
- 2. Customer initiated automated transactions.

I. Business office hold time is a measure of workforce efficiency in processing customer requests. The performance threshold shall be an average hold time of no greater than 60 seconds. Business office hold time is any period after the call has been answered when the live agent is not actively

engaged with the customer. This measurement shall be calculated for a given month, on a statewide basis, as illustrated by the following formula:

$$\frac{\text{Total hold time in seconds}}{\text{Total calls placed on hold by a live agent}} = \text{Business office hold time}$$

J. Repair center access is a measure of a LEC's ability to provide a sufficient number of lines or trunks to reach its repair center. A LEC shall maintain a performance threshold of 99% or greater of calls not blocked from entering its automated answering system or reaching a live agent for a LEC not utilizing an automated answering system. This measurement shall be calculated for a given month, based on the busy hour, on a statewide basis, as illustrated by the following formula:

$$\frac{\text{Busy hour calls not blocked}}{\text{Busy hour call attempts}} \times 100 = \text{Repair center access percentage}$$

K. Repair center answer time is a measure of workforce performance in answering business office calls in a timely manner. The performance threshold for repair center answer time shall be an average SAI of no greater than 30 seconds. A call is considered to have been answered when a live agent is ready to render assistance or accept the information necessary to process the call. Information including, for example, marketing or promotional material provided by an automated answering system, other than that necessary to direct customers to a live agent, shall be included in the cumulative SAI. This measurement shall be calculated for a given month, on a statewide basis, as illustrated by the following formula:

$$\frac{\text{Cumulative SAI in seconds}}{\text{Calls answered by a live agent}} = \text{Repair center answer time}$$

Exclude from this report the following:

- 1. Customer-initiated web transactions; and
- 2. Customer-initiated automated transactions.

L. Repair center hold time is a measure of workforce efficiency in processing customer trouble reports. The performance threshold shall be an average customer hold time of no greater than 60 seconds. Repair center hold time is any period after the call has been answered when the live agent is not actively engaged with the customer. This measurement shall be calculated for a given month, on a statewide basis, as illustrated by the following formula:

$$\frac{\text{Total hold time in seconds}}{\text{Total calls placed on hold by a live agent}} = \text{Repair center hold time}$$

M. Operator access is a measure of a LEC's ability to provide a sufficient number of lines or trunks to reach operator services at all times. A LEC shall maintain a performance

threshold of 99% or greater of calls not blocked from entering its automated answering system or reaching a live agent for a LEC not utilizing an automated answering system. This measurement shall be calculated for a given month, based on the busy hour, on a statewide basis, as illustrated by the following formula:

$$\frac{\text{Busy hour calls not blocked}}{\text{Busy hour call attempts}} \times 100 = \text{Operator access}$$

N. Operator answer time is a measure of workforce performance in answering directory assistance, collect, third-party billed, person-to-person, emergency, and other calls in a timely manner. The performance threshold for operator answer time shall be an average SAI of no greater than 15 seconds. A call is considered to have been answered when a live agent is ready to render assistance or accept the information necessary to process the call. Information including, for example, marketing or promotional material provided by an automated answering system, other than that necessary to direct customers to a live agent, shall be included in the cumulative SAI. This measurement shall be calculated for a given month as illustrated by the following formula:

$$\frac{\text{Cumulative SAI in seconds}}{\text{Calls answered by a live agent}} = \text{Operator answer time}$$

Exclude from this report customer-initiated automated transactions.

O. Nondispatchable service orders completed within two business days are a measure of a LEC's ability to complete installation and disconnection work requests, not requiring a dispatch of outside plant personnel, in a timely manner. A LEC shall complete no less than 90% of installations for one to five NALs within two business days. Nondispatchable service orders include requests for new service, transfers to new locations, additions to existing service, and requests for disconnection.

This measurement shall be calculated for a given month as illustrated by the following formula:

$$\frac{\text{Nondispatchable service orders completed within two business days}}{\text{Total nondispatchable service orders}} \times 100 = \text{Percentage of nondispatchable service orders completed within two business days}$$

Exclude from this report the following:

1. Customer requested extended interval installation orders; and
2. Orders completed late due to customer caused delay.

P. Dispatchable service orders completed within five business days are a measure of a LEC's ability to complete installation

and disconnection work requests, requiring a dispatch of outside plant personnel, in a timely manner. A LEC shall complete no less than 90% of installations for one to five NALs within five business days. Dispatchable service orders include requests for new service, transfers to new locations, additions to existing service, and requests for disconnection.

This measurement shall be calculated for a given month as illustrated by the following formula:

$$\frac{\text{Dispatchable service orders completed within five business days}}{\text{Total dispatchable orders}} \times 100 = \text{Percentage of dispatchable service orders completed within five business days}$$

Exclude from this report the following:

1. Customer-requested extended interval installation orders;
2. Orders completed late due to customer caused delay; and
3. Scheduled installations on which the employee or agent, upon arriving at a customer location during the agreed upon time, was unable to gain access to customer equipment necessary to perform the work.

Q. Service orders completed within 30 calendar days are a measure of a LEC's ability to forecast installation work requests in a manner to meet customer demand. A LEC shall complete no less than 99% of installations for one to five NALs within 30 calendar days. Installation orders include requests for new service or transfers to new locations.

This measurement shall be calculated for a given month as illustrated by the following formula:

$$\frac{\text{Service order completed within 30 calendar days}}{\text{Total installation orders}} \times 100 = \text{Percentage of service orders completed within 30 calendar days}$$

Exclude from this report the following:

1. Custome- requested extended interval installation orders;
2. Orders completed late due to customer caused delay; and
3. Scheduled installations on which the employee or agent, upon arriving at a customer location during the agreed upon time, was unable to gain access to customer equipment necessary to perform the work.

R. Customer commitments met are a measure of a LECs ability to complete customer installation and repair requests on time. A LEC shall meet no less than 90% of customer commitments. This measurement shall be calculated for a given month, per central office serving area, as illustrated by the following formula:

$$\frac{\text{Total commitments met}}{\text{Total commitments}} \times 100 = \text{Percentage of customer commitments met}$$

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Total commitments made

Exclude from this report commitments missed due to inability to gain access to customer equipment necessary to perform the work.

20 VAC 5-427-150. Transmission and auditing standards.

A. The copper twisted loop transmission standards are as follows:

- 1. Properly load all voice grade loops greater than 18,000 feet;*
- 2. No load coils on loops 18,000 feet or less;*
- 3. Central office end section shall be ½ of one standard load section for loaded loops;*
- 4. The customer end section should be no more than 1 ½ standard load sections;*
- 5. No bridged taps between load coils;*
- 6. Tip Ground, Ring Ground, or Tip Ring leakage should be equal to or greater than 100K ohms;*
- 7. Longitudinal noise less than or equal to 80 dBrnC;*
- 8. Metallic noise less than 20 dBrnC; and*
- 9. 100% cable shield integrity between office frame ground and customer terminal.*

B. In conducting a copper twisted pair transmission audit, the following shall be considered major faults:

- 1. Missing coil or coils on loops exceeding 18,000 feet;*
- 2. Customer located less than ½ load section distance from last coil;*
- 3. Customer end section more than 10,000 feet from last coil;*
- 4. Deviation greater than 10% from standard load spacing;*
- 5. Double loads;*
- 6. Wrong type load coils;*
- 7. Load coils varying more than 25% from threshold load coil;*
- 8. Load coils on a loop 18,000 feet or less;*
- 9. More than a 12% deviation on the standard spacing on the office end section;*
- 10. Bridged taps between load coils;*
- 11. Tip Ground, Ring Ground, or Tip Ring leakage less than 100K ohms;*
- 12. Voltage greater than 15 volts AC;*
- 13. Voltage greater than 10 volts DC;*
- 14. Longitudinal noise greater than 90 dBrnC; and*

15. Metallic noise greater than 20 dBrnC.

C. In conducting a copper twisted pair transmission audit, the following shall be considered minor faults:

- 1. Longitudinal noise greater than 80 but less than or equal to 90 dBrnC; and*
- 2. Failure to maintain shield continuity.*

D. A rate exceeding 6.0% in the major fault category or a rate exceeding 16% in the minor fault category will constitute a failed inspection. A failed inspection shall require a corrective action plan when appropriate as determined by the staff, as set forth in 20 VAC 5-427-170.

E. The staff may audit the design, construction, and maintenance of network facilities. A LEC shall participate in such audits as requested by the staff.

20 VAC 5-427-160. Commission complaint threshold.

The commission complaint threshold is a measure of the number of justified commission complaints filed with the commission or staff against a LEC in a calendar year. Justified commission complaints in excess of one per 1,000 NALs, annualized, is unsatisfactory.

20 VAC 5-427-170. Action plan to remedy noncompliance.

A. A LEC subject to the reporting requirements of 20 VAC 5-427-140 shall submit a written action plan to remedy noncompliance if a LEC has:

- 1. Failed to meet a service quality performance standard established in 20 VAC 5-427-140 for at least three consecutive months;*
- 2. Failed an audit pursuant to 20 VAC 5-427-150; or*
- 3. Exceeded the commission complaint threshold pursuant to 20 VAC 5-427-160.*

B. An action plan to remedy noncompliance shall be submitted to the staff within 30 days following the reported noncompliance or as otherwise requested by the staff. An action plan shall at a minimum contain:

- 1. A complete identification of the cause of noncompliance;*
- 2. An explicit remedy or corrective action and a schedule of implementation of the remedial or corrective action to be taken by a LEC; and*
- 3. A date by which a LEC will complete the remedial or corrective action identified.*

C. Compliance by a LEC with the provisions of this section does not preclude the commission from further enforcement under its regulatory authority.

20 VAC 5-427-180. Waiver.

The commission may, at its discretion, waive or grant exceptions to any provision of this chapter.

VA.R. Doc. No. R03-309; Filed August 4, 2003, 12:49 p.m.

Title of Regulation: 20 VAC 5-425. Rules Governing Enhanced 9-1-1 ("E-911") Service (adding 20 VAC 5-425-10, 20 VAC 5-425-20, 20 VAC 5-425-30, and 20 VAC 5-425-40).

Statutory Authority: § 12.1-13 of the Code of Virginia.

Public Hearing Date: Hearing will be scheduled if requested.

Public comments may be submitted until September 26, 2003.

Agency Contact: Steve Bradley, Deputy Director, State Corporation Commission, Division of Communications, P.O. Box 1197, Richmond, VA 23218, telephone (804) 371-9420, FAX (804) 371-9069, or e-mail sbradley@scc.state.va.us.

Summary:

The proposed rules seek to bring additional reliability and accountability to the provisioning of E-911 service by addressing E-911 database reliability issues and requiring a Local Exchange Carrier (LEC) to: provide adequate and accurate customer information to the Public Safety Answering Point (PSAP); submit database changes to the E-911 database provider within 24 hours of notification of the change; correct, or cause to be corrected, any incorrect automatic location identification record within 24 hours of notification by the PSAP; exclude from the E-911 database those telephone numbers not capable of accessing E-911 services; temporarily maintain residential access to E-911 services during the suspension of local service for nonpayment; and communicate to a PSAP such information that will assist the PSAP in ordering E-911 service consistent with an industry standard grade of service. The proposed rules also require that a LEC provide billing detail to each PSAP sufficient to identify the number of access lines served by the LEC in that PSAP's territory.

AT RICHMOND, AUGUST 1, 2003

COMMONWEALTH OF VIRGINIA, ex rel.

STATE CORPORATION COMMISSION

CASE NO. PUC-2003-00103

Ex Parte: In the matter of establishing rules governing the provision of enhanced 911 service by local exchange carriers

ORDER FOR NOTICE AND COMMENT OR REQUESTS FOR HEARING

Enhanced 911 ("E-911") is the telephone emergency access service that is critically important to the safety and health of many Virginia citizens.¹ The reliability of E-911 service and the accuracy of the customer database information is

¹ E-911 is a service consisting of telephone network features and Public Safety Answering Points ("PSAPs") provided to users of telephone systems enabling such users to reach a PSAP by dialing the digits "9-1-1." Such service automatically directs 911 telephone calls to the appropriate PSAP by selective routing based on the geographical location from which the emergency call originates and provides the capability for automatic number identification ("ANI") and automatic location identification ("ALI"). (Section 56-484.12 of the Code of Virginia.)

essential to protecting public safety and health. Recent informal complaints to the State Corporation Commission ("Commission") from Public Safety Answering Point ("PSAP") administrators and local governments regarding quality and billing issues related to providing E-911 service prompted the Commission's Division of Communications to draft "Rules Governing Enhanced 911 Service" ("Proposed Rules") that seek to bring additional reliability and accountability to the provisioning of E-911 service. The Staff's Proposed Rules are attached as Attachment A.

In part, the Staff proposes rules in Attachment A that address E-911 database reliability issues and require a Local Exchange Carrier ("LEC") to: provide adequate and accurate customer information to the PSAP; submit database changes to the E-911 database provider within 24 hours of notification of the change; correct, or cause to be corrected, any incorrect ALI record within 24 hours of notification by the PSAP; exclude from the E-911 database those telephone numbers not capable of accessing E-911 service; temporarily maintain residential access to E-911 service during the suspension of local service for non-payment; and communicate to a PSAP such information that will assist the PSAP in ordering E-911 service consistent with an industry standard grade of service. The Staff also proposes rules that require a LEC to provide billing detail to each PSAP sufficient to identify the number of access lines served by the LEC in that PSAP's territory.

The Commission's Division of Information Resources is directed to forward the Proposed Rules to the Registrar of Virginia for publication in the Virginia Register of Regulations and to make the Proposed Rules available on the Commission's website. Interested persons should be permitted to comment on, propose modifications or supplements to, or request a hearing on the Proposed Rules.

In addition, the Commission requests comments from interested parties on the following questions:

1. What are the relevant and necessary components that constitute intrastate regulated E-911 service as they are currently provisioned?
2. How should localities be precluded from being assessed duplicate charges for intrastate regulated E-911 service?
3. For purposes of PSAP billing, how should E-911 accessible lines be counted (thousand blocks, hundred blocks, or other), and by whom?

Accordingly, IT IS ORDERED THAT:

- (1) This matter is docketed and assigned Case No. PUC-2003-00103.
- (2) The Commission's Division of Information Resources shall forward the Proposed Rules to the Registrar of Virginia for publication in the Virginia Register of Regulations.
- (3) On or before August 25, 2003, the Commission's Division of Information Resources shall make a downloadable version of the Proposed Rules available for access by the public at the Commission's website, <http://www.state.va.us/scc/caseinfo/orders.htm>. The Clerk of the Commission shall make a copy of the Proposed

Proposed Regulations

Rules available for public inspection and provide a copy of the Proposed Rules, free of charge, in response to any written request.

(4) Interested persons wishing to comment on, propose modifications or supplements to, or request a hearing on the Proposed Rules shall file an original and fifteen (15) copies of such comments, proposals, or requests with the Clerk of the Commission, State Corporation Commission, P.O. Box 2118, Richmond, Virginia 23218, on or before September 26, 2003, making reference to Case No. PUC-2003-00103. Interested persons desiring to submit comments electronically may do so by following the instructions found on the Commission's website, <http://www.state.va.us/scc/caseinfo/notice.htm>.

(5) On or before August 25, 2003, the Commission's Division of Information Resources shall publish the following notice as classified advertising in newspapers of general circulation throughout the Commonwealth of Virginia.

NOTICE TO THE PUBLIC OF A PROCEEDING TO
ADOPT RULES GOVERNING THE PROVISION OF
E-911 SERVICE BY LOCAL TELEPHONE COMPANIES
CASE NO. PUC-2003-00103

Recognizing that Enhanced 911 ("E-911") service is of critical importance to the health and safety of the citizens of Virginia, the State Corporation Commission ("Commission") now proposes rules ("Proposed Rules") establishing specific duties for local exchange carriers ("LECs") to follow when providing E-911 service.

Interested parties may obtain a copy of the Proposed Rules by visiting the Commission's website, <http://www.state.va.us/scc/caseinfo/orders.htm>, or by requesting a copy from the Clerk of the Commission. The Clerk's office will provide a copy of the Proposed Rules to any interested party, free of charge, in response to any written request. The Proposed Rules have been forwarded to the Office of the Registrar of Virginia for publication in the Virginia Register of Regulations. Any person desiring to comment in writing or request a hearing on the Proposed Rules may do so by directing such comments or requests for hearing on or before September 26, 2003, to the Clerk of the Commission, c/o Document Control Center, P.O. Box 2118, Richmond, Virginia 23218. Interested persons desiring to submit comments electronically may do so by following the instructions found on the Commission's website, <http://www.state.va.us/scc>. Comments and requests for hearing must refer to Case No. PUC-2003-00103. Requests for hearing shall state with specificity why such concerns cannot be adequately addressed in written comments.

VIRGINIA STATE CORPORATION COMMISSION

(6) This matter is continued for further orders of the Commission.

AN ATTESTED COPY hereof shall be sent by the Clerk of the Commission to all persons on the official Service List in this matter. The Service List is available from the Clerk of the State Corporation Commission, c/o Document Control Center,

1300 East Main Street, First Floor, Tyler Building, Richmond, Virginia 23219.

CHAPTER 425.

RULES GOVERNING ENHANCED 9-1-1 (E-911) SERVICE.

20 VAC 5-425-10. Definitions.

The words and terms in § 56-484.12 of the Code of Virginia shall have application to this chapter. In addition, the following words and terms when used in this chapter shall have the following meanings unless the context clearly indicates otherwise:

"Automatic location identification (ALI)" means the feature by which the name, address, and supplemental emergency service information associated with the calling party's telephone number are forwarded to the Public Safety Answering Point (PSAP) for automatic display on the PSAP terminal equipment.

"Automatic number identification (ANI)" means a feature by which the calling party's telephone number associated with the access line is forwarded to the PSAP for display on the 911 terminal.

"Average busy hour" means the one-hour period during the week statistically shown over time to be the hour in which the most telephone calls are received.

"Competitive local exchange carrier (CLEC)" means an entity, other than a locality, certificated to provide local exchange telecommunications services in Virginia after January 1, 1996, pursuant to § 56-265.4:4 of the Code of Virginia. An incumbent local exchange carrier shall be considered a CLEC in any territory that is outside the territory it was certificated to serve as of December 31, 1995, for which it obtains a certificate to provide local exchange telecommunications services on or after January 1, 1996.

"Database error" means an error caused by a Local Exchange Carrier (LEC) that affects the ability of a PSAP to route correctly emergency services.

"E-911 ALI database" means the set of ALI records residing on a computer system.

"E-911 service" means the tariffed services purchased by a jurisdiction for the purpose of processing E-911 calls.

"Foreign central office service" means local exchange telecommunications services that are furnished from one central office to a location typically served by another central office.

"Foreign exchange service" means local exchange telecommunications services that are furnished from one exchange to a location typically served by another exchange.

"Incumbent local exchange carrier (ILEC)" or "incumbent" means a public service company providing local exchange telecommunications services in Virginia on December 31, 1995, pursuant to a certificate of public convenience and necessity, or the successors to any such company.

"Local exchange carrier (LEC)" means a certificated provider of local exchange telecommunications services, whether an incumbent or a new entrant.

"Local exchange telecommunications services" means local exchange telephone service as defined by § 56-1 of the Code of Virginia.

"Locality" means a city, town, or county that operates an electric distribution system in Virginia.

"Municipal local exchange carrier (MLEC)" means a locality certificated to provide local exchange telecommunications services pursuant to § 56-265.4:4 of the Code of Virginia.

"Network access line (NAL)" means a customer dial tone line, or its equivalent, that provides access to the public switched network.

"New entrant" means a CLEC or an MLEC.

"P.01 grade of service" means a standard of service quality reflecting the probability that no more than one call out of 100 during the average busy hour will be blocked.

"Public safety answering point (PSAP)" means a facility that has been designated to receive 911 calls and route them to emergency services personnel.

"Staff" means the commission's Division of Communications and associated personnel.

"Trunk" means a communication line between two switching systems.

20 VAC 5-425-20. General provisions.

A. A LEC shall:

1. Provide access to E-911 service on all NALs where applicable;
2. Provide each relevant PSAP with a means for immediate access to personnel to assist in obtaining E-911 record-related information on a 24-hour basis, 365 days a year. Any changes to this contact information shall be communicated in writing to affected PSAPs within five business days;
3. Provide LEC identification information on each ALI record submitted to the E-911 ALI database;
4. Provide customer ALI information such that the E-911 ALI database error rate is no greater than 1.0%. The ALI database error rate shall be calculated by dividing the number of incorrect ALI records returned from PSAPs to a serving LEC by the number of ALI records submitted by a LEC, on a company-wide basis, during any given quarter. Deviations from this standard shall be reported in writing to the staff no later than the last business day of the month following the end of each quarter. A corrective action plan may be required when appropriate as determined by the staff;
5. Submit all E-911 ALI database affecting changes to the E-911 ALI database provider within 24 hours of the notice of the change, excluding holidays and weekends;
6. Correct, or cause to be corrected, any ALI record within 24 hours of notification from a PSAP, excluding holidays and weekends;

7. Exclude from the E-911 ALI database telephone numbers not capable of accessing E-911 services;

8. Provide the ANI and ALI for nonpublished and nonlisted telephone numbers in the normal database entry process. This provision does not apply to any telephone number excluded by government mandate;

9. Provide customer ALI information relating to an E-911 emergency immediately upon the verbal request of a verified authorized agent of the PSAP;

10. Advise customers applying for foreign exchange or foreign central office service of the potential for problems reaching the appropriate PSAP;

11. Maintain access to E-911 service during any period of temporary suspension for the nonpayment of residential local exchange telecommunications services for a period of not less than seven calendar days from the date of temporary suspension, where practicable; and

12. Render to each PSAP, on an annual basis, at no charge, where it provides ALI database services, billing detail sufficient to identify the number of access lines associated with each LEC in that PSAP's territory.

B. A new entrant shall notify each relevant PSAP at least 30 days prior to the commencement or discontinuance of local exchange telecommunications services.

20 VAC 5-425-30. Rates and tariffs.

A. A new entrant's rates for any E-911 service shall be no higher than the lowest applicable rates established by the ILEC or ILECs serving the geographic area of the relevant PSAP.

B. A LEC shall input or cause to be input E-911 ALI database information as part of the general cost of providing local exchange telecommunications services.

C. A LEC shall structure its tariffed E-911 services to preclude a PSAP from purchasing duplicate services.

20 VAC 5-425-40. Provisioning.

A LEC providing E-911 services shall:

1. Design, construct, maintain, and operate its facilities to provide E-911 services on an uninterrupted basis;
2. Determine wireline E-911 service requirements in consultation with the relevant PSAP. These requirements shall be communicated to the PSAP prior to implementation and shall include detail sufficient to allow the PSAP to order E-911 service consistent with a P.01 grade of service; and
3. Provide E-911 service consistent with a P.01 grade of service. Performance below this standard for three consecutive months, and a detailed explanation of such, shall be reported in writing to the PSAP and to the staff no later than the last business day of the month following the end of a quarter.

VA.R. Doc. No. R03-308; Filed August 4, 2003, 12:48 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

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.

Effective Date: July 30, 2003.

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.

Summary:

The 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 are required to obtain a permit to maintain them in captivity, and may not sell them without a permit as required by the regulation. Captive African rodents may not be transferred from one person to another unless the recipient obtains a permit. The amendment 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.

Summary of Public Comments and Agency's Response: No public comments were received by the promulgating agency.

REGISTRAR'S NOTICE: The proposed regulation was adopted as published in 19:23 VA.R. 3285-3287 July 28, 2003, without change. Therefore, pursuant to § 2.2-4031 A of the Code of Virginia, the text of the final regulation is not set out.

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 20-752. Pertaining to Blue Crab Sanctuaries (amending 4 VAC 20-752-20).

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

Effective Date: July 23, 2003.

Agency Contact: Deborah 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 amendment corrects an error in the definition of "Virginia Blue Crab Sanctuaries" involving a longitude.

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;

VA.R. Doc. No. R03-270; Filed July 30, 2003, 10:56 a.m.

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. R3-302; Filed July 25, 2003, 11:18 a.m.

Title of Regulation: 4 VAC 20-1070. Pertaining to Haul Seines (adding 4 VAC 20-1070-10 through 4 VAC 20-1070-50).

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

Effective Date: August 1, 2003.

Summary:

This regulation establishes gear restrictions and reporting requirements for the commercial haul seine fishery.

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

4 VAC 20-1070-10. Purpose.

The purposes of this regulation are to (i) establish gear restrictions pertaining to haul seines, (ii) establish restrictions for the operation and fishing of haul seines, and (iii) establish a call-in procedure for haul seine operations using more than one vessel to set a haul seine.

4 VAC 20-1070-20. Definitions.

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

"Haul seine" means a net made of mesh webbing, which may include a pocket and wing net set vertically in the water and pulled by hand or power to capture and confine fish by encirclement.

"Long haul seine" means a net made of mesh webbing that is towed or dragged by two vessels more than a distance of 1.0 nautical miles from the point of its deployment, in an open configuration through the water.

"Pocket" means an enclosure with mesh webbing on its sides and floor that is attached to the bottom with stakes or poles and used to temporarily contain fish or other catch removed from the haul seine.

4 VAC 20-1070-30. Gear restrictions.

A. It shall be unlawful for any person to place or set in the water, encircle or enclose any haul seine that exceeds 1,000 yards in length.

B. It shall be unlawful for any person to tie together, set or fish two or more haul seines with a combined total length of netting that exceeds 1,000 yards.

C. It shall be unlawful for any person to tow or drag a haul seine by two vessels so that it operates as a long haul seine. When setting a haul seine with more than one vessel, it shall be unlawful for any person to tow or drag a haul seine more than a distance of 1.0 nautical miles from the point of its deployment in an open configuration through the water.

D. It shall be unlawful for any person to use more than one vessel to move either end of a haul seine net or nets.

E. It shall be unlawful for any person to remove fish or other catch from the pocket when the pocket is located in waters that are less than three feet in depth. Measurement of the depth of water containing the pocket may be taken within the pocket or within a distance of 15 feet from the pocket, using a pole-type measuring device graduated into one-foot intervals of measurement.

4 VAC 20-1070-40. Reporting requirements.

It shall be unlawful for any person licensed to haul seine and intending to set any haul seine with more than one vessel to fail to contact the Virginia Marine Resources Commission Operations Station's toll-free line (1-800-541-4646), by 3 p.m., when intending to haul seine within the following 24-hour period to report the specific location and estimated time the haul seine will be set.

In the event the site is later determined to not be fishable, the haul seine licensee shall contact the Virginia Marine Resources Commission Operations Station's toll-free line (1-800-541-4646) immediately and identify the alternate location to be fished and the estimated time the haul seine will be set at this alternate location.

4 VAC 20-1070-50. Penalty.

A. As set forth in § 28.2-903 of the Code of Virginia, any person violating any provision of this regulation, except as provided in 4 VAC 20-1070-30 C, shall be guilty of a Class 3 misdemeanor, and a second or subsequent violation of any provision of this regulation committed by the same person within 12 months of a prior violation is a Class 1 misdemeanor. A violation of 4 VAC 20-1070-30 C is a Class 1 misdemeanor, as prescribed by § 28.2-314 of the Code of Virginia.

B. In addition to the penalties described in subsection A of this section, any person convicted of a violation of any provision of this chapter may incur a revocation of his Commercial Fisherman Registration License and haul seine license upon review by the commission.

VA.R. Doc. No. R03-303; Filed July 25, 2003, 11:20 a.m.



Final Regulations

TITLE 9. ENVIRONMENT

VIRGINIA WASTE MANAGEMENT BOARD

REGISTRAR'S NOTICE: Due to its length, the following regulatory action filed by the Virginia Waste Management Board is not being published. However, in accordance with § 2.2-4031 of the Code of Virginia, the summary is being published in lieu of the full text. The full text of the regulation is available for public inspection at the office of the Registrar of Regulations and at the Virginia Waste Management Board (see contact information below) and is accessible on the Virginia Register of Regulations website at <http://legis.state.va.us/codecomm/register/vol19/welcome.htm>.

Title of Regulation: 9 VAC 20-80. Solid Waste Management Regulations (amending 9 VAC 20-80-10, 9 VAC 20-80-60, 9 VAC 20-80-80, 9 VAC 20-80-90, 9 VAC 20-80-100, 9 VAC 20-80-105, 9 VAC 20-80-110, 9 VAC 20-80-113, 9 VAC 20-80-115, 9 VAC 20-80-120, 9 VAC 20-80-140, 9 VAC 20-80-150, 9 VAC 20-80-160, 9 VAC 20-80-170, 9 VAC 20-80-180, 9 VAC 20-80-190, 9 VAC 20-80-210, [9 VAC 20-80-240,] 9 VAC 20-80-250, 9 VAC 20-80-260, 9 VAC 20-80-270, 9 VAC 20-80-280, 9 VAC 20-80-300, 9 VAC 20-80-310, 9 VAC 20-80-330, 9 VAC 20-80-340, [9 VAC 20-80-360,] 9 VAC 20-80-370, 9 VAC 20-80-460, 9 VAC 20-80-485, 9 VAC 20-80-500, 9 VAC 20-80-510, [9 VAC 20-80-520,] 9 VAC 20-80-530, [9 VAC 20-80-550,] 9 VAC 20-80-570, 9 VAC 20-80-580, [9 VAC 20-80-600,] 9 VAC 20-80-620, [9 VAC 20-80-640,] 9 VAC 20-80-650, 9 VAC 20-80-670, [9 VAC 20-80-730,] [9 VAC 20-80-740,] 9 VAC 20-80-760, 9 VAC 20-80-770, and 9 VAC 20-80-780 [9 VAC 20-80-790]; adding 9 VAC 20-80-105 and 9 VAC 20-80-205).

Statutory Authority: § 10.1-1402 of the Code of Virginia, 42 USC § 6941 et seq., and 40 CFR Part 258.

Effective Date: September 24, 2003.

Agency Contact: Michael J. Dieter, Department of Environmental Quality, P.O. Box 10009, Richmond, VA 23240, telephone (804) 698-4146 or e-mail mjdieter@deq.state.va.us.

Summary:

The amendments address statutory changes enacted by the General Assembly. The amendments (i) require the Director of Department of Environmental Quality to make a needs determination for additional solid waste disposal capacity; (ii) require additional documentation from landfill operators for permit applications; (iii) require operators to guarantee disposal capacity to localities; (iv) require a host community agreement between the locality and the operator; (v) require solicitation of comments from geographically contiguous jurisdictions; (vi) establish minimum numerical inspection frequencies; (vii) address how the department responds to citizen complaints; (viii) require implementation of a remedy within a specific period if a methane gas release is discovered; and (ix) add a schedule for evaluation of presumptive remedy for violation of ground water protection standards.

The following changes were made to the proposed regulation:

Where the regulations indicated that submissions should be made to the director, the regulations now state that submissions are made to the department.

9 VAC 20-80-10. Definitions - The following definitions were modified in order to make the regulation clearer: agricultural waste, benchmark, director, leachate, operating record, and speculatively accumulated material. A definition of fossil fuel combustion products was added. Recently published guidelines from the EPA provide the framework for the management of this material.

9 VAC 20-80-113. Control Program for Unauthorized Waste - New inspection provisions for sanitary landfills and incinerators have been added to the regulation. Additional requirements for the inspections must be in place within six months of the effective date of the regulation.

References to less stringent standards in other states and references to states have been removed from the regulation. The new provisions in the control program for unauthorized wastes are related to the management of all waste from outside of Virginia, not just waste from other states. Rather than stating that other states standards are more or less stringent, the section has been revised to indicate that the other states allow for the disposal of wastes that Virginia's laws and regulation prohibit or restrict.

9 VAC 20-80-150. Exclusions - The exclusions available to coal combustion byproducts have been extended to a new category of material, fossil fuel combustion products. The terminology used in the definition of "fossil fuel combustion products" has been taken from recent EPA publications on the subject.

9 VAC 20-80-205. Initial Site Evaluation - The regulation has been clarified to indicate that the department performs the initial site evaluation. In addition, the section has been modified to indicate that when the department is satisfied that wastes have been removed from a site, no other provisions of 9 VAC 20-80-210 need to be addressed.

9 VAC 20-80-250. Sanitary Landfill - The regulation has been modified to be consistent with the provisions governing landfill expansions impacting wetlands in § 10.1-1408.5 of the Code of Virginia. The section now states that expansions impacting less than 1.25 acres of wetlands are allowed.

The regulation has been clarified to indicate that all jurisdictions outside of Virginia, not just other than states, need to be considered when increased inspections are required under the provisions of the control program for unauthorized wastes.

The regulation was clarified to indicate that the areas where waste has been disposed are the areas that are subject to the slope restrictions outlined in this section.

Additional facility appurtenances were added to the list of items that are subject to inspection by the department.

The regulation was clarified to indicate that notification of the department is required when a facility receives over 20 cy of animal carcasses. Previously the regulation stated that notification was required when a large number of carcasses were received.

Language in this section was added in order to clarify the requirements for landfill cap construction. The specific design requirements for sanitary facilities were not altered.

The section was modified to indicate that the sign indicating that the facility is closed is to be posted at the entrance of the facility.

The requirement discussing when facilities are subject to 30 years of post closure have been clarified. The timeframes correspond to federal timeframes associated with a facility ceasing waste acceptance and closing.

9 VAC 20-80-260. Construction/Demolition/Debris (CDD) Landfill - This section has been modified to provide language parallel to clarifying language provided in 9 VAC 20-80-250 for sanitary landfills. The new language clarifies the site characteristics that may prevent construction of a landfill or conditions that may require engineering controls in order to allow the construction of a landfill. The section was also modified to provide parallel language regarding the establishment of vegetation at CDD landfills.

The drainage layer and liner requirements for CDD landfills have been clarified. The intent and design requirements for CDD facilities were not altered.

The gas management system was added to the construction quality assurance program.

A clarification was provided to language concerning the timeframes for construction certification of the final cover system.

The section was modified to indicate that the sign indicating that the facility is closed is to be posted at the entrance of the facility.

A certification for closure of CDD landfills was added to parallel the requirements for sanitary landfills.

The timeframe for post-closure care was clarified.

9 VAC 20-80-270. Industrial Landfill - This section has been modified to provide language parallel to clarifying language provided in 9 VAC 20-80-250 for sanitary landfills. The new language clarifies the site characteristics that may prevent construction of a landfill or conditions that may require engineering controls in order to allow the construction of a landfill. The section was also modified to provide parallel language regarding the establishment of vegetation at industrial landfills.

The drainage layer and liner requirements for industrial landfills have been clarified. The intent and design requirements for industrial facilities were not altered.

The gas management system was added to the construction quality assurance program.

A clarification was provided to language concerning the timeframes for construction certification of the final cover system.

The section was modified to indicate that the sign indicating that the facility is closed is to be posted at the entrance of the facility.

A certification for closure of industrial landfills was added to parallel the requirements for sanitary landfills.

The timeframe for post-closure care was clarified.

9 VAC 20-80-280. Control of Decomposition Gases - The section was modified to clarify when and how a gas remediation plan is implemented, consistent with federal requirements.

9 VAC 20-80-300. Ground Water Monitoring Program - The language regarding providing certification of well installation has been clarified.

Redundant language for alternate source demonstrations has been eliminated from several sections and then consolidated into one section. This assists in providing consistency and clarifying timeframes for proceeding from one phase or monitoring to the next and entering the corrective action program.

The effective dates of the ground water monitoring program for sanitary landfills have been clarified consistent with federal requirements.

Terminology that is used in the section has been clarified (initial, subsequent, and semi-annual) in detection monitoring program.

A requirement has been added indicating that in addition to providing information to the department, the facility is required to place the results of assessment monitoring events in the facility's operating record.

Additional time has been provided to establish background for assessment monitoring.

A clarification has been provided indicating that the director approves ground water protection standards.

The timeframes for actions that are required by the owner or operator following establishment ground water protection standards have been clarified.

A clarification was provided defining when the director will not require a ground water monitoring plan to be updated.

A clarification has been provided indicating that ground water protection standards will be determined for detected constituents, not all constituents.

The section was modified so that only relevant concentration data is required to be submitted to support ground water protection standards.

The section was modified to eliminate a requirement for a variance for establishing MCLs.

The state ground water monitoring program was modified to have the same required actions as the program for sanitary

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landfills when the ground water protection standard is exceeded.

The section describing implementation of corrective action was eliminated. Implementation of a corrective action program is described, for both the sanitary and the state program, in the section of the regulations dealing with exceeding ground water protection standards.

The phase III ground water monitoring requirements were eliminated. This was part of the state ground water monitoring program intended to support the corrective action ground water monitoring program. The state and federal programs now have the same type of ground water monitoring program to support corrective action.

The requirements of the modified program allowed under the state ground water monitoring program have been clarified.

9 VAC 20-80-310. Corrective Action Program - Several provisions from 9 VAC 20-80-210 of these regulations have been added to this section. When the owner or operator has entered the corrective action program, the director may require periodic progress reports. The director may require interim measures to be implemented in order to protect human health or the environment. The director may require the owner or operator to consider alternative remedies. Additional provisions have been added for the evaluation of the effectiveness of the remedy. Specific examples of cost data have been provided for the evaluation of the owner's capability to implement the remedy.

Additional clarification has been provided concerning the scope of the assessment of corrective measures. A specific recommendation for a remedy must be provided with the assessment of corrective measures.

An evaluation of current trends in ground water quality data is required as part of the submission for presumptive remedies. Specific criteria have been included in the section that must be evaluated initially and every three years to determine the effectiveness of the presumptive remedy.

Clarification has been provided in the section on the presumptive remedy and the corrective action plan clarifying that these modifications must be incorporated into the facility permit.

Modifications have been made to clarify how the facility will move from the assessment of corrective measures to implementation of a corrective action plan. The section provides for departmental review of the assessment of corrective measures and notification to proceed with the preparation of the corrective action plan.

9 VAC 20-80-330. Compost Facilities - The pad design for composting was modified to allow lime stabilized soil to be used for active composting operations.

The compost stabilization criteria were modified to allow temperature decline as a method to determine stabilization for all composting facility types.

Testing for viruses was eliminated from the testing requirements for finished compost.

9 VAC 20-80-370. Energy Recovery and Incineration Facilities - For unauthorized waste inspection programs at incinerators, references to states have been removed from the regulation. The new provisions in the control program for unauthorized wastes are related to the management of all waste from outside of Virginia, not just waste from other states.

9 VAC 20-80-500. Permit Application Procedures - The section has been clarified to indicate that the provisions for a disposal capacity guarantee and host agreements do not apply to localities that only accept waste within their jurisdiction. These provisions have been included consistent with the Code of Virginia.

A clarification has been provided to indicate that all of the alternatives for submitting information to the director on which he can base a determination of the need for the facility are available to sanitary landfills.

The section has been modified to require the department rather than the facility owner and operator to notify neighboring jurisdictions of the pending approval or a permit application and provide opportunity for the neighboring jurisdictions to comment during the public participation period for the permit.

9 VAC 20-80-520. Energy Recovery and Incineration Facilities - The permit application provisions have been clarified to specifically require that monitoring and maintenance activities should be addressed in the facility's operations manual and inspection plan.

9 VAC 20-80-640. Asbestos-Containing Waste Materials - The section was modified so that the definitions appearing in the section are consistent with the federal requirements for the management of asbestos waste. The section is intended to be completely consistent with the federal program and conflicting terminology and definitions have been modified.

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.

VA.R. Doc. No. R01-169; Filed July 28, 2003, 2:35 p.m.

STATE WATER CONTROL BOARD

REGISTRAR'S NOTICE: Due to its length, the following regulatory action filed by the State Water Control Board is not being published. However, in accordance with § 2.2-4031 of the Code of Virginia, the summary is being published in lieu of the full text. The full text of the regulation is available for public inspection at the office of the Registrar of Regulations and at the State Water Control Board (see contact information below) and is accessible on the Virginia Register of Regulations website at <http://legis.state.va.us/codecomm/register/vol19/welcome.htm>.

Titles of Regulations: 9 VAC 25-260. Water Quality Standards (amending 9 VAC 25-260-5 through 9 VAC 25-260-30, 9 VAC 25-260-50, 9 VAC 25-260-140, 9 VAC 25-260-170, [9 VAC 25-260-300,] 9 VAC 9 VAC 25-260-310, 9 VAC 25-260-320, 9 VAC 25-260-380 through 9 VAC 25-260-450, and 9 VAC 25-260-470 through 9 VAC 25-260-540, [adding 9 VAC 25-260-415]; repealing 9 VAC 25-260-150, 9 VAC 25-260-190 through 9 VAC 25-260-240, and 9 VAC 25-260-340;).

9 VAC 25-280. Ground Water Standards (adding 9 VAC 25-280-10 through 9 VAC 25-280-90).

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

Effective Date: 30 days after notice of EPA approval published in the Virginia Register of Regulations.

Agency Contact: Eleanore Daub, Department of Environmental Quality, P.O. Box 10009, Richmond, VA 23240, telephone (804) 698-4111 or e-mail emdau@deq.state.va.us.

Summary:

The amendments (i) add new definitions; (ii) modify the mixing zone and antidegradation policies; (iii) update the Table of Parameters with new and revised criteria and a reformatted table; (iv) state that the taste and odor criteria apply at the drinking water intake; (v) move the groundwater standards to a new regulation; (vi) delete and modify special standards; (vii) add a site-specific criterion for copper in Hampton Roads; (viii) update use designations for trout streams and public water supplies; (ix) identify Class VII swamp waters in the Chowan basin; and (x) rearrange the Middle and Lower James River basin tables.

The following changes were made to the proposed regulation.

9 VAC 25-260-5 - A clarification has been added to the definition of a mixing zone to indicate designated uses in the waters body on the whole are maintained.

9 VAC 25-260-20 - In the mixing zone section the term "saltwater" has been defined; drifting aquatic organisms were added to the list of protected organisms for saltwater; and a waiver was added to the diffuser requirement. The subsection that describes the "allocated impact zone" was changed to say that the acute aquatic life criteria are not

required to be attained rather than shall not be attained. The subsections that describe where the criteria apply have been clarified to specifically state where the acute and chronic criteria apply rather than just where "all applicable criteria" apply. It was specified that all waivers to mixing zones are done on a case-by-case basis (not just complete mix assumptions) as waivers will be case decisions and issued via the permit process. The USFWS commented that the board did not have the authority to determine whether the ESA was violated as required in the waiver section. Therefore, this condition in the waiver section was removed (it is still a requirement for all mixing zones). Also, the waiver that says that thermal mixing zone requirements issued under § 316(a) of the Clean Water Act are in compliance with the subsection has been changed to say that § 316(a) demonstrations are in compliance with the section. This is necessary because § 316(a) is a Clean Water Act allowance that supercedes any mixing zone restriction set by the state.

9 VAC 25-260-30 - In order to make the regulation conform to the federal water quality standards regulation, the word ensure is substituted with assure in this section.

9 VAC 25-260-140 - Several criteria were adjusted in response to public comment and/or to match EPA's 1999 § 304(a) criteria (aldrin, cadmium, 1,1 dichloroethylene, 2,4 dichlorophenoxy acetic acid, methoxychlor, zinc). Also, the averaging period for saltwater copper has been changed to match EPA's more recent guidance for metals. Staff also removed the statement preceding the Table of Parameters that read "For those waters with multiple designated beneficial uses, the most stringent criteria in the following table shall apply."

9 VAC 25-260-170 - The enterococci criterion was removed from freshwater and transition zone waters were included under the saltwater enterococci criteria to be consistent with the primary contact criteria.

9 VAC 25-260-300 - This was clarified to indicate this requirement only applies to Part IX (river basin section tables) to avoid any future confusion over other types of designations.

9 VAC 25-260-310 - Special standard "m" was modified to state that storm water was excluded from these requirements. That was the intent of the original amendment and staff thought it needed more clarification.

9 VAC 25-260-380 - Added a paragraph to refer the reader to the special standards section. Currently, the river basin section tables do not contain this detailed location information that is found in the special standards.

9 VAC 25-260-410, 9 VAC 25-260-415, 9 VAC 25-260-420 and 9 VAC 25-260-430 - Lower, Middle and Upper James sections and the Appomattox subbasin sections have been expanded so that all the sections correspond to the Hydrologic Unit Codes (HUC).

9 VAC 25-260-430 - Staff determined that the Maury River pH standard of 6.5 - 9.5 was misapplied to some of the tributaries to the Maury River. Therefore, the higher pH standard was removed from some of the tributaries.

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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.

VA.R. Doc. No. R01-78; Filed July 28, 2003, 2:34 p.m.

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TITLE 12. HEALTH

DEPARTMENT OF MEDICAL ASSISTANCE SERVICES

Title of Regulation: **12 VAC 30-120. Waivered Services (amending 12 VAC 30-120-700, 12 VAC 30-120-710, and 12 VAC 30-120-720).**

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

Effective Date: October 1, 2003.

Agency Contact: Diane Thorpe, Director, Division of LTC, Department of Medical Assistance Services, 600 E. Broad Street, Suite 1300, Richmond, VA 23219, telephone (804) 371-8490, FAX (804) 786-1680 or e-mail dthorpe@dmas.state.va.us.

Summary:

Pursuant to Item 325W of Chapter 899 of the 2002 Acts of Assembly, the amendments allow automatic transfer of certain children receiving services under the Mental Retardation Waiver to the Individual and Family Developmental Disabilities Support (IFDDS) Waiver. This change applies to children who do not have a diagnosis of mental retardation, but are at risk of developmental delays because of a related condition, as defined in 42 CFR 435.1009, when they reach age six at which time the transfer may take place. The changes have been in effect since October 1, 2002, under emergency regulations.

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 19:17 VA.R. 2476-2485 May 5, 2003, with the changes identified below. Pursuant to § 2.2-4031 of the Code of Virginia, the text of the final regulation is not published at length; however, the sections that have changed since publication of the proposed are set out.

12 VAC 30-120-700. Definitions.

"*Activities of daily living (ADL)*" means personal care tasks, e.g., bathing, dressing, toileting, transferring, and eating/feeding. A recipient's degree of independence in performing these activities is a part of determining appropriate level of care and services.

"*Assistive technology*" means specialized medical equipment and supplies including those devices, controls, or appliances

specified in the consumer service plan but not available under the State Plan for Medical Assistance that enable recipients to increase their abilities to perform activities of daily living, or to perceive, control, or communicate with the environment in which they live or that are necessary to their proper functioning.

"*Attendant care*" means long-term maintenance or support services necessary to enable the recipient to remain at or return home rather than enter or remain in an Intermediate Care Facility for the Mentally Retarded (ICF/MR). The recipient will be responsible for hiring, training, supervising and firing the personal attendant. If the recipient is unable to independently manage his own attendant care, a family caregiver can serve as the employer on behalf of the recipient. Recipients with cognitive impairments will not be able to manage their own care.

"*Behavioral health authority*" or "*BHA*" means the local agency, established by a city or county or combination of counties or cities or cities and counties under § 37.1-194 et seq. of the Code of Virginia, that plans, provides, and evaluates mental health, mental retardation, and substance abuse services in the jurisdiction or jurisdictions it serves.

"*CARF*" means Commission on Accreditation of Rehabilitation Facilities.

"*Case manager*" means the individual on behalf of the community services board or behavioral health authority staff possessing a combination of mental retardation work experience and relevant education that indicates that the individual possesses the knowledge, skills and abilities, at the entry level, as established by the Department of Medical Assistance Services, 12 VAC 30-50-450. [~~This individual provides case management services as defined in 12 VAC 30-50-440.~~]

"*Centers for Medicare and Medicaid Services*" or "*CMS*" means the unit of the federal Department of Health and Human Services that administers the Medicare and Medicaid programs.

"*Community-based care waiver services*" or "*waiver services*" means the range of community support services approved by the ~~Health Care Financing Administration (HCFA)~~ Centers for Medicare and Medicaid Services (CMS) pursuant to § 1915(c) of the Social Security Act to be offered to developmentally disabled recipients who would otherwise require the level of care provided in an ICF/MR.

"*Community Services Board*" or "*CSB*" means the local agency established by a city or county or combination of counties or cities, or cities and counties, under § 37.1-194 et seq. of the Code of Virginia, that plans, provides, and evaluates mental health, mental retardation, and substance abuse services in the jurisdiction or jurisdictions it serves.

"*Companion aide*" means, for the purpose of these regulations, a domestic servant who is also exempt from workers' compensation.

"*Companion services*" means nonmedical care, supervision and socialization, provided to a functionally or cognitively impaired adult. The provision of companion services does not entail hands-on nursing care and is provided in accordance

with a therapeutic goal in the consumer service plan. This shall not be the sole service used to divert recipients from institutional care.

"Consumer-directed companion care" means nonmedical care, supervision and socialization provided to a functionally or cognitively impaired adult. The provision of companion services does not entail hands-on nursing care and is provided in accordance with a therapeutic goal in the consumer service plan. This shall not be the sole service used to divert recipients from institutional care. The recipient will be responsible for hiring, training, supervising, and firing the ~~personal attendant companion~~. If the recipient is unable to independently manage his own consumer-directed ~~respite care~~, a family caregiver can serve as the employer on behalf of the recipient. ~~Recipients with cognitive impairments will not be able to manage their own care.~~

"Consumer-directed respite care" means services given to caretakers of eligible individuals who are unable to care for themselves that are provided on an episodic or routine basis because of the absence or need for relief of those persons residing with the recipient who normally provide the care. The recipient will be responsible for hiring, training, supervising, and firing the personal attendant. If the recipient is unable to independently manage his own consumer-directed respite care, a family caregiver can serve as the employer on behalf of the recipient. ~~Recipients with cognitive impairments will not be able to manage their own care.~~

"Consumer-directed (CD) services facilitator" means the provider contracted by DMAS that is responsible for ensuring development and monitoring of the CSP, management training, and review activities as required by DMAS for attendant care, consumer-directed companion care, and consumer-directed respite care services.

"Consumer service plan" or "CSP" means that document addressing all needs of recipients of home and community-based care developmental disability services, in all life areas. Supporting documentation developed by service providers ~~are~~ *is* to be incorporated in the CSP by the support coordinator. Factors to be considered when these plans are developed may include, but are not limited to, recipients' ages and levels of functioning.

"Crisis stabilization" means direct intervention to persons with developmental disabilities who are experiencing serious psychiatric or behavioral problems, or both, that jeopardize their current community living situation. This service must provide temporary intensive services and supports that avert emergency psychiatric hospitalization or institutional placement or prevent other out-of-home placement. This service shall be designed to stabilize recipients and strengthen the current living situations so that recipients can be maintained in the community during and beyond the crisis period.

"Current functional status" means recipients' degree of dependency in performing activities of daily living.

"DMAS" means the Department of Medical Assistance Services.

"DMAS staff" means individuals who perform utilization review, recommendation of preauthorization for service type and intensity, and review of recipient level of care criteria.

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

"DRS" means the Department of Rehabilitative Services.

"DSS" means the Department of Social Services.

"Day support" means training in intellectual, sensory, motor, and affective social development including awareness skills, sensory stimulation, use of appropriate behaviors and social skills, learning and problem solving, communication and self care, physical development, services and support activities.

"Environmental modifications" means physical adaptations to a house, place of residence, vehicle or work site, when the work site modification exceeds reasonable accommodation requirements of the Americans with Disabilities Act, necessary to ensure recipients' health and safety or enable functioning with greater independence when the adaptation is not being used to bring a substandard dwelling up to minimum habitation standards and is of direct medical or remedial benefit to recipients.

"EPSDT" means the Early Periodic Screening, Diagnosis and Treatment program administered by DMAS for children under the age of 21 according to federal guidelines which prescribe specific preventive and treatment services for Medicaid-eligible children.

"Family/caregiver training" means training and counseling services provided to families or caregivers of recipients receiving services in the IFDDS Waiver.

"Fiscal agent" means an agency or organization contracted by DMAS to handle employment, payroll, and tax responsibilities on behalf of recipients who are receiving consumer-directed attendant, respite, and companion services.

"Home" means, for purposes of the IFDDS Waiver, an apartment or single family dwelling in which no more than two individuals who require services live with the exception of siblings living in the same dwelling with family. This does not include an assisted living facility or group home.

"Home and community-based care" means a variety of in-home and community-based services reimbursed by DMAS as authorized under a § 1915(c) waiver designed to offer recipients an alternative to institutionalization. Recipients may be preauthorized to receive one or more of these services either solely or in combination, based on the documented need for the service or services to avoid ICF/MR placement.

~~*"HCFA"* means the Health Care Financing Administration, which is the unit of the federal Department of Health and Human Services which administers the Medicare and Medicaid programs.~~

"IFDDS Waiver" means the Individual and Family Developmental Disabilities Support Waiver.

"In-home residential support services" means support provided in the developmentally disabled recipient's home, which includes training, assistance, and supervision in

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enabling the recipient to maintain or improve his health; assisting in performing recipient care tasks; training in activities of daily living; training and use of community resources; providing life skills training; and adapting behavior to community and home-like environments.

"Instrumental activities of daily living (IADL)" means social tasks (e.g., meal preparation, shopping, housekeeping, laundry, money management). A recipient's degree of independence in performing these activities is part of determining appropriate level of care and services.

"Legal guardian" means a person who has been legally invested with the authority and charged with the duty to take care of, manage the property of, and protect the rights of a recipient who has been declared by the circuit court to be incapacitated and incapable of administering his own affairs. The powers and duties of the guardian are defined by the court and are limited to matters within the areas where the recipient has been determined to be incapacitated.

"Mental retardation" means, as defined by the American Association on Mental Retardation (AAMR), being substantially limited in present functioning as characterized by significantly subaverage intellectual functioning, existing concurrently with related limitations in two or more of the following applicable adaptive skill areas: communication, self-care, home living, social skills, community use, self-direction, health and safety, functional academics, leisure, and work. Mental retardation manifests itself before age 18. A diagnosis of mental retardation is made if the person's intellectual functioning level is approximately 70 to 75 or below, as diagnosed by a licensed clinical professional; and there are related limitations in two or more applicable adaptive skill areas; and the age of onset is 18 or below. If a valid IQ score is not possible, significantly subaverage intellectual capabilities means a level of performance that is less than that observed in the vast majority of persons of comparable background. In order to be valid, the assessment of the intellectual performance must be free of errors caused by motor, sensory, emotional, language, or cultural factors.

"MR Waiver" means the mental retardation waiver.

"Nursing services" means skilled nursing services listed in the consumer service plan which are ordered by a physician and required to prevent institutionalization, not otherwise available under the State Plan for Medical Assistance, are within the scope of the state's Nurse Practice Act (Chapters 30 (§ 54.1-3000 et seq.) and 34 (§ 54.1-3400 et seq.) [] of the Code of Virginia, and are provided by a registered professional nurse or by a licensed practical nurse under the supervision of a registered nurse who is licensed to practice in the state.

"Participating provider" means an institution, facility, agency, partnership, corporation, or association that meets the standards and requirements set forth by DMAS, and has a current, signed contract with DMAS.

"Personal attendant" means, for purposes of this regulation, a domestic servant who is also exempt from Workers' Compensation.

"Personal care agency" means a participating provider that renders services designed to prevent or reduce inappropriate

institutional care by providing eligible recipients with personal care aides who provide personal care services.

"Personal care services" means long-term maintenance or support services necessary to enable recipients to remain in or return to the community rather than enter an Intermediate Care Facility for the Mentally Retarded. Personal care services include assistance with activities of daily living, nutritional support, and the environmental maintenance necessary for recipients to remain in their homes and in the community.

"Personal emergency response system (PERS)" is an electronic device that enables certain recipients at high risk of institutionalization to secure help in an emergency. PERS services are limited to those recipients who live alone or are alone for significant parts of the day and who have no regular caregiver for extended periods of time, and who would otherwise require extensive routine supervision.

"Qualified mental health professional" means a professional having: (i) at least one year of documented experience working directly with recipients who have developmental disabilities; (ii) at least a bachelor's degree in a human services field including, but not limited to, sociology, social work, special education, rehabilitation counseling, or psychology; and (iii) the required Virginia or national license, registration, or certification in accordance with his profession.

"Related conditions" means those persons who have autism or who have a severe chronic disability that meets all of the following conditions identified in 42 CFR 435.1009:

1. It is attributable to:
 - a. Cerebral palsy or epilepsy; or
 - b. Any other condition, other than mental illness, found to be closely related to mental retardation because this condition results in impairment of general intellectual functioning or adaptive behavior similar to that of mentally retarded persons, and requires treatment or services similar to those required for these persons.
2. It is manifested before the person reaches age 22.
3. It is likely to continue indefinitely.
4. It results in substantial functional limitations in three or more of the following areas of major life activity:
 - a. Self-care.
 - b. Understanding and use of language.
 - c. Learning.
 - d. Mobility.
 - e. Self-direction.
 - f. Capacity for independent living.

"Respite care" means services provided to unpaid caretakers of eligible recipients who are unable to care for themselves that is provided on an episodic or routine basis because of the absence of or need for relief of those persons residing with the recipient who normally provide the care.

"Respite care agency" means a participating provider that renders services designed to prevent or reduce inappropriate institutional care by providing respite care services to eligible recipients for their caregivers.

"Screening" means the process to evaluate the medical, nursing, and social needs of recipients referred for screening; determine Medicaid eligibility for an ICF/MR level of care; and authorize Medicaid-funded ICF/MR care or community-based care for those recipients who meet ICF/MR level of care eligibility and require that level of care.

"Screening team" means the entity contracted with DMAS which is responsible for performing screening for the IFDDS Waiver.

"State Plan for Medical Assistance" or "the Plan" means the document containing the covered groups, covered services and their limitations, and provider reimbursement methodologies as provided for under Title XIX of the Social Security Act.

"Support coordination" means the assessment, planning, linking, and monitoring for recipients referred for the IFDDS community-based care waiver. Support coordination: (i) ensures the development, coordination, implementation, monitoring, and modification of consumer service plans; (ii) links recipients with appropriate community resources and supports; (iii) coordinates service providers; and (iv) monitors quality of care. Support coordination providers cannot be service providers to recipients in the IFDDS Waiver with the exception of consumer-directed service facilitators.

"Supporting documentation" means the specific service plan developed by the recipient service provider related solely to the specific tasks required of that service provider. Supporting documentation helps to comprise the overall CSP for the recipient.

"Supported employment" means training in specific skills related to paid employment and provision of ongoing or intermittent assistance and specialized supervision to enable a recipient to maintain paid employment.

"Therapeutic consultation" means consultation provided by members of psychology, social work, behavioral analysis, speech therapy, occupational therapy, therapeutic recreation, or physical therapy disciplines or behavior consultation to assist recipients, parents, family members, in-home residential support, day support and any other providers of support services in implementing a CSP.

12 VAC 30-120-710. [No change from proposed.]

12 VAC 30-120-720. [No change from proposed.]

VA.R. Doc. No. R03-35; Filed August 5, 2003, 4:20 p.m.

Title of Regulation: 12 VAC 30-135. Demonstration Waiver Services (adding 12 VAC 30-135-10 through [~~12 VAC 30-135-80~~ 12 VAC 30-135-90]).

Statutory Authority: § 32.1-325 of the Code of Virginia and Item 325 M of Chapter 899 of the 2002 Acts of Assembly.

Effective Date: October 1, 2003.

Agency Contact: Deborah Sprang, Policy Analyst, Policy Division, Department of Medical Assistance Services, 600 East Broad Street, Suite 1300, Richmond, VA 23219, telephone (804) 225-2364, FAX (804) 786-1680, or e-mail dsprang@dmas.state.va.us.

Summary:

These regulations extend Medicaid coverage for family planning services, annual gynecological exams, and testing for sexually transmitted diseases up to 24 months postpartum to women who received a Medicaid-reimbursed pregnancy-related service on or after October 1, 2002.

Changes to the proposed regulations clarify the difference in eligibility and enrollment policies between medically indigent and medically needy pregnant women. In addition, a sunset provision is added stating the expiration of the regulation effective with the termination of federal approval of the associated demonstration waiver.

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.

**CHAPTER 135.
DEMONSTRATION WAIVER SERVICES.**

**PART I.
FAMILY PLANNING WAIVER.**

12 VAC 30-135-10. Definitions.

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

"Eligible family planning waiver recipient" means a woman of child-bearing years (9 to 57 years of age) who received a Virginia Medicaid-reimbursed pregnancy-related service on or after October 1, 2002, who is less than 24 months postpartum, who has income less than or equal to 133% of the federal poverty level, and who [is has] not otherwise [been determined] eligible for Virginia Medicaid coverage.

"FDA" means the Food and Drug Administration.

"Family planning" means those services necessary to prevent or delay a pregnancy. It shall not include services to promote pregnancy such as infertility treatments. Family planning does not include counseling about, recommendations for or performance of abortions, or hysterectomies or procedures performed for medical reasons such as removal of intrauterine devices due to infections.

["Over-the-counter" means drugs and contraceptives that are available for purchase without requiring a physician's prescription.]

"Pregnancy-related service" means medical services rendered to monitor, manage, and treat issues related to pregnancy, labor, and delivery during the women's gestation.

"Third party" means any individual entity or program that is or may be liable to pay all or part of the expenditures for medical

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assistance furnished under the State Plan for Medical Assistance.

~~["Over the counter" means drugs and contraceptives that are available for purchase without requiring a physician's prescription.]~~

12 VAC 30-135-20. Administration and eligibility determination.

A. The Department of Medical Assistance Services shall administer the family planning demonstration waiver services program under the authority of § 1115(a) of the Social Security Act and 42 USC § 1315.

B. Local departments of social services shall be responsible for determining eligibility of and for enrolling eligible women in the family planning waiver. Local departments of social services shall conduct periodic reviews and redeterminations of eligibility at least every 12 months while recipients are enrolled in the family planning waiver.

~~[C. A recipient's enrollment in the family planning waiver shall be terminated if a reported change or annual redetermination results in the woman's categorical eligibility for Virginia Medicaid or ineligibility for the family planning waiver. A 10-day advance notice must be provided prior to cancellation of coverage under the family planning waiver.~~

~~D. C. Effective October 1, 2003,] women enrolled in [the] Virginia Medicaid [as program under the medically indigent] pregnant woman [covered group and who receive a Medicaid-reimbursed pregnancy-related service on or after October 1, 2003,] will be notified during their 60-day postpartum period that [their the] Medicaid benefits [they received during their pregnancy] will be terminated effective the end of the month in which their 60-day postpartum period expires [and, at which time they will be automatically eligible for enrollment in the family planning waiver]. The cancellation notice will [include information about possible eligibility for extended coverage for the family planning waiver for 22 months following the end of their 60-day postpartum period. The notice will provide information about how to apply for services instruct women who believe they qualify for a Medicaid-covered group that does not limit benefits to complete a Medicaid application and to contact their Medical eligibility worker at the local department of social services if they do not desire enrollment in the family planning waiver].~~

[D. Women enrolled in the Virginia Medicaid program under the medically needy pregnant woman covered group will not be automatically eligible for the family planning waiver. These women will be notified during their 60-day postpartum period that their Medicaid eligibility will end at the end of their 60-day postpartum period and if they wish to be evaluated for further coverage under Medicaid they should contact their Medicaid eligibility worker at the local department of social services.

E. Women enrolled in the Virginia Medicaid program under the medically indigent pregnant woman covered group who received a Medicaid reimbursed pregnancy-related service between October 1, 2002, to September 30, 2003, will not be eligible for automatic enrollment in the family planning waiver. These women will be notified during their 60-day postpartum period that their Medicaid benefits will be terminated effective

the end of the month in which their 60-day postpartum period expires. The cancellation notice will include information about possible eligibility for extended family planning coverage under the family planning waiver and instruct women how to apply for the waiver and other Medicaid-covered groups.]

12 VAC-135-30. Eligibility.

[A. To be eligible under the family planning waiver, a woman must have experienced a Medicaid-funded pregnancy-related service on or after October 1, 2002, be between the ages of 9-57 and less than 24 months postpartum, have income less than or equal to 133% of the federal poverty level, and not be enrolled in another Medicaid-covered group.]

[~~A. B.] Women enrolled in the waiver, but who subsequently fail to meet the requirements of an eligible family planning waiver recipient (for example, reach the age of 58), will no longer be eligible for the family planning waiver.~~

[~~B. C.] Women who do not meet the alien eligibility requirements for full Virginia Medicaid coverage and whose labor and delivery is paid as an emergency medical service under Medicaid shall not be eligible to participate in the family planning waiver.~~

[D. A recipient's enrollment in the family planning waiver shall be terminated if a reported change or annual redetermination results in the woman's categorical eligibility for Virginia Medicaid or ineligibility for the family planning waiver. A 10-day advance notice must be provided prior to cancellation of coverage under the family planning waiver.]

12 VAC 30-135-40. Covered services.

A. Services provided under the family planning waiver are limited to:

1. Family planning office visits including annual gynecological exams (one per 12 months), sexually transmitted diseases (STD) testing (limited to the initial family planning encounter), Pap tests (limited to one every six months);
2. Laboratory services for family planning and STD testing;
3. Family planning education and counseling;
4. FDA approved contraceptives, including diaphragms, contraceptive injectables, and contraceptive implants;
5. Over-the-counter contraceptives; and
6. Sterilizations, not to include hysterectomies. A completed sterilization consent form, in accordance with the requirements of 42 CFR Part 441, Subpart F, must be submitted with all claims for payment for this service.

B. Services not covered under the family planning waiver include, but are not limited to:

1. Performance of, counseling for, or recommendations of abortions;
2. Infertility treatments;
3. Procedures performed for medical reasons;
4. Performance of a hysterectomy; and

5. Transportation to a family planning service.

12 VAC 30-135-50. Provider qualifications.

Services provided under this waiver must be ordered or prescribed and directed or performed within the scope of the licensed practitioner. Any appropriately licensed Medicaid enrolled physician, nurse practitioner, or medical clinic may provide services under this waiver.

12 VAC 30-135-60. Quality assurance.

The Department of Medical Assistance Services shall provide for continuing review and evaluation of the care and services paid by Medicaid under this waiver. To ensure a thorough review, trained professionals shall review cases either through desk audit or through on-site reviews of medical records. Providers shall be required to refund payments made by Medicaid if they are found to have billed Medicaid for services not covered under this waiver, if records or documentation supporting claims are not maintained, or if bills are submitted for medically unnecessary services.

12 VAC 30-135-70. Reimbursement.

Providers will be reimbursed on a fee-for-service basis.

All reasonable measures including those measures specified under 42 USC § 1396 (a) (25) will be taken to ascertain the legal liability of third parties to pay for authorized care and services provided to eligible recipients.

12 VAC 30-135-80. Recipients' rights and right to appeal.

Women found eligible for and enrolled in the family planning waiver shall have freedom of choice of providers. Women will be free from coercion or mental pressure and shall be free to choose their preferred methods of family planning. The client appeals process at 12 VAC 30-110 shall be applicable to applicants for and recipients of family planning services under this waiver.

[**12 VAC 30-135-90. Sunset provision.**

Consistent with federal requirements applicable to this § 1115 demonstration waiver, these regulations shall expire effective with the termination of the federally approved waiver.]

VA.R. Doc. No. R02-216; Filed August 5, 2003, 4:19 p.m.



TITLE 13. HOUSING

BOARD OF HOUSING AND COMMUNITY DEVELOPMENT

Title of Regulation: 13 VAC 5-21. Virginia Certification Standards (amending 13 VAC 5-21-10, 13 VAC 5-21-20, 13 VAC 5-21-31, 13 VAC 5-21-41, 13 VAC 5-21-51, 13 VAC 5-21-61, and [13 VAC 5-21-70]).

Title of Regulation: 13 VAC 5-80. Virginia Standards for Individual and Regional Code Academies (amending 13 VAC 5-80-10 and 13 VAC 5-80-40 through 13 VAC 5-80-

140; repealing 13 VAC 5-80-20, 13 VAC 5-80-30, and 13 VAC 5-80-150).

Statutory Authority: § 36-137 of the Code of Virginia.

Effective Date: October 1, 2003.

Agency Contact: Stephen W. Calhoun, Regulatory Coordinator, Department of Housing and Community Development, 501 North 2nd Street, Richmond, VA 23219, telephone (804) 371-7015, FAX (804) 371-7090 or e-mail scalhoun@dhcd.state.va.us. Copies of the regulation may be obtained from the Department of Housing and community Development. There will be a \$.10 charge per page for copies.

Summary:

Changes to the proposed regulation include (i) adding the code official to the list of persons who may be sanctioned; (ii) deleting reference to the development of a training and certification "guidance document" and setting out training requirements for certain categories of certification; (iii) requiring the Department of Housing and Community Development to maintain a list of testing agencies for various certifications; and (iv) clarifying that alternative experience and school allowance may substitute for technical module training.

The amendments to the Virginia Standards for Individual and Regional Academies add standard definitions, repeal unnecessary adoption provisions and delete the maximum amount of levy funds that may be carried over to the next fiscal year for operation of the individual or regional training academies.

Changes to the proposed regulation remove language related to appealing a decision of the BHCD directly to the Technical Review Board (TRB), as such decisions are subject to judicial review and, therefore, need not be appealed to the TRB.

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 19:6 VA.R. 905-913 December 2, 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.

CHAPTER 21.
VIRGINIA CERTIFICATION STANDARDS.

13 VAC 5-21-10. Definitions.

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

"Active certificate holder" means any certificate holder who has attended the required DHCD-designated periodic training courses and is classified by DHCD as active.

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"Applicant" or "candidate" means any person seeking to become qualified to provide enforcement or perform inspections or reviews under the applicable BHCD regulation by obtaining a certificate from the BHCD.

"BCAAC" means the Building Code Academy Advisory Committee appointed by the BHCD under § 36-137 of the Code of Virginia to advise the BHCD and the DHCD Director on policies, procedures, operations, and other matters pertinent to enhancing the delivery of training services provided by the Building Code Academy.

"BHCD" means the Virginia Board of Housing and Community Development.

"Certificate" means a document issued by BHCD as a certificate of competence concerning the content, application, and intent of specified subject areas of the building and fire prevention regulations promulgated by the Board to present or prospective personnel of local governments and to any other persons seeking to become qualified to perform inspections pursuant to the Uniform Statewide Building Code (§ 36-97 et seq. of the Code of Virginia) and the Statewide Fire Prevention Code (§ 27-94 et seq. of the Code of Virginia), and any regulations adopted thereunder, who have completed training programs or in other ways demonstrated adequate knowledge.

"Certificate holder" means any person certified by the BHCD under this chapter and classified by DHCD as active or inactive.

"Code Academy" means the Virginia Building Code Academy established under § 36-139 of the Code of Virginia, and educational institutions established in accordance with § 36-137 of the Code of Virginia, which are accredited by DHCD under 13 VAC 5-80-40 et seq. to conduct classes to prepare individuals pursuing occupations in the building, amusement device or fire inspection professions or to upgrade individuals in technical phases of building and amusement device or fire regulations and codes.

"Code enforcement agency" means the agency or agencies to which responsibility for enforcement of the USBC, VADR, or SFPC has been assigned.

"Code inspection agency" or "code review agency" means any department, division, company, individual or agency to which inspection or construction document review responsibility under the applicable USBC, VADR, or SFPC has been assigned or delegated and, in addition, shall include such entities whose reports of inspection or review will be the basis of approvals under the applicable USBC, VADR, or SFPC.

"DFP" means the Virginia Department of Fire Programs.

"DHCD" means the Virginia Department of Housing and Community Development.

~~["Guidance document" means any document developed by a state agency or staff that provides information or guidance of general applicability to the staff or public to interpret or implement statutes or the agency's rules or regulations, excluding agency minutes or documents that pertain only to the internal management of agencies. Nothing in this definition~~

~~shall be construed or interpreted to expand the identification or release of any document otherwise protected by law.]~~

"Inactive certificate holder" means any certificate holder who has not attended the required DHCD-designated periodic training courses and is classified by DHCD as inactive.

"SFPC" means the Virginia Statewide Fire Prevention Code (13 VAC 5-51-40 et seq.).

"Training" means the facilitation of an individual's learning that is focused on the performance of the job duties and tasks related to the content, application, and intent of specified subject areas of the building and fire prevention regulations promulgated by BHCD.

"Training - code academy" means training conducted by a code academy and that is divided into the following types of modules: (i) core module means the general foundation training module for persons seeking to become qualified to perform inspections and other duties under the BHCD regulations, which includes emphasis on the legal authority and the regulatory foundation of enforcement and administration of Virginia's building and fire regulations; (ii) management module means the advanced training modules for persons seeking to become qualified to manage and supervise enforcement and inspections and other functions under the BHCD regulations; and (iii) technical module means the foundation and advanced training modules for the various specialty areas related to performing plans review, inspections and other job duties under the BHCD regulations, including but not limited to areas such as building, fire protection, plumbing, electrical, mechanical, amusement device and elevators.

"Training - DFP" means training conducted under the DFP, Regulations Establishing Certification Standards for Fire Inspectors (19 VAC 15-20).

"TRB" means the Virginia State Building Code Technical Review Board established under § 36-108 of the Code of Virginia.

"USBC" means the Virginia Uniform Statewide Building Code (13 VAC 5-61-40 et seq.).

~~"TRB" means the Virginia State Building Code Technical Review Board established under § 36-108 of the Code of Virginia.~~

"VADR" means the Virginia Amusement Device Regulations (13 VAC 5-31-40 et seq.).

B. Words and terms used in this chapter that are defined in the USBC, VADR, or SFPC shall have the meaning ascribed to them in those regulations unless the context clearly indicates otherwise.

13 VAC 5-21-20. [No change from proposed.]

13 VAC 5-21-31. Proof of qualifications for certificate and examination.

A. Applicants for a BHCD certificate prior to certification shall provide proof of qualifications for certification as required to DHCD for verification, a written endorsement from the code official, code official's supervisor, or in the case of

nongovernment employees, other such documentation as proof of compliance with the qualification section as listed in the USBC, SFPC or VADR as applicable for each type of certificate sought. Such proof of qualifications shall be provided to and verified by DHCD prior to BHCD certification.

B. In addition to the training requirements established by this chapter, Applicants shall provide proof of successful completion of approved examinations for each type of certificate sought. The following is the DHCD shall [~~develop a training and certification guidance document that shall maintain a~~] list [~~the of~~] approved testing agencies and examinations that meet nationally accepted standards for each type of certificate: For information on approved testing agencies and examinations contact: DHCD, Division of Building and Fire Regulation, 501 N. 2nd St., Richmond, VA 23219, telephone (804) 371-7180.

1. All categories of BHCD certificates except amusement device inspector, fire prevention code official and fire prevention inspector:

The BOCA Certification Program/2000, First Edition, published by Building Officials and Code Administrators International, Inc., 4051 W. Flossmoor Rd., Country Club Hills, IL 60478-5795, toll free number 1-800-323-1103.

Exception, Elevator inspectors certified in accordance with the ASME QE1-1 Standard by organizations accredited by ASME International, Elevator Inspector Certification Organization Accreditation Program shall be deemed acceptable as an alternate. ASME International, Three Park Avenue, New York, NY 10016-5990, toll free number 1-800-843-2763.

2. Amusement device inspector:

Experior, 3813 Gaskins Road, Richmond, VA 23233, toll free number 1-800-356-3381.

3. Fire prevention code official and fire prevention inspector:

Virginia Department of Fire Programs (DFP), James Monroe Building, 101 N. 14th St., 18th Floor, Richmond, VA 23219-3684, telephone (804) 371-0220.

C. Upon written request by the applicant with the endorsement as required under subsection A of this section, the BHCD DHCD may approve alternate testing agencies and examinations or may approve any combination of education and experience which would in other ways demonstrate adequate knowledge for the type of certificate sought. Note: Future amendments to the list of approved testing agencies and examinations do not automatically become part of this chapter; however, the BHCD shall consider such amendments in deciding whether a requested alternate should be granted. Under § [~~36.139~~ 36-139] of the Code of Virginia, the DHCD may also approve other training, experience and educational offerings as equivalent to and in place of code academy [technical module] training. The types of such combinations of education and experience may include military training, college classes, technical schools, or long-term work experiences [, except that long-term work experiences shall not be the sole substitute]. DHCD may convene meetings of the BCAAC to review and advise the DHCD concerning the appropriateness of applications for certification under this section.

13 VAC 5-21-41. Certification categories and training requirements.

A. DHCD shall [~~develop a training and certification guidance document that shall maintain a~~] list [~~the categories~~] of BHCD [~~certificates certification categories and required training~~]; Code Academy training and subject area requirements are as provided for in the following table:

Categories of BHCD certificates	Code Academy training requirements	Subject area requirements
	Core and _____ modules	Content, application and intent of all subject areas of the _____
Building code official	Advanced	USBC
Fire prevention code official	Advanced and the 1031 school administered by the DFP	SFPC
Building maintenance code official	Advanced and property maintenance	USBC - existing structure maintenance
Building plans examiner	Building plan review	USBC - structure plans and specifications review, except plumbing, electrical and mechanical
Fire protection plans examiner	Building plan review	USBC - fire resistant materials and construction, fire protection system and means of egress plans and specifications review
Building inspector	Building code	USBC - structure inspections, except plumbing, electrical and mechanical
Fire prevention inspector	The 1031 school administered by the DFP	SFPC - structure and property inspections
Fire protection inspector	"only core module"	USBC - fire resistant materials and construction, fire protection system and means

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		of egress
Building maintenance inspector	Property maintenance	USBC relating to existing structure maintenance inspections
Plumbing plans examiner	Plumbing	USBC – plumbing system plans and specifications review
Plumbing inspector	Plumbing	USBC - plumbing system inspections
Electrical plans examiner	Electrical	USBC – electrical system plans and specifications review
Electrical inspector	Electrical	USBC – electrical system inspections
Mechanical plans examiner	Mechanical	USBC – mechanical system plans and specifications review
Mechanical inspector	Mechanical	USBC – mechanical system inspections
Combination inspector	BHCD certification as a building, plumbing, electrical, and mechanical inspector	USBC – structure inspections, except Use Group R-3 or R-4
Building inspector 1- &2-family dwellings	1- & 2-family dwelling building	USBC – Use Group R-3 or R-4 structure inspections, except plumbing, electrical and mechanical
Plumbing inspector 1- & 2-family dwellings	1- & 2-family dwelling plumbing	USBC - Use Group R-3 or R-4 plumbing inspections
Electrical inspector 1- &2-family dwellings	1- & 2-family dwelling electrical	USBC - Use Group R-3 or R-4 electrical inspections
Mechanical inspector 1- &2-family dwellings	1- & 2-family dwelling mechanical	USBC – Use Group R-3 or R-4 mechanical inspections
Combination inspector 1- &2-family dwellings	BHCD certification as a 1- &2-family dwelling building, plumbing, electrical, and mechanical inspector	USBC – Use Group R-3 or R-4 structure inspections
Elevator inspector	"only core module"	USBC - elevator inspections
Amusement device inspector	Basic amusement device	VADR

For information on [~~categories of~~] BHCD [~~certificates certification categories and required training,~~] contact: DHCD, Division of Building and Fire Regulation, 501 N. 2nd St., Richmond, VA 23219, (804) 371-7180.

~~Under § 36-139 et seq. of the Code of Virginia, the DHCD may approve other Code Academy equivalent educational training modules.~~

B. ~~Prior to receiving certification, all applicants for BHCD certification shall attend and complete the code academy core module [and shall also attend and complete the applicable management, technical or DFP training as outlined in the training and certification guidance document]. [In addition to the completion of the core module, applicants for the following categories of BHCD certification are required to attend and complete additional code academy training prior to receiving certification in accordance with the following table:~~

Category of BHCD certification	Code academy training
Building official	Advanced official module
Fire official	Advanced official module and the 1031 school as administered by the Department of Fire Programs
Building maintenance official	Advanced official module and the property maintenance module
Fire prevention inspector	The 1031 school as administered by the Department of Fire Programs
Amusement device inspector	Amusement device inspection module]

Exception: Applicants for BHCD provisional certification shall comply with 13 VAC 5-21-51 C.

13 VAC 5-21-51. Certification.

A. A ~~certification~~ [*BHCD*] ~~certificate~~ under this chapter shall be issued when the *BHCD* *DHCD* determines a candidate has complied with [~~the applicable provisions of this chapter 13 VAC 5-21-31 and 13 VAC 5-21-41~~].

B. All certificate holders certified by the *BHCD* since June 1978 are still certified unless revoked and shall be classified as active or inactive. Any certificate holder classified as inactive shall be deemed not to meet the certification requirements of the applicable *USBC*, *VADR*, or *SFPC*. Such inactive certificate holder may ~~attend~~ *complete* *DHCD*-designated training and *apply* to become an active certificate holder.

C. ~~Candidates seeking a BHCD certificate in accordance with this chapter~~ Any person [~~falling~~ *falling*] under any one or more of the following circumstances:

1. A noncertificate holder directed by the *BHCD* to obtain certification;
2. A candidate seeking certification based on demonstration of adequate knowledge and experience for the certificate being sought; or
3. The *DHCD* or *DFP* has not provided or offered the required training under 13 VAC 5-21-41 B or approved appropriate alternate training.

May be issued a provisional certificate under the following conditions:

- 1- a. The candidate has satisfactorily completed the Code Academy core module.
- 2- b. The candidate has complied with the proof of examination completion and application for certification requirements 13 VAC 5-21-31 A for proof of qualifications.
- 3- An appropriate code official, county, city or town manager or other code inspection agency official certifies the candidate is trained and competent to perform the candidate's assigned code enforcement duties. c. The candidate has complied with 13 VAC 5-21-41.
- 4- d. Such certification is nonrenewable and shall expire one year from the date of issuance.

Exception: Such *provisional* certification is renewable and shall not expire one year from the date of issuance when the *DHCD* or *DFP* has not provided or offered the required Code Academy training technical module. However, under 13 VAC 5-21-41 B, the *DHCD* may approve appropriate alternate training.

When a provisional certificate holder has complied with the provisions of 13 VAC 5-21-31 B for a regular *BHCD* certificate, *DHCD* shall issue such certificate.

D. A certification under this chapter may be denied when the *BHCD* determines a candidate has not complied with the applicable provisions of this chapter.

E. All certificate holders certified by the *BHCD* shall attend continuing education training as specified by *DHCD* in order to maintain status as an active certificate holder.

13 VAC 5-21-61. Sanctions [; ~~peer review; petition~~].

[A.] When the *BHCD* determines a certificate holder, [a code official,] *technical assistant* or an *inspector* of a code inspection agency or code review agency has failed to (i) maintain a minimally acceptable level of competence under § 36-137(6) of the Code of Virginia or , (ii) comply with an order issued by the *BHCD* or *TRB*, or (iii) [~~failed to~~] obtain the applicable *BHCD* certification as may be required under the applicable *USBC*, *VADR*, or *SFPC*, the *BHCD* may impose any of the following sanctions on a such [~~certificate holder, technical assistant or inspector enforcement personnel covered by this chapter~~]:

1. A warning letter under this chapter may be issued when the *BHCD* determines a certificate holder, [*code official,*] *technical assistant* or an *inspector* of a code inspection agency or code review agency committed any act prohibited by this chapter. The documentation that serves as the basis for such letter shall be made a part of the certification file on the certificate holder, *technical assistant* or *inspector*.
2. Attendance at special training under this chapter may be ordered when the *BHCD* determines a certificate holder is inadequately knowledgeable or trained lacks an adequate level of knowledge, skill or training to practice in the specific area of certification. A probation period may also be imposed by the *BHCD* upon completion of all such training.
3. A certificate issued under this chapter may be revoked or suspended by the *BHCD*.

[B. ~~An advisory review committee may be appointed by the BHCD to advise the department concerning the appropriateness of sanctions proposed against a certificate holder, technical assistant or an inspector of a code inspection agency or code review agency who has allegedly committed any act prohibited by this chapter. The advisory review committee shall serve and meet only when requested by the BHCD and. The advisory review committee shall comply with the following:~~

1. ~~The advisory review committee shall consist of five certificate holders.~~
2. ~~The advisory review committee shall select one of its members to serve as chairman.~~
3. ~~A member shall not take part in a review in which that member has any personal, professional or financial interest.~~
4. ~~The Director of DHCD shall designate a qualified staff person to serve as secretary to the advisory review committee and shall provide necessary staff support. The secretary shall file a detailed record of all meetings and recommendations with the BHCD.~~
5. ~~There shall be no compensation of members, except for reimbursement of travel expenses as provided for by law.~~
6. ~~The advisory review committee shall meet within 10 working days upon notice from the chairman.~~

C. ~~Following a certification denial, warning letter, special training order, or revocation or suspension of a certificate, the candidate or , certificate holder, technical assistant or inspector of a code inspection agency or code review agency~~

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~~may petition the BHCD for issuance of certification, dismissal of such warning or order, or for reinstatement of a certificate upon good cause shown or as a result of substantial new evidence having been obtained that would alter the determination reached by the BHCD.~~

~~D. The BHCD shall cause an examination, investigation or review of the evidence and shall respond within 60 days of receipt of the petition to the candidate or, certificate holder, technical assistant or inspector of a code inspection agency or code review agency regarding such petition.]~~

[13 VAC 5-21-70. Appeal.

Decisions of the BHCD regarding a candidate or certificate holder shall be final if the candidate or certificate holder makes no appeal. Such candidate or certificate holder may present an appeal from the BHCD's decision directly to the TRB under § 114 of the Code of Virginia. All BHCD negative responses shall contain the following statement:

~~"Upon receipt of the BHCD's decision, the candidate or certificate holder may appeal to the State Building Code Technical Review Board (TRB) by submitting an application to the TRB within 30 calendar days. Application forms are available from the Office of the TRB, 5-1 N. 2nd. St., Richmond, VA 23219, (804) 371-7150." Decisions of the BHCD under this regulation are case decisions under the Virginia Administrative Process Act (§ 2.2-4000 et seq. of the Code of Virginia) and are subject to judicial review in accordance with that law.]~~

CHAPTER 80.

VIRGINIA STANDARDS GOVERNING OPERATION OF FOR INDIVIDUAL AND REGIONAL CODE ACADEMIES/4999.

13 VAC 5-80-10 through 13 VAC 5-80-30. [No change from proposed.]

13 VAC 5-80-40. Appeals.

~~[A. Any operator aggrieved by a decision of the department DHCD may file an appeal to the State Building Code Technical Review Board TRB. Such appeal shall be filed within 30 calendar days of the issuance of the department's DHCD's written decision. A copy of the decision of DHCD to be appealed shall be submitted with the application for appeal. Failure to submit an application for appeal within the time limit established by this section shall constitute acceptance of DHCD's decision.~~

~~B. Procedures of the TRB are in accordance with Article 2 (§ 36-108 et seq.) of Chapter 6 of Title 36 of the Code of Virginia. Decisions of the TRB shall be final if no appeal is made therefrom.~~

~~Decisions of DHCD under this regulation are case decisions under the Virginia Administrative Process Act (§ 2.2-4000 et seq. of the Code of Virginia) and are subject to judicial review in accordance with that law.]~~

13 VAC 5-80-50 through 13 VAC 5-80-150. [No change from proposed.]

V.A.R. Doc. Nos. R02-168 and R02-169; Filed July 23, 2003, 10:02 a.m.

* * * * *

Title of Regulation: **13 VAC 5-31. Amusement Device Regulations (amending 13 VAC 5-31-10-40, 13 VAC 5-31-10-50, 13 VAC 5-31-10-60, 13 VAC 5-31-10-90, [13 VAC 5-31-10-100]; 13 VAC 5-31-10-110 [and 13 VAC 5-31-10-180; adding 13 VAC 5-31-190]).**

Statutory Authority: § 36-98.3 of the Code of Virginia.

Effective Date: October 1, 2003.

Agency Contact: Stephen W. Calhoun, Regulatory Coordinator, Department of Housing and Community Development, 501 North Second Street, Richmond, VA 23219, telephone (804) 371-7015, FAX (804) 371-7090, or e-mail scalhoun@dhcd.state.va.us. Copies of the regulation may be obtained from the Department of Housing and Community Development. There will be a \$.10 charge per page for copies.

Summary:

The amendments (i) clarify that the provisions of the Uniform Statewide Building Code shall apply to amusement devices to the extent such provisions are not superseded by the provisions of this regulation and § 36-98.3 of the Code of Virginia; (ii) update the incorporated by reference standards to the latest editions of the American National Standards Institute (ANSI) for the regulation of passenger tramways and the American Society for Testing and Materials (ASTM) for the regulation of amusement devices; (iii) regulate "go-karts" by the adoption of new referenced standards; (iv) allow appeals to the State Building Code Technical Review Board following a final determination by the local board of building code appeals; and (v) specify that the local building department's official or representative shall enforce the provisions of this regulation, including any interpretation of this regulation by the State Building Code Technical Review Board.

Summary of Public Comment and Agency Response: A summary of comments made by the public and the agency's response may be obtained from the promulgating agency or viewed at the Office of the Registrar of Regulations.

REGISTRAR'S NOTICE: The proposed regulation was adopted as published in 19:6 V.A.R. 913-916 December 2, 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.

13 VAC 5-31-10 through 13 VAC 5-31-90. [No change from proposed].

13 VAC 5-31-100. Local building department.

The local building department's official or representative shall be permitted to do the following relative to an amusement device or devices intended to be, or being, operated at a site within their jurisdiction:

1. Collect fees for a permit to operate, renewal of a permit to operate and inspections conducted by staff to issue a certificate of inspection. The total for fees associated with one permit to operate and any associated inspections or

one renewal of a permit to operate and any associated inspections shall not exceed the following:

- a. \$15 for each kiddie ride under the permit;
- b. \$25 for each circular ride or flat-ride under the permit which can be inspected from less than 20 feet above ground; and
- c. \$45 for each other type of amusement device under the permit.

Notwithstanding the above, the fee for each amusement device under the permit shall be reduced by 50% when the inspection for obtaining a certificate of inspection for that device is conducted by a private inspector [~~and shall not exceed a maximum of \$150 for one site~~];

- 2. In addition to the above, require permits and charge fees as appropriate under the USBC for amusement devices which are being initially constructed in whole or in part at a site within the jurisdiction for intended operation at that site. This authorization does not apply to an amusement device which is only being reassembled or undergoing a major modification at a site or being moved to a site for operation;
- 3. Approve modifications of this chapter upon determination that the public health, safety and welfare are assured;
- 4. Conduct an inspection at any time when the device would normally be open for operation, or at any other time if permission is granted by the owner or operator, for compliance with this chapter; and
- 5. Issue an order to temporarily cease the operation of an amusement device upon determination that it may be unsafe or otherwise endanger the public. The temporary order shall remain in effect until a new certificate of inspection is issued.

13 VAC 5-31-110. [No change from proposed.]

[13 VAC 5-31-180. General requirements.

- A. The provisions of this part are specific to gravity rides and are in addition to other applicable provisions of this chapter.
- B. A ride using carriers shall be designed and constructed to retain the passengers in or on a carrier during the operation of the ride and retain the carrier on or within the track, slide, or chute system during the operation of the ride.
- C. A ride that conveys passengers not in or on a carrier shall be designed and constructed to retain the passengers within the chute or slide during the ride.
- D. At each loading or unloading area, a hard surface which is other than earth and which is reasonably level shall be provided. The surface shall be large enough to accommodate the intended quantity of passengers.
- E. Where loading or unloading platforms are elevated more than 30 inches from the adjacent areas, guard rails conforming to the USBC shall be provided.
- F. Passengers shall not have to step up or down more than 12 inches from the loading or unloading surface to enter or exit the ride.

G. The frequency of departure of carriers or riders from the loading areas shall be controlled by a ride operator. The minimum distance between departures shall be determined by the designer of the specific ride.

H. When a passenger has control of the speed or course of the carrier, the passenger shall have a clear sight distance along the course of the ride long enough to allow the passenger to avoid a collision with another person or carrier.

I. The unloading area of the ride shall be designed and constructed to bring riders and carriers to a safe stop without any action by the rider.

J. There shall be attendants at the loading and unloading area when the ride is in use. *However, where the physical structure of the ride is such that it is not capable of accommodating an attendant at both the loading and unloading area and the entire ride is visible and under the supervision of a single attendant, attendants at both the loading and unloading areas shall not be required.*

K. If the entire course of the ride is not visible to the operator, additional persons with communications equipment shall be provided or approved visual surveillance equipment shall be installed along the course of the ride which is not visible to the operator.

L. Any moving or hot parts that may be injurious to the ride operator or the public shall be effectively guarded to prevent contact.

M. Fencing or adequate clearance shall be provided that will prevent the riders from contact with persons or nearby objects.

PART VI. CONCESSION GO-KARTS.

13 VAC 5-31-190. General requirements.

Concession go-karts shall be operated, maintained and inspected in accordance with ASTM F2007-00.]

VA.R. Doc. No. R02-171; Filed July 23, 2003, 10:08 a.m.

Title of Regulation: 13 VAC 5-51. Virginia Statewide Fire Prevention Code (amending 13 VAC 5-51-11, 13 VAC 5-51-21, 13 VAC 5-51-31, 13 VAC 5-51-41, 13 VAC 5-51-51, 13 VAC 5-51-61, 13 VAC 5-51-81, 13 VAC 5-51-91, 13 VAC 5-51-101, 13 VAC 5-51-111, 13 VAC 5-51-121, 13 VAC 5-51-130, 13 VAC 5-51-131, 13 VAC 5-51-133, 13 VAC 5-51-135, 13 VAC 5-51-136, 13 VAC 5-51-140, and 13 VAC 5-51-150; adding 13 VAC 5-51-85, 13 VAC 5-51-129, 13 VAC 5-51-132, and [13 VAC 5-51-155]; repealing 13 VAC 5-51-71, 13 VAC 5-51-160, 13 VAC 5-51-170, 13 VAC 5-51-180, 13 VAC 5-51-181, 13 VAC 5-51-182, 13 VAC 5-51-190, and 13 VAC 5-51-200).

Statutory Authority: § 27-97 of the Code of Virginia.

Effective Date: October 1, 2003.

Agency Contact: Stephen W. Calhoun, Regulatory Coordinator, Department of Housing and Community

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Development, 501 North 2nd Street, Richmond, VA 23219, telephone (804) 371-7015, FAX (804) 371-7090 or e-mail scalhoun@dhcd.state.va.us. Copies of the regulation may be obtained from the Department of Housing and Community Development. There will be a \$.10 charge per page for copies.

Summary:

The major substantive amendments to this regulation (i) update the referenced model codes and standards; (ii) add that the official must notify the Department of Housing and Community Development (department) of the employment of assistants; (iii) change from three years to one and a half years the time allowed for enforcement personnel to become certified; (iv) add that officials and assistants may be held responsible for failure to discharge any duty required by law; (v) add that fire apparatus access roads be identified to the owner prior to the issuance of the building permit; (vi) amend the permit fees of the State Fire Marshal's office for the storage, use, sale or manufacture of explosives or blasting agents, and for the display of fireworks on state-owned property; (vii) add a fee for obtaining or renewing a background clearance card from the department; and (viii) amend the fee for obtaining or renewing a blaster certificate from the department.

Changes to the proposed regulation include revised enforcement provisions and coverage of additional fire-related subjects (including fireworks, fire drills and black powder).

PART I. GENERAL REGULATIONS.

13 VAC 5-51-11. Chapter 1, Administration, Section F-101.0. Scope.

A. F-101.1. Title: These regulations shall be known as the Virginia Statewide Fire Prevention Code (SFPC), hereinafter referred to as "this code" or "SFPC." The term "chapter" means a chapter in the SFPC. The SFPC was cooperatively developed by the Virginia Fire Services Board and the Virginia Board of Housing and Community Development.

B. F-101.2. Scope: The SFPC prescribes regulations *affecting or relating to maintenance of structures, processes and premises and safeguards* to be complied with for the protection of life and property from the hazards of fire or explosion and for the handling, storage and use of [fireworks,] explosives or blasting agents, and provides for the administration and enforcement of such regulations. ~~The SFPC requires manufacturers of explosives to register and report information concerning their manufacturing facilities and methods of operation within this Commonwealth in accordance with the SFPC.~~ The SFPC also establishes regulations for obtaining permits for the manufacturing, storage, handling, use, or sales of explosives. Inspections under the SFPC are a governmental responsibility.

C. F-101.3. Purpose: The purposes of the SFPC are to provide for statewide standards for ~~optional local enforcement~~ to safeguard life and property from the hazards of fire or explosion arising from the improper maintenance of life safety and fire prevention and protection materials, devices, systems and structures, and the unsafe storage, handling, and use of

substances, materials and devices, including explosives and blasting agents, wherever located.

D. F-101.4. Validity: To the extent that any provisions of the SFPC or the referenced codes or standards are not within the scope of this chapter, those provisions are considered to be invalid. When any provision of the SFPC is found to be in conflict with the USBC, OSHA, or statute, that provision of the SFPC shall become invalid.

E. F-101.5. Local regulations: Any local governing body may adopt fire prevention regulations that are more restrictive or more extensive in scope than the SFPC provided such regulations ~~are not more restrictive than the USBC~~ and do not affect the manner of construction or materials to be used in the erection, alteration, repair, or use of a building or structure, *as provided in the USBC, including the voluntary installation of smoke alarms and regulation and inspections thereof in commercial buildings where such smoke alarms are not required under the provisions of the SFPC.*

F. F-101.6. ~~Exemption~~ *Nonresidential farm structures:* Farm structures not used for residential purposes are exempt from the SFPC *except when the inspection and enforcement provisions of the code are exercised by a warrant issued under the authority of §§ 27-98.2 through 27-98.5 of the Code of Virginia.*

~~Exception: Inspections or reinspections of farm buildings, structures, property, or premises under search warrants issued pursuant to § 27-98.2 of the Code of Virginia are not exempt from the SFPC. When they are based upon a demonstration that, for the protection of life and property from the hazards of fire or explosion, the alleged unsafe storage, handling and use of substances, materials and devices, including explosives and blasting agents, are probably occurring on such premises.~~

13 VAC 5-51-21. Section F-102.0. Applicability.

A. F-102.1. General: The provisions of the SFPC shall apply to all matters affecting or relating to structures, processes and premises as set forth in Section F-101.0. The SFPC shall supersede any fire prevention regulations previously adopted by a local government or other political subdivision.

B. 102.1.1. Changes: No change shall be made in the use or occupancy of any structure that would place the structure in a different division of the same group of occupancies, unless such structure is made to comply with the requirements of this code and the USBC.

~~B. F-~~ C. 102.2. Application to pre-1973 *buildings and structures:* *Buildings and structures* constructed prior to the USBC (1973) shall comply with the maintenance requirements of the SFPC to the extent that equipment, systems, devices, and safeguards which were [required,] provided and approved when constructed shall be maintained. Such *buildings and structures*, if subject to the state fire and public building regulations (Virginia Public Building Safety Regulations, VR 394-01-05) in effect prior to March 31, 1986, shall also be maintained in accordance with those regulations.

~~C. F-~~ D. 102.3. Application to post-1973 *buildings and structures:* *Buildings and structures* constructed under any edition of the USBC shall comply with the maintenance

requirements of the SFPC to the extent that equipment, systems, devices, and safeguards which were [required,] provided and approved when constructed shall be maintained.

~~E. 102.4. Referenced codes and standards: The codes and standards referenced in the IFC shall be those listed in Chapter 45 and considered part of the requirements of the SFPC to the prescribed extent of each such reference. Where differences occur between the provisions of this code and the referenced standards, the provisions of this code shall apply.~~

~~D. F-102.4. F. 102.5. Subsequent alteration: Subsequent alteration, enlargement, repair, or conversion of the occupancy classification of structures shall be subject to the current USBC.~~

~~E. F-102.5. G. 102.6. State structures: The SFPC shall be applicable to all state-owned structures in the manner and extent described in § 27-99 of the Code of Virginia.~~

~~F. F-102.6. H. 102.7. Relationship to USBC: Construction inspections of structures, other than state-owned structures, and the review and approval of their construction documents for enforcement of the USBC shall be the sole responsibility of the local building department.~~

~~G. F-102.7. I. 102.8. Existing structures: Upon the completion of structures [and after the certificate of occupancy has been issued], responsibility for fire safety protection shall pass to the local fire code official or to the State Fire Marshal, who shall also have the authority, in cooperation with any local governing body, to enforce this code [and who shall also determine that the fire safety features approved by the building official are properly maintained]. The State Fire Marshal shall also have authority to enforce this code in those jurisdictions in which the local governments do not enforce this code. [The State Fire Marshal shall also have authority to enforce this code in those jurisdictions in which the local governments do not enforce this code.]~~

~~H. F-102.8. J. 102.9. Inspections for USBC requirements: The fire code official shall require that [The fire official shall require that] existing structures subject to the requirements of the applicable retrofitting provisions relating to [the] fire protection equipment and system requirements [for certain existing motels, hotels, hospitals, daycare facilities, dormitories, nursing homes and multi-family dwelling units mandated in Part II, Article 3] of the USBC subsections 3402.3, 3402.4, 3402.5, 3402.6, 3402.6.1, 3402.7, 3402.10, 3402.12, 3402.13, 3402.14 and 3402.15 comply with the provisions of those subsections, [that do not comply with such provisions, the fire official shall notify the building official, in writing, of those structures that are in alleged violation of such provisions Section 123, comply with the provisions located therein].~~

13 VAC 5-51-31. Section F-103.0. Incorporation by reference.

A. F-103.1. General: The following document is adopted and incorporated by reference to be an enforceable part of the SFPC:

The ~~BOCA National Fire Prevention Code/1996, Tenth Edition International Fire Code/2000~~, hereinafter referred to as "BNFPC IFC," published by ~~Building Officials and Code~~

~~Administrators International, Inc., 4051 West Flossmoor Road, Country Club Hills, IL 60478-5795, toll free number 1-800-323-1103 the International Code Council, Inc., 5203 Leesburg Pike, Suite 708, Falls Church, VA 22041-3401, phone 703-931-4533.~~

~~B. F-103.1.1. Deletion: Delete BNFPC IFC Chapter 1.~~

~~C. F-103.2. Amendments: All requirements of the referenced codes and standards that relate to fees, permits, unsafe notices, disputes, condemnation, inspections, scope of enforcement and all other procedural, and administrative matters are deleted and replaced by the provisions of Chapter 1 of the SFPC. The purpose of this provision is to eliminate overlap, conflict and duplication by providing a single standard for administration, procedural matters and enforcement of the SFPC.~~

~~D. F-103.2.1. Other amendments: The SFPC contains provisions adopted by the Virginia Board of Housing and Community Development (BHCD), some of which delete, change or amend provisions of the BNFPC IFC and referenced standards. Where conflicts occur between such changed provisions and the unchanged provisions of the BNFPC IFC and referenced standards, the provisions changed by the BHCD shall govern.~~

Note: The ~~BNFPC IFC~~ and its referenced standards contain some areas of regulation outside of the scope of the SFPC, as established by the BHCD and under state law. Where conflicts have been readily noted, changes have been made to the ~~BNFPC IFC~~ and its referenced standards to bring it within the scope of authority; however, in some areas, judgment will have to be made as to whether the provisions of the ~~BNFPC IFC~~ and its referenced standards are fully applicable.

~~E. 103.3. International Fire Code. Retroactive fire protection system requirements contained in the IFC shall not be enforced unless specified by the USBC [, including but not limited to the following IFC sections: 903, 905 and 907].~~

13 VAC 5-51-41. Section F-104.0. Enforcement.

A. F-104.1. Local enforcement: Any local government may enforce the SFPC following official action by such body. The official action shall (i) require compliance with the provisions of the SFPC in its entirety or with respect only to those provisions of the SFPC relating to open burning, fire lanes, fireworks, and hazardous materials and (ii) assign enforcement responsibility to the local agency or agencies of its choice. Any local governing body may establish such procedures or requirements as may be necessary for the administration and enforcement of this code. If a local governing body elects to enforce only those provisions of the SFPC relating to open burning, it may do so in all or in any designated geographic areas of its jurisdiction. The terms "enforcing agency" and "fire code official" are intended to apply to the agency or agencies to which responsibility for enforcement of the SFPC has been assigned. The terms "building code official" or "building department" are intended to apply only to the local building code official or local building department.

~~B. F-104.1.1. Procedures: Any local governing body shall be permitted to establish such procedures or requirements as~~

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may be necessary for the administration and enforcement of this code.

~~C. F.~~ B. 104.2. State enforcement: The State Fire Marshal shall have the authority to enforce the SFPC as follows:

1. In cooperation with any local governing body;
2. In those jurisdictions in which the local governments do not enforce the SFPC [~~in its entirety or enforce the SFPC with respect only to those provisions of the SFPC relating to open burning, fire lanes, fireworks, and hazardous materials~~]; and
3. In all state-owned buildings and structures.

~~D. F.~~ C. 104.3. State structures: Every agency, commission or institution of this Commonwealth, including all institutions of higher education, shall permit, at all reasonable hours, the fire code official reasonable access to existing structures or a structure under construction or renovation, for the purpose of performing an informational and advisory fire safety inspection. The fire code official is permitted to submit, subsequent to performing such inspection, his findings and recommendations, including a list of corrective actions necessary to ensure that such structure is reasonably safe from the hazards of fire, to the appropriate official of such agency, commission, or institution and the State Fire Marshal. Such agency, commission or institution shall notify, within 60 days of receipt of such findings and recommendations, the State Fire Marshal and the fire code official of the corrective measures taken to eliminate the hazards reported by the fire code official. The State Fire Marshal shall have the same power in the enforcement of this section as is provided for in § 27-98 of the Code of Virginia. The State Fire Marshal may enter into an agreement as is provided for in § 36-139.4 of the Code of Virginia with any local enforcement agency that enforces the SFPC to enforce this section and to take immediate enforcement action upon verification of a complaint of an imminent hazard such as a chained or blocked exit door, improper storage of flammable liquids, use of decorative materials, and overcrowding.

13 VAC 5-51-51. Section 105.0. Enforcing agency.

A. ~~F.~~ 105.1. Code Fire official: Each enforcing agency shall have an executive official in charge, hereinafter referred to as the "fire code official" or "code official." [~~In accordance with sanctions prescribed by the Virginia Certification Standards (13 VAC 5-21), the fire official may be held responsible for failure to discharge any duty required by law or by the SFPC.~~]

[Note: Fire officials are subject to sanctions in accordance with the Virginia Certification Standards (13 VAC 5-21).]

B. ~~F.~~ 105.1.1. Appointment: The fire code official shall be appointed in a manner selected by the local government having jurisdiction. After permanent appointment, the fire code official shall not be removed from office except for cause after having been afforded a full opportunity to be heard on specific and relevant charges by and before the appointing authority.

C. ~~F.~~ 105.1.2. Notification of appointment: The appointing authority of the local governing body shall notify the DHCD within 30 days of the appointment or release of a the

permanent or acting fire code official within 30 days after such appointment.

D. ~~F.~~ 105.1.3. Qualifications: The fire code official shall have at least five years of fire-related experience as a licensed professional engineer or architect, fire inspector, contractor or superintendent of fire protection-related construction, with at least three years in responsible charge of work. Any combination of education and experience that would confer equivalent knowledge and ability shall be deemed to satisfy this requirement. The fire code official shall have general knowledge of sound engineering practice with respect to the design and construction of structures, the basic principles of fire prevention and protection, the accepted requirements for means of egress and the installation of elevators and other service equipment necessary for the health, safety and general welfare of the occupants and the public. The local governing body may establish additional qualification requirements.

E. ~~F.~~ 105.2. Certification: The permanent or acting fire code official shall obtain certification from the BHCD in accordance with the Virginia Certification Standards (13 VAC 5-21-40 et seq.) within three years one year after permanent or acting appointment.

Exception: A fire code official appointed prior to April 1, 1994, continuously employed by the same local governing body as the fire code official shall comply with required DHCD training under the Virginia Certification Standards (13 VAC 5-21-40 et seq.).

F. ~~F.~~ 105.2.1. Noncertified: After permanent or acting appointment, a non-BHCD certified fire code official shall complete a DHCD orientation seminar within 60 days. In addition, within 180 days, such code fire official shall attend the core program of the Virginia Building Code Academy or its equivalent in a DHCD accredited academy.

G. ~~F.~~ 105.3. Assistant: The local governing body or its designee may appoint one or more assistants who, in the absence of the fire code official, shall have the powers and perform the duties of the fire code official. [~~In accordance with sanctions prescribed by the Virginia Certification Standards (13 VAC 5-21) such assistants may be held responsible for failure to discharge any duty required by law or by the SFPC.~~]

[Note: Assistants are subject to sanctions in accordance with the Virginia Certification Standards (13 VAC 5-21).]

H. ~~F.~~ 105.3.1. Notification: The fire official shall notify the DHCD within 60 days of the employment [or ,] contract [or termination] of all assistants for enforcement of the SFPC.

I. 105.3.2. Certification: ~~Any person~~ All assistants employed by or under contract to an enforcing agency for enforcing the SFPC shall be certified in the appropriate subject areas area in accordance with the Virginia Certification Standards (13 VAC 5-21-40 et seq.) within three one and one-half years after permanent or acting appointment. [~~However, such assistants shall also attend and complete the applicable management, technical or DFP training as outlined in the training and certification guidance document referenced in the Virginia Certification Standards (13 VAC 5-21) within one and one-half years after initial appointment. When required by a~~

locality to have two or more certifications, the remaining certifications shall be obtained within three years from the date of such requirement.]

Exception: Any ~~person~~ assistant continuously employed by or continuously under contract to the same enforcing agency for enforcing the SFPC since before April 1, 1994, shall be exempt from the provisions of this [~~subsection~~ section]; however, such exempt ~~person~~ assistant shall comply with required DHCD training under Virginia Certification Standards (13 VAC 5-21-40 ~~et seq.~~).

~~I.-F.~~ J. 105.4. Continuing education: ~~Code~~ Fire officials and assistants enforcing the SFPC shall attend periodic training courses as designated by the DHCD ~~and such other training as designated by the local governing body.~~

~~J.-F.~~ K. 105.5. Control of conflict of interest: The minimum standards of conduct for officials and employees of the enforcing agency shall be in accordance with the provisions of the State and Local Government Conflict of Interests Act, Chapter 40.4 31 (§ 2.4-639.4 2.2-3100 et seq.) of Title 2.4 2.2 of the Code of Virginia.

13 VAC 5-51-61. Section F-106.0. Duties and powers of the ~~code~~ fire official.

A. F-106.1. General: The fire ~~code~~ official shall enforce the provisions of the SFPC as provided herein and as interpreted by the State Building Code Technical Review Board (TRB) in accordance with § 36-118 of the Code of Virginia.

B. F-106.2. Delegation of duties and powers: The fire ~~code~~ official may delegate duties and powers subject to any limitations imposed by the local governing body. The fire ~~code~~ official shall be responsible that any powers and duties delegated are carried out in accordance with this code.

C. ~~F-106.3.~~ Inspections: The fire ~~code~~ official ~~may make all of the required is authorized to conduct such inspections or may accept reports of inspections as are deemed necessary to determine the extent of compliance with the provisions of this code and to approve reports of inspection by approved agencies or individuals. All reports of such inspections [by approved agencies or individuals] shall be prepared and submitted in writing and for review and approval. Inspection reports shall be certified by an agency a responsible officer of such approved agency or by the responsible individual. The ~~code~~ fire official ~~may is authorized to engage, subject to any limitations imposed by the local governing body, such expert opinion as deemed necessary to report upon unusual, detailed or complex technical issues that arise [subject to the approval of the governing body in accordance with local policies].~~~~

D. F-106.3.1. Observations: When, during an inspection, the fire ~~code~~ official or an authorized representative observes an apparent or actual violation of another law, ordinance or code not within the official's authority to enforce, such official shall report the findings to the official having jurisdiction in order that such official may institute the necessary measures.

E. F-106.4. Alternatives: The SFPC provisions are not intended to prevent the use of any safeguards used to protect life and property from the hazards of fire or explosion that are not specifically prescribed by the SFPC, provided that such alternative safeguards comply with the intent of the SFPC.

The alternative safeguard offered shall be, for the purpose intended, at least the equivalent of that prescribed in this code in quality, strength, effectiveness, fire resistance, durability and safety.

F. F-106.5. Modifications: The fire ~~code~~ official may grant modifications to any provision of the SFPC upon application by the owner or the owner's agent provided the spirit and intent of the SFPC are observed and public health, welfare, and safety are assured.

G. F-106.5.1. Supporting data: The fire ~~code~~ official shall require that sufficient technical data be submitted to substantiate the proposed use of any alternative. If it is determined that the evidence presented is satisfactory proof of performance for the use intended, the fire ~~code~~ official shall approve the use of such alternative subject to the requirements of this code. The fire ~~code~~ official may require and consider a statement from a professional engineer, architect or other competent person as to the equivalency of the proposed modification.

H. F-106.5.2. ~~Records~~ Decision: The application for modification and the final decision of the fire [~~code~~] official shall be in writing and shall be recorded in the permanent records of the local enforcing agency.

~~I. F-106.5.3. Supporting data: The fire code official shall require that sufficient technical data be submitted to substantiate the proposed use of any alternative. If it is determined that the evidence presented is satisfactory proof of performance for the use intended, the fire code official shall approve the use of such alternative subject to the requirements of this code. Supporting data, when required by the fire code official to assist in the approval of all materials or assemblies not specifically provided for in this code, shall consist of duly authenticated research reports from approved sources.~~

~~J.-F.~~ I. 106.6. Notices and orders: The fire ~~code~~ official shall issue all necessary notices or orders to ensure compliance with the SFPC.

~~K.-F.~~ J. 106.7. Department records: The fire ~~code~~ official shall keep official records of applications received, permits and certificates issued, fees collected, reports of inspections, and notices and orders issued. Such records shall be retained in the official records or disposed of in accordance with General Schedule Number Ten available from The Library of Virginia.

13 VAC 5-51-71. Section F-107.0. Fees. (Repealed.)

~~A. F-107.1. Local: Fees may be levied by the local governing body in order to defray the cost of enforcement and appeals under the SFPC.~~

~~B. F-107.2. State: Fees for permits issued by the State Fire Marshal's office shall be as follows:~~

- ~~1. \$50 per year per site to possess, store and dispose of explosives and blasting agents.~~
- ~~2. \$75 per year per city or county to use explosives and blasting agents.~~
- ~~3. No fee for the manufacture and sale of fireworks, explosives and blasting agents.~~

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~~C. F-107.2.1. Additional fees: The applicant shall pay all additional fees charged by other agencies for fingerprinting and for obtaining a national criminal history record check through the Central Criminal Records Exchange to the Federal Bureau of Investigation.~~

~~D. F-107.3. Fee schedule: The local governing body may establish a fee schedule. The schedule shall incorporate unit rates, which may be based on square footage, cubic footage, estimated cost of inspection or other appropriate criteria.~~

~~E. F-107.4. Payment of fees: A permit shall not be issued until the designated fees have been paid.~~

~~Exception: The fire code official may authorize delayed payment of fees.~~

13 VAC 5-51-81. Section F-408.0. 107.0. Permits.

A. F-408.4. 107.1. Prior notification: The fire code official may require notification prior to (i) activities involving the handling, storage or use of substances, materials or devices regulated by the SFPC; (ii) conducting processes which produce

conditions hazardous to life or property; or (iii) establishing a place of assembly.

B. F-408.2. 107.2. Permits required: Permits may be required by the fire code official as permitted under the SFPC in accordance with Table F-408.2 107.2, except that the fire code official shall require permits for the manufacturing, storage, handling, use, and sale of explosives. An application for a permit to manufacture, store, handle, use, or sell explosives shall only be made by an individual certified as a blaster in accordance with Section F-3003.5 3301.4, or by a person who has been issued a background clearance card in accordance with Section F-3004.2.3.1 [~~3301.1~~ 3301.2.3.1.1].

Exception: Such permits shall not be required for the storage, handling, or use of explosives or blasting agents by the Virginia Department of State Police provided notification to the fire code official is made annually by the Chief Arson Investigator listing all storage locations.

C. Add Table F-408.2 107.2 as follows:

Table F-408.2
PERMIT REQUIREMENTS
(to be filled in by local jurisdiction)

Section	Description	Permit required	Permit fee	Inspection fee
F-402.3	Candles – assembly/educational occupancies			
F-403.4	Open burning			
F-404.2	Remove paint with torch			
F-601.4	Assembly/educational occupancies			
F-801.2	Airports, heliports & helistops			
F-901.2	Flammable liquids, bowling lanes			
F-1001.2	Crop ripening & color processes			
F-1101.2	Dry cleaning			
F-1201.2	Dust explosion hazard			
F-1301.2	Flammable finishes			
F-1401.2	Fumigation – insecticidal			
F-1501.2	HPM facilities			
F-1601.2	Lumber yard – woodworking plants			
F-1701.2	Matches – bulk storage			
F-1801.2	Oil/gas wells			
F-1901.2	Organic coatings			
F-2001.2	Tents/air supported structures			
F-2102.1	Wrecking yard, junk yard, waste material handling			
F-2103.1	Waste handling			
F-2201.2	Welding or cutting			
F-2205.2	Storage of welding cylinders			
F-2207.1	Calcium carbide			
F-2208.1	Acetylene generators			
F-2208.7	Acetylene cylinder storage			
F-2301.2	Hazardous materials			
F-2401.2	Aerosol products			
F-2501.2	Cellulose nitrate plastics			
F-2601.2	Combustible fibers			
F-2701.2	Compressed gases			
F-2801.2	Corrosives			
F-2901.2	Cryogenic liquids			
F-3001.2	Blasting/explosives			
F-3101.2	Fireworks			

F-3201.2	Vehicle repair shop			
F-3201.2	Flammable and combustible liquids – storage, handling, use, processing			
F-3201.2	Flammable and combustible liquids – tanks and equipment			
F-3301.2	Flammable solids			
F-3401.2	Highly toxic and toxic solids and liquids			
F-3501.2	Irritants, sensitizers and other health hazards			
F-3601.2	Liquefied petroleum gases			
F-3701.2	Organic peroxides			
F-3801.2	Liquid and solid oxidizers			
F-3901.2	Pesticides			
F-4001.2	Pyrophoric materials			
F-4101.2	Radioactive materials			
F-4201.2	Unstable (reactive) materials			
F-4301.2	Water-reactive materials			

Table 107.2.
OPERATIONAL PERMIT REQUIREMENTS (to be filled in by local jurisdiction).

Description	Permit Required (yes or no)	Permit fee	Inspection fee
[An operational permit may be required by the fire official:]			
[Aerosol products. An operational permit is required] to manufacture, store or handle an aggregate quantity of Level 2 or Level 3 aerosol products in excess of 500 pounds (227 kg) net weight.			
[Amusement buildings. An operational permit is required] to operate a special amusement building.			
[Aviation facilities. An operational permit is required] to use a Group H or Group S occupancy for aircraft servicing or repair and aircraft fuel-servicing vehicles. Additional permits required by other sections of this code include, but are not limited to, hot work, hazardous materials and flammable or combustible finishes.			
[Carnivals and fairs. An operational permit is required] to conduct a carnival or fair.			
[Battery systems. An operational permit is required] to install stationary lead-acid battery systems having a liquid capacity of more than 50 gallons (189 L).			
[Cellulose nitrate film. An operational permit is required] to store, handle or use cellulose nitrate film in a Group A occupancy.			
[Combustible dust-producing operations. An operational permit is required] to operate a grain elevator, flour starch mill, feed mill, or a plant pulverizing aluminum, coal, cocoa, magnesium, spices or sugar, or other operations producing combustible dusts as defined in Chapter 2.			
[Combustible fibers. An operational permit is required] for the storage and handling of combustible fibers in quantities greater than 100 cubic feet (2.8 m ³). Exception: An operational permit is not required for agricultural storage.			
[Compressed gas. An operational permit is required] for the storage, use or handling at normal temperature and pressure (NTP) of compressed gases in excess of the amounts listed below. Exception: Vehicles equipped for and using compressed gas as a fuel for propelling the vehicle. Permit Amounts for Compressed Gases			

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<p><u>Type of Gas</u></p> <p>Corrosive</p> <p>Flammable (except cryogenic fluids and liquefied petroleum gases)</p> <p>Highly toxic</p> <p>Inert and simple asphyxiant</p> <p>Oxidizing (including oxygen)</p> <p>Toxic</p> <p>For SI: 1 cubic foot = 0.02832 m3.</p>	<p><u>Amount (cubic feet at NTP)</u></p> <p>200</p> <p>200</p> <p>Any Amount</p> <p>6,000</p> <p>504</p> <p>Any Amount</p>																		
<p>[Covered mall buildings. An operational permit is required] for:</p> <ol style="list-style-type: none"> 1. The placement of retail fixtures and displays, concession equipment, displays of highly combustible goods and similar items in the mall. 2. The display of liquid- or gas-fired equipment in the mall. 3. The use of open-flame or flame-producing equipment in the mall. 																			
<p>[Cryogenic fluids. An operational permit is required] to produce, store, transport on site, use, handle or dispense cryogenic fluids in excess of the amounts listed below.</p> <p>Exception: Operational permits are not required for vehicles equipped for and using cryogenic fluids as a fuel for propelling the vehicle or for refrigerating the lading.</p> <p style="text-align: center;">Permit Amounts for Cryogenic Fluids</p> <table border="1" style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th style="text-align: left;"><u>Type of Cryogenic Fluid</u></th> <th style="text-align: center;"><u>Inside Building (gallons)</u></th> <th style="text-align: center;"><u>Outside Building (gallons)</u></th> </tr> </thead> <tbody> <tr> <td>Flammable</td> <td style="text-align: center;">More than 1</td> <td style="text-align: center;">60</td> </tr> <tr> <td>Inert</td> <td style="text-align: center;">60</td> <td style="text-align: center;">500</td> </tr> <tr> <td>Oxidizing (includes oxygen)</td> <td style="text-align: center;">10</td> <td style="text-align: center;">50</td> </tr> <tr> <td>Physical or health hazard not indicated above</td> <td style="text-align: center;">Any Amount</td> <td style="text-align: center;">Any Amount</td> </tr> </tbody> </table> <p>For SI: 1 gallon = 3.785 L.</p>					<u>Type of Cryogenic Fluid</u>	<u>Inside Building (gallons)</u>	<u>Outside Building (gallons)</u>	Flammable	More than 1	60	Inert	60	500	Oxidizing (includes oxygen)	10	50	Physical or health hazard not indicated above	Any Amount	Any Amount
<u>Type of Cryogenic Fluid</u>	<u>Inside Building (gallons)</u>	<u>Outside Building (gallons)</u>																	
Flammable	More than 1	60																	
Inert	60	500																	
Oxidizing (includes oxygen)	10	50																	
Physical or health hazard not indicated above	Any Amount	Any Amount																	
<p>[Cutting and welding. An operational permit is required] to conduct cutting or welding operations within the jurisdiction.</p>																			
<p>[Dry cleaning plants. An operational permit is required] to engage in the business of dry cleaning or to change to a more hazardous cleaning solvent used in existing dry cleaning equipment.</p>																			
<p>[Exhibits and trade shows. An operational permit is required] to operate exhibits and trade shows.</p>																			
<p>[Explosives. An operational permit is required] for the manufacture, storage, handling, sale or use of any quantity of explosive, explosive material, fireworks, or pyrotechnic special effects within the scope of Chapter 33.</p>																			
<p>[Fire hydrants and valves. An operational permit is required] to use or operate fire hydrants or valves intended for fire suppression purposes that are installed on water systems and accessible to a fire apparatus access road that is open to or generally used by the public.</p> <p>Exception: An operational permit is not required for authorized employees of the water company that supplies the system or the</p>																			

<p><i>fire department to use or operate fire hydrants or valves.</i></p>							
<p>[<i>Flammable and combustible liquids. An operational permit is required:</i>]</p> <ol style="list-style-type: none"> 1. <i>To use or operate a pipeline for the transportation within facilities of flammable or combustible liquids. This requirement shall not apply to the offsite transportation in pipelines regulated by the Department of Transportation (DOTn) (see § 3501.1.2) nor does it apply to piping systems (see § 3503.6).</i> 2. <i>To store, handle or use Class I liquids in excess of 5 gallons (19 L) in a building or in excess of 10 gallons (37.9 L) outside of a building, except that a permit is not required for the following:</i> <ol style="list-style-type: none"> 2.1. <i>The storage or use of Class I liquids in the fuel tank of a motor vehicle, aircraft, motorboat, mobile power plant or mobile heating plant, unless such storage, in the opinion of the fire official, would cause an unsafe condition.</i> 2.2. <i>The storage or use of paints, oils, varnishes or similar flammable mixtures when such liquids are stored for maintenance, painting or similar purposes for a period of not more than 30 days.</i> 3. <i>To store, handle or use Class II or Class IIIA liquids in excess of 25 gallons (95 L) in a building or in excess of 60 gallons (227 L) outside a building, except for fuel oil used in connection with oil-burning equipment.</i> 4. <i>To remove Class I or Class II liquids from an underground storage tank used for fueling motor vehicles by any means other than the approved, stationary on-site pumps normally used for dispensing purposes.</i> 5. <i>To operate tank vehicles, equipment, tanks, plants, terminals, wells, fuel-dispensing stations, refineries, distilleries and similar facilities where flammable and combustible liquids are produced, processed, transported, stored, dispensed or used.</i> 6. <i>To install, alter, remove, abandon, place temporarily out of service (for more than 90 days) or otherwise dispose of an underground, protected above-ground or above-ground flammable or combustible liquid tank.</i> 7. <i>To change the type of contents stored in a flammable or combustible liquid tank to a material that poses a greater hazard than that for which the tank was designed and constructed.</i> 8. <i>To manufacture, process, blend or refine flammable or combustible liquids.</i> 							
<p>[<i>Floor finishing. An operational permit is required</i>] <i>for floor finishing or surfacing operations exceeding 350 square feet (33 m²) using Class I or Class II liquids.</i></p>							
<p>[<i>Floor finishing. An operational permit is required</i>] <i>for floor finishing or surfacing operations exceeding 350 square feet (33 m²) using Class I or Class II liquids.</i></p>							
<p>[<i>Fumigation and thermal insecticidal fogging. An operational permit is required</i>] <i>to operate a business of fumigation or thermal insecticidal fogging and to maintain a room, vault or chamber in which a toxic or flammable fumigant is used.</i></p>							
<p>[<i>Hazardous materials. An operational permit is required</i>] <i>to store, transport on site, dispense, use or handle hazardous materials in excess of the amounts listed below.</i></p> <p style="text-align: center;"><i>Permit Amounts for Hazardous Materials</i></p> <table border="0" style="width: 100%;"> <thead> <tr> <th style="text-align: left;"><u>Type of Material</u></th> <th style="text-align: left;"><u>Amount</u></th> </tr> </thead> <tbody> <tr> <td> </td> <td> </td> </tr> </tbody> </table>	<u>Type of Material</u>	<u>Amount</u>					
<u>Type of Material</u>	<u>Amount</u>						

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Combustible liquids	see flammable and combustible liquids			
Corrosive materials				
Gases	see [covered mall buildings compressed gases]			
Liquids	55 gallons			
Solids	1000 pounds			
Explosive materials	see explosives			
Flammable materials				
Gases	see [covered mall buildings compressed gases]			
Liquids	see flammable and combustible liquids			
Solids	100 pounds			
Highly toxic materials				
Gases	see [covered mall buildings compressed gases]			
Liquids	Any Amount			
Solids	Any Amount			
Oxidizing materials				
Gases	see [covered mall buildings compressed gases]			
Liquids				
Class 4	Any Amount			
Class 3	1 gallon			
Class 2	10 gallons			
Class 1	55 gallons			
Solids				
Class 4	Any Amount			
Class 3	10 gallons			
Class 2	100 pounds			
Class 1	500 pounds			
Organic peroxides				
Liquids				
Class I	Any Amount			
Class II	Any Amount			
Class III	1 gallon			
Class IV	2 gallons			
Class V	No Permit Required			
Solids				
Class I	Any Amount			
Class II	Any Amount			
Class III	10 pounds			
Class IV	20 pounds			
Class V	No Permit Required			
Pyrophoric materials				
Gases	see [flammable and combustible liquids compressed gases]			
Liquids	Any Amount			
Solids	Any Amount			
Toxic materials				
Gases	see [covered mall buildings compressed gases]			
Liquids	10 gallons			

<p><i>Solids</i> 100 pounds</p> <p><i>Unstable (reactive) materials</i></p> <p><i>Liquids</i></p> <p>Class 4 Any Amount</p> <p>Class 3 Any Amount</p> <p>Class 2 5 gallons</p> <p>Class 1 10 gallons</p> <p><i>Solids</i></p> <p>Class 4 Any Amount</p> <p>Class 3 Any Amount</p> <p>Class 2 50 pounds</p> <p>Class 1 100 pounds</p> <p><i>Water-reactive Materials</i></p> <p><i>Liquids</i></p> <p>Class 3 Any Amount</p> <p>Class 2 5 gallons</p> <p>Class 1 55 gallons</p> <p><i>Solids</i></p> <p>Class 3 Any Amount</p> <p>Class 2 50 pounds</p> <p>Class 1 500 pounds</p> <p><i>For SI: 1 gallon = 3.785 L, 1 pound = 0.454 kg.</i></p>			
[HPM facilities. An operational permit is required] to store, handle or use hazardous production materials.			
[High piled storage. An operational permit is required] to use a building or portion thereof as a high-piled storage area exceeding 500 square feet (46 m ²).			
<p>[Hot work operations. An operational permit is required] for hot work including, but not limited to:</p> <ol style="list-style-type: none"> 1. Public exhibitions and demonstrations where hot work is conducted. 2. Use of portable hot work equipment inside a structure. <p>Exception: Work that is conducted under a construction permit.</p> <ol style="list-style-type: none"> 3. Fixed-site hot work equipment such as welding booths. 4. Hot work conducted within a hazardous fire area. 5. Application of roof coverings with the use of an open-flame device. 6. When approved, the fire official shall issue a permit to carry out a Hot Work Program. This program allows approved personnel to regulate their facility's hot work operations. The approved personnel shall be trained in the fire safety aspects denoted in this chapter and shall be responsible for issuing permits requiring compliance with the requirements found in this chapter. These permits shall be issued only to their employees or hot work operations under their supervision. 			
[Industrial ovens. An operational permit is required] for operation of industrial ovens regulated by Chapter 21.			
[Lumber yards and woodworking plants. An operational permit is required] for the storage or processing of lumber exceeding 100,000 board feet (8,333 ft ³) (236 m ³).			
[Liquid- or gas-fueled vehicles or equipment in assembly buildings. An operational permit is required] to display, operate or demonstrate liquid- or gas-fueled vehicles or equipment in assembly buildings.			

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<p>[LP-gas. An operational permit is required] for:</p> <p>1. Storage and use of LP-gas.</p> <p>Exception: An operational permit is not required for individual containers with a 500-gallon (1893 L) water capacity or less serving occupancies in Group R-3.</p> <p>2. Operation of cargo tankers that transport LP-gas.</p>			
<p>[Magnesium. An operational permit is required] to melt, cast, heat treat or grind more than 10 pounds (4.54 kg) of magnesium.</p>			
<p>[Miscellaneous combustibile storage. An operational permit is required] to store in any building or upon any premises in excess of 2,500 cubic feet (71 m³) gross volume of combustibile empty packing cases, boxes, barrels or similar containers, rubber tires, rubber, cork or similar combustibile material.</p>			
<p>[Open burning. An operational permit is required] for the kindling or maintaining of an open fire or a fire on any public street, alley, road, or other public or private ground. Instructions and stipulations of the permit shall be adhered to.</p> <p>Exception: Recreational fires.</p>			
<p>[Open flames and candles. An operational permit is required] to remove paint with a torch; use a torch or open-flame device in a hazardous fire area; or to use open flames or candles in connection with assembly areas, dining areas of restaurants or drinking establishments.</p>			
<p>[Organic coatings. An operational permit is required] for any organic-coating manufacturing operation producing more than 1 gallon (4 L) of an organic coating in one day.</p>			
<p>[Assembly/educational. An operational permit is required] to operate a place of assembly [/educational occupancy].</p>			
<p>[Private fire hydrants. An operational permit is required] for the removal from service, use or operation of private fire hydrants.</p> <p>Exception: An operational permit is not required for private industry with trained maintenance personnel, private fire brigade or fire departments to maintain, test and use private hydrants.</p>			
<p>[Pyrotechnic special effects material. An operational permit is required] for use and handling of pyrotechnic special effects material.</p>			
<p>[Pyroxylin plastics. An operational permit is required] for storage or handling of more than 25 pounds (11 kg) of cellulose nitrate (pyroxylin) plastics and for the assembly or manufacture of articles involving pyroxylin plastics.</p>			
<p>[Refrigeration equipment. An operational permit is required] to operate a mechanical refrigeration unit or system regulated by Chapter 6.</p>			
<p>[Repair garages and service stations. An operational permit is required] for operation of repair garages and automotive, marine and fleet service stations.</p>			
<p>[Rooftop heliports. An operational permit is required] for the operation of a rooftop heliport.</p>			
<p>[Spraying or dipping. An operational permit is required] to conduct a spraying or dipping operation utilizing flammable or combustibile liquids or the application of combustibile powders regulated by Chapter 15.</p>			
<p>[Storage of scrap tires and tire byproducts. An operational permit is required] to establish, conduct or maintain storage of scrap tires and tire byproducts that exceeds 2,500 cubic feet (71 m³) of total volume of scrap tires and for indoor storage of tires and tire byproducts.</p>			

<p>[<i>Temporary membrane structures, tents and canopies. An operational permit is required</i>] to operate an air-supported temporary membrane structure or a tent.</p> <p><i>Exceptions:</i></p> <ol style="list-style-type: none"> 1. <i>Tents used exclusively for recreational camping purposes.</i> 2. <i>Tents and air-supported structures that cover an area of 900 square feet (84 m²) or less, including all connecting areas or spaces with a common means of egress or entrance and with an occupant load of 50 or less persons.</i> 3. <i>Fabric canopies and awnings open on all sides which comply with all of the following:</i> <ol style="list-style-type: none"> 3.1. <i>Individual canopies shall have a maximum size of 700 square feet (65 m²).</i> 3.2. <i>The aggregate area of multiple canopies placed side by side without a fire break clearance of 12 feet (3658 mm) shall not exceed 700 square feet (65 m²) total.</i> 3.3. <i>A minimum clearance of 12 feet (3658 mm) to structures and other tents shall be provided.</i> 			
<p>[<i>Tire-rebuilding plants. An operational permit is required</i>] for the operation and maintenance of a tire-rebuilding plant.</p>			
<p>[<i>Waste handling. An operational permit is required</i>] for the operation of wrecking yards, junk yards and waste material-handling facilities.</p>			
<p>[<i>Wood products. An operational permit is required</i>] to store chips, hogged material, lumber or plywood in excess of 200 cubic feet (6 m³).</p>			

D. ~~F-408.3.~~ 107.3. Application for permit: Application for a permit shall be made on forms prescribed by the fire code official.

E. ~~F-408.4.~~ 107.4. Issuance of permits: Before a permit is issued, the fire code official shall make such inspections or tests as are necessary to assure that the use and activities for which application is made comply with the provisions of this code.

F. ~~F-408.5.~~ 107.5. Conditions of permit: A permit shall constitute permission to store or handle materials or to conduct processes in accordance with the SFPC, and shall not be construed as authority to omit or amend any of the provisions of this code. Permits shall remain in effect until

revoked or for such period as specified on the permit. Permits are not transferable.

[*G. 107.5.1. Special conditions for the State Fire Marshal's Office: Permits issued by the State Fire Marshal's Office for the use of explosives in special operations or under emergency conditions shall be valid for one week from the date of issuance and shall not be renewable.*]

[~~G. H.] ~~F-408.6.~~ 107.6. State Fire Marshal: Permits will not be required by the State Fire Marshal except for the manufacturing, storage, handling, use, and sale of explosives in localities not enforcing the SFPC, and for the display of fireworks on state-owned property.~~

Exception: Such permits shall not be required for the storage, handling, or use of explosives or blasting agents by the Virginia Department of State Police provided notification to the State Fire Marshal is made annually by the Chief Arson Investigator listing all storage locations *within areas where enforcement is provided by the State Fire Marshal's office.*

[~~H. I.] ~~F-408.7.~~ 107.7. Annual: The enforcing agency may issue annual permits for the manufacturing, storage, handling, use, or sales of explosives to any state regulated public utility.~~

Exception: ~~Such permits shall not apply to the storage, handling, or use of explosives or blasting agents pursuant to the provisions of Title 45.1 of the Code of Virginia.~~

[~~I. J.] ~~F-408.8.~~ 107.8. Approved plans: Plans approved by the fire code official are approved with the intent that they comply in all respects to this code. Any omissions or errors on the plans do not relieve the applicant of complying with all applicable requirements of this code.~~

[~~J. K.] ~~F-408.9.~~ 107.9. Posting: Issued permits shall be kept on the premises designated therein at all times and shall be readily available for inspection by the fire code official.~~

[~~K. L.] ~~F-408.10.~~ 107.10. Suspension of permit: A permit shall become invalid if the authorized activity is not commenced within six months after issuance of the permit, or if the authorized activity is suspended or abandoned for a period of six months after the time of commencement.~~

[~~L. M.] ~~F-408.11.~~ 107.11. Revocation of permit: The fire code official may revoke a permit or approval issued under the SFPC if conditions of the permit have been violated, or if the~~

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approved application, data or plans contain misrepresentation as to material fact.

[~~N.~~] 107.12. Local permit fees: Fees may be levied by the local governing body in order to defray the cost of enforcement and appeals under the SFPC.

[~~O.~~] 107.13. State permit fees: Fees for permits issued by the State Fire Marshal's office for the storage, use, sale or manufacture of explosives or blasting agents, and for the display of fireworks on state-owned property shall be as follows:

1. \$100 per year per magazine to store explosives and blasting agents.
2. \$150 per year per city or county to use explosives and blasting agents.
3. \$150 per year to sell explosives and blasting agents.
4. \$200 per year to manufacture explosives, blasting agents and fireworks.
5. \$200 per event for fireworks, pyrotechnics or proximate audience displays conducted indoor of any state-owned buildings.
6. \$100 per event for fireworks, pyrotechnics or proximate audience displays conducted out-of-doors on any state-owned property.

[7. \$75 per event for the use of explosives in special operations or emergency conditions.]

[~~P.~~] 107.14. Fee schedule: The local governing body may establish a fee schedule. The schedule shall incorporate unit rates, which may be based on square footage, cubic footage, estimated cost of inspection or other appropriate criteria.

[~~Q.~~] 107.15. Payment of fees: A permit shall not be issued until the designated fees have been paid.

Exception: The fire official may authorize delayed payment of fees.

13 VAC 5-51-85. Section 108.0. Operational permits.

A. 108.1. General. Operational permits shall be in accordance with Section 108. The fire official may require notification prior to (i) activities involving the handling, storage or use of substances, materials or devices regulated by the SFPC; (ii) conducting processes which produce conditions hazardous to life or property; or (iii) establishing a place of assembly.

B. 108.1.1. Permits required. Operational permits may be required by the fire official in accordance with Table 107.2. The fire official shall require operational permits for the manufacturing, storage, handling, use and sale of explosives. Issued permits shall be kept on the premises designated therein at all times and shall be readily available for inspection by the fire official.

Exceptions:

1. Operational permits will not be required by the State Fire Marshal except for the manufacturing, storage, handling, use and sale of explosives in localities not enforcing the SFPC.

2. Operational permits will not be required for the manufacturing, storage, handling or use of explosives or blasting agents by the Virginia Department of State Police provided notification to the fire official is made annually by the Chief Arson Investigator listing all storage locations.

C. 108.1.2. Types of permits. There shall be two types of permits as follows:

1. Operational permit. An operational permit allows the applicant to conduct an operation or a business for which a permit is required by Section [~~108.6~~ 108.1.1] for either:

- 1.1. A prescribed period.
- 1.2. Until renewed or revoked.

2. Construction permit. A construction permit is required, and shall be issued in accordance with the USBC and shall be issued by the building official. A construction permit allows the applicant to install or modify systems and equipment for which a permit is required by section [~~108.7~~ 108.5].

D. 108.1.3. Operational permits for the same location. When more than one operational permit is required for the same location, the fire official is authorized to consolidate such permits into a single permit provided that each provision is listed in the permit.

E. 108.2. Application. Application for an operational permit required by this code shall be made to the fire official in such form and detail as prescribed by the fire official. Applications for permits shall be accompanied by such plans as prescribed by the fire official.

F. 108.2.1. Refusal to issue permit. If the application for an operational permit describes a use that does not conform to the requirements of this code and other pertinent laws and ordinances, the fire official shall not issue a permit, but shall return the application to the applicant with the refusal to issue such permit. Such refusal shall, when requested, be in writing and shall contain the reasons for refusal.

G. 108.2.2. Inspection authorized. Before a new operational permit is approved, the fire official is authorized to inspect the receptacles, vehicles, buildings, devices, premises, storage spaces or areas to be used to determine compliance with this code or any operational constraints required.

H. 108.2.3. Time limitation of application. An application for an operational permit for any proposed work or operation shall be deemed to have been abandoned six months after the date of filing, unless such application has been diligently prosecuted or a permit shall have been issued; except that the fire official is authorized to grant one or more extensions of time for additional periods not exceeding 90 days each if there is reasonable cause.

I. 108.2.4. Action on application. The fire official shall examine or cause to be examined applications for operational permits and amendments thereto within a reasonable time after filing. If the application does not conform to the requirements of pertinent laws, the fire official shall reject such application in writing, stating the reasons [~~therefor~~]. If the fire official is satisfied that the proposed work or operation conforms to the

requirements of this code and laws and ordinances applicable thereto, the fire official shall issue a permit [~~therefore~~] as soon as practicable.

J. 108.3. Conditions of a permit. An operational permit shall constitute permission to maintain, store or handle materials; or to conduct processes in accordance with the SFPC, and shall not be construed as authority to omit or amend any of the provisions of this code. The building official shall issue permits to install equipment utilized in connection with such activities; or to install or modify any fire protection system or equipment or any other construction, equipment installation or modification in accordance with the provisions of this code where a permit is required by section [~~408-7~~ 108.5]. Such permission shall not be construed as authority to omit or amend any of the provisions of this code.

K. 108.3.1. Expiration. An operational permit shall remain in effect until reissued, renewed, or revoked for such a period of time as specified in the permit. Permits are not transferable and any change in occupancy, operation, tenancy or ownership shall require that a new permit be issued.

L. 108.3.2. Extensions. A permittee holding an unexpired permit shall have the right to apply for an extension of the time within which the permittee will commence work under that permit when work is unable to be commenced within the time required by this section for good and satisfactory reasons. The fire official is authorized to grant, in writing, one or more extensions of the time period of a permit for periods of not more than 90 days each. Such extensions shall be requested by the permit holder in writing and justifiable cause demonstrated.

M. 108.3.3. Annual. The enforcing agency may issue annual operational permits for the manufacturing, storage, handling, use, or sales of explosives to any state regulated public utility.

N. 108.3.4. Suspension of permit. An operational permit shall become invalid if the authorized activity is not commenced within six months after issuance of the permit, or if the authorized activity is suspended or abandoned for a period of six months after the time of commencement.

O. 108.3.5. Posting. Issued operational permits shall be kept on the premises designated therein at all times and shall be readily available for inspection by the fire official.

P. 108.3.6. Compliance with code. The issuance or granting of an operational permit shall not be construed to be a permit for, or an approval of, any violation of any of the provisions of this code or of any other ordinance of the jurisdiction. Operational permits presuming to give authority to violate or cancel the provisions of this code or other ordinances of the jurisdiction shall not be valid. The issuance of a permit based on [~~construction documents and~~] other data shall not prevent the fire official from requiring the correction of errors in the [~~construction~~ provided] documents and other data. Any addition to or alteration of approved [~~construction~~ provided] documents shall be approved in advance by the fire official, as evidenced by the issuance of a new or amended permit.

Q. 108.3.7. Information on the permit. The fire official shall issue all operational permits required by this code on an approved form furnished for that purpose. The operational

permit shall contain a general description of the operation or occupancy and its location and any other information required by the fire official. Issued permits shall bear the signature of the fire official.

R. [~~408-5~~ 108.4] Revocation. The fire official is authorized to revoke an operational permit issued under the provisions of this code when it is found by inspection or otherwise that there has been a false statement or misrepresentation as to the material facts in the application or documents on which the permit or approval was based including, but not limited to, any one of the following:

1. The permit is used for a location or establishment other than that for which it was issued.
2. The permit is used for a condition or activity other than that listed in the permit.
3. Conditions and limitations set forth in the permit have been violated.
4. Inclusion of any false statements or misrepresentations as to a material fact in the application for permit or plans submitted or a condition of the permit.
5. The permit is used by a different person or firm than the person or firm for which it was issued.
6. The permittee failed, refused or neglected to comply with orders or notices duly served in accordance with the provisions of this code within the time provided therein.
7. The permit was issued in error or in violation of an ordinance, regulation or this code.

S. [~~408-7~~ 108.5.] Required construction permits. The building official is authorized to issue construction permits in accordance with the USBC for work as set forth in [~~§§ 408-7-4~~ Sections 108.5.1] through [~~408-7-12~~ 108.5.12].

T. [~~408-7-1~~ 108.5.1.] Automatic fire-extinguishing systems. A construction permit is required for installation of or modification to an automatic fire-extinguishing system. Maintenance performed in accordance with this code is not considered a modification and does not require a permit.

[U. ~~408-7-2~~ 108.5.2.] Compressed gases. When the compressed gases in use or storage exceed the amounts listed in Table [~~408-6-9~~ 107.2], a construction permit is required to install, repair damage to, abandon, remove, place temporarily out of service, or close or substantially modify a compressed gas system.

Exceptions:

1. Routine maintenance.
2. For emergency repair work performed on an emergency basis, application for permit shall be made within two working days of commencement of work.

The permit applicant shall apply for approval to close storage, use or handling facilities at least 30 days prior to the termination of the storage, use or handling of compressed or liquefied gases. Such application shall include any change or alteration of the facility closure plan filed pursuant to § 2701.5.3 of the Code of Virginia. The 30-day period is not

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applicable when approved based on special circumstances requiring such waiver.

V. [~~408-7-3~~ 108.5.3.] Fire alarm and detection systems and related equipment. A construction permit is required for installation of or modification to fire alarm and detection systems and related equipment. Maintenance performed in accordance with this code is not considered a modification and does not require a permit.

W. [~~408-7-4~~ 108.5.4.] Fire pumps and related equipment. A construction permit is required for installation of or modification to fire pumps and related fuel tanks, jockey pumps, controllers, and generators. Maintenance performed in accordance with this code is not considered a modification and does not require a permit.

X. [~~408-7-5~~ 108.5.5.] Flammable and combustible liquids. A construction permit is required:

1. To repair or modify a pipeline for the transportation of flammable or combustible liquids.
2. To install, construct or alter tank vehicles, equipment, tanks, plants, terminals, wells, fuel-dispensing stations, refineries, distilleries and similar facilities where flammable and combustible liquids are produced, processed, transported, stored, dispensed or used.
3. To install, alter, remove, abandon, place temporarily out of service or otherwise dispose of a flammable or combustible liquid tank.

Y. [~~408-7-6~~ 108.5.6.] Hazardous materials. A construction permit is required to install, repair damage to, abandon, remove, place temporarily out of service, or close or substantially modify a storage facility or other area regulated by Chapter 27 when the hazardous materials in use or storage exceed the amounts listed in Table [~~408-6-24~~ 107.2].

Exceptions:

1. Routine maintenance.
2. For emergency repair work performed on an emergency basis, application for permit shall be made within two working days of commencement of work.

Z. [~~408-7-7~~ 108.5.7.] Industrial ovens. A construction permit is required for installation of industrial ovens covered by Chapter 21.

Exceptions:

1. Routine maintenance.
2. For repair work performed on an emergency basis, application for permit shall be made within two working days of commencement of work.

AA. [~~408-7-8~~ 108.5.8.] LP-gas. A construction permit is required for installation of or modification to an LP-gas system.

BB. [~~408-7-9~~ 108.5.9.] Private fire hydrants. A construction permit is required for the installation or modification of private fire hydrants.

CC. [~~408-7-10~~ 108.5.10.] Spraying or dipping. A construction permit is required to install or modify a spray room, dip tank or booth.

DD. [~~408-7-11~~ 108.5.11.] Standpipe systems. A construction permit is required for the installation, modification, or removal from service of a standpipe system. Maintenance performed in accordance with this code is not considered a modification and does not require a permit.

EE. [~~408-7-12~~ 108.5.12.] Temporary membrane structures, tents and canopies. A construction permit is required to erect an air-supported temporary membrane structure or a tent having an area in excess of 900 square feet (84 m²), or a canopy in excess of 700 square feet (65 m²).

Exceptions:

1. Tents used exclusively for recreational camping purposes.
2. Tents and air-supported structures that cover an area of 900 square feet (84 m²) or less, including all connecting areas or spaces with a common means of egress or entrance and with an occupant load of 50 or less persons.
3. Funeral tents and curtains or extensions attached thereto, when used for funeral services.
4. Fabric canopies and awnings open on all sides that comply with all of the following:
 - 4.1. Individual canopies shall have a maximum size of 700 square feet (65 m²).
 - 4.2. The aggregate area of multiple canopies placed side by side without a fire break clearance of 12 feet shall not exceed 700 square feet (65 m²) total.
 - 4.3. A minimum clearance of 12 feet (3658 mm) to structures and other tents shall be maintained.

13 VAC 5-51-91. Section ~~F-109.0~~ [~~409~~ 109.0] Inspection.

A. ~~F-109.1~~. Inspection: The fire ~~code~~ official may inspect all structures and premises for the purposes of ascertaining and causing to be corrected any conditions liable to cause fire, contribute to the spread of fire, interfere with firefighting operations, endanger life, or any violations of the provisions or intent of the SFPC.

Exception: Single family dwellings and dwelling units in two family and multiple family dwellings and farm structures shall be exempt from routine inspections. This exemption shall not preclude the ~~code~~ fire official from inspecting under § 27-98.2 of the Code of Virginia for hazardous conditions relating to explosives, flammable and combustible conditions, and hazardous materials.

B. ~~F-109.1.1~~. Right to entry: The ~~code~~ fire official may enter any structure or premises at any reasonable time to inspect subject to constitutional restrictions on unreasonable searches and seizures. If entry is refused or not obtained, the ~~code~~ fire official may pursue recourse as provided by law.

Note: Specific authorization and procedures for inspections and issuing warrants are set out in §§ 27-98.1 through

27-98.5 of the Code of Virginia and shall be taken into consideration.

C. ~~F-109.1.2.~~ Credentials: The fire ~~code~~ official and assistants shall carry proper credentials of office when inspecting in the performance of their duties under the SFPC.

D. ~~F-109.2.~~ Coordinated inspections: The fire ~~code~~ official shall coordinate inspections and administrative orders with any other state and local agencies having related inspection authority, and shall coordinate those inspections required by the USBC for new construction when involving provisions of the amended ~~BNFPC~~ *IFC*, so that the owners and occupants will not be subjected to numerous inspections or conflicting orders.

Note: The USBC requires the building ~~code~~ official to coordinate such inspections with the fire ~~code~~ official.

E. ~~F-109.3.~~ Other inspections: The State Fire Marshal shall make annual inspections for hazards incident to fire in all (i) residential care facilities operated by any state agency; (ii) adult care residences licensed or subject to licensure under Chapter 9 (§ 63.1-172 et seq.) of Title 63.1 of the Code of Virginia which are not inspected by a local fire marshal; (iii) student residence facilities owned or operated by the public institutions of higher education in the Commonwealth; and (iv) public schools in the Commonwealth which are not inspected by a local fire marshal. In the event that any such facility or residence is found nonconforming to the SFPC, the State Fire Marshal may petition any court of competent jurisdiction for the issuance of an injunction.

13 VAC 5-51-101. Section ~~F-110.0.~~ Unsafe conditions.

A. ~~F-110.1.~~ General: The fire ~~code~~ official shall order the following dangerous or hazardous conditions or materials to be removed or remedied in accordance with the SFPC:

1. Dangerous conditions which are liable to cause or contribute to the spread of fire in or on said premises, building or structure, or to endanger the occupants thereof.
2. Conditions which would interfere with the efficiency and use of any fire protection equipment.
3. Obstructions to or on fire escapes, stairs, passageways, doors or windows, which are liable to interfere with the egress of occupants or the operation of the fire department in case of fire.
4. Accumulations of dust or waste material in air conditioning or ventilating systems or grease in kitchen or other exhaust ducts.
5. Accumulations of grease on kitchen cooking equipment, or oil, grease or dirt upon, under or around any mechanical equipment.
6. Accumulations of rubbish, waste, paper, boxes, shavings, or other combustible materials, or excessive storage of any combustible material.
7. Hazardous conditions arising from defective or improperly used or installed electrical wiring, equipment or appliances.

8. Hazardous conditions arising from defective or improperly used or installed equipment for handling or using combustible, explosive or otherwise hazardous materials.

9. Dangerous or unlawful amounts of combustible, explosive or otherwise hazardous materials.

10. All equipment, materials, processes or operations which are in violation of the provisions and intent of this code.

B. ~~F-110.2.~~ Maintenance: The owner shall be responsible for the safe and proper maintenance of any structure, premises or lot. In all structures, the fire protection equipment, means of egress, alarms, devices and safeguards [~~required by the USBC~~] shall be maintained in a safe and proper operating condition *as required by the SFPC and applicable referenced standards*.

C. ~~F-110.3.~~ Occupant responsibility: If a building occupant creates conditions in violation of this code, by virtue of storage, handling and use of substances, materials, devices and appliances, such occupant shall be held responsible for the abatement of said hazardous conditions.

D. ~~F-110.4.~~ Unsafe structures: All structures that are or shall hereafter become unsafe or deficient in adequate exit facilities or which constitute a fire hazard, or are otherwise dangerous to human life or the public welfare, or by reason of illegal or improper use, occupancy or maintenance or which have sustained structural damage by reason of fire, explosion, or natural disaster shall be deemed unsafe structures. A vacant structure, or portion of a structure, unguarded or open at door or window shall be deemed a fire hazard and unsafe within the meaning of this code. Unsafe structures shall be reported to the building ~~code~~ official or building maintenance ~~code~~ official who shall take appropriate action under the provisions of the USBC to secure abatement. [*Subsequently, the fire official may request the legal counsel of the local governing body to institute the appropriate proceedings for an injunction against the continued use and occupancy of the structure until such time as conditions have been remedied.*]

E. ~~F-110.5.~~ Evacuation: When, in the fire ~~code~~ official's opinion, there is actual and potential danger to the occupants or those in the proximity of any structure or premises because of unsafe structural conditions, or inadequacy of any means of egress, the presence of explosives, explosive fumes or vapors, or the presence of toxic fumes, gases or materials, the fire ~~code~~ official may order the immediate evacuation of the structure or premises. All notified occupants shall immediately leave the structure or premises and no person shall enter until authorized by the fire ~~code~~ official.

F. ~~F-110.6.~~ Unlawful continuance: Any person who refuses to leave, interferes with the evacuation of other occupants or continues any operation after having been given an evacuation order shall be in violation of this code.

Exception: Any person performing work directed by the fire ~~code~~ official to be performed to remove an alleged violation or unsafe condition.

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13 VAC 5-51-111. Section F-111.0. Violations.

A. F-111.1. Notice: When the fire ~~code~~ official discovers an alleged violation of a provision of the SFPC or other codes or ordinances under the fire ~~code~~ official's jurisdiction, the ~~code~~ [fire] official shall prepare a written notice citing the section allegedly violated, describing the condition deemed unsafe and specifying time limitations for the required abatements to be made to render the structure or premises safe and secure.

B. F-111.2. Service: The written notice of violation of this code shall be served upon the owner, a duly authorized agent or upon the occupant or other person responsible for the conditions under violation. Such notice shall be served either by delivering a copy of same to such persons by mail to the last known post office address, by delivering in person or by delivering it to and leaving it in the possession of any person in charge of the premises, or, in the case such person is not found upon the premises, by affixing a copy thereof in a conspicuous place at the entrance door or avenue of access. Such procedure shall be deemed the equivalent of personal notice.

C. F-111.3. Failure to correct violations: If the notice of violation is not complied with within the time specified, the fire ~~code~~ official shall request the legal counsel of the local governing body to institute the appropriate legal proceedings to restrain, correct or abate such alleged violation.

D. F-111.4. Penalty: Penalties upon conviction of violating the SFPC shall be as set out in § 27-100 of the Code of Virginia.

E. F-111.5. Summons: When *authorized and* certified in accordance with § 27-34.2 of the Code of Virginia, the fire ~~code~~ official may, subject to any limitations imposed by the local governing body, issue a summons in lieu of a notice of violation. Fire ~~code~~ officials not certified in accordance with § 27-34.2 of the Code of Virginia may request the law-enforcement agency of the local governing body to make arrests for any alleged violations of the SFPC or orders affecting the immediate public safety.

13 VAC 5-51-121. Section F-112.0. Appeals.

[~~A. F-112.1. Application for appeal: Appeals concerning the application of the SFPC by the fire code official shall first lie to the local board of fire prevention code appeals (BFPCA) and then to the TRB. Appeals from the application of this code by the State Fire Marshal shall be made directly to the TRB as provided in Article 2 (§ 36-108 et seq.) of Chapter 6 of Title 36 of the Code of Virginia. The appeal shall be submitted within 14 calendar days of the application of the SFPC.]~~

[~~B. A.] F-112.1. 112.1.] Local Board of Fire Prevention Code Appeals (BFPCA): Each local governing body which enforces the SFPC shall have a BFPCA to hear appeals as authorized herein or it shall enter into an agreement with the governing body of another county or municipality, with some other agency, or with a state agency approved by the DHCD to act on appeals. An appeal case decided by some other approved agency shall constitute an appeal in accordance with this section and shall be final unless appealed to the State Building Code Technical Review Board (TRB).~~

[~~C. B.] F-112.2. Membership: The BFPCA shall consist of at least five members appointed by the local governing body and~~

having terms of office established by written policy. Alternate members may be appointed to serve in the absence of any regular members and as such, shall have the full power and authority of the regular members. Regular and alternate members may be reappointed. Written records of current membership, including a record of the current chairman and secretary shall be maintained in the office of the local governing body. In order to provide continuity, the terms of the members may be of different length so that less than half will expire in any one-year period.

[~~D. C.] F-112.2.1. Chairman: The BFPCA shall annually select one of its regular members to serve as chairman. In case of the absence of the chairman at a hearing, the members present shall select an acting chairman.~~

[~~E. D.] F-112.2.2. Secretary: The local governing body shall appoint a secretary to the BFPCA to maintain a detailed record of all proceedings.~~

[~~F. E.] F-112.3. Qualifications of members: BFPCA members shall be selected by the local governing body on the basis of their ability to render fair and competent decisions regarding application of the SFPC and shall, to the extent possible, represent different occupational or professional fields relating to building construction or fire prevention. At least one member should be an experienced builder and one member a licensed professional engineer or architect. Employees or officials of the local governing body shall not serve as members of the BFPCA.~~

[~~G. F.] F-112.4. Disqualification of member: A member shall not hear an appeal in which that member has conflict of interest in accordance with the State and Local Government Conflict of Interests Act, Chapter 40-4 31 (§ 2-1-639 2.2-3100 et seq.) of Title 2-4 2.2 of the Code of Virginia.~~

[~~H. G.] F-112.5. Application for appeal: The owner of a structure, the owner's agent or any other person involved in the design, construction or maintenance of the structure may appeal a decision of the ~~code~~ fire official concerning the application of the SFPC or the ~~code~~ fire official's refusal to grant modification under [~~subsection F- Section~~] 106.5 to the provisions of the SFPC. ~~The applicant shall submit a written request for appeal to the BFPCA within 90 calendar days from the receipt of the decision to be appealed. [The appeal shall first lie to the local board of fire prevention code appeals (BFPCA) and then to the TRB, except as provided for appeals concerning state-owned structures in Section 112.9. The appeal shall be submitted to the BFPCA within 14 calendar days of the application of the SFPC.]~~ The application shall contain the name and address of the owner of the structure and the person appealing if not the owner. A copy of the written decision of the ~~code~~ fire official shall be submitted along with the application for appeal and maintained as part of the record. The application shall be stamped or otherwise marked by the BFPCA to indicate the date received. Failure to submit an application for appeal within the time limit established by this section shall constitute acceptance of the ~~code~~ fire official's decision.~~

[~~I. H.] F-112.6. Notice of meeting: The BFPCA shall meet within 30 calendar days after the date of receipt of the application for appeal. Notice indicating the time and place of~~

the hearing shall be sent to the parties in writing to the addresses listed on the application at least 14 calendar days prior to the date of the hearing. Less notice may be given if agreed upon by the applicant.

[~~J. I.~~] ~~F-112.7.~~ Hearing procedures: All hearings before the BFPCA shall be open to the public. The appellant, the appellant's representative, the local governing body's representative and any person whose interests are affected shall be given an opportunity to be heard. The chairman shall have the power and duty to direct the hearing, rule upon the acceptance of evidence and oversee the record of all proceedings.

[~~K. J.~~] ~~F-112.7.1.~~ Postponement: When a quorum of the BFPCA is not present to hear an appeal, either the appellant or the appellant's representative shall have the right to request a postponement of the hearing. The BFPCA shall reschedule the appeal within 30 calendar days of the postponement.

[~~L. K.~~] ~~F-112.8.~~ Decision: The BFPCA shall have the power to uphold, reverse or modify the decision of the ~~code fire~~ official by a concurring vote of a majority of those present. Decisions of the BFPCA shall be final if no appeal is made therefrom and the appellant and the ~~code fire~~ official shall act accordingly.

[~~M. L.~~] ~~F-112.8.1.~~ Resolution: The BFPCA 's decision shall be by resolution signed by the chairman and retained as part of the record by the BFPCA. The following wording shall be part of the resolution: "Upon receipt of this resolution, any person who was a party to the appeal may appeal to the State Building Code Technical Review Board (TRB) by submitting an application to the TRB within 21 calendar days. Application forms are available from the Office of the TRB, 501 North Second Street, Richmond, Virginia 23219, (804) 371-7150." Copies of the resolution shall be furnished to all parties.

[~~N. M.~~] ~~F-112.9.~~ Appeal to the TRB: After final determination by the BFPCA, any person who was a party to the local appeal may appeal to the TRB. Appeals from the decision of the ~~code fire~~ official for state-owned structures shall be made directly to the TRB. Application shall be made to the TRB within 21 calendar days of receipt of the decision to be appealed. Failure to submit an application for appeal within the time limit established by this section shall constitute an acceptance of the BFPCA's resolution or [~~code fire~~] official's decision.

[~~O. N.~~] ~~F-112.9.1.~~ Information to be submitted: Copies of the [~~code fire~~] official's decision and the resolution of the BFPCA shall be submitted with the application for appeal. Upon request by the office of the TRB, the BFPCA shall submit a copy of all pertinent information from the record of the BFPCA. In the case of state-owned buildings, the involved state agency shall submit a copy of the ~~code fire~~ official's decision and other relevant information.

[~~P. O.~~] ~~F-112.9.2.~~ Decision of TRB: Procedures of the TRB are in accordance with Article 2 (§ 36-108 et seq.) of Chapter 6 of Title 36 of the Code of Virginia. Decisions of the TRB shall be final if no appeal is made therefrom and the appellant and the code official shall act accordingly.

PART II. TECHNICAL AMENDMENTS.

13 VAC 5-51-129. Application of Part II.

The changes in this part shall be made to the model codes and standards as indicated in this chapter for use as part of the SFPC.

13 VAC 5-51-130. **BNFPC IFC Section F-202.0. [General] Definitions.**

A. Add the following definitions:

Background clearance card: See section ~~F-3002.0~~ 3301.0.

Blaster, restricted: See section ~~F-3002.0~~ 3301.0.

Blaster, unrestricted: See section ~~F-3002.0~~ 3301.0.

DHCD: The Virginia Department of Housing and Community Development.

Local government, local governing body or locality: The governing body of any county, city, or town, other political subdivision and state agency in this Commonwealth charged with the enforcement of the SFPC under state law.

State Fire Marshal: The State Fire Marshal as provided for by § 36-139.2 of the Code of Virginia.

State Regulated Care Facility (SRCF): A building or part thereof occupied by persons in the care of others where program regulatory oversight is provided by the Virginia Department of Social Services; Virginia Department Mental Health, Mental Retardation and Substance Abuse Services; Virginia Department of Education or Virginia Department of Juvenile Justice (~~Use Groups [1-4, A-3,] R-2, R-3 and, R-4 and R-5 [only]~~).

Technical Assistant: Any person employed by, or under contract to, a local enforcing agency for enforcing the SFPC [~~, including but not limited to inspectors and plans reviewers~~].

TRB: The Virginia State Building Code Technical Review Board.

USBC: The Virginia Uniform Statewide Building Code (13 VAC 5-61-10 et seq.)

B. Change the following definition to read:

Code official, *fire official* or fire code official: The officer or other designated authority charged with administration and enforcement of this code, or a duly authorized representative. For the purpose of this code, the term "code official," "*fire official*" [,] or "fire code official" shall have the same meaning as used in § 27-98.1 of the Code of Virginia.

13 VAC 5-51-131. **BNFPC IFC Chapter 3. Precautions against fire.**

Add *Change* section ~~F-316.0~~ 315.3 to read:

~~Section F-316.0 Material Storage.~~

~~F-316.1. Approval required: Approval shall be required for storage located in any structure or on any premises of more than 2,500 cubic feet (70 m³) gross volume of combustible~~

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~~empty packing cases, boxes, barrels or similar containers or rubber tires, baled cotton, rubber, cork or other similarly combustible materials.~~

~~F-316.2. Inside storage: Storage located in structures shall be orderly and not located within two feet (610 mm) of the ceiling and shall not obstruct the means of egress from the structure.~~

~~F-316.3. Outside storage: The outside storage of combustible or flammable materials shall not exceed 20 feet (6096 mm) in height and shall be compact and orderly. Such storage shall be located so as not to constitute a hazard and shall not be less than 15 feet (4572 mm) from any lot line and any other building on the site.~~

~~315.3. Outside storage. Outside storage of combustible materials shall not be located within 10 feet (3048 mm) of a property line or other building on the site.~~

~~Exceptions:~~

- ~~1. The separation distance is allowed to be reduced to 3 feet (914 mm) for storage not exceeding 6 feet (1829 mm) in height.~~
- ~~2. The separation distance is allowed to be reduced when the fire official determines that no hazard to the adjoining property exists.~~

13 VAC 5-51-132. IFC Chapter 4. Emergency planning and preparedness.

A. Add [~~subsection section~~] 401.1.1 to read:

~~401.1.1. State Regulated Care Facilities: when a state license is required by the Virginia Department of Social Services; Virginia Department of Mental Health, Mental Retardation and Substance Abuse Services; Virginia Department of Education; or Virginia Department of Juvenile Justice to operate, SRCF shall comply with this section and the provisions of section 404.0.~~

B. Add [~~subsection 404.2-7.4 item 12 to section 404.2~~] to read:

~~[404.2-7.1. Fire exit drills: Fire exit drills shall be conducted annually by building staff personnel or the owner of the building in accordance with the fire safety plan and shall not affect other current occupants.~~

~~12. SRCF.]~~

C. Add [~~subsection 408.5.4.1 the following category to Table 405.2~~] to read:

~~[408.5.4.1. State Regulated Care Facilities: Fire exit drills for SRCF shall be conducted not less than 12 times per year.~~

GROUP OR OCCUPANCY	FREQUENCY^a	PARTICIPATION
SRCF	Monthly	All occupants

D. Add Section 405.2.1 to read:

~~405.2.1. High-rise buildings. Fire exit drills shall be conducted annually by building staff personnel or the owner~~

~~of the building in accordance with the fire safety plan and shall not affect other current occupants.]~~

13 VAC 5-51-133. BNFPC IFC Chapter 5. Fire [protection service features] systems.

A. Add ~~exception to subsection F-506.1 to read: Delete section 501.4.~~

~~Exception: When the code official determines through investigation or testing or reports by a nationally recognized testing agency that specific, required water sprinkler or water spray extinguishing equipment has been identified as failing to perform or operate through not less than 30 randomly selected sprinkler heads at four or more building sites anywhere in the nation, the code official shall order all such equipment to be rendered safe.~~

B. Add ~~subsection F-519.6 exceptions to section 503.1 to read:~~

~~F-519.6. Inspection, testing and maintenance: All portable fire extinguishers shall be periodically inspected, tested and maintained in accordance with NFPA 10 listed in Chapter 44.~~

~~[Exception Exceptions]:~~

~~1. Fire apparatus access roads shall be permitted to be provided and maintained in accordance with [~~adopted local ordinances~~ written policy] that establish fire apparatus access road requirements and such requirements shall be identified to the owner or his agent prior to the building official's approval of the building permit.~~

~~2. On construction and demolition sites fire apparatus access roads shall be permitted to be provided and maintained in accordance with section 1410.1.~~

C. Change section 508.5.1 to read:

~~508.5.1. Where required. Fire hydrant systems shall be located and installed as directed by the fire department. Fire hydrant systems shall conform to the written standards of the jurisdiction and the fire department.~~

13 VAC 5-51-135. BNFPC Section F-701.0. General IFC Chapter 9 Fire Protection Systems.

Add subsection F-701.1.1 to read:

~~F-701.1.1. State Regulated Care Facilities: SRCF, when a state license is required by the Virginia Department of Social Services; Virginia Department of Mental Health, Mental Retardation and Substance Abuse Services; Virginia Department of Education; or Virginia Department of Juvenile Justice to operate, shall comply with this section and the provisions of section F-704.0.~~

~~[A. Change the following definition to read:~~

~~Automatic fire extinguishing system. An approved system of devices and equipment which automatically detects a fire and discharges an approved fire extinguishing agent onto or in the area of a fire. Such system shall include an automatic sprinkler system, unless otherwise expressly stated.~~

~~B. A.] Delete section 901.4.3.~~

[~~G. B.~~] Change [~~subsection~~ section] 901.6 to read:

901.6. *Inspection, testing and maintenance.* To the extent that equipment, systems, devices, and safeguards, such as fire detection, alarm and extinguishing systems, which were [~~required,~~] provided and approved by the building official when constructed, shall be maintained in an operative condition at all times. And where such equipment, systems, devices, and safeguards are found not to be in an operative condition, the fire official shall order all such equipment to be rendered safe in accordance with the USBC.

Exception: When the fire official determines through investigation or testing or reports by a nationally recognized testing agency that specific, required water sprinkler or water-spray extinguishing equipment has been identified as failing to perform or operate through not less than 30 randomly selected sprinkler heads at four or more building sites anywhere in the nation, the fire official shall order all such equipment to be rendered safe.

[C. Change the following definition in section 902 to read:

Automatic fire-extinguishing system. An approved system of devices and equipment which automatically detects a fire and discharges an approved fire-extinguishing agent onto or in the area of a fire. Such system shall include an automatic sprinkler system, unless otherwise expressly stated.]

D. Delete section 903.1.2.

E. Change [~~exception item 1~~] in section 906.1 to read:

[~~Exception: In Group A, B, E, M and R-2 occupancies equipped throughout with quick response sprinklers, fire extinguishers shall be required only in special-hazard areas.~~

1. In Group A, B, E, F, H, I, M, R-1, R-4 and S occupancies.]

13 VAC 5-51-136. ~~BNFPC Section F-704.0. Use Group I-1 Residential care IFC Chapter 14 Fire Safety During Construction and Demolition.~~

Add subsection F-704.3.1 to read:

~~F-704.3.1. State Regulated Care Facilities: Fire exit drills for SRCF shall be conducted not less than 12 times per year.~~

[~~A. Change section 1412.4 to read:~~

~~1412.4. Water supply. Approved water supply for fire protection, either temporary or permanent, shall be made available as soon as combustible material arrives on site.~~

[~~B. A.~~] Change section 1410.1 to read:

1410.1. *Required access.* Approved vehicle access for fire fighting shall be provided to all construction or demolition sites. Vehicle access shall be provided to within 100 feet ([~~30-480~~ 30,480] mm) of temporary or permanent fire department connections. Vehicle access shall be provided by either temporary or permanent roads, capable of supporting vehicle loading under all weather conditions. Temporary vehicle access shall be maintained until permanent fire apparatus access roads are available.

[B. Change section 1412.4 to read:

1412.4. *Water supply.* Approved water supply for fire protection, either temporary or permanent, shall be made available as soon as combustible material arrives on site.]

13 VAC 5-51-140. ~~BNFPC Section F-707.0 High-Rise Buildings IFC Chapter 22 Service Stations and Repair Garages.~~

Add subsection F-707.4 to read:

~~F-707.4. Fire exit drills: Fire exit drills shall be conducted annually by building staff personnel or the owner of the building in accordance with the fire safety plan and shall not affect other current occupants.~~

Change Section 2206.2.1.1 to read:

2206.2.1.1. *Inventory control and leak detection for underground tanks.* Accurate inventory records shall be maintained on underground fuel storage tanks for indication of possible leakage from tanks and piping. The records shall be kept at the premises or made available for inspection by the fire official within 24 hours of a written or verbal request and shall include records for each tank. Where there is more than one system consisting of tanks serving separate pumps or dispensers for a product, the inventory record shall be maintained separately for each tank system.

Owners and operators of underground fuel storage tanks shall provide release detection for tanks and piping that routinely contain flammable and combustible liquids in accordance with one of the following methods:

1. Monthly inventory control to detect a release of at least 1.0% of flow-through plus 130 gallons.
2. Manual tank gauging for tanks with 2,000 gallon capacity or less when measurements are taken at the beginning and ending of a 36- to 58-hour period during which no liquid is added to or removed from the tank.
3. Tank tightness testing capable of detecting a 0.1 gallon per hour leak rate.
4. Automatic tank gauging that tests for loss of liquid.
5. Vapor monitoring for vapors within the soil of the tank field.
6. Groundwater monitoring when the groundwater is never more than 20 feet from the ground surface.
7. Interstitial monitoring between the underground tank and a secondary barrier immediately around or beneath the tank.
8. Other approved methods that have been demonstrated to be as effective in detecting a leak as the methods listed above.

A consistent or accidental loss of product shall be immediately reported to the fire official.

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13 VAC 5-51-150. ~~BNFPC IFC Chapter 30. 33 Explosives, Ammunition and Blasting Agents Fireworks.~~

A. ~~Change subsection F-3001.4 exception 4 in [subsection section] 3301.1 to read:~~

~~F-3001.1. Scope: The equipment, processes and operations involving the manufacture, possession, storage, sale, maintenance, and use of explosive materials shall comply with the requirements of this code, NFPA 495 and DOTn 49 CFR listed in Chapter 44 of this code, except that the year edition of NFPA 495 referenced shall be 1996.~~

~~4. The possession, storage, and use of not more than 15 pounds (6.81 kg) of commercially manufactured sporting black powder, 20 pounds (9 kg) of smokeless powder and [4,000 10,000] small arms primers for hand loading of small arms ammunition for personal consumption.~~

B. ~~Change exceptions Add exception 10 to subsection F-3001.4 section 3301.1 to read:~~

~~Exception: This chapter shall not apply to the following:~~

~~1. The use of explosives by federal or state military agencies or federal, state or municipal agencies while engaged in normal or emergency performance of duties.~~

~~2. The manufacture and distribution of explosive materials to or storage of explosive materials by military agencies of the United States.~~

~~3. The use of explosive materials in medicines and medicinal agencies in the forms prescribed by the U.S. Pharmacopeia or the National Formulary.~~

~~4. Pyrotechnics such as flares, fuses and railway torpedoes.~~

~~5. Common fireworks in accordance with Chapter 31.~~

~~6. The possession and use of not more than 15 pounds (7 kg) of smokeless powder and 1,000 small arms primers for hand loading of small arms ammunition for personal use.~~

~~7. The storage, handling, or use of explosives or blasting agents pursuant to the provisions of Title 45.1 of the Code of Virginia.~~

~~10. The storage, handling, or use of explosives or blasting agents pursuant to the provisions of Title 45.1 of the Code of Virginia.~~

C. ~~Change Add exception 5 to [subsection section] F-3001.2 3301.1.3 to read:~~

~~F-3001.2. Approval required: Approval shall be required for the following conditions or operations:~~

~~1. The manufacture, possession, storage, sale or other disposition of explosive materials.2. The use of explosive materials.~~

~~3. The operation of a terminal for handling explosive materials.~~

~~4. The delivery to or receipt of explosive materials from a carrier at a terminal between the hours of sunset and sunrise.~~

~~5. The sale or use of materials or equipment when such materials or equipment is used or to be used by any person for signaling or other emergency use in the operation of any boat, railroad train or other vehicle for the transportation of persons or property.~~

D. ~~Add exception to subsection F-3001.3 Change entire section 3301.2 to read:~~

~~Exception: A bond is not required for blasting on real estate parcels of five or more acres conforming to the definition of "real estate devoted to agricultural use" or "real estate devoted to horticultural use" in § 58.1-3230 of the Code of Virginia and conducted by the owner of such real estate.~~

~~3301.2. Permit required. Permits shall be required as set forth in section 107.2 and regulated in accordance with this section. The manufacture, storage, sale and use of explosives shall not take place without first applying for and obtaining a permit.~~

~~3301.2.1. Residential uses. No person shall keep or store, nor shall any permit be issued to keep or store, any explosives at any place of habitation, or within 100 feet (30,480 mm) thereof.~~

~~Exception: Storage of smokeless propellant, black powder, and small arms primers for personal use and not for resale in accordance with section 3306.~~

~~3301.2.2. Sale and retail display. [Except for the Armed Forces of the United States, Coast Guard, National Guard, federal, state and local regulatory, law enforcement and fire agencies acting in their official capacities, explosives shall not be sold, given, delivered or transferred to any person or company not in possession of a valid permit. The holder of a permit to sell explosives shall make a record of all transactions involving explosives in conformance with section 3303.2 and include the signature of any receiver of the explosives.] No person shall construct a retail display nor offer for sale explosives, explosive materials, or fireworks upon highways, sidewalks, public property, or in assembly or educational occupancies.~~

~~3301.2.3. Permit restrictions. The fire official is authorized to limit the quantity of explosives, explosive materials, or fireworks permitted at a given location. No person, possessing a permit for storage of explosives at any place, shall keep or store an amount greater than authorized in such permit. Only the kind of explosive specified in such a permit shall be kept or stored.~~

~~3301.2.3.1. Permit applicants. The fire official shall not issue a permit to manufacture, store, handle, use or sell explosives or blasting agents to any individual applicant who is not certified by the DHCD as a blaster in accordance with sections 3301.4.1, or who is not in the possession of a background clearance card or to designated persons representing an applicant that is not an individual and who is not in possession of a background clearance card issued in accordance with section 3301.2.3.1.1. The DHCD shall process all applications for a background clearance card for compliance with § 27-97.2 of the Code of Virginia and will be the sole provider of background clearance cards.~~

3301.2.3.1.1. *Background clearance card:* A background clearance card may be issued upon completion of the following requirements:

1. Any firm or company manufacturing, storing, using or selling explosives in the Commonwealth shall provide the name of a designated person or persons who will be a representative of the company and be responsible for (i) ensuring compliance with state law and regulations relating to blasting agents and explosives and (ii) applying for permits from the fire official.
2. Using a form provided by the DHCD, all individual applicants and all designated persons representing an applicant that is not an individual, shall submit to a background investigation, to include a national criminal history record check, for a permit to manufacture, store, handle, use or sell explosives, and for any applicant for certification as a blaster.
3. Each such applicant shall submit fingerprints and provide personal descriptive information to the DHCD to be forwarded through the Central Criminal Records Exchange to the Federal Bureau of Investigation for the purpose of obtaining a national criminal history record check regarding such applicant.

3301.2.3.1.2. *Issuance of a background clearance card:* The issuance of a background clearance card shall be denied if the applicant or designated person representing an applicant has been convicted of any felony, whether such conviction occurred under the laws of the Commonwealth, or any other state, the District of Columbia, the United States or any territory thereof, unless his civil rights have been restored by the Governor or other appropriate authority.

3301.2.3.1.3. *Fee for [certification background clearance card]:* The fee for obtaining or renewing a background clearance card from DHCD shall be \$150 [plus any additional fees charged by other agencies for fingerprinting and for obtaining a national criminal history record check through the Central Criminal Records Exchange to the Federal Bureau of Investigation].

[~~3301.2.3.1.3.1. Additional fees: The applicant shall pay all additional fees charged by other agencies for fingerprinting and for obtaining a national criminal history record check through the Central Criminal Records Exchange to the Federal Bureau of Investigation.]~~

3301.2.3.1.4. *Revocation of a background clearance card:* After issuance of a background clearance card, subsequent conviction of a felony will be grounds for immediate revocation of a background clearance card, whether such conviction occurred under the laws of the Commonwealth, or any other state, the District of Columbia, the United States or any territory thereof. The card shall be returned to the DHCD immediately. An individual may reapply for his background clearance card if his civil rights have been restored by the Governor or other appropriate authority.

3301.2.4. *Financial responsibility.* Before a permit is issued, as required by section 3301.2, the applicant shall file with the jurisdiction a corporate surety bond in the principal sum

of \$500,000 or a public liability insurance policy for the same amount, for the purpose of the payment of all damages to persons or property which arise from, or are caused by, the conduct of any act authorized by the permit upon which any judicial judgment results. The legal department of the jurisdiction may specify a greater amount when conditions at the location of use indicate a greater amount is required. Government entities shall be exempt from this bond requirement.

3301.2.4.1. *Blasting.* Before approval to do blasting is issued, the applicant for approval shall file a bond or submit a certificate of insurance in such form, amount, and coverage as determined by the legal department of the jurisdiction to be adequate in each case to indemnify the jurisdiction against any and all damages arising from permitted blasting but in no case shall the value of the coverage be less than \$500,000.

Exception: Filing a bond or submitting a certificate of liability insurance is not required for blasting on real estate parcels of five or more acres conforming to the definition of "real estate devoted to agricultural use" or "real estate devoted to horticultural use" in § 58.1-3230 of the Code of Virginia and conducted by the owner of such real estate.

3301.2.4.2. *Fireworks display.* The permit holder shall furnish a bond or certificate of insurance in an amount deemed adequate by the legal department of the jurisdiction for the payment of all potential damages to a person or persons or to property by reason of the permitted display, and arising from any acts of the permit holder, the agent, employees or subcontractors.

E. Add Sections F-3001.2.3, F-3001.2.3.1, F-3001.2.3.2, and F-3001.2.3.3 Change entire section 3301.4 to read:

~~Section F-3001.2.3. Background investigations: The fire official shall not issue a permit to manufacture, store, handle, use or sell explosives or blasting agents to any individual applicant who is not certified by the department as a blaster or who is not in the possession of a background clearance card, or to designated persons representing an applicant that is not an individual and who is not in possession of a background clearance card. The department shall process all applicants for a blaster certification and designated persons for compliance with § 27-97.2 of the Code of Virginia and will be the sole provider of background clearance cards and blaster certifications.~~

~~Section F-3001.2.3.1. Background clearance card: A background clearance card may be issued upon completion of the following requirements:~~

- ~~1. Any firm or company manufacturing, storing, using or selling explosives in the Commonwealth shall provide the name of a designated person or persons who will be a representative of the company and be responsible for (i) ensuring compliance with state law and regulations relating to blasting agents and explosives and (ii) applying for permits from the fire official.~~

- ~~2. Using a form provided by the department, all individual applicants and all designated persons representing an applicant that is not an individual shall submit to a background~~

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investigation, to include a national criminal history record check, for a permit to manufacture, store, handle, use or sell explosives, and for any applicant for certification as a blaster.

~~3. Each such applicant shall submit fingerprints and provide personal descriptive information to the department to be forwarded through the Central Criminal Records Exchange to the Federal Bureau of Investigation for the purpose of obtaining a national criminal history record check regarding such applicant.~~

~~Section F-3001.2.3.2. Issuance of a background clearance card: The issuance of a background clearance card shall be denied if the applicant or designated person representing an applicant has been convicted of any felony, whether such conviction occurred under the laws of the Commonwealth or any other state, the District of Columbia, the United States or any territory thereof, unless his civil rights have been restored by the Governor or other appropriate authority.~~

~~Section F-3001.2.3.3. Revocation of a background clearance card or blaster certification: After issuance of a background clearance card or blaster certification, subsequent conviction of a felony will be grounds for immediate revocation of a background clearance card or blaster certification, whether such conviction occurred under the laws of the Commonwealth or any other state, the District of Columbia, the United States or any territory thereof. The card or certification shall be returned to the department immediately. An individual may reapply for his background clearance card or blaster certification if his civil rights have been restored by the Governor or other appropriate authority.~~

3301.4. Qualifications. Persons in charge of magazines, blasting, fireworks display, or pyrotechnic special effect operations shall not be under the influence of alcohol or drugs which impair sensory or motor skills, shall be at least 21 years of age and possess knowledge of all safety precautions related to the storage, handling or use of explosives, explosive materials or fireworks.

3301.4.1. Certification of blasters. Certificates as a restricted or unrestricted blaster will be issued upon proof of successful completion of an examination approved by the DHCD and a background investigation for compliance with § 27-97.2 of the Code of Virginia. The applicant for certification shall submit proof to the DHCD of the following experience:

1. For certification as a restricted blaster, at least one year under direct supervision by a certified unrestricted blaster, certified restricted blaster or other person(s) approved by the DHCD.

2. For certification as an unrestricted blaster, at least one year under direct supervision by a certified unrestricted blaster or other person or persons approved by the DHCD.

The DHCD shall process all certification applicants for compliance with § 27-97.2 of the Code of Virginia and will be the sole provider of blaster certifications.

Exception: The owner of real estate parcels of five or more acres conforming to the definition of "real estate devoted to agricultural use" or "real estate devoted to horticultural use"

in § 58.1-3230 of the Code of Virginia when blasting on such real estate.

3301.4.2. Certification issuance. The issuance of a certification as a blaster shall be denied if the applicant has been convicted of any felony, whether such conviction occurred under the laws of the Commonwealth, or any other state, the District of Columbia, the United States or any territory thereof, unless his civil rights have been restored by the Governor or other appropriate authority.

3301.4.3. Fee for certification. The fee for obtaining or renewing a blaster certificate from DHCD shall be \$150 [plus any additional fees charged by other agencies for fingerprinting and for obtaining a national criminal history record check through the Central Criminal Records Exchange to the Federal Bureau of Investigation].

~~*[3301.4.3.1. Additional fees: The applicant shall pay all additional fees charged by other agencies for fingerprinting and for obtaining a national criminal history record check through the Central Criminal Records Exchange to the Federal Bureau of Investigation.]*~~

3301.4.4. Revocation of a blaster certification. After issuance of a blaster certification, subsequent conviction of a felony will be grounds for immediate revocation of a blaster certification, whether such conviction occurred under the laws of the Commonwealth, or any other state, the District of Columbia, the United States or any territory thereof. The certification shall be returned to DHCD immediately. An individual may subsequently reapply for his blaster certification if his civil rights have been restored by the Governor or other appropriate authority.

3301.4.5. Expiration and renewal of a blaster certification. A certificate for an unrestricted or restricted blaster shall be valid for three years from the date of issuance. A background clearance card shall be valid for three years from the date of issuance. Renewal of the unrestricted blaster certificate will be issued upon proof of at least 16 hours of continued training or education in the use of explosives within three consecutive years and a background investigation for compliance with § 27-97.2 of the Code of Virginia. Renewal of the restricted blaster certificate will be issued upon proof of at least eight hours of continued training or education in the use of explosives within three consecutive years and a background investigation for compliance with § 27-97.2 of the Code of Virginia. The continued training or education required for renewal of a blaster certificate shall be obtained during the three years immediately prior to the certificate's published expiration date. Failure to renew a blaster certificate in accordance with this section shall cause an individual to obtain another blaster certificate upon compliance with section 3301.4.1 to continue engaging in the unsupervised use of explosives.

F. Add to BNFPC Change section F-3002.0. Definitions, the following definition 3301.7 to read:

Background clearance card: An identification card issued to an individual who is not a certified blaster and is representing himself or acting as a representative of a company, corporation, firm or other entity, solely for the

~~purpose of submitting an application to the fire code official for a permit to manufacture, use, handle, store, or sell explosive materials.~~

3301.7. *Seizure.* The fire official is authorized to remove or cause to be removed or disposed of in an approved manner, at the expense of the owner, fireworks offered or exposed for sale, stored, possessed or used in violation of this chapter.

G. Add the following definitions to section 3302.1 to read:

Background clearance card. An identification card issued to an individual who is not a certified blaster and is representing himself or acting as a representative of a company, corporation, firm or other entity, solely for the purpose of submitting an application to the fire official for a permit to manufacture, use, handle, store, or sell explosive materials.

Blaster, restricted. Any person engaging in the use of explosives or blasting agents utilizing five pounds (2.25 kg) or less per blasting operation and using instantaneous detonators.

Blaster, unrestricted. Any person engaging in the use of explosives or blasting agents without limit to the amount of explosives or blasting agents or type of detonator.

Permissible fireworks. Any sparklers, fountains, Pharaoh's serpents, caps for pistols, or pinwheels commonly known as whirlingjigs or spinning jennies.

H. Change the following definitions in section 3302.1 to read:

Fireworks. Any firecracker, torpedo, skyrocket, or other substance or object, of whatever form or construction, that contains any explosive or inflammable compound or substance, and is intended, or commonly known, as fireworks and that explodes, rises into the air or travels laterally, or fires projectiles into the air. Fireworks may be further delineated and referred to as:

Fireworks, 1.4G. (Formerly known as Class C, Common Fireworks.) Small fireworks devices containing restricted amounts of pyrotechnic composition designed primarily to produce visible or audible effects by combustion. Such 1.4G fireworks that comply with the construction, chemical composition, and labeling regulations of the DOTn for Fireworks, UN 0336, and the U.S. Consumer Product Safety Commission as set forth in CPSC 16 CFR: Parts 1500 and 1507, are not explosive materials for the purpose of this code.

Fireworks, 1.3G. (Formerly Class B, Special Fireworks.) Large fireworks devices, which are explosive materials, intended for use in fireworks displays and designed to produce audible or visible effects by combustion, deflagration, or detonation. Such 1.3G fireworks include, but are not limited to, firecrackers containing more than 130 milligrams (2 grains) of explosive composition, aerial shells containing more than 40 grams of pyrotechnic composition, and other display pieces that exceed the limits for classification as 1.4G fireworks. Such 1.3G fireworks are also described as Fireworks, UN0335 by the DOTn.

I. Change section 3305.1 to read:

3305.1. *General.* The manufacture, assembly and testing of explosives, ammunition, blasting agents and fireworks shall comply with the requirements of this section, Title 59.1, Chapter 11 of the Code of Virginia, and NFPA 495 or NFPA 1124.

Exceptions:

1. The hand loading of small arms ammunition prepared for personal use and not offered for resale.

2. The mixing and loading of blasting agents at blasting sites in accordance with NFPA 495.

3. The use of binary explosives or [phosphoric phosphoric] materials in blasting or pyrotechnic special effects applications in accordance with NFPA 495 or NFPA 1126.

J. Add section 3305.1.1 to read:

3305.1.1. *Permits.* Permits for the manufacture, assembly and testing of explosives, ammunition, blasting agents and fireworks shall be required as set forth in section 107.2 and regulated in accordance with this section. A permit to manufacture any explosive material in any quantity shall be prohibited unless such manufacture is authorized by a federal license and conducted in accordance with recognized safety practices.

K. Change section 3307.1 to read:

3307.1. *General.* Blasting operations shall be conducted only by persons certified by the DHCD as a restricted or unrestricted blaster or shall be supervised on-site by a person properly certified by the DHCD as restricted or unrestricted blaster.

L. Add section 3307.16 to read:

3307.16. *Blast records.* A record of each blast shall be kept and retained for at least five years and shall be available for inspection by the code official. The record shall contain the following minimum data:

1. Name of contractor;

2. Location and time of blast;

3. Name of certified blaster in charge;

4. Type of material blasted;

5. Number of holes bored and spacing;

6. Diameter and depth of holes;

7. Type and amount of explosives;

8. Amount of explosive per delay of 8 milliseconds or greater;

9. Method of firing and type of circuit;

10. Direction and distance in feet to nearest dwelling, public building, school, church, commercial or institutional building;

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- 11. Weather conditions;
- 12. Whether or not mats or other precautions were used;
- 13. Type of detonator and delay period;
- 14. Type and height of stemming; and
- 15. Seismograph record when utilized.

Exception: Subdivisions 8 and 13 of this section are not applicable to restricted blasters.

M. Add exception to section 3308.2 to read:

Standard reference number	Title	Referenced in code section number
NFPA 13-99	Installation of Sprinkler Systems	Table 704.1, 903.3.1.1, 903.3.2, 903.3.5.1.1, 904.11, 907.9, 2308.2, 3403.3.7.5.1, 3404.3.8.4
NFPA 13D-99	Installation of Sprinkler Systems in One- and Two-Family Dwellings and Manufactured Homes	913.1.2, 903.3.1.3, 903.3.5.1.1
NFPA 13R-99	Installation of Sprinkler Systems in Residential Occupancies Up to and Including Four Stories in Height	903.1.2, 903.3.1.3, 903.3.5.1.1, 903.3.5.1.2, 903.4
NFPA 72-99	National Fire Alarm Code	509.1, Table 901.6.1, 903.4.1, 904.3.5, 907.2, 907.2.1, 907.2.1.1, 907.2.10, 907.2.10.4, 907.2.11.2, 907.2.11.3, 907.2.12.2.3, 907.2.12.3, 907.3, 907.5, 907.6, 907.10.2, 907.11, 907.15, 907.17, 907.18, 907.20, 907.20.2, 907.20.5, 909.12, 909.12.3, 2309.3, 3904.1.6, 4004.1.7]

Exception: Permits are not required for the supervised use or display of permissible fireworks on private property with the consent of the owner of such property.

N. Add exception to section 3308.11 to read:

Exception: Permissible fireworks prohibited by a local ordinance to be stored, displayed for wholesale or retail sale, or use.

[13 VAC 5-51-155. IFC Chapter 45. Referenced standards.

Add new referenced standards as follows:

13 VAC 5-51-160. ~~BNFPC Section F-3002.0 Definitions. (Repealed.)~~

Add the following definitions:

~~Blaster, restricted: Any person engaging in the use of explosives or blasting agents utilizing five pounds (2.25 kg) or~~

~~less per blasting operation and using instantaneous detonators.~~

~~Blaster, unrestricted: Any person engaging in the use of explosives or blasting agents without limit to the amount of explosives or blasting agents or type of detonator.~~

13 VAC 5-51-170. ~~BNFPC Section F-3003.0. General Requirements, BNFPC Section F-3005.0. Transportation of Explosives, and BNFPC Section F-3009.0. Blasting. (Repealed.)~~

A. Add subsection F-3003.5 to read:

~~F-3003.5. Certification of blasters: Persons engaging in the use of explosives or blasting agents shall be certified as a restricted or unrestricted blaster by the DHCD or shall be supervised on-site by a person properly certified by the DHCD as a restricted or unrestricted blaster. Certificates will be issued upon proof of successful completion of an examination approved by the DHCD and a background investigation for compliance with § 27-97.2 of the Code of Virginia. The~~

applicant for certification shall be at least 21 years of age and shall submit proof to the DHCD of the following experience:

1. For certification as a restricted blaster, at least one year under direct supervision by a certified unrestricted blaster, certified restricted blaster or other person approved by the DHCD.

2. For certification as an unrestricted blaster, at least one year under direct supervision by a certified unrestricted blaster or other person approved by the DHCD. Exception: The owner of real estate parcels of five or more acres conforming to the definition of "real estate devoted to agricultural use" or "real estate devoted to horticultural use" in § 58.1-3230 of the Code of Virginia when blasting on such real estate.

B. Add subsection F-3003.5.1 to read:

~~F-3003.5.1. Fee for certification: The fee for obtaining a certificate or renewal of a certificate for unrestricted or restricted blaster from DHCD shall be \$30.~~

C. Add subsection F-3003.5.1 to read:

~~F-3003.5.1.1. Additional fees: The applicant shall pay all additional fees charged by other agencies for fingerprinting and for obtaining a national criminal history record check~~

~~through the Central Criminal Records Exchange to the Federal Bureau of Investigation.~~

D. Add subsection F-3003.5.2 to read:

~~F-3003.5.2. Renewal of blaster certificate or background clearance card: A certificate for an unrestricted or restricted blaster shall be valid for three years from the date of issuance. A background clearance card shall be valid for three years from the date of issuance. Renewal of the unrestricted blaster certificate will be issued upon proof of at least 16 hours of continued training or education in the use of explosives within three consecutive years and a background investigation for compliance with § 27-97.2 of the Code of Virginia. Renewal of the restricted blaster certificate will be issued upon proof of at least eight hours of continued training or education in the use of explosives within three consecutive years and a background investigation for compliance with § 27-97.2 of the Code of Virginia. Renewal of a background clearance card will be issued upon the completion of a background investigation for compliance with § 27-97.2 of the Code of Virginia.~~

E. Add subsection F-3003.6 to read:

~~F-3003.6. Reports of stolen explosives: Any person holding a permit for the manufacture, storage, handling, use, or sale of explosives issued in accordance with this code shall report to the office of the chief arson investigator for the Commonwealth and the code official as well as the chief local law enforcement official any theft or other unauthorized taking or disappearance of any explosives or blasting devices from their inventory. An initial verbal report shall be made within three days of the discovery of the taking or disappearance. A subsequent written report shall be filed within such time, and in such form, as is specified by the chief arson investigator.~~

F. Add subsection F-3003.7 to read:

~~F-3003.7. Report of injuries or property damage: Any person holding a permit for the use of explosives issued in accordance with this code shall report any injuries to any person or damage to property arising from the use of explosives under the permit to the code official where there is local enforcement of this code and to the State Fire Marshal.~~

G. Change Section F-3005.0. Transportation of Explosives to read:

~~F-3005.1. Regulations. Under § 10.1-1450 of the Code of Virginia, the Virginia Waste Management Board shall promulgate regulations designating the manner and method by which hazardous materials shall be loaded, unloaded, packed, identified, marked, placarded, stored and transported.~~

~~F-3005.2. Enforcement. Under § 10.1-1451 of the Code of Virginia and the Regulations Governing the Transportation of Hazardous Materials (9 VAC 20-110-10 et seq.), the Department of State Police and all other law enforcement officers of the Commonwealth who have satisfactorily completed the course in Hazardous Materials Compliance and Enforcement as prescribed by the U.S. Department of Transportation in federal safety regulations and safety inspection procedures pertaining to the transportation of hazardous materials shall enforce the provisions of Article 7 (§ 10.1-1450 et seq.) of Chapter 14 of Title 10.1 of the Code of Virginia, and any rule or regulation promulgated herein. Those law enforcement officers certified to enforce the provisions of this Article 7, and any regulation promulgated under such article, shall annually receive in-service training in current federal safety regulations and safety inspection~~

~~procedures pertaining to the transportation of hazardous materials.~~

~~Exception: A fire code official may require an attended or unattended parked vehicle that contains explosives to be moved to an approved location.~~

H. Add subsection F-3009.12 to read:

~~F-3009.12. Blast records: A record of each blast shall be kept and retained for at least three years and shall be available for inspection by the code official. The record shall contain the following minimum data:~~

- ~~1. Name of contractor;~~
- ~~2. Location and time of blast;~~
- ~~3. Name of certified blaster in charge;~~
- ~~4. Type of material blasted;~~
- ~~5. Number of holes bored and spacing;~~
- ~~6. Diameter and depth of holes;~~
- ~~7. Type and amount of explosives;~~
- ~~8. Amount of explosive per delay of 8 milliseconds or greater;~~
- ~~9. Method of firing and type of circuit;~~
- ~~10. Direction and distance in feet to nearest dwelling, public building, school, church, commercial or institutional building;~~
- ~~11. Weather conditions;~~
- ~~12. Whether or not mats or other precautions were used;~~
- ~~13. Type of detonator and delay period;~~
- ~~14. Type and height of stemming; and~~
- ~~15. Seismograph record where indicated.~~

~~Exception: Subdivisions 8 and 13 of this section are not applicable to restricted blasters.~~

~~**13 VAC 5-51-180. BNFPC Section F-3101.0 General. (Repealed.)**~~

~~Change subsection F-3101.1 to read:~~

~~F-3101.1. Scope: The manufacture, display, sale and discharge of fireworks shall comply with the provisions of this chapter and § 59.1-148 of the Code of Virginia.~~

~~**13 VAC 5-51-181. BNFPC Section F-3102.0. Definitions. (Repealed.)**~~

~~Change subsection F-3102.1 to read:~~

~~F-3102.1. General: The following words and terms shall, for the purpose of this chapter and as stated elsewhere in this code, have the meanings shown herein.~~

~~Fireworks: Fireworks include any combustible or explosive composition, and any substance and combination of substances and articles prepared for the purpose of producing a visible or an audible effect by combustion, explosion, deflagration or detonation. Fireworks shall include any firecracker, torpedo, skyrocket, or other substance or thing, of~~

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~~whatever form or construction, that contains any explosive or inflammable compound or substance, is intended or commonly known as fireworks and which explodes, rises into the air or travels laterally, or fires projectiles into the air, other than sparks.~~

~~The term "fireworks" shall not include items such as sparklers, fountains, Pharaoh's serpents, caps for pistols, or pinwheels, commonly known as whirligigs or spinning jennies, when used, ignited or exploded on private property with the consent of the owner of such property.~~

13 VAC 5-51-182. BNFPC Section F-3103.0. Sale and discharge. (Repealed.)

A. Change subsection F-3103.1 to read:

~~The rules and regulations for fireworks shall be in accordance with NFPA 1123 and 1124 listed in Chapter 44. The rules and regulations for pyrotechnics shall be in accordance with NFPA 1126 listed in Chapter 44.~~

B. Change subsection F-3103.2 to read:

~~F-3103.2. Violations: A person shall not manufacture, store, offer or expose for sale, sell at retail or discharge any fireworks, except for the approved supervised display of fireworks and legal fireworks on private property with the consent of the owner of such property.~~

13 VAC 5-51-190. BNFPC Section F-3207.0. Aboveground storage tanks. (Repealed.)

Change subsection F-3207.5 to read:

~~F-3207.5. Automotive service stations: Aboveground tanks utilized for the storage of motor fuels at automotive service stations shall be installed in accordance with this section and the requirements for fire resistant tanks or tanks in vaults specified in NFPA 30A listed in Chapter 44.~~

13 VAC 5-51-200. BNFPC Chapter 44. Referenced standards. (Repealed.)

Add the following referenced standard to NFPA to read:

Standard reference number	Title	Referenced in code section number
1126-96	Use of Pyrotechnics before a Proximate Audience	F-3103.4

DOCUMENTS INCORPORATED BY REFERENCE

~~The BOCA National 2000 International Fire Prevention Code/1996, 10th Edition, Building Officials and Code Administrators International Code Council, Inc.~~

VA.R. Doc. No. R02-172; Filed July 23, 2003, 10:03 a.m.

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REGISTRAR'S NOTICE: Due to its length, the following proposed regulatory action filed by the Department of Housing and Community Development is not being published. However, in accordance with § 2.2-4031 of the Code of Virginia, the summary is being published in lieu of the full text. The full text of the regulation is available for public inspection at the office of the Registrar of Regulations and at the Department of Housing and Community Development (see contact information below) and is accessible on the Virginia Register of Regulations website at <http://register.state.va.us/vol19/welcome.htm>.

Titles of Regulations: 13 VAC 5-61. Virginia Uniform Statewide Building Code (REPEAL) (repealing 13 VAC 5-61-11 through 13 VAC 5-61-460).

13 VAC 5-62. Virginia Uniform Statewide Building Code (adding 13 VAC 5-62-10 through 13 VAC 5-62-480).

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

Effective Date: October 1, 2003.

Agency Contact: Stephen W. Calhoun, Regulatory Coordinator, Department of Housing and Community Development, 501 North 2nd Street, Richmond, VA 23219, telephone (804) 371-7015, FAX (804) 371-7090 or e-mail scalhoun@dhcd.state.va.us. Copies of the regulation may be obtained from the Department of Housing and Community Development. There will be a \$.10 charge per page for copies.

Summary:

The amendments to this regulation (i) update the referenced model codes and standards; (ii) add that the USBC applies to amusement devices; (iii) add that officials and assistants may be held responsible for failure to discharge any duty required by law; (iv) add that the official must notify the Department of Housing and Community Development of the employment of assistants; (v) change from three years to one and a half years the time allowed for a person to become certified; (vi) add that fire apparatus access road requirements be identified to the owner prior to the issuance of a building permit; (vii) add that when the fuel source is changed, the chimney be certified safe; (viii) amend the time limits for certain reviews and issuance of building permits; and (ix) add annual testing of certain plumbing devices.

Based on public comment received on the proposed regulation, there were numerous changes made to the proposed regulation. The final regulation reestablishes requirements from previous USBC editions relative to certification requirements, swimming pools, wind zones for roofing and siding permit exceptions, floor material permit exceptions, approval of third party plan review, radon-resistant construction, design wind loads, riser height in residential and correctional facility stairs, fire extinguishers, lead-based paint requirements and other technical provisions. Several amendments were made to reduce the impact of regulations on regulated entities. Additionally, amendments were made to implement minimum

requirements for the health, safety and welfare related to the issuance of notices of violation for unsafe buildings, permit requirements for alarm and door locking system wiring, the fire separation distance between houses, and abandoned home heating oil tanks. There also were provisions added or amended to clarify existing requirements and to allow the regulation to comport with new state legislation, including legislation enacted during 2003 that set forth requirements for rodent infestation, rubbish and garbage accumulation and occupancy limitations.

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.

VA.R. Doc. No. R02-170; Filed July 23, 2003, 9:57 a.m.

* * * * *

Title of Regulation: **13 VAC 5-91. Virginia Industrialized Building Safety Regulations (amending 13 VAC 5-91-10, 13 VAC 5-91-40, 13 VAC 5-91-50, 13 VAC 5-91-60, 13 VAC 5-91-100, 13 VAC 5-91-110, 13 VAC 5-91-120, 13 VAC 5-91-140, 13 VAC 5-91-160, 13 VAC 5-91-180, 13 VAC 5-91-200, 13 VAC 5-91-210, 13 VAC 5-91-250, 13 VAC 5-91-260 and 13 VAC 5-91-270); adding 13 VAC 5-91-245; repealing 13 VAC 5-91-230).**

Statutory Authority: § 36-73 of the Code of Virginia.

Effective Date: October 1, 2003.

Agency Contact: Stephen W. Calhoun, Regulatory Coordinator, Department of Housing and Community Development, 501 North Second Street, Richmond, VA 23219, telephone (804) 371-7015, FAX (804) 371-7090, or e-mail scalhoun@dhcd.state.va.us. Copies of the regulation may be obtained from the Department of Housing and Community Development. There will be a \$.10 charge per page for copies.

Summary:

The amendments (i) update the construction model codes and standards to the same editions of the International Code Council (ICC) and National Fire Protection Association (NFPA) codes and standards as are being adopted for the Uniform Statewide Building Code (USBC); (ii) increase the registration seal fee for an industrialized building from \$50 to \$75 per seal; (iii) expand the type of information about an industrialized building and its use to be included on the manufacturer's data plate and placed within the unit; (iv) expand and update definitions used within the regulation for clarity; and (v) specify the state government office responsible for the administration and enforcement of the Industrialized Building Safety Regulations.

REGISTRAR'S NOTICE: The proposed regulation was adopted as published in 19:6 VA.R. 948-954 December 2, 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.

Summary of Public Comment and Agency Response: No public comments received.

13 VAC 5-91-10 through 13 VAC 5-9-110. [No change from proposed.]

13 VAC 5-91-120. Unregistered industrialized buildings.

A. The ~~local code building~~ official shall determine whether any unregistered industrialized building complies with this chapter and shall require any noncomplying unregistered building to be brought into compliance with this chapter. The ~~local code building~~ official shall enforce all applicable requirements of this chapter including those relating to the sale, rental and disposition of noncomplying buildings. The ~~local code building~~ official may require submission of full plans and specifications for each building. Concealed parts of the building may be exposed to the extent necessary to permit inspection to determine compliance with the applicable requirements. *The building official may also accept reports of inspections and tests from individuals or agencies deemed acceptable to the [~~code building~~] official.*

B. Unregistered industrialized buildings offered for sale by dealers in this Commonwealth shall be marked by a warning sign to prospective purchasers that the building is not registered in accordance with this chapter and must be inspected and approved by the local code official having jurisdiction. The sign shall be of a size and form approved by the administrator and shall be conspicuously posted on the exterior of the unit near the main entrance door.

13 VAC 5-91-140. [No change from proposed.]

13 VAC 5-91-160. Hazards ~~prohibited Use of model codes and standards specified.~~

A. Industrialized buildings produced after [~~insert the effective date of this chapter~~ *October 1, 2003,*] shall be reasonably safe for the users and shall provide reasonable protection to the public against hazards to life, health and property. Compliance with all applicable requirements of the following codes and standards, subject to the specified time limitations, shall be acceptable evidence of compliance with this provision:

*The following codes and standards may be used until [~~insert date~~ *January 1, 2004*] :*

1. BOCA National Building Code
 - a. ~~1993 Edition~~ *— until June 1, 1997*
 - b. ~~1996 Edition~~ *- no time limit*
- ~~2. BOCA National Plumbing Code~~
 - ~~1993 Edition~~ *— until June 1, 1997*
- ~~2. ICC International Plumbing Code~~
 - ~~1995 Edition with 1996 Supplement~~ *— no time limit*
- ~~4. BOCA National Mechanical Code~~
 - ~~1993 Edition~~ *— until June 1, 1997*
- ~~3. ICC International Mechanical Code~~
 - ~~1996 Edition~~ *[-no time limit]*

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~~6.~~ 4. National Electrical Code - NFPA [~~NO.~~] 70

~~a. 1993 Edition until June 1, 1997~~

[~~b.~~] 1996 Edition ~~no time limit~~

~~7.~~ 5. CABO One- and Two-Family Dwelling Code

~~a. 1992 Edition and 1993 Amendments until June 1, 1997~~

[~~b.~~] ~~1995 Edition no time limit~~ [1995 Edition]

~~The CABO One- and Two-Family Dwelling Code may be used as an optional alternative standard for one- and two-family dwellings to the standards specified in subdivisions 1 through 6 of this section.~~

B. The following documents are adopted and incorporated by reference to be an enforceable part of these regulations:

1. ICC International Building Code - 2000 Edition
2. ICC International Plumbing Code - 2000 Edition
3. ICC International Mechanical Code - 2000 Edition
4. NFPA 70 National Electrical Code - 1999 Edition
5. ICC International Residential Code - 2000 Edition

NOTE: The codes and standards (BOCA, CABO, ICC and NFPA) referenced above may be procured from:

[~~Building Officials and Codes Administrators International, Inc.~~

~~4051 West Flossmoor Road
Country Club Hills, Illinois 60478-5795
International Code Council, Inc.
5203 Leesburg Pike, Suite 708
Falls Church, VA 22041-3401]~~

13 VAC 5-91-180 through 13 VAC 5-91-280. [No change from proposed.]

DOCUMENTS INCORPORATED BY REFERENCE

~~In addition to the documents referenced in 13 VAC 5-91-160, the following document is incorporated by reference:~~

~~BOCA National Building Code - 1996 Edition.~~

~~ICC International Plumbing Code - 1995 Edition with 1996 Supplement.~~

~~ICC International Mechanical Code - 1996 Edition.~~

~~National Electrical Code - NFPA [~~NO.~~] 70 [-] 1996 [and 1999] Edition.~~

~~CABO One- and Two-Family Dwelling Code [-] 1995 Edition.~~

~~ICC International Building Code - 2000 Edition.~~

~~ICC International Plumbing Code - 2000 Edition.~~

~~ICC International Mechanical Code - 2000 Edition.~~

[~~NFPA 70 National Electrical Code - 1999 Edition.~~]

~~ICC International Residential Code - 2000 Edition.~~

ASTM E541-84, Standard Criteria for Agencies Engaged in System Analysis and Compliance Assurance for Manufactured Buildings, American Society for Testing and Materials.

VA.R. Doc. No. R02-173; Filed July 23, 2003, 10:06 a.m.



VIRGINIA HOUSING DEVELOPMENT AUTHORITY

REGISTRAR'S NOTICE: The Virginia Housing Development Authority is exempt from the Administrative Process Act (§ 2.2-4000 et seq. of the Code of Virginia) pursuant to § 2.2-4002 A 4; however, under the provisions of § 2.2-4031, it is required to publish all proposed and final regulations.

Title of Regulation: 13 VAC 10-10. Rules and Regulations -- General Provisions for Programs of the Virginia Housing Development Authority (amending 13 VAC 10-10-10 and 13 VAC 10-10-20).

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

Effective Date: August 1, 2003.

Agency Contact: J. Judson McKellar, Jr., General Counsel, Virginia Housing Development Authority, 601 S. Belvidere Street, Richmond, VA 23220, telephone (804) 343-5540.

Summary:

The amendments (i) provide that one person or multiple persons are eligible to be a borrower or borrowers of a single family loan if such person or all such persons satisfy the criteria and requirements in such rules and regulations and (ii) delete the requirement that multiple borrowers be related by blood, marriage or adoption or by legal custodial relationship. The amendments to the authority's rules and regulations, which are general provisions for programs of the Virginia Housing Development Authority, will make conforming changes to reflect such proposed amendments to the authority's rules and regulations for single family mortgages to persons and families of low and moderate income.

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 18:7 VA.R. 977-979 November 6, 2000, without change. Therefore, pursuant to § 2.2-4031 of the Code of Virginia, the text of the final regulation is not set out.

VA.R. Doc. No. R02-90; Filed July 29, 2003, 9:04 a.m.

* * * * *

Title of Regulation: 13 VAC 10-40. Rules and Regulations for Single Family Mortgage Loans to Persons and Families of Low and Moderate Income (amending 13 VAC 10-40-10, 13 VAC 10-40-30 through 13 VAC 10-40-70, 13 VAC 10-40-90, 13 VAC 10-40-100, 13 VAC 10-40-120, 13 VAC 10-40-130, 13 VAC 10-40-140, 13 VAC 10-40-160, 13 VAC 10-40-170, and 13 VAC 10-40-190 through 13 VAC 10-40-230).

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

Effective Date: August 1, 2003.

Agency Contact: J. Judson McKellar, Jr., General Counsel, Virginia Housing Development Authority, 601 S. Belvidere Street, Richmond, VA 23220, telephone (804) 343-5540, FAX (804) 783-6701, or e-mail hearing@vhda.com.

Summary:

The amendments (i) provide that one person or multiple persons are eligible to be a borrower or borrowers of a single family loan if such person or all such persons satisfy the criteria and requirements in the rules and regulations; (ii) delete the requirement that multiple borrowers be related by blood, marriage or adoption or by legal custodial relationship; and (iii) make conforming changes throughout the rules and regulations to reflect the preceding revisions to the authority's eligibility guidelines.

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 19:21 VA.R. 3044-3057 June 30, 2003, without change. Therefore, pursuant to § 2.2-4031 of the Code of Virginia, the text of the final regulation is not set out.

VA.R. Doc. No. R02-91; Filed July 29, 2003, 9:05 a.m.

TITLE 18. PROFESSIONAL AND OCCUPATIONAL LICENSING

BOARD FOR HEARING AID SPECIALISTS

REGISTRAR'S NOTICE: The following regulatory action is exempt from the Administrative Process Act in accordance with § 2.2-4006 A 7 of the Code of Virginia, which excludes regulations of the regulatory boards served by the Department of Professional and Occupational Regulation pursuant to Title 54.1 that are limited to reducing fees charged to regulants and applicants. The Board for Hearing Aid Specialists will receive, consider and respond to petitions by any interested person at any time with respect to reconsideration or revision.

Title of Regulation: 18 VAC 80-20. Board for Hearing Aid Specialists Regulations (amending 18 VAC 80-20-70).

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

Effective Date: October 1, 2003

Agency Contact: William H. Ferguson, II, Assistant Director, Board for Hearing Aid Specialists, 3600 W. Broad Street, Richmond, VA 23230, telephone (804) 367-8310, FAX (804) 367-6295, or e-mail hearingaidspec@dpor.state.va.us.

Summary:

The amendments reduce the amount of certain fees that must be paid by applicants and regulants to the board.

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.

18 VAC 80-20-70. Fees.

A. All fees are nonrefundable and shall not be prorated. The date of receipt by the board or its agent is the date which will be used to determine whether or not it is on time.

B. Application and examination fees must be submitted with the application for licensure.

C. In the event that a check, money draft, or similar instrument for payment of a fee required by statute or regulation is not honored by the bank or financial institution named, the applicant or regulant shall be required to remit fees sufficient to cover the original fee, plus the additional processing charge ~~shown below~~ established by the department.

The following fees apply:

Application Fee	\$130 \$30	to be paid by all applicants for initial licensure except reciprocal applicants
Examination Fee	\$110	
Licensure Fee for Reciprocity	\$190 \$140	includes exam fee
Temporary Permit Fee	\$130 \$30	
Re-examination Fee	\$95	per written or practical part
Renewal	\$175 \$20	
Reinstatement	\$350 \$50	
Duplicate Wall Certificate	\$25	

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NOTICE: The forms used in administering 18 VAC 80-20, Board for Hearing Aid Specialists Regulations, are not being published; however, the name of each form is listed below. The forms are available for public inspection at the Department of Professional and Occupational Regulation, 3600 W. Broad Street, Richmond, Virginia, or at the office of the Registrar of Regulations, General Assembly Building, 2nd Floor, Richmond, Virginia.

FORMS

~~Application For A Hearing Aid Specialists License (eff. 7/24/95).~~

~~Application For Reinstatement of License (eff. 7/24/95).~~

~~Application For Reexamination (eff. 7/24/95).~~

License Application, 21LIC (rev. 9/00 10/03).

Temporary Permit Application, 21TPER (eff. 4/09 10/03).

Reinstatement Application, 21REI (rev. 4/09 10/03).

Reexamination Application, 21REEX (rev. 12/00).

VA.R. Doc. No. R03-307; Filed August 3, 2003, 1:42 p.m.



EMERGENCY REGULATIONS

TITLE 1. ADMINISTRATION

DEPARTMENT OF HUMAN RESOURCE MANAGEMENT

Title of Regulation: 1 VAC 55-20. Commonwealth of Virginia Health Benefits Program (amending 1 VAC 55-20-320).

Statutory Authority: §§ 2.2-1204 and 2.2-2818 of the Code of Virginia.

Effective Dates: October 1, 2003, through September 30, 2004.

Agency Contact: Charles Reed, Associate Director, Department of Human Resource Management, James Monroe Building, 101 N. Fourteenth Street, Richmond, VA 23219, telephone (804) 786-3124, FAX (804) 371-0231, or e-mail creed@dhrm.state.va.us.

Preamble:

The Commonwealth of Virginia is currently in a budget crisis, which may cause the state to cut back on the essential services it provides to protect the health and safety of its citizens. This amendment would allow government agencies necessary flexibility to address workload requirements by permitting, at their discretion and employees' agreement, the latitude to adjust the number of hours their employees work (from 40 to 32), yet to continue to consider the employees as full-time for the provision of health care benefits. This adjustment would make the definition of "full-time" consistent with the definition of "full time" used in other policies. By allowing the opportunity to retain employees who may be interested in working fewer hours, the agency will be able to reduce the overall budget, yet retain the flexibility to provide diverse services, from experienced employees, to the citizens of the Commonwealth. Unless the change is adopted on an emergency basis, those employees who opt for a thirty-two (32) hour workweek risk the loss of their health insurance coverage. This is a risk that neither the Commonwealth as an employer nor the affected employees want to take. Without the amendment, the reduced workweek plan may fail and the immediate savings opportunity would be lost. The effect of such lost savings could be detrimental to public health and safety by forcing other essential services to be cut.

1 VAC 55-20-320. Eligible employees.

A. State employees.

1. Only full-time salaried, classified employees and faculty as defined in 1 VAC 55-20-20 are eligible for membership in the health benefits program. A full-time salaried employee is one who is scheduled to work at least 40 32 hours per week or carries a faculty teaching load considered to be full time at his institution.

2. A state employee is one who receives a salaried paycheck from the Commonwealth. Certain full-time employees in auxiliary enterprises (such as food services, bookstores, laundry services, etc.) at the University of

Virginia, Virginia Military Institute and the College of William and Mary are also considered state employees even though they do not receive a salaried state paycheck. The Athletic Department of Virginia Polytechnic Institute and State University is a local auxiliary whose members are eligible for the program.

Medical College of Virginia house staff members are eligible for the program as long as they are on the state payroll and remain in the program. They will have payroll deductions for health benefits premiums even if they rotate to the Veterans' Administration Hospital or other acute care facility.

A salaried employee is one who receives a paycheck no more often than biweekly and who is not paid on an hourly basis.

3. Classified positions include employees who are fully covered by the Virginia Personnel Act, employees excluded from the Virginia Personnel Act by § 2.1-116 (16) of the Virginia Code, and employees on a restricted appointment. A restricted appointment is a classified appointment to a position that is funded at least 10% from gifts, grants, donations, or other sources that are not identifiable as continuing in nature. An employee on a restricted appointment must receive a state paycheck in order to be eligible.

B. Local employees.

1. Full-time employees of participating local employers are eligible to participate in the program. A full-time employee is one who meets the definition set forth by the local employer in the employer application.

2. Part-time employees of local employers may participate in the plan if the local employer elects.

In the event of a leave of absence without pay, the local employer shall not be obligated to continue contributions toward coverage for a part-time employee.

The department reserves the right to establish a separate plan for part-time employees.

C. Unavailability of employer-sponsored coverage.

1. Employees, officers, and teachers without access to employer-sponsored health care coverage may participate in the plan. The employers of such employees, officers, and teachers must apply for participation and certify that other employer-sponsored health care coverage is not available. The employers shall collect contributions from such individuals and timely remit them to the department or its designee, act as a channel of communication with the covered employee and otherwise assist the department as may be necessary. The employer shall act as fiduciary with respect to such contributions and shall be responsible for any interest or other charges imposed by the department in accordance with these regulations.

2. Local employees living outside the service area of the plan offered by their local employer shall not be considered as local employees whose local employers do not offer a health benefits plan. For example, a local employee who lives in North Carolina and works in Virginia may live

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outside the service area of the HMO offered by his employer; however, he may not join the program individually.

3. Employer sponsorship of a health benefits plan will be broadly construed. For example, an employer will be deemed to sponsor health care coverage for purposes of this section and 1 VAC 55-20-260 if it utilizes § 125 of the Internal Revenue Code or any similar provision to allow employees, officers, or teachers to contribute their portion of the health care contribution on a pretax basis.

4. Individual employees and dependents who are eligible to join the program under the provisions of this subsection must meet all of the eligibility requirements pertaining to state employees except the identity of the employer.

D. Retirees.

1. Retirees are not eligible to enroll in the state retiree health benefits group outside of the opportunities provided in this section.

2. Retirees are eligible for membership in the state retiree group if a completed enrollment form is received within 31 days of separation for retirement. Retirees who remain in the health benefits group through a spouse's state employee membership may enroll in the retiree group at one of three later times: (i) future open enrollment, (ii) within 31 days of an eligibility status change, or (iii) within 31 days of being removed from the active state employee spouse's membership.

3. Membership in the retiree group may be provided to an employee's spouse or dependents who were covered in the active employee group at the time of the employee's death in service, in accordance with the provisions of the Health Insurance Manual.

4. Retirees who are over age 65 or are otherwise covered or eligible for Medicare may enroll in certain plans as determined by the department provided that they apply for such coverage within 31 days of their separation from active service for retirement. Medicare will be the primary payor and the program shall serve as a supplement to Medicare's coverage.

5. Retirees who are ineligible for Medicare must apply for coverage within 31 days of their separation from active service for retirement. In order to receive coverage, the individual must meet the retirement requirements of his employer and receive an immediate annuity.

E. Dependents.

1. The following family members may be covered if the employee elects:

- a. The employee's spouse;
- b. The employee's unmarried natural or legally adopted children;
- c. Unmarried stepchildren living with the employee in a parent-child relationship and dependent on the employee for federal tax purposes;

d. Adult disabled children of new employees, provided the enrollment form is submitted within 31 days of hire and the child has been covered continuously since the disability first occurred. The enrollment form must be accompanied by a letter from a physician explaining the nature of the handicap, date of onset and certifying that the dependent is not capable of self-support.

e. Other children on an exception basis. Generally, an exception will not be granted unless:

- (1) A court orders the eligible employee to assume permanent custody of the child; and
- (2) Both of the child's natural parents are deceased, missing, or incarcerated or a court order has found the parents incapable of caring for the child.

Local employers and state agencies do not have the authority to grant exceptions. If the circumstances appear to meet the criteria, the facts of the case must be sent in writing to the department for a determination. Minor children who are adopted, regardless of relationship to the employee, enjoy the same benefits as natural children. Natural or adopted children who are otherwise eligible for coverage may be covered by the employee whether or not they live with the employee.

Children of the spouse of an eligible employee may not be covered as a dependent in the health benefits program unless they live with the employee and meet the criteria for family membership, as given in previous paragraphs.

A child who is self-supporting for federal income tax purposes is ineligible to be covered under the employee's family membership. A child who is otherwise eligible to be covered by family membership may be covered until such time as they become self-supporting.

Coverage for a dependent child stops at the end of the month in which the child marries.

f. Special rules.

(1) There are certain categories of persons who may not be covered as dependents under the program. These include: dependent siblings, grandchildren, nieces, nephews, and most other children except where the criteria for "other children" are satisfied (see 1 VAC 55-20-320 E 1 e). Parents, grandparents, aunts and uncles are not eligible for coverage regardless of dependency status.

(2) Under the basic plan and HMOs, eligible children may be covered to the end of the year in which they turn age 19 if not a full-time student. Children who are full-time students may be covered to the end of the month in which they turn 23, or cease to be full-time students, whichever occurs first.

Children may be covered regardless of the age if incapable of self-support because of a severe physical or mental handicap which was diagnosed while coverage was in force. An enrollment form for continued coverage for a disabled child is required within 31 days of the child's age attainment (above) to maintain coverage (see 1 VAC 55-20-330).

(3) Under the PPO plan or plans, eligible children may be covered to the end of the year in which they turn age 23, regardless of student status, if the child lives at home and is not self-supporting. Living at home is characteristic of the child who is not self-supporting. In the case of natural or adopted children, living at home may mean living with the other parent. Also, a child who is away at school may be covered.

Children may be covered regardless of age if incapable of self-support because of a severe physical or mental handicap which was diagnosed while coverage was in force. An enrollment form for continued coverage for a disabled child is required within 31 days of the child's age attainment (above) to maintain coverage (see 1 VAC 55-20-330).

/s/ Mark R. Warner
Governor
Date: July 21, 2003

VA.R. Doc. No. R03-312; Filed August 4, 2003, 3:38 p.m.

◆ ————— ◆

TITLE 18. PROFESSIONAL AND OCCUPATIONAL LICENSING

DEPARTMENT OF HEALTH PROFESSIONS

Title of Regulation: 18 VAC 76-40. Regulations Governing Emergency Contact Information (adding 18 VAC 76-40-10, 18 VAC 76-40-20, and 18 VAC 76-40-30).

Statutory Authority: § 54.1-2506.1 of the Code of Virginia.

Effective Dates: August 6, 2003, through August 5, 2004.

Agency Contact: Elaine J. Yeatts, Agency Regulatory Coordinator, Department of Health Professions, 6603 West Broad Street, Richmond, VA 23230, telephone (804) 662-9918, FAX (804) 662-9114, or e-mail elaine.yeatts@dhp.state.va.us.

Preamble:

House Bill 2182 of the 2003 General Assembly authorized the department to "require certain licensed, certified or registered persons to report any email address, telephone number and facsimile number that may be used to contact such person in the event of a public health emergency."

Further, the General Assembly included an enactment clause to authorize the promulgation of emergency regulations. The second enactment clause in Chapter 602 of the 2003 Acts of the Assembly requires, "That the Director of the Department of Health Professions, in consultation with the Department of Health and the Department of Emergency Management, shall promulgate regulations to implement the provisions of this act to be effective within 280 days of its enactment."

Chapter 602 requires the Director, in consultation with the Department of Health and the Department of Emergency Management, to adopt regulations that identify those licensed, certified or registered persons to which the

requirement to report shall apply and the procedures for reporting. Emergency regulations list those categories of regulated entities that will be required to provide emergency contact information and limits that requirement to those persons or entities whose address of record is in Virginia, a contiguous state or the District of Columbia. The contact information required to be reported is set forth in regulation, along with the time frame within which the regulant is expected to respond. Regulated entities are only required to provide fax numbers or email addresses if they have direct access to such, and all collected information may be only used for the purpose of disseminating notification of a public health emergency.

18 VAC 76-40-10. Requirement to report.

In accordance with provisions of § 54.1-2506.1, the following persons or entities who hold a license, certificate, registration or permit issued by a board within the Department of Health Professions and whose address of record is in Virginia, a contiguous state or the District of Columbia shall report emergency contact information as required by this chapter:

1. Certified massage therapists
2. Clinical psychologists
3. Clinical social workers
4. Dentists
5. Funeral service licensees, embalmers and funeral directors
6. Licensed acupuncturists
7. Licensed practical nurses
8. Licensed professional counselors
9. Medical equipment suppliers
10. Pharmacies
11. Pharmacists
12. Physical therapists
13. Physician assistants
14. Radiologic technologists
15. Registered nurses
16. Respiratory care practitioners
17. Surface transportation and removal service registrants
18. Veterinarians
19. Wholesaler distributors of pharmaceuticals

18 VAC 76-40-20. Emergency contact information.

A. Upon a request from the department, a person or entity listed in 18 VAC 76-40-10 shall be required to report the following information for contact in the event of a public health emergency:

1. A telephone number at which he may be contacted during weekday business hours (8:00 a.m. – 5:00 p.m.);

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VA.R. Doc. No. R03-315; Filed August 6, 2003, 10:25 a.m.

2. A telephone number at which he may be contacted during nonbusiness hours (5:00 p.m. – 8:00 a.m. weekdays and on weekends or holidays);

3. A fax number at which he may be sent information concerning the emergency; and

4. An email address at which he may be sent information concerning the emergency.

B. A person or entity shall only be required to report those fax numbers or email addresses to which he has direct access.

C. Information collected for the purpose of disseminating notification of a public health emergency shall not be published or made available for any other purpose.

18 VAC 76-40-30. Time limit for reporting.

A licensee, certificate or permit holder or registrant shall provide the required emergency contact information within a time period specified by the Director to be no less than 30 days or greater than 90 days from receipt of the request or notification from the Department. Whenever there is a change in the information that has been provided, the licensee, certificate or permit holder or registrant shall provide revised information to the Department within 30 days.

NOTICE: The form used in administering 18 VAC 76-40, Regulations Governing Emergency Contact Information, is listed and published below.

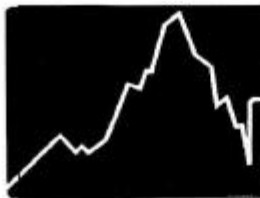
FORMS

Emergency Contact Information application (eff. 8/03)

/s/ Mark R. Warner

Governor

Date: August 5, 2003



Department of Health Professions
Commonwealth of Virginia

6603 West Broad Street – 5th Floor
Richmond, Virginia 23230-1712

(804) 662-9919

Emergency Contact Information

In order to expedite the dissemination of information to health care practitioners about a public health emergency, the Department requests that you provide the following information if you reside in Virginia, one of the adjacent states or the District of Columbia:

A telephone number at which you can be contacted during weekday business hours (8:00 am – 5:00 pm)

A telephone number at which you can be contacted during non-business hours (5:00 pm – 8:00 am on weekdays and on weekends or holidays)

A fax number at which you may be sent information about the emergency*

An email address at which you may be sent information about the emergency*

**This information is not required if you do not have direct access to a fax or email address.*

Would you be willing to volunteer your services if there is a public health emergency in Virginia?

Yes _____ No _____

The information collected by the Department of Health Professions for emergency contact may only be used to notify practitioners of a public health emergency. The law prohibits publication, disclosure or use of this information for any other purpose.

8/03

GENERAL NOTICES/ERRATA

DEPARTMENT OF ENVIRONMENTAL QUALITY

2004 Water Quality Assessment Guidance Manual

The Virginia Department of Environmental Quality (DEQ) will release the 2004 Water Quality Assessment Guidance Manual on August 22, 2003, for public comment.

A copy of the 2004 Water Quality Assessment Guidance Manual (DEQ Assessment Guidance) is available to download from the DEQ Water Quality Assessment webpage at <http://www.deq.state.va.us/wqa/>. A hard copy can also be requested from Harry Augustine, DEQ Water Quality Assessment Coordinator, using his contact information below.

Section 62.1-44.19:7 C of the Code of Virginia requires DEQ to develop and publish the procedures used for defining and determining impaired waters and provide for public comment on the procedures. The DEQ Assessment Guidance contains the assessment procedures to be used for the development of Virginia's 2004 § 305 (b)/ § 303 (d) Integrated (i.e. combined Water Quality Assessment and Impaired Waters) Report. The 2004 Integrated Report is due to the U.S. Environmental Protection Agency (EPA) by April 1, 2004.

The DEQ Assessment Guidance seeks to address all key elements of the EPA 2004 Assessment Guidance released on July 21, 2003. Therefore, any EPA revisions to its assessment guidance could result in significant changes to the DEQ Assessment Guidance. Any significant changes to the DEQ Assessment Guidance will be noticed for additional public comment.

Written comments on the DEQ Assessment Guidance will be accepted through Friday, September 26, 2003, at 5 p.m. Comments can be submitted via e-mail (Microsoft Word attachment is preferred) or U.S. mail. Written comments should include the name, address, telephone number, and, if applicable, the e-mail address of each person and/or organization submitting comments. Comments and related correspondence should be addressed to Harry Augustine. Responses to comments received will be made collectively, via a response document. The response document will be posted on the assessment webpage, at the URL above, by November 26, 2003, and subsequently mailed to each person that submits comments.

Contact: Harry Augustine, Department of Environmental Quality, P.O. Box 10009, Richmond, VA 23240-0009. Telephone (804) 698-4037, FAX (804) 698-4116, or via e-mail hhaugustin@deq.state.va.us.

Total Maximum Daily Load (TMDL) for Bluestone River

The Department of Environmental Quality (DEQ) seeks written and oral comments from interested persons on the development of a Total Maximum Daily Load (TMDL) for Bluestone River. The stream was listed on the 1998 303(d) TMDL Priority List and Report as impaired due to violations of the State's water quality standards for bacteria. The 2002

303(d) List modified the Bluestone River impairment to reflect further data that extended the segment length and added two impairments, the General Standard for Benthics and PCBs in fish tissue.

The first public meeting on the development of the TMDL to address the Benthic and Bacteria Impairments for Bluestone River will be held on Thursday, September 11, 2003, 7 p.m. at the Virginia Avenue United Methodist Church Fellowship Hall in Bluefield, VA. The Church is located at 1901 Virginia Avenue in Bluefield, Virginia.

Section 303 (d) of the Clean Water Act and § 62.1-44.19:7 C of the Code of Virginia require DEQ to develop TMDLs for pollutants responsible for each impaired water contained in Virginia's 303 (d) TMDL Priority List and Report.

Bluestone River is located in Tazewell County and flows through Bluefield, Virginia. The impaired segment is approximately 13.2 miles long. It begins upstream at the Route 460 bridge and continues to the West Virginia /Virginia State line.

The public comment period will end on July 25, 2003. Fact sheets on the development of the TMDL for the bacteria and benthic impairments are available upon request or can be viewed at the DEQ website: <http://www.deq.state.va.us/tmdl/>. Questions or information requests should be addressed to Nancy T. Norton, P. E. Written comments should include the name, address, and telephone number of the person submitting the comments and should be sent to Nancy T. Norton, P. E., Department of Environmental Quality, P.O. Box 1688, Abingdon, VA 24212-1688, telephone (276) 676-4807, FAX (276) 676-4899, or e-mail ntnorton@deq.state.va.us.

Total Maximum Daily Load (TMDL) for Hunting Camp Creek

The Department of Environmental Quality (DEQ) seeks written and oral comments from interested persons on the development of a water quality Total Maximum Daily Load (TMDL) for Hunting Camp Creek in Bland County. The stream was listed on the 1998 303(d) TMDL Priority List and Report as impaired due to violations of the state's water quality standard for Aquatic Life Use due to benthic impairment. In 2002 the 303(d) List was amended to include impairment of the swimmable use due to bacteria violations. Currently, Hunting Camp Creek is impaired for both aquatic life use and the swimmable use so the TMDL study will address both impairments.

The first public meeting on the development of the TMDL to address these water quality impairments for Hunting Camp Creek will be held on Monday, September 22, 2003, 7 p.m. at the Bland County Board of Education offices in Bastian Virginia. The Bland County Board of Education Office is located on Route 615 in Bastian, Virginia. Section 303 (d) of the Clean Water Act and § 62.1-44.19:7 C of the Code of Virginia require DEQ to develop TMDLs for pollutants responsible for each impaired water contained in Virginia's 303(d) TMDL Priority List and Report.

Hunting Camp Creek is located in Bland County and flows through Bastian. The 8.5 mile segment begins at the impoundment above the community of Suiter and continues to the mouth at Wolf Creek. The stream parallels Route 615 and Route 52.

The public comment period will end on October 24, 2003. Fact sheets on the development of the TMDL for the bacteria and benthic impairments are available upon request or can be viewed at the DEQ website: <http://www.deq.state.va.us/tmdl/>. Questions or information requests should be addressed to Nancy T. Norton, P. E. Written comments should include the name, address, and telephone number of the person submitting the comments and should be sent to Nancy T. Norton, P. E., Department of Environmental Quality, P.O. Box 1688, Abingdon, VA 24212-1688, telephone (276) 676-4807, FAX (276) 676-4899, or e-mail ntnorton@deq.state.va.us.

Total Maximum Daily Load (TMDL) for aquatic life on Hutton, Hall/Byers, and Cedar Creeks in the Middle Fork Holston River Watershed

The Department of Environmental Quality (DEQ) seeks written and oral comments from interested persons on the development of a water quality Total Maximum Daily Load (TMDL) for aquatic life on Hutton, Hall/Byers, and Cedar Creeks in the Middle Fork Holston River Watershed. A final public meeting for review and comments on a draft TMDL Report for aquatic life for Hutton, Hall/Byers, and Cedar Creeks is scheduled. The meeting will be held on September 23, 2003, at 7 p.m., in the Patrick Henry High School Auditorium, 31437 Hillman Highway, in Glade Spring, Virginia.

The impaired segments are located in Washington County. Hutton Creek flows through Glade Springs, Hall/Byers Creek flows through Emory, and Cedar Creek flows through Meadowview. The segments include all tributaries from headwaters to their confluences with Middle Fork Holston River. These streams were identified on Virginia's 1998 303(d) TMDL Priority List and Report as impaired due to violations of the State's General Standard for Aquatic Life.

Section 303 (d) of the Clean Water Act and § 62.1-44.19:7 C of the Code of Virginia require DEQ to develop TMDLs for pollutants responsible for each impaired water contained in Virginia's 303 (d) TMDL Priority List and Report. The purpose of the study is to identify sources and determine reductions of pollutants so that the streams can meet the water quality standard.

The public comment period will end on October 24, 2003. A copy of the draft TMDL report for aquatic life on the impaired streams is available upon request or can be viewed at the DEQ website, www.deq.state.va.us. Questions or information requests should be addressed to Nancy T. Norton, P. E., Department of Environmental Quality. Written comments should include the name, address, and telephone number of the person submitting the comments and be addressed to Nancy T. Norton, P. E., Department of Environmental Quality, 355 Deadmore Street, P.O. Box 1688, Abingdon, VA 24212, telephone (276) 676-4807, FAX (276) 676-4899, or e-mail ntnorton@deq.state.va.us.

STATE CORPORATION COMMISSION

REGISTRAR'S NOTICE: The attachment that is referenced in the following order is not being published; however, it was published in 19:21 VA.R. 3091-3094 June 30, 2003. The attachment may also be viewed on the State Corporation Commission's website (www.state.va.us/scc/caseinfo.htm) or a copy may be obtained from the contact person listed below.

AT RICHMOND, JULY 18, 2003

COMMONWEALTH OF VIRGINIA

At the relation of the

STATE CORPORATION COMMISSION

CASE NO. INS-2003-00022

Ex Parte: In the matter of adoption of adjusted prima facie rates for credit life and credit accident and sickness insurance pursuant to Code of Virginia §§ 38.2-3725, 38.2-3726, 38.2-3727 and 38.2-3730

ORDER ADOPTING ADJUSTED PRIMA FACIE RATES FOR THE TRIENNIUM COMMENCING JANUARY 1, 2004

PURSUANT to an order entered herein dated June 4, 2003, after notice to all insurers licensed by the Bureau of Insurance ("Bureau") to transact the business of credit life and credit accident and sickness insurance in the Commonwealth of Virginia, the Commission conducted a hearing on July 16, 2003, for the purpose of considering any public or other comment on the adoption of adjusted prima facie rates for credit life insurance and credit accident and sickness insurance proposed by the Bureau pursuant to Chapter 37.1 of Title 38.2 of the Code of Virginia and the Credit Insurance Experience Exhibits filed by licensed insurers for the reporting years 2000, 2001, and 2002. Represented by its counsel, the Bureau, by its witness, appeared before the Commission in support of the proposed adjusted prima facie rates. One public witness appeared in her capacity as representing a group of insurance companies licensed in Virginia to write credit life and credit accident and sickness insurance, and provided testimony to the Commission on such matters.

AND THE COMMISSION, having considered the record herein, the recommendations of the Bureau, and the law applicable to these issues, is of the opinion, finds and ORDERS that the adjusted prima facie rates for credit life and credit accident and sickness insurance, as proposed by the Bureau, which are attached hereto and made a part hereof, should be, and they are hereby, ADOPTED pursuant to the provisions of Chapter 37.1 of Title 38.2 of the Code of Virginia and shall be effective for the triennium commencing January 1, 2004.

On or before July 23, 2003, the Commission's Division of Information Resources shall make available this Order and the attached adjusted rates on the Commission's website, <http://www.state.va.us/scc/caseinfo.htm>.

General Notices/Errata

AN ATTESTED COPY hereof shall be sent by the Clerk of the Commission to Gerald A. Milsky, Deputy Commissioner, Bureau of Insurance, State Corporation Commission who (i) shall cause a copy hereof together with attachments, as and for the notice to insurers required by Code of Virginia § 38.2-3725 E., to be sent to every insurance company licensed by the Bureau of Insurance to transact the business of credit life and credit accident and sickness insurance in the Commonwealth of Virginia; and (ii) who shall file in the record of this proceeding an affidavit evidencing notice compliance with this order.

Agency Contact: Jacqueline Cunningham, Bureau of Insurance, State Corporation Commission, P.O. Box 1197, Richmond, VA 23218, telephone (804) 371-9748, or e-mail jcunningham@scc.state.va.us.

Telecommunications Bill of Rights

The Commission seeks comment on the following Bill of Rights referenced in PUC-2003-00110 and whether its publication in all Virginia telephone directories should be required.

You have a right to:

- Affordable and quality local telecommunications services
- Seamless levels of service when migrating between local telecommunications service providers
- Select and keep the telecommunications service provider of your choice
- Keep your telephone number when changing local telecommunications service providers
- Maintain local telephone service when there is a valid billing dispute or when payments are current for basic local telecommunications services
- Identity protection to preclude the unauthorized use of records and personal information
- Safety and security of persons and property not to be intentionally jeopardized by telecommunications service providers
- Honest and accurate sales and service information
- Timely, accurate, and understandable billing
- Participate in the formation of Virginia telecommunications policies
- Dispute resolution up to and including a full hearing before the Virginia State Corporation Commission

Agency Contact: Steven C. Bradley, Deputy Director, State Corporation Commission, Division of Communications, P.O. Box 1197, Richmond, VA 23218-1197, telephone (804) 371-9420, FAX (804) 371-9069, or e-mail sbradley@scc.state.va.us.

AT RICHMOND, AUGUST 1, 2003

<p><u>REGISTRAR'S NOTICE:</u> The distribution lists that are referenced as Appendices A and B in the following order is not being published. However, these lists are available for public inspection at the State Corporation Commission, Document Control Center, Tyler Building, 1st Floor, 1300 East Main Street, Richmond, Virginia 23219, from 8:15 a.m. to 5 p.m., Monday through Friday; or may be viewed at the Virginia Code Commission, General Assembly Building, 2nd Floor, 910 Capitol Street, Richmond, Virginia 23219, during regular office hours.</p>
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COMMONWEALTH OF VIRGINIA

At the relation of the

STATE CORPORATION COMMISSION

CASE NO. PUC-2003-00118

Ex Parte: In the matter of establishing rules necessary to implement Article 5.1 to Title 56 of the Code of Virginia

ORDER ESTABLISHING PROCEEDING AND INVITING COMMENTS

Article 5.1 to Title 56 of the Code of Virginia ("Code"), entitled Provision of Certain Communications Services, § 56-484.7:1 et seq., addresses conditions under which certain counties, cities, towns, electric commissions or boards, industrial development authorities, or economic development authorities may offer "qualifying communications services." Section 56-484.7:1 A of the Code defines "qualifying communications service" as "a communications service, which shall include but is not limited to, high-speed data service and Internet access service, of general application."

Section 56-484.7:1 E of the Code states that the State Corporation Commission ("Commission") "may promulgate rules necessary to implement this section." The Commission is of the opinion and finds that it should initiate a docket permitting interested persons: (1) to comment on whether rules are necessary to implement § 56-484.7:1 of the Code; and (2) to propose any such rules. After reviewing the comments filed in this proceeding, the Commission will issue further orders, conduct further proceedings, and seek further public comment on this matter as may be appropriate.

Accordingly, IT IS ORDERED THAT:

(1) This matter is docketed and assigned Case No. PUC-2003-00118.

(2) On or before October 10, 2003, any person desiring to comment on this matter shall file an original and fifteen (15) copies of written comments with Joel H. Peck, Clerk of the Commission, c/o Document Control Center, P.O. Box 2118, Richmond, Virginia 23218-2118. Interested persons desiring to submit comments electronically may do so by following the

instructions available at the Commission's website, <http://www.state.va.us/scc/caseinfo/notice.htm>. All comments shall refer to Case No. PUC-2003-00118.

(3) On or before September 1, 2003, the Commission's Division of Information Resources shall publish the following notice as classified advertising in newspapers of general circulation throughout the Commonwealth of Virginia:

NOTICE OF ORDER ESTABLISHING PROCEEDING AND INVITING COMMENTS BY THE STATE CORPORATION COMMISSION TO CONSIDER PROMULGATING RULES REGARDING PROVISION OF CERTAIN COMMUNICATIONS SERVICES BY CERTAIN COUNTIES, CITIES, TOWNS, ELECTRIC COMMISSIONS OR BOARDS, INDUSTRIAL DEVELOPMENT AUTHORITIES, OR ECONOMIC DEVELOPMENT AUTHORITIES

CASE NO. PUC-2003-00118

Article 5.1 to Title 56 of the Code of Virginia ("Code"), entitled Provision of Certain Communications Services, § 56-484.7:1 et seq., addresses conditions under which certain counties, cities, towns, electric commissions or boards, industrial development authorities, or economic development authorities may offer "qualifying communications services." Section 56-484.7:1 A of the Code defines "qualifying communications service" as "a communications service, which shall include but is not limited to, high-speed data service and Internet access service, of general application."

Section 56-484.7:1 E of the Code states that the State Corporation Commission ("Commission") "may promulgate rules necessary to implement this section." The Commission has initiated a docket permitting interested persons: (1) to comment on whether rules are necessary to implement § 56-484.7:1 of the Code; and (2) to propose any such rules. After reviewing the comments filed in this proceeding, the Commission will issue further orders, conduct further proceedings, and seek further public comment on this matter as may be appropriate.

Interested persons may obtain a copy of the Commission's Order by directing a written request for a copy of the same to the Clerk of the Commission at the address below and referencing Case No. PUC-2003-00118. Interested persons may also obtain a copy of the order from the Commission's website, <http://www.state.va.us/scc/caseinfo.htm>.

On or before October 10, 2003, any person desiring to comment on this matter shall file an original and fifteen (15) copies of written comments with Joel H. Peck, Clerk of the Commission, c/o Document Control Center, P.O. Box 2118, Richmond, Virginia 23218-2118. Interested persons desiring to submit comments electronically may do so by following the instructions available at the Commission's website, <http://www.state.va.us/scc/caseinfo.htm>. All comments shall refer to Case No. PUC-2003-00118.

(4) The Commission's Division of Information Resources shall forthwith cause this Order to be forwarded for publication in the Virginia Register of Regulations.

(5) The Commission's Division of Information Resources shall file with the Clerk of the Commission proof of publication of the notice required in Ordering Paragraph (3), above.

(6) This matter is continued generally.

AN ATTESTED COPY hereof shall be sent by the Clerk of the Commission to: C. Meade Browder, Jr., Senior Assistant Attorney General, Division of Consumer Counsel, Office of the Attorney General, 900 East Main Street, Second Floor, Richmond, Virginia 23219; all local exchange carriers certificated in Virginia as set out in Appendix A; all interexchange carriers certificated in Virginia as set out in Appendix B; and the Commission's Office of General Counsel and Divisions of Communications, Public Utility Accounting, and Economics and Finance.

Agency Contact: Please refer any questions regarding this order to Kathleen Cummings, Deputy Director, State Corporation Commission, P.O. Box 1197, Richmond, VA 23218, telephone (804) 371-9101, or e-mail kcummings@scc.state.va.us.

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AT RICHMOND, JULY 24, 2003

At the relation of the

STATE CORPORATION COMMISSION

CASE NO. PUE-2002-00645

Ex Parte: In the matter concerning the provision of default service to retail customers under the provisions of the Virginia Electric Utility Restructuring Act

ORDER

Section 56-585 of the Virginia Electric Utility Restructuring Act ("Restructuring Act" or "Act"), (§ 56-576 et seq. of Title 56 of the Code of Virginia), directs the State Corporation Commission ("Commission") to determine the components of default service and establish one or more programs making such services available to retail customers.¹ Default service, as defined in the Act, means service made available to retail customers who (i) do not affirmatively select a supplier, (ii) are unable to obtain service from an alternative supplier, or (iii) have contracted with an alternative supplier who fails to perform.

In an Order dated December 23, 2002, the Commission directed the Staff to invite representatives of incumbent electric utilities, competitive service providers, retail customers and other interested parties to participate in a work group to assist the Staff in developing recommendations to the

¹ Pursuant to the provisions of § 56-577 A 4, retail customer choice of generation provider must be available in the service territories of all Virginia electric utilities by January 1, 2004. It should also be noted that pursuant to § 56-585 C 1, when default service is provided by incumbent utilities, rates for that service will be such incumbents' capped rates under § 56-582 of the Act until the expiration or termination of such capped rates.

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Commission in furtherance of its statutory obligations under § 56-585 of the Act. The Commission also sought input on a number of issues in order to frame the work group discussion. We directed the Staff to file its report by May 1, 2003, and interested parties to file comments or requests for hearing on the Staff's Report by May 16, 2003.

The Commission received comments from New Era Energy, Inc., Allegheny Power, Constellation NewEnergy, Inc., LG&E Energy Corp., Mirant Americas, Inc., Appalachian Power Company, Virginia Committee for Fair Utility Rates and Old Dominion Committee for Fair Utility Rates, Reliant Resources, Inc., Strategic Energy, LLC, Virginia Electric Cooperatives, Washington Gas Energy Services, Virginia Electric and Power Company, National Energy Marketers Association, Virginia Municipal League/Virginia Association of Counties, and Conectiv.

The Staff filed its report on May 1, 2003. In its report, the Staff stated that, pursuant to the Commission's Order, interested parties were invited to participate in a work group to assist in making recommendations to the Commission regarding the provision of default service. According to the Staff, the work group met twice during March 2003, and focused on the questions posed by the Commission in its December 23, 2003, Order regarding the characteristics and components of default service and the challenge of establishing the provision of default service by entities other than the incumbent utility during the capped rate period.

Although the Staff notes that the formal comments filed by parties in this proceeding reflect significant variations on the optimal long-term model for default service, most participants seemed to agree during the work group meetings that the definition and provision of default service will be a complex and evolving process that should be driven by competitive market development. The Staff states that, regarding the short-term, most participants believe that an initial determination of the components and characteristics of default service should maintain simplicity with the flexibility to modify such structure as market development provides new opportunities. For example, the Staff states that the majority of work group members favor initially viewing default service as a bundled service – i.e., generation or generation and transmission service, inclusive of all associated ancillary services. In other words, default service should consist of the same components as electricity supply service that may be provided by a competitive service provider at competitive prices or by the incumbent utility under capped rates.

The Staff also states that participants believe, at least during the capped rate period, that default service should conform geographically to the incumbent utility's service territory, and be compatible with customer rate classifications. Additionally, to mitigate initial complexity, the Staff states that the majority of work group participants believe that distinctions should not be made at present regarding types of default service customers (i.e., those who do not affirmatively select a supplier, those who are unable to obtain service from an alternative supplier, or those who have contracted with an alternative supplier who fails to perform).

The Staff believes that absent a significant change in the current capped rate/wires charge structure, there is

substantial uncertainty as to the feasibility of an entity other than the incumbent utility providing default service until the end of the capped rate period. The Staff states that when it raised this issue during the work group discussion, no supplier attending the work group meeting was willing to represent that it could submit a competitive bid to provide default service in 2004. However, some participants indicated that the possibility of alternative default service providers, while probably not feasible in 2004, should not be precluded from consideration for 2005, since market conditions and other circumstances could change favorably.

In its report, the Staff states that it is not prepared to advise the Commission that the public interest will be served by the establishment of a competitive bidding process at the current time to designate one or more providers of default service. Accordingly, the Staff recommends that the Commission:

(1) Determine that effective January 1, 2004, and until modified by future order of the Commission, the components of Default Service include all elements of Electricity Supply Service as defined by the Commission's Rules Governing Retail Access to Competitive Energy Services; and

(2) Require Appalachian Power Company, Delmarva Power & Light Company, The Potomac Edison Company, and Virginia Electric and Power Company, effective January 1, 2004, and until modified by future order of the Commission, to provide default service to all retail customers requiring such service within their respective service territories under the rates, terms, and conditions of capped rate Electricity Supply Service.

By May 16, 2003, the Commission had received comments on the Staff Report from the National Energy Marketers Association ("NEM"), Allegheny Power ("AP"), Constellation NewEnergy, Inc. ("CNE"), the Division of Consumer Counsel of the Office of the Attorney General ("Consumer Counsel"), Dominion Virginia Power ("DVP"), and the VML/VACo APCo Steering Committee ("Steering Committee").

In its comments, NEM states that it disagrees with Staff and submits that for generation-related default service, the separate components of generation service to retail customers should be unbundled and treated as separate default services. NEM states that providing more competitive options will maximize the benefits of innovation, reduce prices, and provide higher quality service, while minimizing the economic distortions inherent in potentially cross-subsidized bundled default service prices. NEM further argues that default service does not need to conform geographically to the incumbent utility's service territory. It suggests that the default provider could be different by customer group since the cost to provide default service varies by customer group. NEM states that when suppliers focus their efforts on specific customer classes they can achieve economies of scale that can and should result in lower prices to consumers. NEM also urges the Staff and Commission not to interpret competitive provision of default service to mean competitive wholesale provision of supply to utilities for their retail customers as NEM believes that the law requires that competitive suppliers are to provide default service directly to retail customers, not on a wholesale basis to the utility as an intermediary. Finally, NEM agrees with Staff that the Commission should not foreclose any future

opportunities for alternative default service providers, and encourages the Commission to permit alternative suppliers to provide default service as soon as practicable. However, NEM states that the provision of default service based on capped or subsidized rates will not foster the development of the competitive market.

AP supports the recommendations in the Staff Report. However, AP points out that default service will only be provided by the incumbent utility under the rates, terms, and conditions of capped rate electricity supply service until the expiration of the capped rate period. Also, AP recommends that additional action is necessary to facilitate the development of the competitive retail electricity supply market. AP offers its assistance and support in developing solutions to enhance market development during the remainder of the capped rate period. Regarding the competitive bidding process, AP supports Staff's position that it should not be required at this time. AP states that current statutory provisions, as well as market conditions in Virginia, make it unlikely that a wholesale supplier could provide electric supply at a price below the incumbent utility's price-to-compare during the rate cap period. However, AP states that should it, Staff or other stakeholders identify other alternatives that would enhance the development of the competitive retail electricity supply market, this issue should be revisited. AP also supports a wholesale competitive bidding model for default service, and suggests that the Commission, Staff and other interested parties should review the wholesale bidding model approved by the Maryland Public Service Commission in Case No. 8908, Standard Offer Service.

CNE largely concurs with the overall conclusions of Staff. Specifically, CNE agrees that the Commission does not need to take any specific action with respect to establishing default service for retail customers in the service territories of the electric utilities in light of the significant barriers to retail choice in Virginia during the existing transition period. CNE reiterates that the obstacles listed in the Staff Report need to be resolved before competitive markets will be able to offer meaningful alternatives to the incumbent utilities. Specifically, the capped rates, wires charge structure for the recovery of still unquantified stranded costs, lack of RTE membership, and the retail electricity supply cost components in Virginia need to be addressed in order for competition to flourish in Virginia. Therefore, CNE believes that discussions on default service should continue as these barriers to competition are removed over time. CNE states that while there is no reason to foreclose any future possibilities at the present time, as a matter of clarification, CNE notes that it does support the following characteristics for default service: (i) that some elements of default service will need to conform geographically to the incumbent utilities service territory, (ii) that default service needs to be compatible with customer rate classifications, (iii) that meaningful opportunities for competitively bid default service will be difficult until the utilities have been integrated into a RTE, and (iv) that consistency among the competitive procurement processes developed for each utility will promote regulatory and legal efficiencies and promote competition.

Consumer Counsel generally endorses the Staff Report and supports Staff's recommendations. Consumer Counsel states

that given the currently negligible amount of competition in Virginia, the Report's simplistic, yet flexible, approach best serves consumers and the public interest. Further, according to Consumer Counsel, the bundled service approach will minimize customer confusion regarding the provision of default services, and it agrees that the Commission should not foreclose the possibility that it may be advantageous in the future to alter the components of default service.

DVP also supports the Staff's recommendations. DVP agrees with the Staff's observations and believes that the bundled default service model proposed by the Staff would achieve the stated objectives of simplicity and flexibility. Further, for purposes of conducting a competitive default service program, DVP believes this model would provide a consistent basis for bidders to submit, and for the Commission to evaluate, bids in response to an RFP for default service. DVP agrees with Staff, however, that as the market develops, the benefits and costs of unbundling or otherwise modifying the components of default service should be periodically evaluated. DVP also agrees that, until a competitive default service program becomes feasible and competitive suppliers are willing and able to submit competitive bids for default service, incumbent utilities should provide default service at capped rates during the rate cap period, as provided in the Act, effective January 1, 2004. DVP notes that its proposed competitive bid supply service pilot program will provide valuable insight into potential issues that may arise in the competitive bidding process for default service and will assist the Commission in developing rules and guidelines for a competitive default service bidding process. Also in its comments, DVP reiterates its position and further argues that the Act does not provide for a wholesale model for default service during the rate cap period.

The Steering Committee also agrees with Staff's recommendations. However, the Steering Committee interprets the Staff's second recommendation to extend default service to the Commonwealth and its municipalities to the extent that such entities are "retail customers", as defined by the Act.

NOW THE COMMISSION, having considered § 56-585 of the Code of Virginia and all other applicable statutes and rules, the Staff Report, and all comments received by interested parties and work group participants, finds that the Staff's recommendations are reasonable and should be adopted.

We believe the Staff's recommendations are consistent with the early stage of competitive retail and wholesale market development in Virginia, yet permit flexibility if the composition of the market changes in the future. We expect the establishment of a default service model to be an evolutionary process, one that will require the continued assistance of the work group and other interested parties. As the Staff continues its investigation, we encourage them and others to explore the various default service models adopted by other states, and draw on any experience gained from DVP's proposed competitive bid supply service pilot program, if approved by this Commission.

We also note that § 56-585 F of the Act assigns both the obligation and the right to each distribution electric cooperative, or one or more of its affiliates, to supply default services in its certificated service territory at capped rates

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during the capped rate period, and at the cooperative's prudently incurred cost thereafter.

Finally, we reserve judgment on the Steering Committee's interpretation of the Staff's second recommendation pending the receipt of comments from interested parties on that issue. The Staff Report did not address the application of § 56-585 to the Commonwealth and its municipalities, and the Steering Committee first raised this issue in its comments on the Staff Report. We request interested parties to respond to the Steering Committee's comments, and permit the Steering Committee to reply to any responses filed. Specifically, interested parties should comment on (i) whether the Commonwealth and its municipalities are "retail customers", as defined by the Act, and are entitled to default service pursuant to § 56-585 of the Code of Virginia,² and (ii) if so, how the Commission should determine default service rates for this class of customers.

Accordingly, IT IS ORDERED THAT:

(1) On January 1, 2004, and until modified by future order of this Commission, the components of default service shall include all elements of Electricity Supply Service as defined by the Commission's Rules Governing Retail Access to Competitive Energy Services.

(2) On January 1, 2004, and until modified by future order of this Commission, Appalachian Power Company, Delmarva Power & Light Company, The Potomac Edison Company, and Virginia Electric and Power Company shall provide default service to all retail customers requiring such service within their respective service territories under the rates, terms, and conditions of capped rate Electricity Supply Service.

(3) Pursuant to § 56-585 F of the Act, each distribution electric cooperative, or one or more of its affiliates, shall supply default services in its certificated service territory at capped rates during the capped rate period, and at the cooperative's prudently incurred cost thereafter.

(4) On or before August 4, 2003, interested parties may respond to the Steering Committee's comments of May 16, 2003 on the Staff Report. Such comments shall address (i) whether the Commonwealth and its municipalities are "retail customers", as defined by the Act, and are entitled to default service pursuant to § 56-585 of the Code of Virginia, and (ii) if so, how the Commission should determine default service rates for this class of customers. The Steering Committee may reply to any responses filed on or before August 13, 2003.

(5) This matter shall be continued generally for further orders of the Commission.

² We note that the Steering Committee cites § 56-581 C of the Code of Virginia as support for its position that the Commonwealth and its municipalities are entitled to default services pursuant to § 56-585 of the Code of Virginia. Section 56-581 C of the Code of Virginia provides that "[e]xcept for the provision of default services under § 56-585 or emergency services in § 56-586, nothing in this chapter shall authorize the Commission to regulate the rates or charges for electric service to the Commonwealth and its municipalities."

AN ATTESTED COPY hereof shall be sent by the Clerk of the Commission to all persons on the official Service List in this matter. The Service List is available from the Clerk of the State Corporation Commission, c/o Document Control Center, 1300 East Main Street, First Floor, Tyler Building, Richmond, VA 23219.

Agency Contact: Please refer any questions regarding this order to Allison L. Held, Office of General Counsel, State Corporation Commission, P.O. Box 1197, Richmond, VA 23218, telephone (804) 371-9056, or e-mail aheld@scc.state.va.us.

* * * * *

REGISTRAR'S NOTICE: The memorandum of agreement and guidance document that are referenced in the following order are not being published; however, the documents may be obtained from the contact person listed below.
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AT RICHMOND, JULY 30, 2003

IN THE MATTER OF

Receiving comments on a draft memorandum of agreement between the State Water Control Board and the State Corporation Commission

CASE NO. PUE-2003-00114

ORDER DISTRIBUTING MEMORANDUM OF AGREEMENT

Section 62.1-44.15:5 D 2 of the Code of Virginia ("Code") requires the State Water Control Board ("Board") and the State Corporation Commission ("Commission") to "develop a memorandum of agreement pursuant to §§ 56-46.1, 56-265.2, 56-265.2:1 and 56-580 [of the Code] to ensure that consultation on wetland impacts occurs prior to siting determinations" by the Commission. The Department of Environmental Quality ("Department") is acting on behalf of the Board for this matter. On March 18, 2003, on behalf of the Department and the Commission, the Commission issued an Order inviting interested persons or entities to submit comments on a draft memorandum of agreement, which was affixed to the Order as Attachment A. The Order also noted that the Department and the Commission would consider such comments and enter into a final memorandum of agreement.

Written comments were filed jointly by Virginia Electric and Power Company and Dominion Transmission, Inc. (collectively, "Dominion Companies"), and by Old Dominion Electric Cooperative ("Old Dominion"). The final memorandum of agreement entered into by the Department and the Commission is attached to today's Order. On behalf of the Department and the Commission, this Order discusses certain issues raised in the comments and the modifications reflected in the final memorandum of agreement attached hereto.

Paragraph 4 of the memorandum of agreement requires the Department to submit certain information to the Commission no later than sixty (60) days after receipt of the complete wetland impacts analysis information from the applicant. The Dominion Companies request that this time period be clarified as sixty (60) "calendar" days. This change is reflected in the final memorandum of agreement.

Pursuant to paragraph 3 of the memorandum of agreement, the Appendix to the agreement is a Guidance Document that provides guidance on the information the Department has determined it may need in order to conclude its Wetland Impacts Consultation. The Dominion Companies request that the Guidance Document be clarified to apply specifically to alternatives "considered by the applicant." The Dominion Companies state that this would ensure the Department considers only alternatives offered by the applicant, resulting in a more efficient and cost effective consultation process. This change is reflected in the Guidance Document.

The Dominion Companies support reviewing wetlands for the applicant's proposed alternatives using the desktop tools described in the Guidance Document. The Guidance Document, however, also states that the applicant may be asked by the Department to "field verify" certain areas for one or more of the proposed alternatives. The Dominion Companies assert that they typically do not have access to the properties under consideration and, thus, recommend that the Department not require field verification under any circumstances. In this regard, the Guidance Document has been modified to reflect that the Department will request field verification only if appropriate and feasible.

The Guidance Document also requires the applicant to provide a "field delineation" of wetlands and streams for the applicant's preferred alternative. The Dominion Companies state, however, that field delineation should not be required until after the Commission has approved the construction of the facilities. The Dominion Companies contend that utilities typically do not have access to the properties under consideration, and the process of obtaining access through the Circuit Court would be lengthy and expensive and also would cause the owner anxiety for a route that ultimately may not be approved by the Commission. In this regard, the Guidance Document has been modified to require the same level of information for the preferred alternative as for the other alternatives, i.e., a desktop evaluation with field verification only if appropriate and feasible.

In addition, the Guidance Document requires the applicant to submit, for its preferred alternative, documentation from the Department of Game and Inland Fisheries, the Department of Conservation and Recreation Natural Heritage Program, and the Department of Historic Resources. The Dominion Companies argue that this information should not be required as part of the Wetland Impacts Consultation. The Department, however, requires this information to prepare a complete evaluation of the permitting necessary for the preferred alternative for purposes of the Wetland Impacts Consultation. Thus, the Guidance Document has not been modified in this regard.

The Guidance Document also states that documentation from either the affected localities or directly from the Chesapeake

Bay Local Assistance Department regarding any potential impacts to Chesapeake Bay Resource Protection Areas or Resource Management Areas must be submitted if applicable. The Dominion Companies assert that there are no standards provided to assess whether such potential impacts would be relevant to the Wetland Impacts Consultation and, thus, the Department should not accept such documentation. The Department, however, is required to consult with the Chesapeake Bay Local Assistance Department when a proposed activity could impact a designated Chesapeake Bay Protection Area. The Department also requires this information to prepare a complete evaluation of the permitting necessary for the preferred alternative for purposes of the Wetland Impacts Consultation. The Guidance Document further notes that, based on the information provided in this regard, the Department may consult with and consider the comments of the Norfolk District Corps of Engineers and the U.S. Fish and Wildlife Service. In addition, public utility projects, in general, may be exempt from many local Chesapeake Bay ordinances. Thus, the Guidance Document has been clarified to require the above information only if local ordinances are applicable to the project under consideration.

Old Dominion's primary concern relates to the length of time that may be required for the Department to complete the Wetland Impacts Consultation. Old Dominion states that this time could be better used for direct coordination of issues between the applicant and the Department. Similarly, the Dominion Companies express concern regarding potential delays in the Department's development of the Wetland Impacts Consultation. The Department's completion of the Wetland Impacts Consultation may be delayed if the Department does not receive necessary information. The applicant may facilitate this process by working closely with the Department before and after an application is filed with the Commission. Indeed, the Dominion Companies recommend that the memorandum of agreement include a provision allowing the applicant to begin consultation with the Department prior to filing an application with the Commission. We agree with the Dominion Companies that such a procedure should assist the parties and help expedite the Department's review process. Although the draft memorandum of agreement does not prohibit the applicant from working with the Department prior to filing an application with the Commission, the final agreement explicitly references this option as requested by the Dominion Companies.

Finally, Old Dominion states it should be made clear that the process developed under the memorandum of agreement is to be applied to the application for certification of a particular facility, and not to other supporting facilities owned and operated by entities other than the applicant. Section 62.1-44.15:5 D 2 of the Code requires development of the memorandum of agreement "pursuant to §§ 56-46.1, 56-265.2, 56-265.2:1 and 56-580 [of the Code] to ensure that consultation on wetland impacts occurs prior to siting determinations" by the Commission for "[f]acilities and activities of utilities and public service companies." Paragraphs 2 and 3 of the memorandum of agreement recognize that the Department's consultation is triggered when the Commission receives an application for certification of facilities pursuant to §§ 56-46.1, 56-265.2, 56-265.2:1 or 56-580 of the Code. The siting determination by the

General Notices/Errata

Commission is limited to the facilities requested by the applicant for approval. Likewise, the Wetland Impacts Consultation by the Department also will be limited to the facilities requested by the applicant for approval.

Accordingly, this matter is now closed.

AN ATTESTED COPY hereof shall be sent by the Clerk of the Commission to: Robert G. Burnley, Director, Virginia Department of Environmental Quality, P.O. Box 10009, Richmond, Virginia 23240-0009; Jill C. Nadolink, Esquire, Dominion Virginia Power, P.O. Box 26532, Richmond, Virginia 23261; James S. Copenhaver, Esquire, Senior Attorney, Columbia Gas of Virginia, 1809 Coyote Drive, Chester, Virginia 23235; John A. Pirko, Esquire, LeClair Ryan, P.C., 4201 Dominion Boulevard, Suite 200, Glen Allen, Virginia 23060; Ellen Gilinsky, Virginia Department of Environmental Quality, P.O. Box 10009, Richmond, Virginia 23240-0009; C. Meade Browder, Jr., Senior Assistant Attorney General, Division of Consumer Counsel, Office of Attorney General, 900 East Main Street, Second Floor, Richmond, Virginia 23219; and the Commission's Office of General Counsel and Divisions of Energy Regulation, Public Utility Accounting, and Economics and Finance.

Agency Contact: John Dudley, Counsel to the Commission, State Corporation Commission, P.O. Box 1197, Richmond, VA 23218, telephone (804) 371-9778, or e-mail jdudley@scc.state.va.us.

STATE LOTTERY DEPARTMENT

The following Director's Orders of the State Lottery Department were filed with the Virginia Registrar of Regulations on August 4, 2003. The orders may be viewed at the State Lottery Department, 900 E. Main Street, Richmond, Virginia or at the office of the Registrar of Regulations, 910 Capitol Street, 2nd Floor, Richmond, Virginia.

DIRECTOR'S ORDER NUMBER THIRTY (03)

Virginia's Instant Game Lottery 249; "Quick 7's," Final Rules for Game Operation (effective 6/9/03).

DIRECTOR'S ORDER NUMBER THIRTY-SEVEN (03)

Virginia's Instant Game Lottery 253; "Wild Card," Final Rules for Game Operation (effective 7/8/03).

DIRECTOR'S ORDER NUMBER THIRTY-SIX (03)

Virginia's Instant Game Lottery 556; "\$40,000 Cash Bonanza," Final Rules for Game Operation (effective 7/8/03).

DIRECTOR'S ORDER NUMBER THIRTY-ONE (03)

Virginia's Instant Game Lottery 563; "Lucky Loot," Final Rules for Game Operation (effective 6/9/03).

DIRECTOR'S ORDER NUMBER THIRTY-FIVE (03)

Virginia's Instant Game Lottery 564; "15 Grand Years," Final Rules for Game Operation (effective 7/28/03).

DIRECTOR'S ORDER NUMBER TWENTY-SEVEN (03)

Virginia's Instant Game Lottery 569; "Frankencash," Final Rules for Game Operation (effective 5/29/03).

STATE WATER CONTROL BOARD

Proposed Consent Special Orders Commercial Ready Mix Products, Inc. – Franklin Asphalt Roads and Materials, Incorporated Eagle Harbor, L.L.C.

The State Water Control Board proposes to take an enforcement action against Commercial Ready Mix Products, Inc., located in Franklin, VA; Asphalt Roads and Materials, Incorporated, located in Virginia Beach, VA; and Eagle Harbor, L.L.C., located in Isle of Wight County, VA. The enforcement actions are Consent Special Orders that will require the facilities to come into compliance with appropriate Virginia Laws and Regulations. The consent special orders may contain provisions for the payment of civil charges.

The Department of Environmental Quality will receive written comments relating to the Board's proposed consent special orders from August 25, 2003 through September 24, 2003. Comments should be addressed to David S. Gilbert, Department of Environmental Quality - Tidewater Regional Office, 5636 Southern Boulevard, Virginia Beach, Virginia 23462 and should refer to the consent special orders specified above. Comments may also be submitted by email to dsgilbert@deq.state.va.us. In order for email comments to be considered, they must include the sender's name, address and telephone number. The proposed consent special orders may be examined at the above address and copies of the order may be obtained in person, by mail or by email. The proposed consent special orders may also be viewed at www.deq.state.va.us.

Proposed Consent Special Orders John Grier Construction, Inc. James C. Moore Grayco, Inc.

The State Water Control Board proposes to enter into a consent special order with John Grier Construction, Inc., in settlement of a civil enforcement action under the State Water Control Law, regarding a property located in James City County, Virginia.

The State Water Control Board proposes to enter into a consent special order with James C. Moore, in settlement of a civil enforcement action under the State Water Control Law, regarding a property located in the City of Poquoson, Virginia.

The State Water Control Board proposes to enter into a consent special order with Grayco, Inc., in settlement of a civil enforcement action under the State Water Control Law, regarding a property located in Isle of Wight County, Virginia.

The Department of Environmental Quality will receive written comments relating to the Board's proposed consent special orders from August 25, 2003 through September 24, 2003. Comments should be addressed to David S. Gussman, Department of Environmental Quality - Tidewater Regional Office, 5636 Southern Boulevard, Virginia Beach, Virginia 23462 and should refer to an order specified above. Comments may also be submitted by email to

dsgussman@deq.state.va.us. In order for email comments to be considered they must include the sender's name, address and phone number. The order is available at www.deq.state.va.us/enforcement/notifications.html and at the above office during regular business hours. You may also request a copy from David S. Gussman at the address above or by calling him at (757) 518-2179.

Proposed Consent Special Order Mr. Ronald Marshburn

The State Water Control Board proposes to issue a consent special order to Mr. Ronald Marshburn to resolve certain alleged violations of environmental laws and regulations that occurred at his property located on State Route 60 near Providence Forge in New Kent County, Virginia. The proposed order requires that Mr. Marshburn submit a completed after-the-fact VWPP Joint Permit application and pay a civil charge to address noncompliance at his property in New Kent County.

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, VA 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.

Proposed Consent Special Order Rapidan Service Authority Lake of the Woods Sewerage Collection System

The State Water Control Board (board) proposes to issue a Consent Special Order (order) to Rapidan Service Authority (RSA) regarding the Lake of the Woods sewerage collection system (collection system) located in Orange County, Virginia.

The proposed order requires, among other things, that RSA submit to the Department of Environmental Quality an engineering study that evaluates alternatives for minimizing overflows from the collection system. In addition, the order requires that RSA implement interim measures for minimizing any system overflows and hold a public meeting to provide information to interested parties and to answer questions regarding the collection system.

On behalf of the board, the Department of Environmental Quality's Northern Virginia Regional Office will receive comments relating to the order through September 24, 2003. Please address comments to: Elizabeth Anne Crosier, Northern Virginia Regional Office, Department of Environmental Quality, 13901 Crown Court, Woodbridge, VA 22193. Please address comments sent via e-mail to eacrosier@deq.state.va.us. In order to be considered, comments provided by e-mail must include the commenter's name, address, and telephone number. Please write or visit the Woodbridge address, or call (703) 583-3886, in order to obtain or examine a copy of the order.

Proposed Consent Special Order Stafford County Stafford Regional Airport Access Road Project

The State Water Control Board (board) proposes to issue a Consent Special Order (order) to Stafford County (permittee) regarding the Stafford Regional Airport Access Road Project (facility) located in Stafford County, Virginia.

Stafford County is subject to VPDES General Permit No. VAR101686 for the Stafford Regional Airport Access Road Project. The order requires that the permittee achieve final stabilization of the Airport access road site project and file a Notice of Termination of coverage under the General Permit. The permittee has agreed to payment of a civil charge.

On behalf of the board, the Department of Environmental Quality's Northern Virginia Regional Office will receive written comments relating to the order through September 24, 2003. Please address comments to: Susan A. Oakes, Northern Virginia Regional Office, Department of Environmental Quality, 13901 Crown Court, Woodbridge, VA, 22193. Please address comments sent via e-mail to saoakes@deq.state.va.us. In order to be considered, comments provided by e-mail must include the commenter's name, address, and telephone number. Please write or visit the Woodbridge address, or call (703) 583-3863, in order to examine or to obtain a copy of the order.

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

STATE AIR POLLUTION CONTROL BOARD

Title of Regulation: **9 VAC 5-40. Existing Stationary Sources (Rev. J00).**

Publication: 19:24 VA.R. 3521-3535 August 11, 2003.

Correction to Final Regulation:

Page 3529, 9 VAC 5-40-6420 B 1 through 5, change regular type to italics, indicating new language.

Page 3535, change the title of Article 54 as follows:

Article 46 [~~52 54~~]. [*Emission*] Standards [~~of Performance~~] for Large Municipal Waste Combustors (Rule 4-46 [~~52 54~~]).

STATE MENTAL HEALTH, MENTAL RETARDATION AND SUBSTANCE ABUSE SERVICES BOARD

Title of Regulation: **12 VAC 35-105. Rules and Regulations for the Licensing of Providers of Mental Health, Mental Retardation and Substance Abuse Services.**

Publication: 19:24 VA.R. 3557-3565 August 11, 2003.

Correction to Final Regulation:

On page 3558, insert the following notice after the summary:

<p>REGISTRAR'S NOTICE: The proposed regulation was adopted as published in 19:14 VA.R. 2071-2081 March 24, 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.</p>
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CALENDAR OF EVENTS

Symbol Key

- † Indicates entries since last publication of the *Virginia Register*
♿ Location accessible to persons with disabilities
☎ Teletype (TTY)/Voice Designation

NOTICE

Only those meetings which are filed with the Registrar of Regulations by the filing deadline noted at the beginning of this publication are listed. Since some meetings are called on short notice, please be aware that this listing of meetings may be incomplete. Also, all meetings are subject to cancellation and the *Virginia Register* deadline may preclude a notice of such cancellation. If you are unable to find a meeting notice for an organization in which you are interested, please check the Commonwealth Calendar at www.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

† **September 3, 2003 - 11:30 a.m.** -- Open Meeting
Commonwealth Club, 401 West Franklin Street, Richmond, Virginia. ♿ (Interpreter for the deaf provided upon request)

A meeting of the Executive Committee to discuss routine board matters including strategic planning, budgeting, staffing, board deadlines, committee structure, and goals and objectives.

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) 367-9573/TTY ☎, e-mail boa@boa.state.va.us.

† **September 25, 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 general business matters requiring board action. A public comment period will be held at the beginning of the meeting. All meetings are subject to cancellation. The time of the meeting is subject to change. Any person desiring to attend the meeting and requiring special accommodations or interpreter services should contact the board at (804) 367-8505 or TTY (804) 367-9753 at least 10 days prior to the meeting so suitable arrangements can be made. The board fully complies with the Americans with Disabilities Act.

Contact: Nancy Taylor Feldman, Executive Director, Board of Accountancy, 3600 W. Broad St., Suite 696, Richmond, Virginia 23230, telephone (804) 367-8505, FAX (804) 367-2174, (804) 367-9753/TTY ☎, e-mail boa@boa.state.va.us.

* * * * *

October 31, 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 Board of Accountancy intends to repeal regulations entitled **18 VAC 5-30, Continuing Professional Education Sponsor Registration Rules and Regulations**. The purpose of the proposed action is to repeal the existing regulations because the board deemed them no longer necessary to fulfill their statutory mandate, as well as being repetitious and unnecessarily burdensome on continuing professional education sponsors in the Commonwealth in light of programs on the national level.

Statutory Authority: §§ 54.1-4403 and 54.1-4410 of the Code of Virginia.

Contact: Nancy Taylor Feldman, Executive Director, Board of Accountancy, 3600 W. Broad St., Suite 696, Richmond, Virginia 23230, telephone (804) 367-8505, FAX (804) 367-2174, (804) 367-9753/TTY ☎, e-mail boa@boa.state.va.us.

COMMONWEALTH COUNCIL ON AGING

September 4, 2003 - 9 a.m. -- Open Meeting
Department for the Aging, 1600 Forest Avenue, Suite 102, Richmond, Virginia. ♿ (Interpreter for the deaf provided upon request)

A regular business meeting of the Public Relations Committee.

Contact: Robin Brannon, Communications Director, Department for the Aging, 1600 Forest Ave., Suite 102, Richmond, VA 23229, telephone (804) 662-9323.

September 4, 2003 - 10 a.m. -- Open Meeting
Department for the Aging, 1600 Forest Avenue, Suite 102, Richmond, Virginia. ♿ (Interpreter for the deaf provided upon request)

A regular business meeting of the council. Public comments are welcome.


Contact: Marsha Mucha, Department for the Aging, 1600 Forest Ave., Suite 102, Richmond, VA 23229, telephone (804) 662-9312.

Calendar of Events


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.

BOARD OF AGRICULTURE AND CONSUMER SERVICES

September 26, 2003 - 9 a.m. -- Open Meeting

Department of Agriculture and Consumer Services, Washington Building, 1100 Bank Street, Suite 211, Richmond, Virginia. 

A meeting to discuss issues related to Virginia agriculture and consumer services. The board will entertain public comment at the conclusion of all other business for a period not to exceed 30 minutes. Any person who needs any accommodation in order to participate at the meeting should contact Roy Seward at least five days before the meeting date so that suitable arrangements can be made.

Contact: Roy Seward, Board Secretary, Department of Agriculture and Consumer Services, Washington Bldg., 1100 Bank St., Richmond, VA 23219, telephone (804) 786-3538, FAX (804) 371-2945, e-mail jknight@vdacs.state.va.us.

DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES

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.

October 16, 2003 - 9 a.m. -- Public Hearing


City Council Chambers, City Hall, 715 Princess Anne Street, Fredericksburg, Virginia. 

A public hearing on proposed amendments to 2 VAC 20-30, Regulations Governing the Pesticide Fees Charged by the Department of Agriculture and Consumer Services Under the Virginia Pesticide Control Act.

Contact: Marvin A. Lawson, Director, Department of Agriculture and Consumer Services, Washington Bldg., 1100 Bank St.; Room 401, Richmond, VA 23219, telephone (804) 786-3534, FAX (804) 786-5112, toll-free (800) 552-9963, (800) 828-1120/TTY , e-mail mlawson@vdacs.state.va.us.

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 Irish Potato Board

† **September 2, 2003 - 7 p.m.** -- Open Meeting

Sunset Beach Restaurant, U.S. Route 13, Kiptopeake, Virginia. 

The board will discuss promotion, research, and education programs. The board will review the annual budget, and discuss the preliminary results of the programs funded by the board. The board will review and potentially approve

minutes of the last meeting. In addition, the board will review its FY02 financial statement. 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: Butch Nottingham, Program Manager, Virginia Irish Potato Board, P.O. Box 26, Onley, VA 23418, telephone (757) 787-5867, FAX (757) 787-5973.

STATE AIR POLLUTION CONTROL BOARD

† **September 4, 2003 - 7 p.m.** -- Public Hearing
James River Community Center, 8901 Pocahontas Trail (Route 60), James City County, Virginia. ☎

A public hearing to receive comments on a proposed permit for James City Energy Park, LLC to build a merchant electric generating facility in James City County. The public comment period will close on September 19, 2003.

Contact: Laura D. Corl, Department of Environmental Quality, 5636 Southern Blvd., Virginia Beach, VA 23462, telephone (757) 518-2178, e-mail ldcorl@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.

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.

Calendar of Events


ALCOHOLIC BEVERAGE CONTROL BOARD

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
November 10, 2003 - 9 a.m. -- Open Meeting
† November 24, 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.


ALZHEIMER'S DISEASE AND RELATED DISORDERS COMMISSION

September 12, 2003 - 10 a.m. -- Open Meeting
Department for the Aging, 1600 Forest Avenue, Richmond, Virginia.  (Interpreter for the deaf provided upon request)

A regular meeting.

Contact: Janet L. Honeycutt, Director of Grant Operations, Alzheimer's Disease and Related Disorders Commission, 1600 Forest Ave., Suite 102, Richmond, VA, telephone (804) 662-9333, FAX (804) 662-9354, toll-free (800) 554-3402, (804) 662-9333/TTY , e-mail jlhoneycutt@vdh.state.va.us.

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

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.


ART AND ARCHITECTURAL REVIEW BOARD

September 5, 2003 - 10 a.m. -- Open Meeting
October 3, 2003 - 10 a.m. -- Open Meeting
November 7, 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, Room 221, Richmond, VA 23219, telephone (804) 643-1977, FAX (804) 643-1981, (804) 786-6152/TTY , e-mail rlfia@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.

† September 11, 2003 - 10 a.m. -- Open Meeting
Department of Professional and Occupational Regulation, 3600 West Broad Street, 4th Floor, Room 453, Richmond, Virginia. 

An informal fact-finding conference.

Contact: David Dick, Assistant Director, Virginia Board for Asbestos, Lead, and Home Inspectors, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-8595, FAX (804) 367-2475, (804) 367-9753/TTY , e-mail asbestos@dpor.state.va.us.

COMPREHENSIVE SERVICES FOR AT-RISK YOUTH AND FAMILIES

State Executive Council


August 27, 2003 - 9 a.m. -- Canceled
September 24, 2003 - 9 a.m. -- Open Meeting
October 29, 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 FOR BARBERS AND COSMETOLOGY

September 15, 2003 - 8:30 a.m. -- Open Meeting
Department of Professional and Occupational Regulation,
3600 West Broad Street, Richmond, Virginia. 

A general business meeting including consideration of regulatory issues as may be presented on the agenda. Public comment will be heard at the beginning of the meeting. Persons desiring to participate in the meeting and requiring special accommodations or interpreter services should contact the department at least 10 days prior to the meeting so that suitable arrangements can be made. The department fully complies with the Americans with Disabilities Act.

Contact: William H. Ferguson, II, Executive Director, Board for Barbers and Cosmetology, 3600 W. Broad St., Richmond, VA 23230-4917, telephone (804) 367-8590, FAX (804) 367-6295, (804) 367-9753/TTY , e-mail barbercosmo@dpor.state.va.us.


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† **September 15, 2003 - 3 p.m.** -- Public Hearing
Department of Professional and Occupational Regulation,
3600 West Broad Street, Richmond, Virginia. 


October 24, 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 Board for Barbers and Cosmetology intends to adopt regulations entitled **18 VAC 41-40, Wax Technician Regulations**. The purpose of the proposed action is to promulgate regulations governing the licensure and practice of wax technicians under the Board for Barbers and Cosmetology as directed by Chapter 797 of 2002 Acts of the Assembly.

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

Contact: William H. Ferguson, II, Executive Director, Board for Barbers and Cosmetology, 3600 W. Broad St., Richmond, VA 23230-4917, telephone (804) 367-8590, FAX (804) 367-6295, (804) 367-9753/TTY , e-mail barbercosmo@dpor.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)

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.

October 14, 2003 - 1 p.m. -- Open Meeting
Department for the Blind and Vision Impaired, 397 Azalea Avenue, Richmond, Virginia.  (Interpreter for the deaf provided upon request)


The board will review information regarding activities and operations of the department, review expenditures from board endowment fund, and discuss other issues raised for the board members.

Contact: Katherine C. Proffitt, Administrative Staff Assistant, Department for the Blind and Vision Impaired, 397 Azalea Ave., Richmond, VA 23227, telephone (804) 371-3145, FAX (804) 371-3157, toll-free (800) 622-2155, (804) 371-3140/TTY , e-mail proffikc@dbvi.state.va.us.

Statewide Rehabilitation Council for the Blind


September 13, 2003 - 10 a.m. -- Open Meeting
Administrative Headquarters, 397 Azalea Avenue, Richmond, Virginia.  (Interpreter for the deaf provided upon request)

A quarterly meeting to advise the department on matters related to vocational rehabilitation services for the blind and visually impaired citizens of the Commonwealth.

Contact: James G. Taylor, VR Program Director, Department for the Blind and Vision Impaired, 397 Azalea Ave., Richmond, VA 23227, telephone (804) 371-3111, FAX (804) 371-3390, toll-free (800) 622-2155, (804) 371-3140/TTY , e-mail taylorjg@dbvi.state.va.us.

DEPARTMENT OF BUSINESS ASSISTANCE

Small Business Advisory Board

† **September 29, 2003 - 10 a.m.** -- Open Meeting
Department of Business Assistance, 707 East Main Street, Suite 300, Board Room, Richmond, Virginia. 

A meeting to conduct general business of Small Business Advisory Board.

Contact: Wayne K. Waldrop, Director, Existing Business Services, Department of Business Assistance, P.O. Box 446, Richmond, VA 23218-0446, telephone (804) 371-8228, FAX (804) 371-2142, toll-free (866) 248-8814, e-mail wwaldrop@dba.state.va.us.

CEMETERY BOARD

† **October 7, 2003 - 9 a.m.** -- Open Meeting
November 5, 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,

Calendar of Events

telephone (804) 367-8537, FAX (804) 367-2475, (804) 367-9753/TTY ☎, e-mail oneal@dpor.state.va.us.

CHARITABLE GAMING BOARD

† **September 9, 2003 - 1 p.m.** -- Open Meeting
General Assembly Building, 9th and Broad Streets, House Room C, Richmond, Virginia. ♿

The first meeting of the new board. The agenda will be posted at a later date.

Contact: Frances C. Jones, Administrative Staff Assistant, Charitable Gaming Board, 101 N. 14th St., 17th Floor, Richmond, VA 23219, telephone (804) 786-3014, FAX (804) 786-1079, e-mail fjones@dcg.state.va.us.

CHESAPEAKE BAY LOCAL ASSISTANCE BOARD

August 26, 2003 - 10 a.m. -- Open Meeting
Chesapeake Bay Local Assistance Department, James Monroe Building, 101 North 14th Street, 17th Floor, Conference Room, Richmond, Virginia. ♿ (Interpreter for the deaf provided upon request)

A meeting of the Policy Committee to consider final drafts of 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; and a "Riparian Buffers Guidance Manual." The Committee will consider recommending these guidance documents for approval by the full Board at their September 15, 2003, quarterly meeting. 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.

† **September 15, 2003 - 10 a.m.** -- Open Meeting
Chesapeake Bay Local Assistance Department, James Monroe Building, 101 North 14th Street, Conference Room C, Main Level, Richmond, Virginia. ♿ (Interpreter for the deaf provided upon request)

The board will conduct general business, including review of local Chesapeake Bay Preservation Area programs. 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.

STATE CHILD FATALITY REVIEW TEAM

September 12, 2003 - 10 a.m. -- Open Meeting
† **November 14, 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.

STATE BOARD FOR COMMUNITY COLLEGES

† **September 10, 2003 - 1:30 p.m.** -- Open Meeting
Virginia Community College System, James Monroe Building, 101 North 14th Street, 15th Floor, Richmond, Virginia. ♿ (Interpreter for the deaf provided upon request)

Meetings of the Academic and Student Affairs Committee, the Audit Committee, and the Budget and Finance Committee. Meetings of the Facilities and the Personnel Committees will be held at 3 p.m.

Contact: D. Susan Hayden, Director of Public Relations, State Board for Community Colleges, VCCS, 101 N. 14th St., 15th Floor, Richmond, VA 23219, telephone (804) 819-4961, FAX (804) 819-4768, (804) 371-8504/TTY ☎

† **September 11, 2003 - 8:30 a.m.** -- Open Meeting
James Monroe Building, Godwin-Hamel Board Room, 101 North 14th Street, 15th Floor, Richmond, Virginia. ♿ (Interpreter for the deaf provided upon request)

A regular meeting. Public comment may be received at the beginning of the meeting upon notification at least five working days prior to the meeting.

Contact: D. Susan Hayden, Director of Public Relations, State Board for Community Colleges, VCCS, 101 N. 14th St., 15th Floor, Richmond, VA, telephone (804) 819-4961, FAX (804) 819-4768, (804) 371-8504/TTY ☎

COMPENSATION BOARD


September 17, 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


Breaks Interstate Park Commission

† **September 11, 2003 - 1 p.m.** -- Open Meeting
Rhododendron Restaurant, Breaks Interstate Park, Breaks, 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.

Virginia Cave Board

September 13, 2003 - 1 p.m. -- Open Meeting
Radford University, Heth Student Center, Blue Ridge Conference Room, 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.

Virginia Soil and Water Conservation Board

† **September 18, 2003 - 9 a.m.** -- Open Meeting
Natural Resources Conservation Service, 1606 Santa Rosa 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.

† **September 26, 2003 - 1 p.m.** -- Open Meeting
Natural Resources Conservation Service, 1606 Santa Rosa Road, Richmond, Virginia. 


Continued committee discussion of the Subcommittee on the Future of Districts.


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

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
October 29, 2003 - 1:30 p.m. -- Open Meeting
November 4, 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.

October 8, 2003 - 9 a.m. -- Open Meeting
† **November 19, 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.

† **September 16, 2003 - 9 a.m.** -- Open Meeting
October 28, 2003 - 9 a.m. -- Open Meeting
October 29, 2003 - 1:30 p.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)

Calendar of Events

367-0194, (804) 367-9753/TTY ☎, e-mail martin@dpor.state.va.us.

October 29, 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.

BOARD OF CORRECTIONS

September 16, 2003 - 10 a.m. -- Open Meeting
Department of Corrections, 6900 Atmore Drive, Board Room, Richmond, Virginia. ♿

A meeting of the Liaison Committee to discuss correctional matters that may be presented to the board.

Contact: Barbara Woodhouse, Administrative Staff Assistant, Board of Corrections, 6900 Atmore Dr., Richmond, VA 23225, telephone (804) 674-3124, FAX (804) 674-3509, e-mail woodhousebl@vadoc.state.va.us.

September 16, 2003 - 1 p.m. -- Open Meeting
Department of Corrections, 6900 Atmore Drive, Board Room, Richmond, Virginia. ♿

A meeting of the Correctional Services/Policy and Regulations Committee to discuss correctional matters to be presented to the board.

Contact: Barbara Woodhouse, Administrative Staff Assistant, Board of Corrections, 6900 Atmore Dr., Richmond, VA 23225, telephone (804) 674-3124, FAX (804) 674-3509, e-mail woodhousebl@vadoc.state.va.us.

September 17, 2003 - 9:30 a.m. -- Open Meeting
Department of Corrections, 6900 Atmore Drive, Room 3065, Richmond, Virginia. ♿

A meeting of the Administration Committee to discuss correctional matters to be presented to the board.

Contact: Barbara Woodhouse, Administrative Staff Assistant, Board of Corrections, 6900 Atmore Dr., Richmond, VA 23225, telephone (804) 674-3124, FAX (804) 674-3509, e-mail woodhousebl@vadoc.state.va.us.

September 17, 2003 - 10 a.m. -- Open Meeting
Department of Corrections, 6900 Atmore Drive, Board Room, Richmond, Virginia. ♿

A meeting to discuss correctional matters presented to the board.

Contact: Barbara Woodhouse, Administrative Staff Assistant, Board of Corrections, 6900 Atmore Drive Richmond, VA 23225, telephone (804) 674-3124, FAX (804) 674-3509, e-mail woodhousebl@vadoc.state.va.us.

CRIMINAL JUSTICE SERVICES BOARD

September 18, 2003 - 11 a.m. -- Open Meeting
General Assembly Building, 9th and Broad Streets, House Room D, Richmond, Virginia. ♿

A general business meeting.

Contact: Melissa Feeley, Assistant to the Director, Criminal Justice Services Board, Eighth St. Office Bldg., 805 E. Broad St., 10th Floor, Richmond, VA 23219, telephone (804) 786-8718, FAX (804) 786-0588, e-mail mfeeley@dcjs.state.va.us.

BOARD OF COUNSELING

† **November 21, 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.

BOARD OF DENTISTRY

August 29, 2003 - 9:30 a.m. -- Open Meeting
† **September 19, 2003 - 9 a.m.** -- Open Meeting
Department of Health Professions, 6603 West Broad Street, 5th Floor, Rooms 1 and 4, Richmond, Virginia. ♿

A special conference committee will hold 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.

† **September 5, 2003 - 9 a.m.** -- Open Meeting
Department of Health Professions, 6603 West Broad Street, 5th Floor, Room 4, Richmond, Virginia. ♿

Orientation for the new board members.

Contact: JeAnne Marshall, Administrative Assistant, Board of Dentistry, 6603 W. Broad St., 5th Floor, Richmond, VA 23230-1712, telephone (804) 662-9906, FAX (804) 662-7246, (804) 662-7197/TTY ☎, e-mail JeAnne.Marshall@dhp.state.va.us.

† **September 11, 2003 - 9 a.m.** -- Open Meeting
Department of Social Services, 730 East Broad Street, Training Room 2, Richmond, Virginia. ♿

A formal hearing. There will be no public comment period.

Contact: JeAnne Marshall, Administrative Assistant, Board of Dentistry, 6603 W. Broad St., 5th Floor, Richmond, VA 23230-

1712, telephone (804) 662-9906, FAX (804) 662-7246, (804) 662-7197/TTY ☎, e-mail JeAnne.Marshall@dhp.state.va.us.

† **September 12, 2003 - 9 a.m.** -- Open Meeting
Department of Social Services, 730 East Broad Street,
Training Room 2, Richmond, Virginia. ♿

A meeting to discuss regular board business. There will be a public comment period at the start of the meeting.

Contact: Sandra Reen, Executive Director, Board of Dentistry, Alcoa Bldg., 6603 W. Broad St., 5th Floor, Richmond, VA 23230-1712, telephone (804) 662-9906, FAX (804) 662-9943, (804) 662-7197/TTY ☎, e-mail sandra_reen@dhp.state.va.us.

DESIGN-BUILD/CONSTRUCTION MANAGEMENT REVIEW BOARD

September 18, 2003 - 11 a.m. -- Open Meeting
October 16, 2003 - 11 a.m. -- Open Meeting
† **November 20, 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.

VIRGINIA ECONOMIC DEVELOPMENT PARTNERSHIP

Board of Directors of the Virginia Economic Development Partnership

† **September 18, 2003 - 11 a.m.** -- Open Meeting
Department of Economic Development, 901 East Byrd Street,
West Tower, 19th Floor, Richmond, Virginia. ♿

A meeting of the Board of Directors to focus on issues pertaining to the Virginia Economic Development Partnership.

Contact: Kimberly M. Ellett, Senior Executive Assistant, Virginia Economic Development Partnership, P.O. Box 798, Richmond, VA 23218, telephone (804) 371-8108, FAX (804) 371-8112, e-mail kellelt@yesvirginia.org.

BOARD OF EDUCATION

September 17, 2003 - 9 a.m. -- Open Meeting
October 22, 2003 - 9 a.m. -- Open Meeting
† **November 19, 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

August 26, 2003 - 7 p.m. -- Open Meeting
Page County Circuit Court Room, 116 South Court Street,
Luray, Virginia. ♿

The first public meeting on the development of a bacteria TMDL for a 19.3-mile segment of Hawksbill Creek in Page County. The General Notice is published in this issue of the Virginia Register. The comment period will close on September 25, 2003.

Contact: Robert Brent, Department of Environmental Quality, P.O. Box 3000, Harrisonburg, VA 22801, telephone (540) 754-7848, FAX (540) 574-7878, e-mail mbrent@deq.state.va.us.

August 27, 2003 - 9 a.m. -- Public Hearing
Department of Environmental Quality, 629 East Main Street,
Richmond, Virginia. ♿

A public hearing on a proposed Commonwealth of Virginia § 111(d)/129 Plan for commercial/industrial solid waste incinerators. The hearing will be held to accept testimony concerning the proposed revision. The proposed revision consists of (i) emission limitations and other regulatory requirements; (ii) an inventory of emissions from affected facilities; and (iii) other supporting documentation. The department is seeking comment on the overall plan, and on the issue of whether any regulations included in the plan should be submitted to U.S. Environmental Protection Agency (EPA) as part of the plan.

Contact: Karen G. Sabasteanski, Department of Environmental Quality, P.O. Box 10009, Richmond, VA 23240, telephone (804) 698-4426, FAX (804) 698-4510, e-mail kgsabastea@deq.state.va.us.

August 27, 2003 - 7 p.m. -- Open Meeting
Arthur L. Hildreth, Jr. Municipal Building, 9418 John Sevier Road, New Market, Virginia. ♿

The first public meeting on the development of bacteria and general standard TMDLs for a 31.18-mile segment of Smith Creek in Rockingham and Shenandoah Counties. The General Notice is published in this issue of the Virginia Register. The public comment period will close on September 26, 2003.

Contact: Robert Brent, Department of Environmental Quality, P.O. Box 3000, Harrisonburg, VA 22801, telephone (540) 754-7848, FAX (540) 574-7878, e-mail mbrent@deq.state.va.us.

Calendar of Events

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.

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 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 11, 2003 - 7 p.m.** -- Open Meeting
Virginia Avenue United Methodist Church, Fellowship Hall, 1901 Virginia Avenue, Bluefield, Virginia. ♿

The first public meeting on the development of a TMDL to address the benthic and bacteria impairments of Bluestone River in Tazewell County. Notice of the public comment period will be published in the Virginia Register on August 25, 2003. The comment period will close on October 14, 2003.

Contact: Nancy T. Norton, Department of Environmental Quality, 355 Deadmore St., Abingdon, VA 24210, telephone (276) 676-4807, FAX (276) 676-4899, e-mail ntnorton@deq.state.va.us.

September 16, 2003 - 9 a.m. -- Open Meeting
Department of Environmental Quality, 629 East Main Street, Richmond, Virginia. ♿

A regular meeting of the Ground Water Protection Steering Committee.

Contact: Mary Ann Massie, Department of Environmental Quality, P.O. Box 10009, Richmond, VA 23240, telephone (804) 698-4042, e-mail mamassie@deq.state.va.us.

† **September 22, 2003 - 7 p.m.** -- Open Meeting
Bland County Board of Education Offices, Route 615, Bastian, Virginia. ♿

The first public meeting on the development of a water quality TMDL for Hunting Camp Creek in Bland County. Notice of the public comment period will be published in the Virginia Register of Regulations on August 25, 2003. The comment period will close on October 24, 2003.

Contact: Nancy T. Norton, Department of Environmental Quality, 355 Deadmore St., Abingdon, VA 24210, telephone (276) 676-4807, FAX (276) 676-4899, e-mail ntnorton@deq.state.va.us.

† **September 23, 2003 - 7 p.m.** -- Open Meeting
Patrick Henry High School Auditorium, 31437 Hillman Highway, Glade Spring, Virginia. ♿

The final public meeting to review and comment on a draft TMDL report for aquatic life for Hutton, Hall/Byers and Cedar Creeks located in Washington County. The notice of public comment will be published in the Virginia Register of Regulations on August 25, 2003. The comment period will close on October 24, 2003.

Contact: Nancy T. Norton, Department of Environmental Quality, 355 Deadmore St., Abingdon, VA 24210, telephone (276) 676-4807, FAX (276) 676-4899, e-mail ntnorton@deq.state.va.us.

Recycling Markets Development Council

† **November 13, 2003 - 10 a.m.** -- Open Meeting
Henrico Training Center, 7701 East Parham Road, Glen Allen, 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 gscoe@deq.state.va.us.

BOARD OF FUNERAL DIRECTORS AND EMBALMERS

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 FOR GEOLOGY

† **November 20, 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

September 24, 2003 - 9 a.m. -- Open Meeting
† **November 19, 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

† **August 28, 2003 - 10 a.m.** -- Open Meeting
Richmond, Virginia area; location to be determined.

September 9, 2003 - 10 a.m. -- Open Meeting
Hampton History Museum, 120 Old Hampton Lane, Hampton, Virginia.

September 23, 2003 - 10 a.m. -- Open Meeting
Northern Virginia area. ♿

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.

* * * * *

† **October 31, 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 Health intends to amend regulations entitled **12 VAC 5-90, Regulations for Disease Reporting and Control**. The purpose of the proposed action is to bring the regulations into compliance with recent changes to the Code of Virginia and with recent changes in the field of communicable disease control and emergency preparedness that need to be implemented to protect the health of the citizens of Virginia. The Regulations for Disease Reporting and Control provide information about what diseases must be reported, who must report them, and how reporting is conducted. The

proposed amendment includes the addition and clarification of several definitions, updates to the reportable disease list and the list of diseases requiring rapid reporting, the addition of a requirement to report diseases that may be due to a biologic agent used as a weapon, the addition of information about how laboratories shall report their inventories of dangerous microbes and pathogens, the addition of a section about the reporting and control of tuberculosis, an update to the list of conditions reportable by laboratories and the tests used to confirm those conditions, and the addition of a requirement for private laboratories to submit designated specimens to the state laboratory for confirmation and further testing. Due to the need for information in order to act to protect the public, an amendment is proposed to require the reporting of diseases within three days instead of seven days.

Statutory Authority: §§ 32.1-12 and 32.1-35 of the Code of Virginia.

Contact: Diane Woolard, Ph.D., M.P.H., Director, Surveillance and Investigation, Department of Health, P.O. Box 2448, Room 113, Richmond, VA 23218, telephone (804) 786-6261, FAX (804) 371-4050 or e-mail dwoolard@vdh.state.va.us.

Biosolids Regulations Advisory Committee

† **September 18, 2003 - 10 a.m.** -- Open Meeting
Natural Resources Building, 900 Natural Resources Drive, Fontaine Research Park, Charlottesville, Virginia. ♿

A meeting of the BURAC to discuss implementation of the Biosolids Use Regulations (12 VAC 5-585) and to consider recommendations for amendments to these regulations. A meeting of the Biosolids Use Information Committee will follow the morning portion of the meeting.

Contact: C. M. Sawyer, Division Director, Department of Health, 1500 E. Main St., Room 109, Richmond, VA 23219, telephone (804) 786-1755, FAX (804) 371-2891, e-mail csawyer@vdh.state.va.us.

Emergency Medical Services Advisory Board

† **November 14, 2003 - 1 p.m.** -- Open Meeting
The Place at Innsbrook, 4036-C Cox Road, Glen Allen, Virginia.

A quarterly meeting of the State EMS Advisory Board.

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

† **November 20, 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.

Calendar of Events

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.

BOARD OF HEALTH PROFESSIONS

† **September 4, 2003 - 10 a.m.** -- Open Meeting
Alcoa Building, 6603 West Broad Street, 5th Floor, Room 2, Richmond, Virginia. ☎

New board member orientation. This is a public meeting; however, public comment will not be received.

Contact: Elizabeth A. Carter, Ph.D., Executive Director, Board of Health Professions, Alcoa Bldg., 6603 W. Broad St., 5th Floor, Richmond, VA 23230-1712, telephone (804) 662-7691, FAX (804) 662-9504, (804) 662-7197/TTY ☎, e-mail elizabeth.carter@dhp.state.va.us.

† **September 4, 2003 - Noon** -- Open Meeting
Alcoa Building, 6603 West Broad Street, 5th Floor, Room 2, Richmond, Virginia. ☎

A general organization meeting. Regulatory review for dialysis technicians. Public comment will be received at the beginning of the meeting.

Contact: Elizabeth A. Carter, Ph.D., Executive Director, Board of Health Professions, Alcoa Bldg., 6603 W. Broad St., 5th Floor, Richmond, VA 23230-1712, telephone (804) 662-7691, FAX (804) 662-7098, (804) 662-7197/TTY ☎, e-mail elizabeth.carter@dhp.state.va.us.

DEPARTMENT OF HEALTH PROFESSIONS

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.

STATE COUNCIL OF HIGHER EDUCATION FOR VIRGINIA

† **September 16, 2003 - 2 p.m.** -- Open Meeting
James Madison University, Harrisonburg, Virginia.

Informal work session only.

Contact: Lee Ann Rung, State Council of Higher Education for Virginia, 101 N. 14th St., Richmond, VA, telephone (804) 225-2602, FAX (804) 371-7911, e-mail LeeAnnRung@schev.edu.

† **September 17, 2003 - 8 a.m.** -- Open Meeting
James Madison University, College Center, Harrisonburg, Virginia.

Agenda materials will be available on the website approximately one week prior to the meeting at www.schev.edu. A public comment period will be allocated on the meeting agenda. To be scheduled, those interested in making public comment should contact the person listed below no later than 5 p.m. three business days prior to the meeting date. At the time of the request, the speaker's name, address and topic must be provided. Each speaker will be given up to three minutes to address SCHEV. Speakers are asked to submit a written copy of their remarks at the time of comment.

Contact: Lee Ann Rung, State Council of Higher Education for Virginia, 101 N. 14th St., Richmond, VA, telephone (804) 225-2602, FAX (804) 371-7911, e-mail LeeAnnRung@schev.edu.

DEPARTMENT OF HISTORIC RESOURCES

Board of Historic Resources and State Review Board

† **September 10, 2003 - 10 a.m.** -- Open Meeting
Valentine History Center, 1015 East Clay Street, Richmond, Virginia. ☎

The boards will consider nominations to the Virginia Landmarks Register and the National Register of Historic Places. They will also consider Historic Preservation Easements and Historic Highway Markers.

Contact: Marc Wagner, National Register Manager, Department of Historic Resources, 2405 Kensington Ave., Richmond, VA 23221, telephone (804) 367-2323, FAX (804) 367-2391, (804) 367-2386/TTY ☎, e-mail mwagner@dhr.state.va.us.

DEPARTMENT OF HUMAN RESOURCE MANAGEMENT

† **October 31, 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 Human Resource Management intends to amend regulations entitled **1 VAC 55-20, Commonwealth of Virginia Health Benefits Program**. The purpose of the proposed action is to conform 1 VAC 55-20 to state and federal law. 1 VAC 55-20 regulates the administration of the health benefit plans offered to state employees and employees of local municipalities who provide health benefit coverage through The Local Choice (TLC) program. These proposed regulations reflect changes made to the Code of Virginia as well as federal laws and regulations that are applicable to the state and TLC program.


Statutory Authority: §§ 2.2-1204 and 2.2-2818 of the Code of Virginia.

Contact: Charles Reed, Associate Director, Department of Human Resource Management, James Monroe Bldg., 101 N.

14th St., Richmond, VA 23219, telephone (804) 786-3214, FAX (804) 371-0231 or e-mail creed@dhrm.state.va.us.

VIRGINIA INFORMATION TECHNOLOGIES AGENCY


Virginia Geographic Information Network Advisory Board

September 4, 2003 - 1:30 p.m. -- Open Meeting
November 6, 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
† November 12, 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
† November 12, 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.

JAMESTOWN-YORKTOWN FOUNDATION


September 10, 2003 - Noon -- Open Meeting
November 5, 2003 - 2 p.m. -- 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.

† November 17, 2003 - 10 a.m. -- Open Meeting
† November 18, 2003 - 8 a.m. -- Open Meeting
Williamsburg Hospitality House, 415 Richmond Road, Williamsburg, Virginia.  (Interpreter for the deaf provided upon request)

Semiannual board and committee meetings. Specific schedule not yet confirmed. Public comment will not be heard.

Contact: Laura W. Bailey, Executive Assistant to the Boards, Jamestown-Yorktown Foundation, P.O. Box 1607, Williamsburg, VA 23187, telephone (757) 253-4840, FAX (757) 253-5299, toll-free (888) 593-4682, (757) 253-7236/TTY , e-mail lwbailey@jyf.state.va.us.

STATE BOARD OF JUVENILE JUSTICE

† October 31, 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 Juvenile Justice intends to adopt regulations entitled **6 VAC 35-170, Minimum Standards for Research Involving Human Subjects or Records of the Department of Juvenile Justice**. The purpose of the proposed action is to establish a process for reviewing and approving research proposals involving human subjects to effectuate the provisions of Chapter 5.1 (§ 32.1-162.16 et seq.) of Title 32.1 of the Code of Virginia, regarding human research.

Statutory Authority: § 66-10.1 of the Code of Virginia.


Contact: Donald R. Carignan, Regulatory Coordinator, Department of Juvenile Justice, P.O. Box 1110, Richmond, VA 23208-1110, telephone (804) 371-0743, FAX (804) 371-0773 or e-mail carigndr@djj.state.va.us.

DEPARTMENT OF LABOR AND INDUSTRY

Virginia Migrant and Seasonal Farmworkers Board

October 29, 2003 - 10 a.m. -- Open Meeting
State Capitol, House Room 1, Richmond, Virginia.  (Interpreter for the deaf provided upon request)

A regular quarterly meeting.

Contact: Betty B. Jenkins, Board Administrator, Department of Labor and Industry, Powers-Taylor Building, 13 S. 13th Street, Richmond, VA 23219, telephone (804) 786-2391, FAX (804) 371-6524, (804) 786-2376/TTY , e-mail bbj@doli.state.va.us.

Safety and Health Codes Board

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**,

Calendar of Events

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.

STATE LIBRARY BOARD

† **September 22, 2003 - 8:15 a.m.** -- Open Meeting
November 17, 2003 - 8:15 a.m. -- Open Meeting
The Library of Virginia, 800 East Broad Street, Richmond, Virginia. ♿

Meetings of the board to discuss matters pertaining to the Library of Virginia and the board. Committees of the board will meet as follows:

8:15 a.m. - Public Library Development Committee, Floor 2M
Publications and Educational Services Committee, Conference Room B;
Records Management Committee

9:30 a.m. - Archival and Information Services Committee
Collection Management Services Committee
Legislative and Finance Committee

10:30 a.m. - Library Board

Contact: Jean H. Taylor, Executive Secretary to the Librarian, The Library of Virginia, 800 E. Broad St., Richmond, VA 23219-2000, telephone (804) 692-3535, FAX (804) 692-3594, (804) 692-3976/TTY ☎, e-mail jtaylor@lva.lib.va.us.

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. ♿

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

Medicaid Physician Advisory Committee

October 14, 2003 - 4 p.m. -- Open Meeting
Department of Medical Assistance Services, 600 East Broad Street, Suite 1300, Richmond, Virginia. ♿

The discussion of physician issues in the Medicaid system.

Contact: Chris Schroeder, Administrative Staff Specialist, Department of Medical Assistance Services, 600 E. Broad St., Suite 1300, Richmond, VA 23219, telephone (804) 371-0552, FAX (804) 371-4981, (800) 343-0634/TTY ☎, e-mail cshroed@dmas.state.va.us.

BOARD OF MEDICINE

Informal Conference Committee

August 28, 2003 - 9 a.m. -- Open Meeting
Holiday Inn Select, 2801 Plank Road, Fredericksburg, Virginia.

NOTE: CHANGE IN MEETING DATE

† **September 3, 2003 - 9 a.m.** -- Open Meeting
Department of Health Professions, 6603 West Broad Street, 5th Floor, Richmond, 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.

DEPARTMENT OF MENTAL HEALTH, MENTAL RETARDATION AND SUBSTANCE ABUSE SERVICES

August 28, 2003 - 10 a.m. -- Open Meeting
Henrico Training Center, 7701 East Parham Road, Richmond, Virginia. ♿ (Interpreter for the deaf provided upon request)

The Olmstead Task Force will hold its final meeting.

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.

September 25, 2003 - 10 a.m. -- Public Hearing
Jefferson Building, 1220 Bank Street, 8th Floor Conference Room, Richmond, Virginia. (Interpreter for the deaf provided upon request)

A public hearing to receive comments on the Virginia Substance Abuse Prevention and Treatment Block Grant Application for Fiscal Year 2004. Copies of the application are available for review at the Office of Substance Abuse, Room 818, Jefferson Building, Richmond, Virginia, and at each community services board office. Comments may be made at the hearing or in writing by no later than September 26, 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 Mellie Randall. Copies of oral presentations should be filed at the time of the hearing.

Contact: Mellie Randall, Office of Substance Abuse, Department of Mental Health, Mental Retardation and Substance Abuse Services, P.O. Box 1797, Richmond, VA 23218, telephone (804) 371-2135, FAX (804) 786-4320, (804) 371-8977/TTY ☎, e-mail mrandall@dmhmrsas.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)

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.

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)

October 11, 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 Board of Coal Mining Examiners intends to amend regulations entitled **4 VAC 25-20, Board of Coal Mining Examiners Certification Requirements**. The purpose of the proposed action is to ensure that miners are certified and perform tasks required to mine coal safely and knowledgeably, to provide for the health and safety of persons and property on or near the mines, to provide a pool of qualified mining employees, and to encourage productive coal mines.

Statutory Authority: §§ 45.1-161.28, 45.1-161.29 and 45.1-161.34 of the Code of Virginia.

Contact: Frank Linkous, Mine Chief, Department of Mines, Minerals and Energy, P.O. Drawer 900, U.S. Route 23 South, Big Stone Gap, VA 24219, telephone (276) 523-8224, (276) 523-8239, FAX (804) 692-3237 or e-mail fal@mme.state.va.us.

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 Board of Coal Mining Examiners 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, Fontaine Research Park, 900 Natural Resources Dr., Charlottesville, VA 22903, telephone (434) 951-6315, FAX (434) 951-6325 or e-mail jds@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)

October 11, 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 adopt regulations entitled **4 VAC 25-125, Regulations Governing Coal Stockpiles and Bulk Storage and Handling Facilities**. The purpose of the proposed action is to meet industry and worker needs to improve worker safety on and around coal handling and storage facilities at coal mine sites. The Regulations Governing Coal Stockpiles and Bulk Storage and Handling

Calendar of Events

Facilities provides worker protection through the implementation of safe working procedures and practices where there were previously none.

Statutory Authority: §§ 45.1-161.3, 45.1-161.106 and 45.1-161.254 of the Code of Virginia.


Contact: Frank Linkous, Mine Chief, Department of Mines, Minerals and Energy, P.O. Drawer 900, U.S. Route 23 South, Big Stone Gap, VA 24219, telephone (276) 523-8224, (276) 523-8239, FAX (804) 692-3237 or e-mail fal@mme.state.va.us.

DEPARTMENT OF MOTOR VEHICLES

August 28, 2003 - 10 a.m. -- Open Meeting

† **September 24, 2003 - 10 a.m.** -- Open Meeting


† **October 23, 2003 - 10 a.m.** -- Open Meeting

Department of Motor Vehicles, 2300 West Broad Street, 7th Floor, Executive Conference Room, Richmond, Virginia. 


A meeting of the Legal Presence Panel.

Contact: Vivian R. Cheatham, Confidential Assistant, Department of Motor Vehicles, 2300 W. Broad St., Richmond, VA 23220, telephone (804) 367-6606, FAX (804) 367-2296, e-mail dmvmrc@dmv.state.va.us.

September 10, 2003 - 8 a.m. -- Open Meeting

Department of Motor Vehicles, 2300 West Broad Street, Richmond Virginia.  (Interpreter for the deaf provided upon request)

A business meeting of the Medical Advisory Board.

Contact: J. C. Branche, R. N., Assistant Division Manager, Department of Motor Vehicles, 2300 W. Broad St., Richmond VA 23220, telephone (804) 497-7188, FAX (804) 367-1604, toll-free (866) 368-5463, (800) 272-9268/TTY , e-mail dmvmj3b@dmv.state.va.us.


VIRGINIA MUSEUM OF FINE ARTS

NOTE: CHANGE IN MEETING DATE


September 9, 2003 - 8 a.m. -- Open Meeting

October 7, 2003 - 8 a.m. -- Open Meeting

November 4, 2003 - 8 a.m. -- Open Meeting


Virginia Museum of Fine Arts, 2800 Grove Avenue, Main Lobby, Conference Room, Richmond, Virginia. 

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 12, 2003 - 10 a.m.** -- Open Meeting

September 17, 2003 - 8 a.m. -- Open Meeting

Virginia Museum of Fine Arts, 2800 Grove Avenue, CEO Building, 2nd Floor Conference Room, Richmond, Virginia. 

The following committees will meet:

Exhibitions - 9 a.m.

Planning - 10 a.m.


Expansion - 12:30 p.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. 

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.

† **November 19, 2003 - 8 a.m.** -- Open Meeting

Virginia Museum of Fine Arts, 2800 Grove Avenue, Richmond, Virginia. 


The following committees will meet:

Finance - 9 a.m. - Main Lobby Conference Room

Collections - 10 a.m. - Auditorium

Expansion - 11 a.m. - CEO Parlor


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

† **September 18, 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. 

† **November 14, 2003 - 3 p.m.** -- Open Meeting

Virginia Museum of Natural History, 1001 Douglas Avenue, Martinsville, Virginia. 

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.

BOARD OF NURSING

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
† November 17, 2003 - 9 a.m. -- Open Meeting
† November 19, 2003 - 9 a.m. -- Open Meeting
† November 20, 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: Jay P. Douglas, M.S.M., C.S.A.C., Executive Director, Board of Nursing, 6603 W. Broad St., 5th Floor, Richmond, VA 23230, telephone (804) 662-9909, FAX (804) 662-9512, (804) 662-7197/TTY , e-mail nursebd@dhp.state.va.us.

September 23, 2003 - 9 a.m. -- Open Meeting
† November 18, 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.

OLD DOMINION UNIVERSITY

† September 11, 2003 - 1:15 p.m. -- Open Meeting
Webb University Center, Old Dominion University, Norfolk, Virginia.

A quarterly meeting of the governing board of the institution to discuss business of the board and the institution as determined by the rector and the president.

Contact: Donna Meeks, Executive Secretary to the Board of Visitors, Old Dominion University, 204 Koch Hall, Old Dominion University, Norfolk, VA 23529, telephone (757) 683-3072, FAX (757) 683-5679, e-mail dmeeks@odu.edu.

BOARD FOR OPTICIANS

September 5, 2003 - 9:30 a.m. -- Open Meeting
Department of Professional and Occupational Regulation,
3600 West Broad Street, Richmond, Virginia.

A general business meeting, which will include consideration of regulatory issues as may be presented on the agenda. Public comment will be heard at the beginning of the meeting. Persons desiring to participate in the meeting and requiring special accommodations or interpreter services should contact the department at least 10 days prior to this meeting so that suitable arrangements can be made. The department fully complies with the Americans with Disabilities Act.

Contact: William H. Ferguson, II, Executive Director, Board for Opticians, 3600 W. Broad St., Richmond, VA 23230-4917, telephone (804) 367-8590, FAX (804) 367-6295, (804) 367-9753/TTY , e-mail opticians@dpor.state.va.us.

VIRGINIA BOARD FOR PEOPLE WITH DISABILITIES

† August 26, 2003 - 9 a.m. -- Open Meeting
Virginia Board for People with Disabilities, 202 North 9th Street, Conference Room, Richmond, Virginia.

New member board orientation.

Contact: Sandra Smalls, Executive Assistant to 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.

† September 09, 2003 - 10 a.m. -- Open Meeting
Independence Center, 6320 North Center Drive, Suite 100, Norfolk, Virginia.

A meeting of the VBPD committee chairs.

Contact: Sandra Smalls, Executive Assistant to 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.

PESTICIDE CONTROL BOARD

October 16, 2003 - 9 a.m. -- Open Meeting
City Council Chambers, City Hall, 715 Princess Anne Street, Fredericksburg, Virginia.

November 26, 2003 - Public comments may be submitted until this date.


Calendar of Events

Notice is hereby given in accordance with § 2.2-4007 of the Code of Virginia that the Pesticide Control Board intends to amend regulations entitled **2 VAC 20-30, Rules and Regulations Governing the Pesticide Fees Charged by the Department of Agriculture and Consumer Services Under the Virginia Pesticide Control Act**. The purpose of the proposed action is to review the regulation for effectiveness and continued need. The proposed regulations set fees for (i) pesticide products offered for sale in the Commonwealth; (ii) commercial pesticide applicators providing pest control services to citizens of the Commonwealth; (iii) registered technician applicators providing pest control services to citizens of the Commonwealth; and (iv) pesticide businesses operating in the Commonwealth. In addition to the fee structure, these regulations establish renewal deadlines and late fees.


Statutory Authority: § 3.1-249.30 of the Code of Virginia.

Contact: Marvin A. Lawson, Director, Pesticide Control Board, 1100 Bank St., Room 401, Richmond, VA 23219, telephone (8904) 786-3534, FAX (804) 786-5112, toll-free 1-800-552-9963, e-mail@vdacs.state.va.us.


BOARD OF PHARMACY

† **September 8, 2003 - 9 a.m.** -- Open Meeting
Department of Health Professions, 6603 West Broad Street, Conference Room 2, 5th Floor, Richmond, Virginia. 


A general business meeting, including consideration of disciplinary matters as presented on the agenda. The public may present comment after the adoption of the agenda and the acceptance of the minutes.

Contact: Elizabeth Scott Russell, RPh, Executive Director, Board of Pharmacy, Alcoa Bldg., 6603 W. Broad St., 5th Floor, Richmond, VA 23230-1712, telephone (804) 662-9911, FAX (804) 662-9313, (804) 662-7197/TTY , e-mail scottirussell@dhp.state.va.us.


POLYGRAPH EXAMINERS ADVISORY BOARD


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 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 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.

† **November 15, 2003 - 10 a.m.** -- Open Meeting
Department of Professional and Occupational Regulation, 3600 West Broad Street, Richmond, Virginia. 

A meeting to discuss proposed wrestling regulations.

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.

VIRGINIA PUBLIC GUARDIAN AND CONSERVATOR ADVISORY BOARD

September 25, 2003 - 10 a.m. -- Open Meeting
1600 Forest Avenue, Suite 102, Richmond, Virginia. ♿

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
† **November 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.

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

† **September 4, 2003 - 1 p.m.** -- Open Meeting
September 17, 2003 - 9 a.m. -- Open Meeting
September 18, 2003 - 9 a.m. -- Open Meeting
† **November 12, 2003 - 9 a.m.** -- Open Meeting
† **November 13, 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)

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: Ilona LaPaglia, Legal Assistant, Department of Professional and Occupational Regulation, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-2394, 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.

REFORESTATION OF TIMBERLANDS BOARD

† **September 23, 2003 - 10 a.m.** -- Open Meeting
Department of Forestry Central Office, 900 Natural Resources Drive Charlottesville, Virginia. ♿

A meeting to review last fiscal year accomplishments and financial records and to discuss plans for the current year.

Contact: Phil T. Grimm, Staff Forester, Department of Forestry, 900 Natural Resources Dr., Suite #800, Charlottesville, VA 22903, telephone (434) 977-6555, FAX (434) 296-2369, e-mail grimmp@dof.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,

Calendar of Events

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@dss.state.va.us.

VIRGINIA RESOURCES AUTHORITY

† **September 2, 2003 - 1 p.m.** -- Open Meeting
Department of Environmental Quality, 629 East Main Street, 1st Floor Conference Room, Richmond, Virginia.

An annual 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 bmcrae@vra.state.va.us.

VIRGINIA SMALL BUSINESS FINANCING AUTHORITY

August 26, 2003 - 11 a.m. -- Open Meeting
Department of Business Assistance, 707 East Main Street, 3rd Floor, Richmond, Virginia. ☎

A meeting to review applications for loans submitted to the authority for approval and general business of the board. Meeting time is subject to change depending upon the agenda of the board.

Contact: Scott E. Parsons, Executive Director, Department of Business Assistance, P.O. Box 446, Richmond, VA 23218-0446, telephone (804) 371-8256, FAX (804) 225-3384, e-mail sparsons@dba.state.va.us.

STATE BOARD OF SOCIAL SERVICES

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.

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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.

DEPARTMENT OF SOCIAL SERVICES

† **September 8, 2003 - 10 a.m.** -- Public Hearing
Department of Social Services, 730 East Broad Street, Richmond, Virginia. ☎

In accordance with the Coats Human Services Reauthorization Act of 1998, the Virginia Department of Social Services is holding a public hearing to receive comments on the Community Services Block Grant State Plan. The plan was submitted to the Office of Community Services in the Administration for Children and Families, Department of Health and Human Services in September 2002. The plan covered the two-year period starting October 1, 2002, and ending September 30, 2004. A legislative public hearing was held to review the plan prior to its submission to the Department of Health and Human Services. The department is again seeking comments on the plan as implementation moves into its second year.

Contact: J. Mark Grigsby, Director of the Office of Community Services, Department of Social Services, 730 E.

Broad St., Richmond, VA 23219, telephone (804) 692-1895, FAX (804) 692-1869.

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 fj900@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.

BOARD FOR PROFESSIONAL SOIL SCIENTISTS AND WETLAND PROFESSIONALS

† **October 10, 2003 - 10 a.m.** -- Public Hearing
Department of Professional and Occupational Regulation, 3660 West Broad Street, 5th Floor, Richmond, Virginia.

October 24, 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 Board for Professional Soil Scientists and Wetland Professionals intends to adopt regulations entitled **18 VAC 145-30, Wetland Delineators Certification Regulations**. The purpose of the proposed action is to promulgate regulations to implement a regulatory program for wetland professionals in accordance with Chapter 784 of the 2002 Acts of Assembly.

Statutory Authority: §§ 54.1-201 and 54.1-2203 of the Code of Virginia.

Contact: Mark N. Courtney, Executive Director, Department of Professional and Occupational Regulation, 3600 W. Broad

St., Richmond, VA 23230-4917, telephone (804) 367-8514, FAX (804) 367-2475 or e-mail SoilScientist@dpor.state.va.us.

DEPARTMENT OF TAXATION

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

September 4, 2003 - 2 p.m. -- Open Meeting

October 2, 2003 - 2 p.m. -- Open Meeting

November 6, 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.

September 10, 2003 - 9:30 a.m. -- Open Meeting

October 8, 2003 - 9:30 a.m. -- Open Meeting

† **November 12, 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.

September 18, 2003 - 3 p.m. -- Open Meeting

October 16, 2003 - 3 p.m. -- Open Meeting

† **November 20, 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

Calendar of Events


23219, telephone (804) 786-9579, FAX (804) 786-9584, e-mail jhunter@gov.state.va.us.

VIRGINIA TOBACCO SETTLEMENT FOUNDATION

† **August 27, 2003 - Noon** -- Open Meeting
701 East Franklin Street, Suite 501, Richmond, Virginia. 

A strategic planning meeting of the Executive Committee.


Contact: Eloise Burke, Senior Executive Assistant, Virginia Tobacco Settlement Foundation, 701 E. Franklin St., Suite 501, Richmond, VA 23219, telephone (804) 786-2523, FAX (804) 225-2272, e-mail eburke@tsf.state.va.us.


† **September 8, 2003 - 10 a.m.** -- Open Meeting
VCU Siegel Center, 1200 West Broad Street, Richmond, Virginia. 

Research grantees report goals for FY04.

Contact: Eloise Burke, Senior Executive Assistant, Virginia Tobacco Settlement Foundation, 701 E. Franklin St., Suite 501, Richmond, VA 23219, telephone (804) 786-2523, FAX (804) 225-2272, e-mail eburke@tsf.state.va.us.


COMMONWEALTH TRANSPORTATION BOARD


September 18, 2003 - 9 a.m. -- Open Meeting
Virginia Port Authority, 600 World Trade Center, Board Room, Norfolk, Virginia. 

† **October 15, 2003 - 1 p.m.** -- Open Meeting
Hampton Inn Col Alto, 401 East Nelson Street, Lexington, 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.


September 18, 2003 - Noon -- Open Meeting
Virginia Port Authority, 600 World Trade Center, Board Room, Norfolk, Virginia. 

† **October 15, 2003 - 4 p.m.** -- Open Meeting
Hampton Inn Col Alto, 401 East Nelson Street, Lexington, Virginia. 

A monthly meeting to vote on proposals presented regarding bids, permits, additions and deletions to the highway system, and any other matters requiring board approval. Public comment will be received at the outset of the meeting on items on the meeting agenda for which the opportunity for public comment has not been afforded the public in another forum. Remarks will be limited to five minutes. Large groups are asked to select one individual to speak for the group. The board reserves the right to amend these conditions. Separate committee meetings may be held on call of the chairman. Contact VDOT Public Affairs at (804) 786-2715 for schedule.

Contact: 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

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.


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.


BOARD FOR WASTE MANAGEMENT FACILITY OPERATORS

October 2, 2003 - 10 a.m. -- Open Meeting
Department of Professional and Occupational Regulation, 3600 West Broad Street, 5th Floor, Richmond, Virginia. 

A meeting to conduct board business.

Contact: David E. Dick, Executive Director, Board for Waste Management Facility Operators, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-8595, FAX (804) 367-2475, (804) 367-9753/TTY , e-mail wastemgt@dpor.state.va.us.

STATE WATER CONTROL BOARD

† **September 8, 2003 - 4 p.m.** -- Public Hearing
Department of Environmental Quality Tidewater Regional Office, 5636 Southern Boulevard, Virginia Beach, Virginia. 

A public hearing to receive comments on the proposed reissuance of a VPDES Permit to the Town of Onancock. The public comment period closes on September 23, 2003.

Contact: Raleigh M. Smith, Department of Environmental Quality, 5636 Southern Blvd., Virginia Beach, VA 23455, telephone (757) 518-2114, FAX (757) 518-2009, e-mail rsmith@deq.state.va.us.

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 ts Haley@deq.state.va.us.

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September 10, 2003 - 2 p.m. -- Public Hearing
Department of Environmental Quality, 4949-A Cox Road, Glen Allen, Virginia.

October 10, 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 Water Control Board intends to amend regulations entitled **9 VAC 25-580, Underground Storage Tanks: Technical Standards and Corrective Action Requirements**. The purpose of the proposed regulation is to incorporate changes in the law and clarify that UST systems that missed the deadline for upgrade must be closed in accordance with the requirements of the regulation.

Statutory Authority: §§ 62.1-44.15 and 62.1-44.44.34:9 of the Code of Virginia.

Contact: Fred Cunningham, Department of Environmental Quality, P.O. Box 10009, Richmond, VA 23240, telephone (804) 698-4285, FAX (804) 698-4266 or e-mail fk Cunningham@deq.state.va.us.

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September 10, 2003 - 2 p.m. -- Public Hearing
Department of Environmental Quality, 4949-A Cox Road, Glen Allen, Virginia.

October 10, 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 Water Control Board intends to adopt regulations entitled **9 VAC 25-770, Financial Responsibility Requirements for Mitigation Associated with Tidal Dredging Projects**. The purpose of the proposed regulation is to establish requirements for demonstrating financial responsibility for the completion of compensatory mitigation requirements for dredging projects in tidal waters permitted under Virginia Water Protection Permit Program and the acceptable mechanisms for making the demonstration.

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

Contact: Ellen Gilinsky, Department of Environmental Quality, P.O. Box 10009, Richmond, VA 23240, telephone (804) 698-4375, FAX (804) 698-4032 or e-mail egilinsky@deq.state.va.us.

BOARD FOR WATERWORKS AND WASTEWATER WORKS OPERATORS

† **September 8, 2003 - 1 p.m.** -- Open Meeting
Department of Professional and Occupational Regulation, 3600 West Broad Street, Richmond, Virginia. ☎

The Qualifying Experience Committee will continue its work to determine whether experience obtained at water and wastewater facilities that are not required to have an operating permit should qualify an applicant for licensure as a waterworks or wastewater works operator.

Contact: David E. Dick, Executive Director, Board for Waterworks and Wastewater Works Operators, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-8595, FAX (804) 367-2475, (804) 367-9753/TTY ☎, e-mail waterwasteoper@dpor.state.va.us.

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) 367-6128, (804) 367-9753/TTY ☎, e-mail waterwasteoper@dpor.state.va.us.

INDEPENDENT

VIRGINIA RETIREMENT SYSTEM

October 16, 2003 - 9 a.m. -- Open Meeting
† **November 20, 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.

† **November 19, 2003 - 3 p.m.** -- Open Meeting
VRS Headquarters, 1200 East Main Street, Richmond, Virginia. ☎

Regular meetings of the following committees:

Investment Advisory - 11 a.m.
Administration and Personnel - 3 p.m.
Benefits and Actuarial - 3 p.m.
Audit and Compliance - 4 p.m.

Calendar of Events

Contact: LaShaunda B. King, Acting 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 lking@vrs.state.va.us.

LEGISLATIVE


VIRGINIA CODE COMMISSION

September 17, 2003 - 10 a.m. -- Open Meeting

October 22, 2003 - 10 a.m. -- Open Meeting

† November 19, 2003 - 10 a.m. -- Open Meeting

† December 17, 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.

VIRGINIA FREEDOM OF INFORMATION ADVISORY COUNCIL


August 27, 2003 - 10:30 a.m. -- Open Meeting

General Assembly Building, 9th and Broad Streets, 2nd Floor, Senate Redistricting Room, Richmond, Virginia.  (Interpreter for the deaf provided upon request)

A Records Exemptions Reorganization Subcommittee meeting. The FOIA Council appointed a subcommittee to consider a reorganization of § 2.2-3705 of the Code of Virginia, the records exemption section of FOIA. Currently, this section contains 87 exemptions from the release of records. As a practical matter, inclusion of this section in any piece of legislation expands the size of the bill by 10 or more pages, while the proposed amendment to this section may be only a few sentences. This makes the bill cumbersome and confusing to the public and legislators alike. The subcommittee will attempt to reorganize this section by identifying categories into which many of the exemptions could be grouped, and making each category a separate section in FOIA. Council members Moncure, Miller, and Axselle were appointed to this subcommittee.

Contact: Lisa Wallmeyer, Assistant Director, Virginia Freedom of Information Advisory Council, 910 Capitol St., General Assembly Building, 2nd Floor, Richmond, VA, telephone (804) 225-3056, FAX (804) 371-0169, toll-free (866) 448-4100, e-mail foiaacouncil@leg.state.va.us.

September 15, 2003 - 2 p.m. -- Open Meeting

General Assembly Building, 9th and Broad Streets, House Room D, Richmond, Virginia.  (Interpreter for the deaf provided upon request)

A regular meeting.


Contact: Lisa Wallmeyer, Assistant Director, Virginia Freedom of Information Advisory Council, 910 Capitol St., General Assembly Building, 2nd Floor, Richmond, VA 23219, telephone (804) 225-3056, FAX (804) 371-0169, toll-free (866) 448-4100, e-mail foiaacouncil@leg.state.va.us.

JOINT COMMISSION ON TECHNOLOGY AND SCIENCE

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


General Assembly Building, 9th and Broad Streets, House Room D, Richmond, Virginia. 

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.

September 16, 2003 - 9:30 a.m. -- Open Meeting

October 21, 2003 - 9:30 a.m. -- Open Meeting


General Assembly Building, 9th and Broad Streets, Senate Room A, Richmond, Virginia.

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.

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.

CHRONOLOGICAL LIST

OPEN MEETINGS

August 25

Agricultural Council, Virginia
 Agriculture and Consumer Services, Department of
 - Virginia Horse Industry Board
 Alcoholic Beverage Control Board

August 26

Agricultural Council, Virginia
 Chesapeake Bay Local Assistance Board
 - Policy Committee
 Contractors, Board for
 Environmental Quality, Department of
 Marine Resources Commission
 Nursing, Board of
 - Special Conference Committee
 † People with Disabilities, Virginia Board for
 Real Estate Appraiser Board
 Small Business Financing Authority, Virginia

August 27

Asbestos, Lead, and Home Inspectors, Virginia Board for
 Environmental Quality, Department of
 Freedom of Information Advisory Council, Virginia
 - Records Exemption Reorganization Subcommittee
 † Tobacco Settlement Foundation, Virginia
 - Executive Committee

August 28

† Governor, Office of the
 - Urban Policy Task Force
 Medicine, Board of
 - Informal Conference Committee
 Mental Health, Mental Retardation and Substance Abuse
 Services, Department of
 Motor Vehicles, Department of

August 29

Dentistry, Board of

September 2

† Agriculture and Consumer Services, Department of
 - Virginia Irish Potato Board
 † Resources Authority, Virginia
 - Board of Directors
 Technology and Science, Joint Commission on
 - Advisory Committee on Cyberlaw

September 3

† Accountancy, Board of
 - Executive Committee
 Medicine, Board of
 - Informal Conference Committee
 Real Estate Board
 - Education Committee
 Technology and Science, Joint Commission on
 - Advisory Committee on Integrated Government

September 4

Aging, Commonwealth Council on
 - Public Relations Committee
 † Health Professions, Board of
 Information Technologies Agency, Virginia
 - VGIN Advisory Board
 Real Estate Board

Technology Services, Council on
 - Executive Committee

September 5

Art and Architectural Review Board
 † Dentistry, Board of
 Environmental Quality, Department of
 - Natural Resources Partnership
 Opticians, Board for

September 8

Alcoholic Beverage Control Board
 † Pharmacy, Board of
 † Social Services, Department of
 † Tobacco Settlement Foundation, Virginia
 † Waterworks and Wastewater Works Operators, Board for
 - Qualifying Experience Committee

September 9

Contractors, Board for
 Funeral Directors and Embalmers, Board of
 † Charitable Gaming Board
 Governor, Office of the
 - Urban Policy Task Force
 Medical Assistance Services, Board of
 Museum of Fine Arts, Virginia
 - Executive Committee
 † People with Disabilities, Virginia Board for
 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
 † Community Colleges, State Board for
 - Academic and Student Affairs Committee
 - Audit Committee
 - Budget and Finance Committee
 - Facilities Committee
 - Personnel Committee
 Funeral Directors and Embalmers, Board of
 † Historic Resources, Department of
 - Board of Historic Resources and State Review Board
 Information Technologies Agency, Virginia
 - Wireless E-911 Services Board
 Jamestown-Yorktown Foundation
 - Jamestown 2007 Executive Committee
 Motor Vehicles, Department of
 - Medical Advisory Board
 Technology Services, Council on
 - Change Management Workgroup

September 11

† Asbestos, Lead, and Home Inspectors, Virginia Board for
 † Community Colleges, State Board for
 † Conservation and Recreation, Department of
 - Breaks Interstate Park Commission
 † Dentistry, Board of
 † Environmental Quality, Department of
 - Water Policy Technical Advisory Committee
 † Old Dominion University
 - Board of Visitors

September 12

Alzheimer's Disease and Related Disorders Commission
 Child Fatality Review Team, State

Calendar of Events

- † Dentistry, Board of
Museum of Fine Arts, Virginia
- Expansion Committee
- September 13**
Blind and Vision Impaired, Department for the
- Statewide Rehabilitation Council for the Blind
Conservation and Recreation, Department of
- Virginia Cave Board
- September 15**
Barbers and Cosmetology, Board for
† Chesapeake Bay Local Assistance Board
Freedom of Information Advisory Council, Virginia
Museum of Natural History, Virginia
- Executive Committee
- September 16**
Contractors, Board for
Corrections, Board of
- Correctional Services/Policy and Regulations Committee
- Liaison Committee
Environmental Quality, Department of
- Ground Water Protection Steering Committee
† Higher Education for Virginia, State Council of
Technology and Science, Joint Commission on
- Advisory Committee on Consumer Protection
- September 17**
Code Commission, Virginia
Compensation Board
Corrections, Board of
- Administration Committee
Education, Board of
† Higher Education for Virginia, State Council 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**
† Conservation and Recreation, Department of
- Virginia Soil and Water Conservation Board
Criminal Justice Services Board
Design-Build/Construction Management Review Board
† Economic Development Partnership, Virginia
- Board of Directors
† Health, Department of
- Biosolids Regulations Advisory Committee
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**
† Dentistry, Board of
- Special Conference Committee
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
† Environmental Quality, Department of
† The Library of Virginia
- Archival and Information Services Committee
- Collection and Management Services Committee
- Legislative and Finance Committee
- Publications and Educational Services Committee
- Public Library Development Committee
- Records Management Committee
Nursing, Board of
Professional and Occupational Regulation, Board for
- September 23**
† Environmental Quality, Department of
Governor, Office of the
- Urban Policy Task Force
Marine Resources Commission
Nursing, Board of
† Reforestation of Timberlands Board
- September 24**
At-Risk Youth and Families, Comprehensive Services for
- State Executive Council
George Mason University
† Motor Vehicles, Department of
Nursing, Board of
- September 25**
† Accountancy, Board of
Nursing, Board of
Public Guardian and Conservator Advisory Board, Virginia
- September 26**
Agriculture and Consumer Services, Board of
† Conservation and Recreation, Department of
- September 29**
† Business Assistance, Department of
- Small Business Advisory Board
Environmental Quality, Department of
- Water Policy Technical Advisory Committee
- September 30**
Contractors, Board for
- October 2**
Technology Services, Council on
- Executive Committee
Waste Management Facility Operators, Board for
- October 3**
Art and Architectural Review Board
- October 7**
† Cemetery Board
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

October 10

Social Services, Department of
- Virginia Commission on National and Community Service

October 14

Alcoholic Beverage Control Board
Blind and Vision Impaired, Board for the
Contractors, Board for
Medical Assistance Services, Department of
- Medicaid Physician Advisory Committee
Nursing, Board of
- Special Conference Committee

October 15

Environmental Quality, Department of
- Water Policy Technical Advisory Committee
Nursing, Board of
- Special Conference Committee
† Transportation Board, Commonwealth

October 16

Design-Build/Construction Management Review Board
Pesticide Control 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

† Motor Vehicles, Department of
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

October 29

At-Risk Youth and Families, Comprehensive Services for
- State Executive Council
Contractors, Board for
- Tradesman and Education Committee
Labor and Industry, Department of
- Virginia Migrant and Seasonal Farmworkers Board

November 4

Contractors, Board for
Museum of Fine Arts, Virginia
- Executive Committee

November 5

Cemetery Board
† Jamestown-Yorktown Foundation
- Jamestown 2007 Executive Committee

November 6

† Information Technologies Agency, Virginia
- Virginia Geographic Information Network Advisory Board
Council on Technology Services
- Executive Committee

November 7

Art and Architectural Review Board

November 10

Alcoholic Beverage Control Board

November 12

† Information Technology Authority, Virginia
- Wireless E-911 Services Board CMRS Subcommittee
† Real Estate Board
† Technology Services, Council on
- Change Management Workgroup

November 13

† Environmental Quality, Department of
- Recycling Markets Development Council
† Real Estate Board

November 14

† Child Fatality Review Team, State
† Health, Department of
- Emergency Medical Services Advisory Board
† Museum of Natural History, Virginia
- Executive Committee

November 15

† Professional and Occupational Regulation, Department of
- Professional Boxing and Wrestling Advisory Task Force

November 17

† Jamestown-Yorktown Foundation
- Board of Trustees
† The Library of Virginia
- Archival and Information Services Committee
- Collection and Management Services Committee
- Legislative and Finance Committee
- Publications and Educational Services Committee
- Public Library Development Committee
- Records Management Committee
† Nursing, Board of

November 18

† Jamestown-Yorktown Foundation
- Board of Trustees

Calendar of Events

- † Nursing, Board of
- † Real Estate Appraiser Board

November 19

- † Code Commission, Virginia
- † Contractors, Board for
- † Education, Board of
- † George Mason University
 - Board of Visitors
- † Museum of Fine Arts, Virginia
 - Collections Committee
 - Expansion Committee
 - Finance Committee
- † Nursing, Board of
- † Retirement System, Virginia
 - Administration and Personnel Committee

November 20

- † Design-Build/Construction Management Review Board
- † Geology, Board for
- † Health, Department of
 - Sewage Handling and Disposal Advisory Committee
- † Nursing, Board of
- † Retirement System, Virginia
- † Technology Services, Council on
 - Security Workgroup

November 21

- † Counseling, Board of

November 24

- † Alcoholic Beverage Control Board

December 17

- † Code Commission, Virginia

PUBLIC HEARINGS

August 26

- Air Pollution Control Board, State

August 27

- Environmental Quality, Department of

August 28

- Professional and Occupational Regulation, Board for

September 4

- † Air Pollution Control Board, State

September 8

- † Water Control Board, State

September 10

- Water Control Board, State

September 15

- † Barbers and Cosmetology, Board for

September 22

- Professional and Occupational Regulation, Board for

September 23

- Mines, Minerals and Energy, Department of

September 25

- Mental Health, Mental Retardation and Substance Abuse Services, Department of

- Mines, Minerals and Energy, Department of

October 1

- Professional and Occupational Regulation, Board for

† October 10

- † Soil Scientists and Wetland Professionals, Board for Professional

October 16

- Agriculture and Consumer Services, Department of
 - Pesticide Control Board