

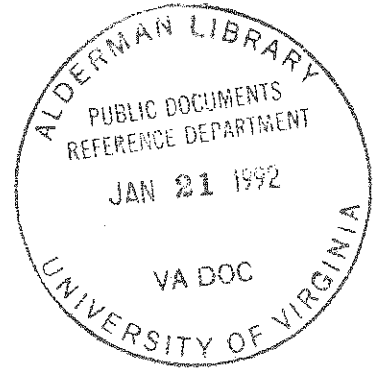
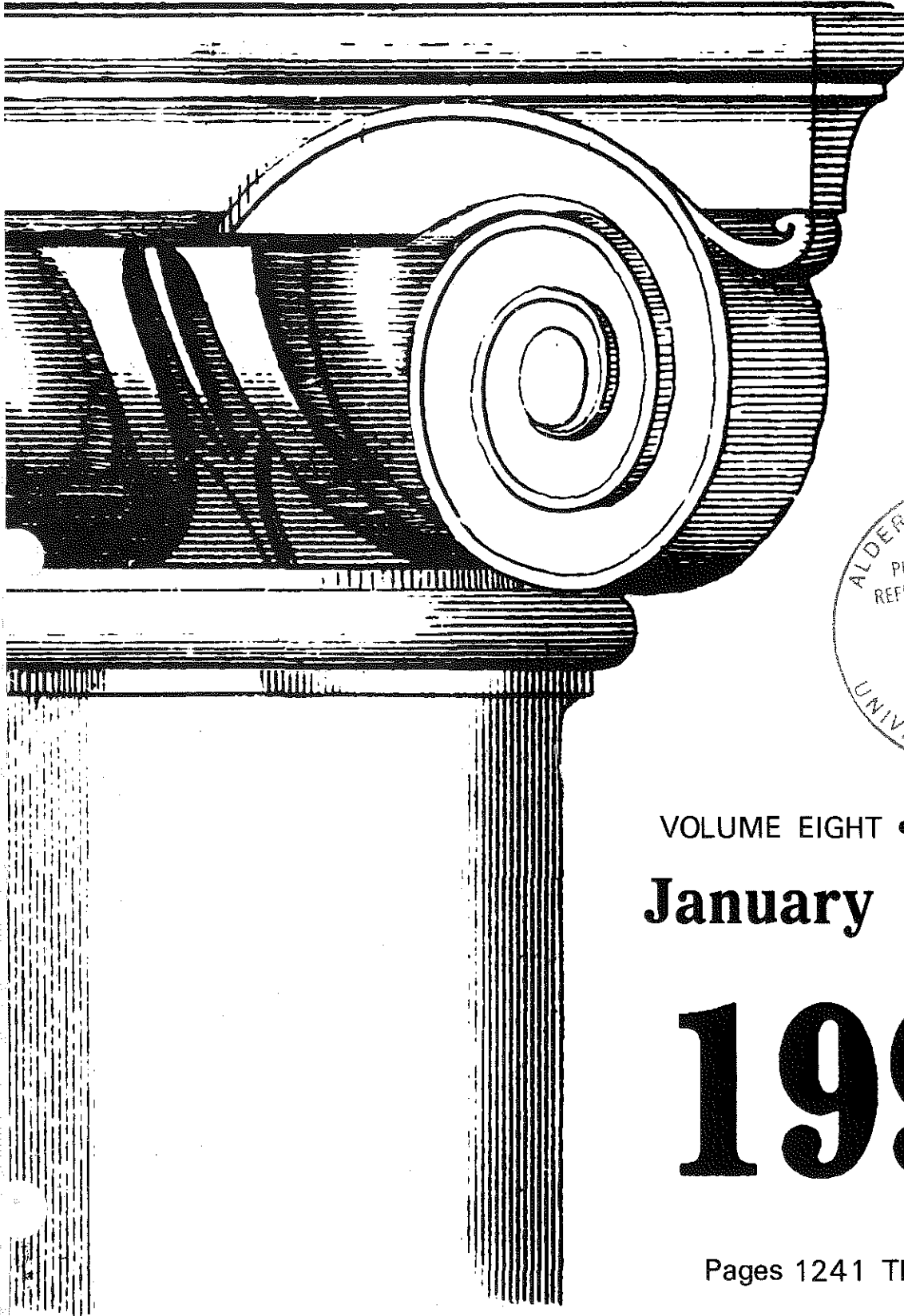
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THE VIRGINIA REGISTER

OF REGULATIONS

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VOLUME EIGHT • ISSUE EIGHT

January 13, 1992

1992

Pages 1241 Through 1382

VIRGINIA REGISTER

The *Virginia Register* is an official state publication issued every other week throughout the year. Indexes are published quarterly, and the last index of the year is cumulative.

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

In addition, the *Virginia Register* is a source of other information about state government, including all Emergency Regulations issued by the Governor, and Executive Orders, the Virginia Tax Bulletin issued periodically by the Department of Taxation, and notices of all public hearings and open meetings of state agencies.

ADOPTION, AMENDMENT, AND REPEAL OF REGULATIONS

An agency wishing to adopt, amend, or repeal regulations must first publish in the *Virginia Register* a notice of proposed action; a basis, purpose, impact and summary statement; a notice giving the public an opportunity to comment on the proposal, and the text of the proposed regulations.

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

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

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

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

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

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

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

A regulation becomes effective at the conclusion of this thirty-day final adoption period, or at any other later date specified by the promulgating agency, unless (i) a legislative objection has been filed, in which event the regulation, unless withdrawn, becomes effective on the date specified, which shall

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

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

EMERGENCY REGULATIONS

If an agency determines that an emergency situation exists, it then requests the Governor to issue an emergency regulation. The emergency regulation becomes operative upon its adoption and filing with the Registrar of Regulations, unless a later date is specified. Emergency regulations are limited in time and cannot exceed a twelve-months duration. The emergency regulations will be published as quickly as possible in the *Virginia Register*.

During the time the emergency status is in effect, the agency may proceed with the adoption of permanent regulations through the usual procedures (See "Adoption, Amendment, and Repeal of Regulations," above). If the agency does not choose to adopt the regulations, the emergency status ends when the prescribed time limit expires.

STATEMENT

The foregoing constitutes a generalized statement of the procedures to be followed. For specific statutory language, it is suggested that Article 2 of Chapter 1.1:1 (§§ 9-6.14:6 through 9-6.14:9) of the Code of Virginia be examined carefully.

CITATION TO THE VIRGINIA REGISTER

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

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July 24	Aug. 12
Aug. 7	Aug. 26
Aug. 21	Sept. 9
Sept. 4	Sept. 23
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† Indicates entries since last publication of the Virginia Register

DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES (BOARD OF)

Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Board of Agriculture and Consumer Services intends to consider amending regulations entitled: **VR 115-02-02. Rules and Regulations Governing the Prevention, Control, and Eradication of Bovine Tuberculosis in Virginia.** The purpose of the proposed action is review the regulation for effectiveness and continued need, including but not limited to: (i) adding provisions to require testing and subjecting to other requirements within the regulation of (a) all classes of bovidae, (b) all cervidae, (c) all capridae, and (d) one variety of antelope, *Antilocapra americana*; (ii) shortening the time to report cases in which tuberculosis is suspected; and (iii) considering alternative ways of disposing of tuberculosis-infected animals.

Statutory Authority: §§ 3.1-724, 3.1-726, 3.1-730 and 3.1-737 of the Code of Virginia.

Written comments may be submitted until January 31, 1992.

Contact: Dr. W.M. Sims, Jr., Acting State Veterinarian, P.O. Box 1163, Richmond, VA 23219, telephone (804) 786-2481 or SCATS (804) 771-2030.

Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Board of Agriculture and Consumer Services intends to consider amending regulations entitled: **VR 115-02-03. Prevention, Control, and Eradication of Brucellosis of Cattle.** The purpose of the proposed action is review the regulation for effectiveness and continued need, including but not limited to: (i) adding provisions to require testing and subjecting to other requirements within the regulation of (a) all classes of bovidae, (b) all cervidae, (c) all capridae, and (d) one variety of antelope, *Antilocapra americana*; (ii) adding specifics as to precisely which cattle must be tested for brucellosis; and (iii) expanding the number and kind of tests that may be used to test for brucellosis.

Statutory Authority: §§ 3.1-724, 3.1-726, 3.1-730 and 3.1-737 of the Code of Virginia.

Written comments may be submitted until January 31,

1992.

Contact: Dr. W.M. Sims, Jr., Acting State Veterinarian, P.O. Box 1163, Richmond, VA 23219, telephone (804) 786-2481 or SCATS (804) 771-2030.

Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Board of Agriculture and Consumer Services intends to consider amending regulations entitled: **VR 115-02-12. Health Requirements Governing the Admission of Livestock, Poultry, Companion Animals and Other Animals or Birds into Virginia.** The purpose of the proposed action is review the regulation for effectiveness and continued need, including but not limited to: (i) adding provisions governing the importation of most varieties of deer and one variety of antelope; (ii) revising the standards governing the importation of psittacine birds; and (iii) repealing the provision requiring South American camelids of the genus *Lama* to be tested for bluetongue.

Statutory Authority: §§ 3.1-724, 3.1-726, 3.1-730 and 3.1-737 of the Code of Virginia.

Written comments may be submitted until January 31, 1992.

Contact: Dr. W.M. Sims, Jr., Acting State Veterinarian, P.O. Box 1163, Richmond, VA 23219, telephone (804) 786-2481 or SCATS (804) 771-2030.

DEPARTMENT OF COMMERCE

Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Department of Commerce intends to consider repealing the existing regulation entitled: **VR 190-05-01. Asbestos Licensing Regulations** and promulgating new regulations entitled: **VR 190-05-1:1. Asbestos Licensing Regulations.** The purpose of the proposed action is to review the entire regulation with special attention to sections pertaining to definitions, project designers, asbestos contractors, the exemption process and the training requirements.

Statutory Authority: § 36-99.7 and Chapter 5 (§§ 54.1-500 through 54.1-517) of Title 54.1 of the Code of Virginia.

Written comments may be submitted until January 18, 1992.

Notices of Intended Regulatory Action

Contact: Nelle Hotchkiss, Assistant Director, Virginia Asbestos Licensing Program, 3600 West Broad Street, Richmond, VA 23230, telephone (804) 367-8595.

DEPARTMENT OF EDUCATION (STATE BOARD OF)

Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Board of Education intends to consider amending regulations entitled: **VR 270-01-0009. Regulations Governing Literary Loan Applications in Virginia.** The purpose of the proposed action is to amend current regulation in order to provide additional literary fund incentives for local school divisions.

Statutory Authority: §§ 22.1-142 through 22.1-161 of the Code of Virginia.

Written comments may be submitted until January 24, 1992.

Contact: Robert L. Aylor, Director, Accounting and Finance, Department of Education, P.O. Box 6Q, Richmond, Virginia 23216-2060, telephone (804) 225-2040.

BOARD OF FUNERAL DIRECTORS AND EMBALMERS

Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Board of Funeral Directors and Embalmers intends to consider amending regulations entitled: **VR 320-01-03. Preneed Funeral Planning Regulations.** The purpose of the proposed action is to add additional regulations and clarification to existing regulations regarding preneed funeral planning in the Commonwealth in response to House Bill 1906.

Statutory Authority: §§ 54.1-2803 and 54.1-2820 of the Code of Virginia.

Written comments may be submitted until January 27, 1992.

Contact: Meredyth P. Partridge, Executive Director, Board of Funeral Directors and Embalmers, 1601 Rolling Hills Drive, Richmond, VA 23229-5005, telephone (804) 662-9907.

VIRGINIA HEALTH SERVICES COST REVIEW COUNCIL

Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Virginia Health Services Cost Review Council intends to consider amending regulations entitled: **VR 370-01-001. Rules and Regulations**

of the Virginia Health Services Cost Review Council. The purpose of the proposed action is to amend § 6.3 of the council's existing regulations to set specific guidelines for when a proposed amendment or modification of a health care institution's current charge schedule is excessive or inadequate.

Statutory Authority: §§ 9-161 D and 9-164 2 of the Code of Virginia.

Written comments may be submitted until February 21, 1992.

Contact: John A. Rupp, Director, 805 E. Broad Street, 6th Floor, Richmond, VA 23219, telephone (804) 786-6371.

DEPARTMENT OF MEDICAL ASSISTANCE SERVICES (BOARD OF)

Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Board of Medical Assistance Services intends to consider promulgating regulations entitled: **Health Insurance Premium Payments.** The purpose of the proposed action is to establish a methodology for determining when it would be cost effective to pay group health insurance premiums as required by OBRA 90 § 4402.

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

Written comments may be submitted until January 13, 1992, to Wayne Kitsteiner, Benefits Control Manager, Division of Client Services, Department of Medical Assistance Services, 600 E. Broad Street, Suite 1300,, Richmond, Virginia 23219.

Contact: Victoria P. Simmons, Regulatory Coordinator, Department of Medical Assistance Services, 600 E. Broad Street, Suite 1300, Richmond, VA 23219, telephone (804) 786-7933.

DEPARTMENT OF STATE POLICE

† Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Department of State Police intends to consider amending regulations entitled: **VR 545-01-00. Motor Vehicle Safety Inspection Rules and Regulations.** The purpose of the proposed action is to permit the use of colored or tinted ventvisors on motor vehicles.

Statutory Authority: §§ 46.2-1002, 46.2-1163 and 46.2-1165 of the Code of Virginia.

Written comments may be submitted until January 31,

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Contact: Captain J. P. Henries, Safety Officer, Department of State Police, Safety Division, P.O. Box C-32008, Richmond, VA 23261, telephone (804) 674-2017.

DEPARTMENTS OF EDUCATION; MENTAL HEALTH, MENTAL RETARDATION AND SUBSTANCE ABUSE SERVICES; SOCIAL SERVICES; AND YOUTH AND FAMILY SERVICES.

Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Departments of Education; Mental Health, Mental Retardation and Substance Abuse Services; Social Services; and Youth and Family Services intends to consider amending regulations entitled: **VR 270-01-0003, 470-02-01, 615-29-02 and 690-40-004. Standards for Interdepartmental Regulation of Residential Facilities for Children.** The purpose of the proposed action is to establish standards to provide children in residential facilities with at least a minimum level of care. The current effort is intended to amend and clarify those sections of standards which address intake and initial service planning (Part V, Articles 1-15). Only those sections of the regulation that address intake and initial service planning will be considered for amendment.

Statutory Authority: §§ 16.1-311, 22.1-321, 37.1-10, 37.1-182, 37.1-189.1, 63.1-25, 63.1-196.4, 66-10 and 66-24 of the Code of Virginia.

Written comments may be submitted until January 30, 1992.

Contact: Rhonda Merhout Harrell, Assistant Coordinator, Office of Coordinator, Interdepartmental Regulation, 8007 Discovery Drive, Richmond, VA 23229-8699, telephone (804) 662-7124.

DEPARTMENT OF TRANSPORTATION (COMMONWEALTH TRANSPORTATION BOARD)

Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Commonwealth Transportation Board intends to consider amending regulations entitled: **VR 385-01-12. Hauling Permit Travel Regulations.** The purpose of the proposed action is to amend § 3.01 (a), (b) and (c) of the Hauling Permit Manual so that the department can participate in a SASHTO multi-state permitting agreement.

Statutory Authority: §§ 33.1-12 (3) and 33.1-12 (10) of the Code of Virginia.

Written comments may be submitted until January 30,

1992, to Mr. W.W. Woodward, Jr., Virginia Department of Transportation, 1401 E. Broad Street, Richmond, VA 23219.

Contact: Mr. R.M. Ketner, III, Permit and Truck Weight Manager, Virginia Department of Transportation, Maintenance Division, 1401 E. Broad Street, Richmond, VA 23219, telephone (804) 786-2810.

DEPARTMENT OF WASTE MANAGEMENT (VIRGINIA WASTE MANAGEMENT BOARD)

Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Virginia Waste Management Board intends to consider amending regulations entitled: **VR 672-10-1. Hazardous Waste Management Regulations.** The purpose of the proposed action is to maintain equivalency between Virginia's program and the federal hazardous waste management program and is in response to changes in the federal rules promulgated between July 1, 1990, and June 30, 1991.

Statutory Authority: § 10.1-1402(11) of the Code of Virginia.

Written comments may be submitted until January 29, 1992.

Contact: Karol A. Akers, Policy and Planning Manager, Department of Waste Management, 101 N. 14th Street, 11th Floor, Monroe Building, Richmond, VA 23219, telephone (804) 225-2966.

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.

DEPARTMENT OF CRIMINAL JUSTICE SERVICES (BOARD OF)

Title of Regulation: VR 240-01-2. Rules Relating to Compulsory In-Service Training Standards for Law-Enforcement Officers, Jailors or Custodial Officers, Courtroom Security Officers, Process Service Officers and Officers of the Department of Corrections, ~~Division of Adult Institutions~~ *Institutional Services* .

Statutory Authority: § 9-170 of the Code of Virginia.

Public Hearing Date: April 1, 1992 - 9 a.m.
(See Calendar of Events section for additional information)

Summary:

The proposed rules seek to create an alternative mechanism to allowing for approval of training programs offered by Virginia certified criminal justice academies thus allowing greater flexibility for chiefs of police, sheriffs and agency administrators to have personnel meet required in-service training standards. Additionally, the proposed rules would allow an officer to attend such training over a 24-month period as opposed to requiring the individual to attend all such training within a 12-month period.

The rules, as proposed, would offer a new alternative firearms qualification course for all criminal justice officers required to carry a firearm in the performance of duty. Such qualification is required annually. The new course would be in addition to optional courses already prescribed within the context of the current regulations.

The regulation, if adopted, is scheduled to become effective July 1, 1992, and thereafter until amended or rescinded.

VR 240-01-2. Rules Relating to Compulsory In-Service Training Standards for Law-Enforcement Officers, Jailors or Custodial Officers, Courtroom Security Officers, Process Service Officers and Officers of the Department of Corrections, ~~Institutional Services~~ .

§ 1. Definitions.

The following words and terms, when used in these regulations, shall have the following meaning, unless the context clearly indicates otherwise.

"Academy director" means the chief administrative

officer of a certified training academy.

"Agency administrator" means any chief of police, sheriff or agency head of a state or local law-enforcement agency, or correctional institution.

"Board" means the Criminal Justice Services Board.

"Certified training academy" means a training school which provides instruction of at least the minimum training standards as mandated by the board and has been approved by the department for the specific purpose of training criminal justice personnel.

"Criminal justice officer" means a law-enforcement officer, jailor or custodial officer, courtroom security officer, process service officer and officers of the Department of Corrections, ~~Division of Adult Institutions~~ *Institutional Services* . Officers of the Department of Corrections, ~~Division of Adult Institutions~~ *Institutional Services* , means a correctional officer, sergeant, lieutenant, captain, major, ~~facility manager, and facility director~~ *assistant superintendent, superintendent, assistant warden, warden, deputy warden, and chief deputy warden* .

"Department" means the Department of Criminal Justice Services.

"Director" means the chief administrative officer of the department.

"School director" means the chief administrative officer of an approved training school.

§ 2. Applicability.

A. Every person employed as a law-enforcement officer, as defined by § 9-169(9) of the Code of Virginia, ~~must~~ *shall* meet compulsory in-service training standards as set forth in subsection A of § 3 of these regulations.

B. Every person employed as a jailor or custodial officer under the provisions of Title 53.1 of the Code of Virginia, ~~must~~ *shall* meet compulsory in-service training standards as set forth in subsection B of § 3 of these regulations.

C. Every person employed as a courtroom security or process service officer under the provisions of Title 53.1 of the Code of Virginia ~~must~~ *shall* meet compulsory in-service training standards as set forth in subsection C of § 3 of these regulations.

Proposed Regulations

D. Every person employed as an officer of the Department of Corrections, Division of Adult Institutions Institutional Services, as defined herein must shall meet compulsory in-service training standards as set forth in subsection D of § 3 of these regulations.

§ 3. Compulsory in-service training standards.

Pursuant to the provisions of subdivisions (1), (3), (5), (6) and (7) of §§ 9-170 of the Code of Virginia, the board establishes the following as the compulsory in-service training standards for law-enforcement officers, jailors or custodial officers, courtroom security officers, process service officers and officers of the Department of Corrections, Division of Adult Institutions Institutional Services .

A. Law-enforcement officers (Testing optional, but strongly encouraged) .

1. Mandatory (testing as set forth in § 7 is optional but strongly encouraged and recommended).

..... Hours

a. 1. Legal training. 4

The subjects selected Subjects to be provided are at the discretion of the approved training school agency administrator or the board of a certified training academy and shall be designated as legal training totaling four hours .

b. Career development. 16

The subjects shall enhance the officer's career in law enforcement and shall total 16 hours.

2. Elective Career development/elective training (testing optional): 20 36

(May include subjects provided in subsections B and C of § 3 of these regulations.

a. Subjects designated as elective training to be provided are at the discretion of the agency administrator or the board of an approved a certified training school academy . No more than four eight hours of firearms training will shall be permitted approved as elective subjects. Firearms training shall be applied as follows:

(1) No more than four hours applied to firearms qualification as provided in § 8 of these rules; and

(2) Remaining hours eligible for situational or decision making training.

b. Mandatory subjects listed in subsections B and C of § 3 may be substituted in lieu of the electives for law-enforcement officers in-service training.

TOTAL 40

B. Jailors or custodial officers. (Testing optional, but strongly encouraged.)

1. Mandatory (testing as set forth in § 7 is optional but strongly encouraged and recommended).

a. 1. Legal training. 4

The subjects selected Subjects to be provided are at the discretion of the approved training school agency administrator or the board of a certified training academy and shall be designated as legal training totaling four hours .

b. Career development. 8

The subjects shall enhance the officer's career as a jailor or custodial officer and shall total eight hours.

2. Elective (testing optional): 12

2. Career development/elective training 20

(May include subjects provided in subsections A and C of § 3 of these regulations.)

a. Subjects designated as elective training to be provided are at the discretion of the agency administrator or the board of an approved a certified training school academy. No more than four eight hours of firearms training will shall be permitted approved as elective subjects. Firearms training shall be applied as follows:

(1) No more than four hours applied to firearms qualification as provided in § 8 of these rules; and

(2) Remaining hours eligible for situational or decision making training.

TOTAL 24

C. Courtroom security officers and process service officers. (Testing is optional, but strongly encouraged.)

1. Mandatory (testing as set forth in § 7 is optional but strongly encouraged and recommended).

a. 1. Legal training. 4

The subjects selected, which should pertain to courtroom security and process service, Subjects to be provided are at the discretion of the approved training school agency administrator or the board of a certified training academy and shall be designated as legal training totaling four hours .

b. Career development.

Proposed Regulations

(1) The subjects shall enhance the officers' career as a courtroom security officer and shall total two hours:

..... 2

(2) The subjects shall enhance the officers' career as a process service officer and shall total two hours:

..... 2

2. Elective (testing optional)- Career development/elective training

..... 8 12

(May include subjects provided in subsections A and B of § 3 of these regulations.)

a. Subjects designated as elective training to be provided are at the discretion of the agency administrator or the board of an approved certified training school academy. No more than four eight hours of firearms training will shall be permitted approved as elective subjects. Firearms training shall be applied as follows:

(1) No more than four hours applied to firearms qualification as provided in § 8 of these rules; and

(2) Remaining hours eligible for situational and/or decision making training.

..... 8

TOTAL 16

D. Officers of the Department of Corrections, Division of Adult Institutions Institutional Services. (Testing is optional, but strongly encouraged).

1. Mandatory (testing as set forth in § 7 is optional but strongly encouraged and recommended):

a. 1. Legal training. 4

The subjects selected to be provided are at the discretion of the approved training school Director of the Department of Corrections or his designee and shall be designated as legal training totaling four hours.

b. Career development:

The subjects shall enhance the career of the officers of the Department of Corrections, Division of Adult Institutions. The hours shall be allocated as follows:

a. Correctional officers and sergeants 8

b. Lieutenants through

facility director 16

2. Elective (testing optional)- Career development/elective training.

Correctional officers and sergeants 20

Lieutenants through chief deputy warden 36

a. Subjects designated as elective training to be provided are at the discretion of the director of the Department of Corrections or his designee, Institutional Services. The hours shall be allocated as follows: No more than eight hours of firearms training shall be approved as elective subjects. Firearms training shall be applied as follows:

(1) No more than four hours applied to firearms qualification as provided in § 8 of these rules; and

(2) Remaining hours eligible for situational or decision making training.

(1) Correctional officers and sergeants 12

(2) Lieutenants through facility director 20

No more than four hours of firearms training shall be permitted as elective subjects:

TOTAL HOURS FOR CORRECTIONAL OFFICERS AND SERGEANTS 24

TOTAL HOURS FOR LIEUTENANTS THROUGH FACILITY DIRECTOR CHIEF DEPUTY WARDEN

..... 40

§ 4. Time requirement for completion of training.

A. Every law-enforcement officer, jailor or custodial officer, court security officer, process service officer, and officers of the Department of Corrections must complete compulsory in-service training by December 31 of the second calendar year following satisfactory completion of the entry-level compulsory minimum training standards, and must complete compulsory in-service training by December 31 of every other calendar year thereafter. In-service training hours may be carried over from the first calendar year to the second calendar year of the two-year period. However, should the required training be completed within the first calendar year of the two-year period, such training shall be reported to the department and a new due date for completion of in-service training shall be established for December 31 of the second calendar year following the completion date of such training.

The mandatory training must be completed between the period of January 1 and December 31 of the calendar

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year in which the officer is required to comply, unless provided otherwise in accordance with § 4, subsection D, of these regulations:

Upon written request of the Director of the Department of Corrections or his designee, in-service training requirements may be completed by attending approved course offerings in each calendar year. The provisions of this section shall be applicable to the positions of Captain through Facility Director within the Department of Corrections. All such written requests shall be approved by the Department of Criminal Justice Services prior to such credit being authorized.

B. Every courtroom security officer and process service officer who has satisfactorily completed the entry-level compulsory minimum training standards by December 31, 1988, must complete compulsory in-service training by no later than December 31, 1990, and every other calendar year thereafter.

Every courtroom security officer and process service officer who satisfactorily completes the entry-level compulsory minimum training standards on or after January 1, 1989, must complete compulsory in-service training standards by December 31 of the second calendar year following satisfactory completion of the entry-level compulsory minimum training standards and every other calendar year thereafter.

C. B. In-service Approved in-service training schools shall be conducted in no less than four-hour sessions.

D. C. The director may grant an extension of the time limit for completion of the in-service training. The chief of police, sheriff or agency administrator shall present evidence that the officer was unable to complete the required training within the specified time limit due to illness, injury, military service, special duty assignment required and performed in the public interest or leave without pay or suspension pending investigation or adjudication of a crime. Requests for extension of the time limit must be received prior to the expiration of the normal in-service time limit under the following conditions:

1. The chief of police, sheriff or agency administrator shall present written notification that the officer was unable to complete the required training within the specified time limit due to:

- a. Illness;
- b. Injury;
- c. Military service;
- d. Special duty assignment required and performed in the public interest;
- e. Administrative leave involving the determination

of worker's compensation or disability retirement issues, or suspension pending investigation or adjudication of a crime; or

f. Nonavailability or cancellation of an approved in-service training program for which the officer was previously scheduled to attend. This provision may only be approved one time during any in-service reporting period and must be supported with written verification by the academy director. Any such extension granted shall not exceed 90 days;

2. Any extension granted under subdivision C 1 e of § 4 of these regulations shall require the officer to complete in-service training prior to resuming job duties. Request may be granted for periods not to exceed 12 months.

3. Requests for extension of the time limit shall be received prior to the expiration of the normal in-service time limit.

§ 5. How compulsory minimum in-service training standards may be attained.

A. In-service training school /sessions .

1. The in-service In-service training must shall be obtained by attending and completing an approved in-service training school at an approved or a series of approved in-service training sessions which combined comply with the compulsory in-service training standards. Such training must be attended at a certified training academy unless provided otherwise in accordance with § 5, subsection subsections B and C , of these regulations.

2. Criminal justice officers attending an approved in-service training school are required to attend all classes and should shall not be placed on duty or on call except in cases of emergency.

3. Individuals who maintain training certification in secondary functions may comply with the compulsory in-service training standards by attending 40 hours of approved in-service training, provided that all legal training requirements are included for the designated secondary function(s) and that the career development/elective training is job related.

B. Partial in-service credit.

1. Individual. Upon written request of the chief of police, sheriff or agency administrator, the director may authorize attendance and successful completion of job-related courses for partial in-service credit. Such request shall be submitted no later than 60 days following the last day of the course. Whenever possible, such request should be submitted prior to the beginning date of the course. Any request for partial

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in-service credit shall include the name of the sponsoring agency, name and location of the course, and a curriculum which shall include at a minimum the date, time and instructor for each subject included in the course. Attendance shall be documented and records maintained as required by the records retention policy of the department.

All such requests from the Department of Corrections shall be reviewed and endorsed by the training manager prior to being forwarded to the department for consideration.

2. Course. The director may also approve job-related training courses offered by agencies, institutions, or private firms as meeting the requirements to receive partial in-service credit. Requests for such certification approval shall be submitted 60 days in advance of the conduct of prior to the commencement of the course on forms provided by the department. Courses meeting the minimum criteria may be approved for one year or until the course content is revised, whichever occurs first. The sponsoring agency shall document attendance and maintain records as required by the records retention policy of the department. The sponsoring agency shall also certify to the agency administrator that the officer successfully completed the course. The department will shall only consider for approval requests from agencies, institutions, or private firms where there is an indication that criminal justice officers from Virginia have attended or will attend the course for which approval is requested.

Courses submitted for approval shall meet the minimum number of hours of either the mandatory or elective training sections of the applicable standards. Section 5 B 2 shall not apply to any criminal justice agency or certified training academy in this Commonwealth.

C. In-service credit for electronically transmitted criminal justice programming.

1. The department may establish guidelines to approve job-related electronically transmitted programs. Any such policy shall provide for no more than eight hours training credit annually and shall establish all administrative requirements.

§ 6. Requirements for in-service training schools .

A. In-service training schools shall be approved by the department prior to the first scheduled class. Approval is requested by making application to the director on forms provided by the department. The director may approve those schools which, on the basis of curricula, lesson plans, instructors, facilities, and examinations, provide the required minimum training. A curriculum listing the subjects subject(s) , instructors instructor(s) , dates date(s) and times for the entire proposed training session shall be

submitted to the department 30 days prior to the beginning of each such proposed session. An exemption to the 30-day requirement may be granted for good cause shown by the school academy director.

B. In-service training schools which are is approved shall be subject to inspection and reviewed by the department.

C. The department may suspend the approval of an approved in-service training school or session upon written notice, which shall contain the reason(s) upon which the suspension is based, to the school's academy's director. The school's academy's director may request a hearing before the director or his designee. The request shall be in writing and must be received by the department within 15 days of the date of the notice of suspension. The school's academy's director may appeal the director or designee's decision to the board or its designee.

D. The department may revoke the approval of any training school or session upon written notice, which shall contain the reason(s) upon which the revocation is based, to the school's academy's director. The school's academy's director may request a hearing before the director or his designee. The request shall be in writing and must be received by the department within 15 days of the date of the notice of revocation. The school's academy's director may appeal the director or designee's decision to the board or its designee.

§ 7. Testing and grading.

A. Testing of subjects designated as legal and career development as enumerated in subsections A, B, C and D of § 3 of these regulations In-service testing is optional , but strongly encouraged and recommended.

B. All sheriffs, chiefs of police, and agency administrators shall be exempted from in-service testing.

C. Any tests Tests for mandatory training should be developed in accordance with the approved lesson plan and objectives for each subject. Testing may be in the form of written or performance tests.

D. A minimum score of 70% should be attained on all written tests. Performance testing requires satisfactory completion of performance objectives.

E. Approved training schools Each certified training academy shall maintain accurate records of all attendance, tests, grades, and testing procedures , where applicable , utilized in in-service training schools. Training records shall be maintained in accordance with §§ 42.1-76 through 42.1-91 of the Code of Virginia.

F. All approved training schools Each certified training academy should establish and maintain a testing and retesting policy. Testing, retesting and remedial training, where applicable, may be provided as necessary within the

time limit in which the officer is required to comply with in-service training requirements.

G. Any criminal justice officer who fails to attain a minimum passing score on any tested subjects and upon exhausting the provisions of academy's testing and retesting policy should be provided remedial training. Remedial training may be provided at the approved certified training school academy where the initial training was received by the officer or at the officer's employing agency. Upon completion of remedial training, the officer should be retested on the course material originally failed.

§ 8. Firearms training.

Every criminal justice officer required to carry a firearm in the performance of duty shall qualify annually using the applicable firearms course set forth below. *Annual range qualification shall include a review of issues/policy relating to weapons safety, nomenclature, maintenance and use of force.* With prior approval of the director, a reasonable modification of the firearms course may be approved to accommodate qualification on indoor ranges. No minimum number of hours is required ; ~~only qualification is required .~~

A. Law-enforcement officers, jailors or custodial officers, courtroom security officers and process service officers : *shall qualify annually on one of the following courses:*

1. Handgun

a. 1. Virginia Modified Double Action Course For Revolvers.

Target - Silhouette (B21, B21X, B27 , Q)

60 rounds

Double action only

Minimum qualifying score - 70%

a. Phase 1 - 7 yards, hip shooting, crouch position, 24 rounds

Load 6 rounds, fire 1 round on whistle (2 seconds), repeat or fire 2 rounds on whistle (3 seconds), repeat

Load 6 rounds, fire 2 rounds on whistle (3 seconds), repeat

Load 6 rounds, fire 12 rounds on whistle (30 seconds)

b. Phase 2 - 15 yards, point shoulder position, 18 rounds

Load 6 rounds, fire 1 round on whistle (2 seconds), repeat or fire 2 rounds on whistle (3 seconds),

repeat

Load 6 rounds, fire 2 rounds on whistle (3 seconds), repeat

Load 6 rounds, fire 6 rounds on whistle (12 seconds)

c. Phase 3 - 25 yards, 90 seconds, 18 rounds

Load 6 rounds, on whistle:

fire 6 rounds, kneeling, strong hand; reload

fire 6 rounds, standing behind barricade, weak hand;

reload fire 6 rounds, standing behind barricade, strong hand (kneeling position may be fired using barricade)

d. Scoring.

(1) B21, B21X targets: use indicated K value with a maximum 300 points; divide by 3 to obtain percentage.

(2) B27 target: 8, 9, 10, x rings - value 5 points; 7 ring - value 4 points; other hits on silhouette - value 3 points; divide by 3 to obtain percentage.

(3) Q targets: any fired round striking the bottle area to its marked border - value 5 points, any fired round striking outside the bottle area - value 3 points.

b. 2. Virginia Modified Double Action Course For Semi-Automatic Pistols.

Target - Silhouette (B-21, B-21X, B-27 , Q)

Minimum Qualifying Score - 70%

~~(1)~~ a. Each officer is restricted to the number of magazines carried on duty. Magazines shall be loaded to their full capacity. The range instructor shall determine when magazines will be changed.

~~(2)~~ b. Phase 1 - 7 yards, hip shooting, crouch position, load magazine, fire 1 round double action on command (2 sec.), or fire 2 rounds (3 seconds), make weapon safe, holster, repeat until 6 rounds have been fired.

~~(a)~~ (1) On command, draw and fire 2 rounds (3 sec.), make weapon safe, holster, repeat until 6 rounds have been fired.

~~(b)~~ (2) On command, draw and fire 12 rounds in 20 seconds, make weapon safe, and holster.

~~(c)~~ c. Phase 2 - 15 yards point shoulder position. On

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command, draw and fire 1 round (2 sec.), or draw and fire 2 rounds (3 sec.), make weapon safe, holster, repeat until 6 rounds have been fired.

(a) (1) On command, draw and fire 1 round (2 sec.), or 2 rounds (3 sec.), make weapon safe, holster, repeat until 6 rounds have been fired.

(b) (2) On command, draw and fire 6 rounds (12 sec.), make weapon safe, holster.

(4) d. Phase 3 - 25 yards, kneeling and standing position. On command, assume kneeling position, draw weapon and fire 6 rounds, then fire 6 rounds weak hand, standing, barricade position, then fire 6 rounds strong hand, standing, barricade position, until a total of 18 rounds have been fired. (70 seconds)

(a) (1) (Kneeling position may be fired using barricade.)

(b) (2) (Weapons which do not have a double action capability will require the first round be chambered manually.)

e. e. Scoring.

(1) B21, B21X targets: use indicated K value with a maximum 300 points; divide by 3 to obtain percentage.

(2) B27 target: 8, 9, 10, x rings - value 5 points ; 7 ring - value 4 points ; other hits on silhouette - value 3 points; divide by 3 to obtain percentage.

(3) Q targets: any fired round striking the bottle area to its marked border - value 5 points, any fired round striking outside the bottle area - value 3 points.

3. Virginia 50 round Tactical Qualification Course for Revolvers and Semi-automatic Pistols.

Target - silhouette (B21, B21X, B-27, Q) Minimum Qualifying Score 70%

a. Each officer is restricted to the number of magazines carried on duty. Magazines shall be loaded to full capacity. The range instructor shall determine when magazines will be changed.

b. Phase 1 - On 5 or 7 yard line or fraction thereof, point shoulder shooting, fire 2 rounds on command in 3 seconds for 12 rounds. Between each 2 rounds holster, repeat until all rounds have been fired.

(1) On command, draw and fire 6 rounds in 8 seconds from point shoulder positions.

(2) On command draw and fire 4 rounds strong

hand only, point shoulder point in 8 seconds.

(3) On command, fire 4 rounds, weak hand only, point shoulder position in 10 seconds

c. Phase 2 - 15 yard point shoulder position

(1) On command, draw and fire 2 rounds in 3 seconds for 6 (optional to reholster after each 2 rounds)

(2) On command, draw and fire 6 rounds in 12 seconds, holster.

d. Phase 3 - 25 yard, kneeling and standing position on command, assume a kneeling position, draw weapon and fire 6 rounds behind a barricade, than fire 6 rounds strong hand, standing barricade position, until a total of 12 rounds have been fired for a total of 45 seconds for semi-automatic pistols or 60 seconds for revolvers. A kneeling position may be fired using a barricade.)

e. Scoring:

(1) B21, B21x targets: use indicated K value with a minimum of 250 points: Multiply by .4 to obtain percentage.

(2) B27 target: 8, 9 and 10 X rings-value 5 points, 7 ring - value 4 points, other hits on silhouette - value 3 points; multiply by .4 to obtain percent.

(3) Q target: any fired round striking the bottle area to its marked border - value 5 points, any fired round striking outside the bottle area - value 3 points.

B. Officers of the Department of Corrections, Division of Adult Institutions Institutional Services .

1. Handgun

a. Double Action Combat Course.

Target - Silhouette

60 rounds

Double action only

Minimum qualifying score - 70% (points per hit on silhouette - minimum 210 points out of a possible 300 points)

7 yards - two handed crouch - 6 rounds (one on whistle)

7 yards - two handed crouch - 6 rounds (two on whistle)

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7 yards - two handed crouch - 12 rounds (30 seconds from whistle)

15 yards - two handed point shoulder - 6 rounds (one on whistle)

15 yards - two handed point shoulder - 6 rounds (two on whistle)

15 yards - two handed point shoulder - 12 rounds (30 seconds from whistle)

25 yards - two handed point shoulder - 6 rounds (10 seconds/right hand)

25 yards - two handed point shoulder - 6 rounds (10 seconds/left hand)

C. Law-enforcement officers, jailors or custodial officers, courtroom security officers, civil process officers and officers of the Department of Corrections, ~~Division of Adult Institutions~~ *Institutional Services*.

1. Special weapons.

a. All agencies whose personnel possess, or have available for immediate use, shotguns or other similar special weapons, shall design an appropriate familiarization or qualification weapons program and require all applicable personnel to complete annually.

b. The course, number of rounds to be fired and qualification score if applicable shall be determined by the agency or approved training school. Documentation of such familiarization or qualification programs shall be available for inspection by the director or staff.

§ 9. Failure to comply with rules and regulations.

Officers attending approved in-service training schools shall comply with the rules and regulations promulgated by the board and any other rules and regulations within the authority of the ~~school~~ academy director. The ~~school~~ academy director shall be responsible for enforcement of all rules and regulations established to govern the conduct of attendees. If the ~~school~~ academy director considers a violation of the rules and regulations detrimental to the welfare of the ~~school~~ conduct of the academy, the ~~school~~ academy director may expel the officer from the ~~school~~. Notification of such action shall immediately be reported in writing to the agency administrator and the director.

§ 10. Administrative requirements.

Reports will be required from the agency administrator and ~~school~~ academy director on forms approved by the department and at such times as designated by the director.

§ 11. Effective date.

These rules shall be effective on and after July 5, 1989, 1, 1992, and until amended or rescinded.

§ 12. Adopted:

July 11, 1974

§ 13. Amended:

May 3, 1989

April 1, 1992

* * * * *

Title of Regulation: VR 240-01-12. Rules Relating to Certification of Criminal Justice Instructors.

Statutory Authority: §§ 9-170 1 and 9-170 12 of the Code of Virginia.

Public Hearing Date: April 1, 1992 - 9 a.m.

(See Calendar of Events section for additional information)

Summary:

The proposed amendments revisions contain the addition of instructor certification for Radar Instructor, consistent with the amendments to the Code of Virginia made by the 1991 General Assembly.

In addition, the proposed amendments include specific regulations to ensure that the department's intent in conducting an instructor apprenticeship is clarified.

The proposed amendments also provide an alternative instructor recertification status as an academy instructor and agency instructor. The academy instructor is authorized for those certified instructors who complete all of the recertification requirements. The agency instructor status will allow instructors who have taken the instructor recertification course, but who cannot teach eight hours of mandated and evaluated instruction, to become recertified as a certified criminal justice instructor. The agency instructor can regain academy instructor status by completing the mandated hours of instruction and evaluated teaching under the supervision of another certified instructor.

Finally, the proposed amendments allow the department to suspend or revoke instructor certification for demonstrated instructional incompetence based upon observation and assessment. This provision will allow the department to provide additional safeguard to the quality of instruction that is offered to criminal justice officers.

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The regulation, if adopted, is scheduled to become effective July 1, 1992, and thereafter until amended or rescinded.

VR 240-01-12. Rules Relating to Certification of Criminal Justice Instructors.

§ 1. Definitions.

The following words and terms, when used in these regulations, shall have the following meaning, unless the context clearly indicates otherwise.

"Academy director" means the chief administrative officer of an approved training school a certified training academy .

"Academy instructor" means an individual who has complied with all of the applicable standards for certification or recertification, whichever applies, contained herein and is eligible to instruct, teach or lecture for more than three hours of approved or mandated training at a certified training academy.

"Agency instructor" means any previously certified instructor who has complied with all of the applicable standards for instructor recertification contained herein, except § 7 A 5.

"Apprenticeship" means a period of supervised instruction wherein the instructor applicant is evaluated by a certified instructor during mandated or approved instruction.

"Approved training school" means a training school which provides instruction of at least the minimum training standards mandated by the board and has been approved by the department for the specific purpose of training criminal justice personnel.

"Certified training academy" means a certified training academy which provides instruction of at least the minimum training standards mandated by the board and has been approved by the department for the specific purpose of training criminal justice personnel.

"Criminal justice agency" means any government agency or identifiable subunit which has as its principal duty(s): the prevention, detection, and investigation of crime; the apprehension, detection, and prosecution of alleged offenders; the confinement or correctional supervision of accused or convicted persons; or the administrative or technical support of these functions.

"Department" means the Department of Criminal Justice Services.

"Director" means the chief administrative officer of the department.

"Instructional staff" means any individual employed in

training on a full-time basis who shall instruct in approved training schools promulgated by the department .

"Instructor" means an individual who shall instruct, teach or lecture for more than three mandated hours in any approved training school.

§ 2. Minimum standards for instructors in approved training schools .

Instructors in Individuals instructing approved training schools shall possess one of the following certifications authorized by the department, excluding those enumerated in § 4 5 of these rules:

A. Provisional instructor certification.

For the individual who has not previously met the requirements for instructor certification, this certification:

1. Requires a high school diploma or high school equivalency certificate (GED);
2. Requires that the individual has met the compulsory minimum training standards for the primary function for which employed by a criminal justice agency, if applicable;
3. Does not authorize an individual to instruct or qualify others in mandated firearms, defensive tactics or , driver training , or radar courses; and
4. Is valid for not more than two years and is not renewable. An individual may apply for instructor certification upon meeting the requirements of §§ 2 and 5 6 of these rules.

B. General instructor certification.

For individuals who have professional or proficiency skills in a field directly related to criminal justice, this certification:

1. Requires a high school diploma or high school equivalency certificate (GED);
2. Requires the applicant to be instructional staff, an employee of a Virginia criminal justice agency, or an academy director;
3. Requires a minimum of two years' experience in a criminal justice agency;
4. Requires the applicant to have successfully completed an instructor development course which meets or exceeds the standards of the instructor development course enumerated in § 3 of these rules ;
5. Is valid for not more than three years, but may be renewed;

6. Requires the applicant to serve an apprenticeship , as specified in § 4 of these rules, with a certified instructor until the applicant can demonstrate the ability to successfully instruct without supervision. The certified instructor shall document this successful completion of the apprenticeship on the instructor application form; and

7. Does not authorize an individual to instruct or qualify others in mandated firearms, defensive tactics, or driver training , or radar operator courses.

C. Firearms instructor certification.

For the individual who has had extensive firearms training and experience, this certification:

1. Requires a high school diploma or high school equivalency certificate (GED);

2. Requires the applicant to be instructional staff, an employee of a Virginia criminal justice agency, or an academy director;

3. Requires a minimum of two years' experience in a criminal justice agency;

4. Requires the applicant to have attended and successfully completed an instructor development course which meets or exceeds the standards of the instructor development course enumerated in § 3 of these rules;

5. Requires the applicant also to have successfully completed a firearms instructors course which meets or exceeds the standards of the firearms instructors course approved by the department;

6. Is valid for not more than three years, but may be renewed;

7. Requires prequalification on a department "Modified Double Action Course or Virginia Tactical Qualification Course" with a minimum score of 90%;

8. Requires the applicant to serve an apprenticeship , as specified in § 4 of these rules, with a certified instructor until the applicant can demonstrate the ability to successfully instruct without supervision. The certified instructor shall document this successful completion of the apprenticeship on the instructor application form; and

9. Authorizes an individual to instruct mandated firearms training courses and to conduct annual firearms qualifications only.

D. Defensive tactics instructor certification.

For the individual who has had extensive training and experience in the area of defensive tactics, this

certification:

1. Requires a high school diploma or a high school equivalency certificate (GED);

2. Requires the applicant to be instructional staff, an employee of a Virginia criminal justice agency, or an academy director;

3. Requires a minimum of two years experience in a criminal justice agency;

4. Requires the applicant to have attended and successfully completed an instructor development course which meets or exceeds the standards of the instructor development course enumerated in § 3 of these rules.

5. Requires the applicant also to have successfully completed a defensive tactics instructors course which meets or exceeds the standards of the defensive tactics instructors course approved by the department;

6. Is valid for not more than three years, but may be renewed;

7. Requires the applicant to serve an apprenticeship , as specified in § 4 of these rules, with a certified instructor until the applicant can demonstrate the ability to successfully instruct without supervision. The certified instructor shall document this successful completion of the apprenticeship on the instructor application form; and

8. Authorizes the individual to instruct defensive tactics subjects only.

E. Driver training instructor certification.

For the individual who has had extensive training and experience in the area of driver training, this certification:

1. Requires a high school diploma or a high school equivalency certificate (GED);

2. Requires the applicant to be instructional staff, an employee of a Virginia criminal justice agency, or an academy director;

3. Requires a minimum of two years experience in a criminal justice agency;

4. Requires the applicant to have attended and successfully completed an instructor development course which meets or exceeds the standards of the instructor development course enumerated in § 3 of these rules;

5. Requires the applicant also to have successfully completed a driver training instructors course which meets or exceeds the standards of the driver training

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instructors course approved by the department;

6. Is valid for not more than three years, but may be renewed;

7. Requires the applicant to serve an apprenticeship , as specified in § 4 of these rules, with a certified instructor until they can demonstrate the ability to successfully instruct without supervision. The certified instructor shall document this successful completion of the apprenticeship on the instructor application form; and

8. Authorizes the individual to instruct driver training subjects only.

F. Radar instructor certification.

This certification:

1. Requires a high school diploma or high school equivalency certificate (GED);

2. Requires the applicant to be instructional staff, an employee of a Virginia criminal justice agency, or an academy director.

3. Requires a minimum of two years experience in a criminal justice agency, including two years experience in radar operation;

4. Requires the applicant to have attended and successfully completed an instructor development course which meets or exceeds the standards of the instructor development course enumerated in § 3 of these rules;

5. Requires the applicant to have attended and successfully completed a radar instructor school which meets or exceeds the standards established by the department;

6. Is valid for not more than three years, but may be renewed;

7. Requires the applicant to serve an apprenticeship, as specified in § 4 of these rules, with a certified instructor until the applicant can demonstrate the ability to successfully instruct without supervision. The certified instructor shall document this successful completion of the apprenticeship on the instructor application form; and

8. Authorizes an individual to instruct radar subjects only.

§ 3. Compulsory minimum training standards for instructor development and recertification courses.

A. The board establishes the following compulsory minimum training standards:

1. An instructor development course shall include a minimum of 40 hours of training and must address each of the following subjects:

Role of the Instructor/Adult Learner

Fundamentals of Communication

Liability and Ethics of Instructors

Research and Development

Instructional Performance Objectives

Preparation and Use of Lesson Plans

Methods of Instruction

Preparation and Use of Audio-Visual Material

Criteria Testing and Test Construction

Student Presentations

Optional Topics (subject(s) selected at the discretion of the academy director, if applicable, but must pertain to instructor development.)

2. A recertification course shall include a minimum of six hours of training and must address the following mandated subjects:

a. Review of Instruction Techniques and Methods;

b. Legal Review Including Liability;

e. Review of Current Basic and In-Service Course Requirements (Skilled Areas to Emphasize and Review Current Mandates);

d. Training Innovations and Technology;

e. Testing and Measurements;

f. Record Keeping and Documentation.

a. Curriculum.

1. Core subjects (4 hours minimum).

(a) Review of Instructional Techniques and Methods

(b) Review of Liability and Ethics of Instructors

(c) Training Innovations and Technology

(d) Testing and Measurements

(e) Record Keeping and Documentation

2. Skill specific subjects (2 hours minimum)

(a) *Review of Current Basic and In-Service Course Requirements (Skills Areas to Emphasize and Review Current Mandates)*

(b) *Skill Specific Liability Issues*

3. Application(s) to conduct approved instructor development and recertification courses shall be submitted on forms provided by the department and within the time limit prescribed by the department.

§ 4. *Instructor apprenticeship requirements.*

A. *The apprenticeship shall:*

1. *Occur after the successful completion of a Virginia certified or other equivalent instructor development course which meets or exceeds the standards of the instructor development course established by the department;*

2. *Be conducted under the supervision and evaluation of a Virginia certified instructor, who possesses at least three years of experience as a certified instructor in the topic of apprenticeship instruction; and*

3. *Consist of instructional delivery which shall be no less than one hour in duration, with the exception of firearms instructor certification which shall be no less than eight hours in duration and shall include classroom and range instruction.*

B. *The certified instructor shall document the successful completion of the apprenticeship on the "Instructor Certification Application."*

§ 4. 5. *Exemptions to certification requirements.*

The following individuals are exempted from the certification requirements set forth in § 2 of these rules:

1. *Individuals who instruct three hours or less in any individual approved training ~~school~~ session in a certified training academy;*

2. *An individual assigned by the academy director to instruct in emergency situations;*

3. *Individuals who possess professional or proficiency skills in a field of endeavor directly related to the subject matter in which they are instructing. This may include but not be limited to members of the bar, medical profession, public administrators, teachers, social service practitioners, etc. Documentation of skills may be requested and final approval, if necessary, rests with the department;*

4. *Subdivision 3 of § 4 5 may apply to employees of criminal justice agencies of this Commonwealth and its political subdivisions if approved by the department;*

and

5. *Certified emergency care and first aid instructors ; and*

6. *Individuals who serve as field training officers or on-the-job training officers for purposes of providing field training as required by minimum training standards. Such exemption shall not be construed to apply to training promulgated by the department other than field training or on-the-job training.*

§ 5. 6. *Application for instructor certification.*

A. *A properly completed "Instructor Certification Application" is required from each instructor prior to being considered for certification. The application must be received by the department within 12 months of completion of the instructor course for which certification is requested. The application shall be accompanied by a recommendation from the chief of police, sheriff, agency administrator or his designee, and endorsed by the academy director.*

B. *If a properly completed "Instructor Certification Application" is not received within the 12-month application period, the applicant must attend the applicable recertification course and ~~comply with~~ must be reevaluated in accordance with the apprenticeship requirements set forth in § 4 of these rules prior to consideration for certification.*

§ 6. 7. *Instructor recertification.*

~~An~~ *Instructor certification certifications*, other than those issued to provisional instructors, will be valid for not more than three years. Individual instructors must meet all applicable recertification requirements by December 31 of the third calendar year following issuance of certification. Applications for recertification will be submitted on forms provided by the department.

1. *Applicants for recertification shall be recommended by the chief of police, sheriff, agency administrator or his designee, and endorsed, where applicable, by the academy director.*

2. *A recertification application for departmental firearms instructors does not require endorsement by the academy director.*

3. *Applicants shall attend and successfully complete a recertification course which shall be approved by the department for each type of certification held. This requirement must be completed between the period of ~~January 1 and~~ prior to December 31 of the calendar year in which the instructor is required to be recertified unless provided otherwise in accordance with subdivision 6 of § 6 7 of these rules.*

Completion of one or more of the skills recertification

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seminars (firearms, defensive tactics or , driver training , or radar training) will qualify an instructor for recertification in the general category.

4. Individuals whose certification expires shall comply with all requirements of § 5 6 of these rules and meet any certification requirements that are in effect at that time.

5. Individuals who instruct in a certified training academy shall have taught a minimum of eight hours of mandated or approved instruction during the current period of certification , and shall have been evaluated by staff or students in order to be eligible for recertification as an academy instructor .

6. Individuals who have not taught a minimum of eight hours of mandated or approved instruction during the current period of certification and have not been evaluated by staff or students shall be designated as agency instructors. Agency instructors may become an academy instructor upon completion of the requirements set forth in § 5 above under the supervision of a certified instructor

6- 7. The director may grant an extension of the time limit for completion of the recertification requirements : The chief of police, sheriff or agency administrator must present evidence that the applicant was unable to complete the required training within the specified time limit due to illness, injury, military service or special duty assignment required and performed in the public interest or leave without pay or suspension pending investigation or adjudication of a crime. Requests for extension of the time limit must be requested prior to certification expiration. under the following conditions:

a. The chief of police, sheriff or agency administrator shall present written notification that the officer was unable to complete the required training with the specified time limit due to:

(1) Illness;

(2) Injury;

(3) Military service;

(4) Special duty assignment required and performed in the public interest;

(5) Leave without pay or suspension pending investigation or adjudication of a crime; or

(6) Nonavailability or cancellation of an approved in-service training program for which the officer was previously scheduled to attend. This provision may only be approved one time during the recertification reporting period and shall be supported with written verification by the academy

director. Any such extension shall not exceed 90 days.

b. Requests for extension of the time limit shall be requested prior to certification expiration.

§ 7- 8. Suspension and revocation of instructor certification.

A. The department may suspend or revoke any instructor certification issued under these rules if it is determined that an individual has falsified any department report, application, form or roster or has otherwise misused the authority granted herein :

1. Falsified any department report, application, form or roster;

2. Demonstrated instructional incompetence based upon observation and assessment; or

3. Otherwise misused the authority granted herein.

B. An instructor's certification may be recommended for suspension or revocation for cause upon written request of the chief of police, sheriff, agency administrator, or academy director.

C. When a certified instructor terminates employment with the criminal justice agency which recommended certification, the instructor certification shall become null and void upon written request of the chief of police, sheriff, agency administrator, or academy director. Upon reemployment with a Virginia criminal justice agency, the instructor's certification may be reinstated upon the written request of the chief of police, sheriff or agency administrator. Such request Requests for reinstatement must shall be authorized by an academy director. Any reinstatement of certification shall not exceed the original date of expiration.

D. Any instructor whose certification is revoked as provided in § 7 8 A of these rules shall not be eligible to reapply for certification for a period of five three years from the date of revocation.

§ 8- 9. Administrative requirements.

Reports will be required from the school director, chief of police, sheriff, or agency administrator on forms provided by or approved by the director and at such times as designated by the director.

§ 9- 10. Effective date.

These rules shall be effective on and after July 1, 1990 1992 , and until amended or rescinded.

§ 11. Adopted: July 6, 1983

Amended: April 1, 1992

DEPARTMENT OF HEALTH (STATE BOARD OF)

Title of Regulation: VR 355-28-300. Rules and Regulations of the Board of Health, Commonwealth of Virginia, for the Immunization of School Children.

Statutory Authority: §§ 22.1-271.1, 22.1-271.2, 32.1-12, and 32.1-46 of the Code of Virginia.

Public Hearing Date: February 19, 1992 - 10 a.m.
(See Calendar of Events section for additional information)

Summary:

These regulations are intended to ensure that children enrolling in schools and day care centers are immunized against the vaccine preventable diseases of childhood. The amendments will require children enrolling in school in 1992 and thereafter to receive two doses of measles vaccine, and children through 30 months of age enrolling in day care centers to be immunized against Haemophilus influenzae type b (HIB) disease.

VR 355-28-300. Rules and Regulations of the Board of Health, Commonwealth of Virginia, for the Immunization of School Children.

2.00 PART I. DEFINITIONS.

§ 1.1. Definitions.

2.01 General—As used in these regulations, the words and terms hereinafter set forth have meanings respectively set forth unless the context requires a different meaning. The following words and terms, when used in these regulations, shall have the following meaning, unless the context clearly indicates otherwise:

2.02 Definitions

2.02.01 "Adequate immunization" means

a. For currently enrolled students, the immunization requirements prescribed under Section 2.01.

b. For new students, the immunization requirements prescribed under Section 2.02 § 3.1.

2.02.02 "Admit" or "admission" means the official enrollment or reenrollment for attendance at any grade level, whether full-time or part-time, of any student by any school.

2.02.03 "Admitting official" means the school principal or his designated representative if a public school; if a nonpublic school or child care center, the principal, headmaster or director of the school or center.

2.02.04 "Board" means the State Board of Health.

2.02.05 "Commissioner" means the State Health Commissioner.

2.02.06 "Compliance" means the completion of the immunization requirements appropriate to either category of student, currently enrolled or new, required prescribed under Section 2.00 § 3.1.

2.02.07 "Conditional enrollment" means the enrollment of a student for a period of ninety 90 days contingent upon the student having received at least one dose of each of the required vaccines and the student possessing a plan, from a physician or local health department, for completing his immunization requirements within the ensuing ninety 90 days.

2.02.08 Currently Enrolled Student means any person less than twenty 20 years of age who enrolled in any Virginia school for the first time prior to July 1, 1983. Any currently enrolled student transferring from one school to another within the Commonwealth shall continue to be a currently enrolled student for the purposes of these regulations.

2.02.09 "Documentary proof" means

a. For currently enrolled students, any document signed by a physician or official of a local health department, or a document excerpted from the student's immunization records by an admitting official prior to July 1, 1983. This document may be Form MCH 213B.

b. For new students, an appropriately completed copy of Form MCH 213B and the temporary certification form for Haemophilus influenzae type b disease where applicable, or Form MCH 213C signed by a physician or his designee or an official of a local health department; except that for a new student transferring from an out-of-state school, any immunization record, which contains the exact date (month/day/year) of administration of each of the required doses of vaccines when indicated and complies fully with the requirements prescribed under Section 2.02 § 3.1 shall be acceptable.

2.02.10 "Immunization" means a treatment 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).

2.02.11 New Student means any person less than twenty 20 years of age who seeks for the first time, admission to any Virginia school, or for whom admission to any Virginia school is sought by a parent or guardian, after July 1, 1983.

2.02.12 "Physician" means any person licensed to practice medicine in any of the fifty 50 states or the

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District of Columbia.

~~2-02-13~~ "School" means:

- a. 1. Any public school from kindergarten through grade ~~twelve~~ 12 operated under the authority of any locality within this Commonwealth;
- b. 2. Any private or parochial school that offers instruction at any level or grade from kindergarten through grade ~~twelve~~ 12 ;
- e. 3. Any private or parochial nursery school or preschool, or any private or parochial child care center licensed by this Commonwealth; and
- d. 4. Any preschool handicapped classes or Head Start classes operated by the school divisions within this Commonwealth.

"Student" means any person less than 20 years of age who seeks for the first time, admission to any Virginia school, or for whom admission to any Virginia school is sought by a parent or guardian.

~~2-02-14~~ "Twelve months of age" means the three hundred and ~~sixty-fifth~~ 365th day following the date of birth.

~~1-00~~
PART II.
GENERAL INFORMATION.

~~1-00~~ § 2.1. Authority.

Section 22.1-271.2 of the Code of Virginia (~~1950~~) as amended pertains to immunization requirements for attending a school or licensed child care center in the Commonwealth. Section 22.1-271.1 deals with the definitions necessary to implement § 22.1-271.2. Section 22.1-271.2 directs the Board of Health to promulgate regulations for implementing this section in congruence with the board's regulations promulgated under § 32.1-46. ~~These are the Regulations for the Reporting and Control of Diseases promulgated by the board and effective August 1, 1980.~~ Section 32.1-12 of the Code empowers the Board of Health with the authority to adopt regulations. These regulations have been promulgated in cooperation with the State Board of Education.

~~1-01~~ § 2.2. Purpose.

These regulations are designed to ensure that all students attending any public, private or parochial school and all attendees of licensed child care centers in the Commonwealth, are adequately immunized and protected against diphtheria, pertussis, tetanus, poliomyelitis, rubeola, rubella, ~~and~~ mumps , and *haemophilus influenzae type b* disease as appropriate for the age of the student.

~~1-02.~~ § 2.3. Administration.

~~1-02-01~~ A. State Board of Health.

The Board of Health has the responsibility for promulgating regulations pertaining to the implementation of the school immunization law and standards of immunization by which a child attending a school or child care center may be judged to be adequately immunized.

~~1-02-02~~ B. State health commissioner.

The state health 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 the board.

~~1-02-03~~ C. Local health director.

The local health director is responsible for providing assistance in implementing these regulations to the school divisions in his jurisdiction and for providing immunizations to children determined not to be adequately immunized, who present themselves to the local health department for immunization.

~~1-02-04~~ D. Regional medical director.

The regional medical director is responsible for coordinating the efforts of the local health department, school divisions and local medical societies within his region in implementing these regulations.

~~1-02-05~~ E. Admitting officials.

The school principals of public schools and the principals, headmasters and directors of nonpublic schools and child care centers are responsible for ensuring that each student attending their institutions provides documentary proof of immunization against the diseases listed in ~~Section 3-0~~ § 3.1. of these regulations.

~~1-03~~ 1 § 2.4. Application of regulations.

These regulations have general application throughout the Commonwealth.

~~1-04~~ § 2.5. Effective Date.

July ~~1, 1983~~ July 1, 1992

~~1-05~~ § 2.6. Application of the Administrative Process Act.

The provisions of the Virginia Administrative Process Act, contained in Chapter 1.1:1 of Title 9 of the Code, shall govern the adoption, amendment, modification and revision of these regulations, and the conduct of all proceedings and appeals hereunder.

~~1-06~~ § 2.7. Powers and procedures of regulations not exclusive.

The board reserves the right to authorize a procedure

for enforcement of these regulations which is not inconsistent with the provisions set forth herein and the provisions of Chapter 2 of Title 32.1 of the Code.

1.07 Severability - If any provision of these regulations or the application thereof to any person or circumstances is held to be invalid, such invalidity shall not affect other provisions or application of any other part of these regulations which can be given effect without the invalid provisions of the application, and to this end, the provisions of these regulations and the various applications thereof are declared to be severable.

1.08 § 2.8. Terminology.

The use of terminology in these regulations indicating the male gender shall apply equally to the female gender.

3.00 PART III. IMMUNIZATION REQUIREMENTS.

3.01 Immunization Requirements for Currently Enrolled Students - Every currently enrolled student shall provide, or shall have on file, in his mandatory permanent school record at the school to which he is seeking admission, documentary proof of adequate immunization with the prescribed number of doses of each of the vaccines and toxoids listed in the following subsections, as appropriate for his age.

3.01.01 Diphtheria and Tetanus Toxoids and Pertussis Vaccine (DTP) - For students less than seven years of age, a minimum of three doses of DTP. If any of these three doses must be administered on or after the seventh birthday, Td (adult tetanus toxoid full dose and diphtheria toxoid reduced dose) should be used instead of DTP.

3.01.02 Poliomyelitis Vaccine - A minimum of three doses of trivalent oral poliomyelitis vaccine (OPV). Four (4) doses of inactivated poliomyelitis vaccine (IPV) shall be an acceptable alternative means of immunizing any child in whom the use of OPV is medically contraindicated.

3.01.03 Measles (Rubeola) Vaccine - A minimum of one dose of attenuated, (live) rubeola virus vaccine administered at age 12 months or older. Any measles immunization received after 1968 should be considered to have been administered using a live virus vaccine.

3.01.04 German Measles (Rubella) Vaccine - A minimum of one dose of rubella virus vaccine administered at age 12 months or older.

3.02 § 3.1. Immunization requirements for New Students .

Every new student and every child attending a licensed child care center shall provide documentary proof of adequate immunization with the prescribed number of doses of each of the vaccines and toxoids listed in the following subsections subdivisions , as appropriate for his

age.

3.02.01 1. Diphtheria and Tetanus Toxoids and Pertussis Vaccine (DTP). For students less than seven years of age, a minimum of three doses of DTP, with one dose administered after the student's fourth birthday. If any of these three doses must be administered on or after the seventh birthday, Td (adult tetanus toxoid full dose and diphtheria toxoid reduced dose) should be used instead of DTP.

3.02.02 2. Poliomyelitis Vaccine. A minimum of three doses of trivalent oral poliomyelitis vaccine (OPV), with one dose administered after the fourth birthday. Four (4) or three doses of enhanced-potency inactivated poliomyelitis vaccine (IPV) shall be an acceptable alternative means of immunizing with one dose administered after the fourth birthday for any child in whom the use of OPV is medically contraindicated.

3.02.03 3. Measles (Rubeola) Vaccine. A minimum of one One dose of attenuated, (live) rubeola virus vaccine administered at age 12 months or older , and a second dose administered prior to entering kindergarten or first grade, whichever occurs first. The two doses must be administered at least one month apart . Any measles immunization received after 1968 should be considered to have been administered using a live virus vaccine.

3.02.04 4. German Measles (Rubella) Vaccine. A minimum of one dose of rubella virus vaccine administered at age 12 months or older.

3.02.05 5. Mumps Vaccine. A minimum of one dose of mumps virus vaccine administered at age 12 months or older.

6. Haemophilus Influenzae Type b (Hib) Vaccine. A complete series of Hib vaccine in accordance with current recommendations of the American Academy of Pediatrics or the U.S. Public Health Service for children 15 through 30 months of age, and age-appropriate doses for children younger than 15 months of age as attested to by the temporary form documenting immunizations against Hib or Form MCH 213C.

3.03 § 3.2. Exemptions from immunization requirements.

3.03.01 A. Religious and medical exemptions.

No certificate of immunization shall be required of any student for admission to school if:

a. 1. The student or his parent or guardian submits a Certificate of Religious Exemption (Form CRE 1), to the admitting official of the school to which the student is seeking admission. Form CRE 1 is an affidavit stating that the administration of immunizing

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agents conflicts with the student's religious tenets or practices. For a ~~currently enrolled~~ student *enrolled before July 1, 1983*, any document present in the student's permanent school record claiming religious exemption ; ~~submitted prior to July 1, 1983~~, shall be acceptable for the purposes of school attendance, or

b. 2. The school has written certification from a physician or a local health department on Form MCH 213B that one or more of the required immunizations may be detrimental to the student's health. Such certification of medical exemption shall specify the nature and probable duration of the medical condition or circumstance that contraindicates immunization. For a ~~currently enrolled~~ student *enrolled before July 1, 1983*, any document attesting to the fact that one or more of the required immunizations may be detrimental to the student's health shall be acceptable in lieu of Form MCH 213B.

~~3-03-02~~ B. Demonstration of existing immunity.

The demonstration in a student of antibodies against either rubeola ~~and/~~ or rubella in sufficient quantity to ensure protection of that student against that disease, shall render that student exempt from the immunization requirements contained in Sections ~~3-01~~ and ~~3-02~~ § 3.1 for the disease against which he must be protected. Such protection should be demonstrated by means of a serological testing method appropriate for measuring protective antibodies against rubeola or rubella respectively.

4-00

PART IV.

PROCEDURES AND RESPONSIBILITIES

4-01 § 4.1. Responsibilities of admitting officials.

4-01-01 A. Procedures for determining the immunization status of students.

Each admitting official or his designee shall review, ~~before the first day of the 1983-1984 school year~~, the school medical records of every ~~currently enrolled and every new student seeking admission to his school~~. After the 1983-1984 school year, each admitting official or his designee shall review, before the first day of each school year, the school medical record of every new student seeking admission to his school. Such review shall determine into which one of the following categories each student falls:

a. 1. Students whose immunizations are adequately documented and complete in conformance with Section ~~3-01~~ or Section ~~3-02~~ § 3.1 .

b. 2. Students who are exempt from the immunization requirements of Section ~~3-01~~ or Section ~~3-02~~ § 3.1 because of medical contraindications or religious beliefs provided for by Section ~~3-03~~ § 3.2 .

e. 3. Students whose immunizations are inadequate according to the requirements of Section ~~3-01~~ or Section ~~3-02~~ § 3.1 .

d. 4. Students without any documentation of having been adequately immunized.

~~4-01-02~~ B. Notification of deficiencies.

Upon identification of the students in categories e. 3 and d. 4 under Section ~~4-01-01~~ § 4.1 A , the admitting official shall notify the student or his parent or guardian:

a. 1. That there is no, or insufficient, documentary proof of adequate immunization in the student's school records.

b. 2. That the student cannot be admitted to school unless he has documentary proof that he is exempted from immunization requirements pursuant to Section ~~3-03~~ § 3.1 .

e. 3. That the student may be immunized and receive certification by a licensed physician or an official of a local health department.

d. 4. How to contact the local health department to learn where and when it performs these services.

~~4-01-03~~ C. Conditional enrollment.

Any student whose immunizations are incomplete may be admitted conditionally if that student provides documentary proof at the time of enrollment of having received at least one dose of the required immunizations accompanied by a schedule for completion of the required doses within ~~ninety~~ 90 days, during which time that student shall complete the immunizations required under Section ~~3-00~~ § 3.1 . Appendix C contains a suggested plan for ensuring the completion of these requirements within the ~~ninety~~ (90) day conditional enrollment period. The admitting official should examine the records of any conditionally enrolled student at regular intervals to ensure that such a student remains on schedule with his plan of completion.

4-01-04 D. Exclusion.

The admitting official shall, at the end of the conditional enrollment period, exclude any student who is not in compliance with the immunization requirements under Section ~~3-00~~ § 3.1 and who has not been granted an exemption under Section ~~3-03~~ § 3.2 until that student provides documentary proof that his immunization schedule has been completed, unless documentary proof, that a medical contraindication developed during the conditional enrollment period, is submitted.

4-01-05 E. Transfer of records.

The admitting official of every school shall be

responsible for sending a student's immunization records or a copy thereof, along with his permanent academic or scholastic records, to the admitting official of the school to which a student is transferring within ~~thirty~~ (30) days of his transfer to the new school.

4.01.06 F. Report of student immunization status.

Each admitting official shall, within 30 days of the beginning of each school year or entrance of a student, or by October 15 of each school year, file with the State Health Department through the health department for his locality, a report summarizing the immunization status of the students in his school. This report shall be filed on Form SIS 1, the Student Immunization Status Report (see Appendix E), and shall contain the number of students admitted to that school with documentary proof of immunization, the number of students who have been admitted with a medical or religious exemption and the number of students who have been conditionally admitted.

4.02 § 4.2. Responsibilities of physicians and local health departments.

A. Every physician and ~~or~~ local health department ; providing immunizations to a child ; shall provide documentary proof, to the child or his parent or guardian, of all immunizations administered.

4.02.01 ~~Currently Enrolled Students - Documentary proof of immunization for a currently enrolled student may be provided by the physician or official of a local health department by completing Form MCH 213B, recording the date each immunization was administered and signing Form MCH 213B in the appropriate location. In the case where a physician or local health department knows that a child has received the DTP, Td and/or OPV immunizations required under Section 3.01 3.0 from another physician or health department, but the exact dates the immunizations were administered are not known, a physician or official of a local health department, may, where repeat immunizations are not believed indicated, certify on Form MCH 213B that a currently enrolled student is adequately immunized. Such method shall not be used to certify any student as adequately immunized against measles (rubeola) or German measles (rubella).~~

4.02.02 A. New Students *Documentary proof.*

Only Form MCH 213B *and the temporary form for documenting immunizations against Hib (when applicable) or Form MCH 213C*, appropriately completed and signed by a physician or his designee or an official of a local health department, shall be accepted by an admitting official as documentary proof of adequate immunization, except that for a student transferring from an out-of-state school to a Virginia school, the admitting official may accept as documentary proof any immunization record for that student which contains the exact date (month/day/year) of administration of each of the required doses of vaccines and which complies fully with

the requirements prescribed under ~~Section 3.02 § 3.1~~. Any immunization record which does not contain the month/day/year of administration of each of the required vaccine doses shall not be accepted by the admitting official as documentary proof of adequate immunization ; *with the exception of immunization against Hib.* ~~such~~ Such a student's record shall be evaluated by an official of the local health department who shall determine if that student is adequately immunized in accordance with the provisions of ~~Section 3.02 § 3.1~~. Should the local health department determine that such a student is not adequately immunized, that student shall be referred to his private physician or local health department for any required immunizations.

5.00 PART V. PENALTIES.

5.01 § 5.1. Exclusion of students.

Any student who fails to provide documentary proof of immunization in the manner prescribed, within the time periods provided for in these regulations and §§ 22.1-271.1 and 22.1-271.2 of the Code of Virginia (1950) as amended, shall be excluded from school attendance by the school's admitting official.

5.02 § 5.2. Exclusion of students unprotected against vaccine - preventable diseases.

In accordance with § 32.1-47 of the Code of Virginia (1950) as amended, any student exempted from immunization requirements pursuant to ~~Section 3.02.01 § 3.2 A~~ of these regulations, shall be excluded from school attendance for his own protection until the danger has passed, if the commissioner so orders such exclusion upon the identification of an outbreak, potential epidemic or epidemic of a vaccine-preventable disease in that student's school.

5.03 § 5.3. Responsibility of parent to have a child immunized.

In accordance with § 32.1-46 of the Code of Virginia (1950) as amended, "the parent, guardian or person in loco parentis of each child within this Commonwealth shall cause such child to be immunized by vaccine against diphtheria, tetanus, whooping cough and poliomyelitis before such child attains the age of one year, against *Haemophilus influenzae type b* before he attains the age of 30 months, and against measles (rubeola), German measles (rubella) and mumps before such child attains the age of two years. All children shall also be required to receive a second dose of measles vaccine prior to entering kindergarten or first grade."

5.04 § 5.4. General penalties.

In accordance with § 32.1-27 of the Code of Virginia (1950) as amended, "any person willfully violating or

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refusing, failing or neglecting to comply with any regulation or order of the board or commissioner of any provision of this title (~~Title 32~~) shall be guilty of a Class 1 misdemeanor unless a different penalty is specified."

Appendix A

PART I COMMONWEALTH OF VIRGINIA
SCHOOL ENTRANCE PHYSICAL EXAMINATION AND IMMUNIZATION CERTIFICATION
HEALTH INFORMATION SECTION: (PART I to be completed by parent or guardian) Please Print or Type! Thank you.

Student's Name: _____ LAST _____ FIRST _____ MI _____

Complete Date of Birth: / / ; Sex: ; Number of Children in Family: ; State or Country of Birth: _____

Social Security #: / / ; I.D. #: _____

Parent or Legal Guardian: _____

Address: _____ City: _____ Zip: / /

Home Phone: () - - - - - ; Work Phone: () - - - - -

School's Name: _____ Grades: /

In case of emergency, notify (other than parent or guardian) Please list Name, address, and Complete Phone Number (area code and number).

1) _____ Phone: () - - - - -

2) _____ Phone: () - - - - -

Birth History (weight, prematurity, any other problems at birth): _____

Allergies to food, medicine, insect bites/stings, or other: _____

Check here if you wish to discuss confidential information with school authorities.

EQUIPMENT USED BY CHILD (please check those that apply)	CHRONIC OR RECURRING CONDITIONS (please check those that apply)
<input type="checkbox"/> Prosthesis (e.g., cane, crutch, limb)	<input type="checkbox"/> Ear Infections
<input type="checkbox"/> Brace	<input type="checkbox"/> Hard of Hearing
<input type="checkbox"/> Hearing Aids	<input type="checkbox"/> Seizures/spells
<input type="checkbox"/> Glasses	<input type="checkbox"/> Kidney Disease
<input type="checkbox"/> Helmet	<input type="checkbox"/> Sickle Cell Anemia (not trait)
<input type="checkbox"/> Wheelchair or Walker	<input type="checkbox"/> Head, spinal cord injury, or disease of central nervous system
<input type="checkbox"/> Special Shoes	<input type="checkbox"/> Eye Diseases
<input type="checkbox"/> Other (Please List!): _____	<input type="checkbox"/> Heart Disease
	<input type="checkbox"/> Asthma
	<input type="checkbox"/> Diabetes
	<input type="checkbox"/> Other (Please List!): _____

Names of medical specialists, dentists, or special clinics caring for child: _____

Prescription medicines taken regularly (LIST): _____

Operations (dates): _____

Hospitalizations (dates): _____

Other Important Information about your child: _____

**** give my permission for the school nurse/school to contact the examining physician to discuss any information contained on this form.

PART II
CERTIFICATION OF SCHOOL HEALTH EXAMINATION
PART II TO BE COMPLETED BY A PHYSICIAN
(Return to be completed by parent/guardian)

Student's Name: _____ Sex: _____ Birth Date: _____ / _____ / _____
 Height: _____ Weight: _____ Head Circumference: _____ Supr: _____ Other: _____
 Hemoglobin or Hematocrit: _____ Urine Albumin: _____
 Most recent Tuberculin Test Date: _____ / _____ / _____ Hearing R: _____
 Vision (w/out glasses) R20/ _____ L20/ _____ Hearing test performed? Audiology: _____
 Vision (with glasses) R20/ _____ L20/ _____ Tympanogram (if indicated): normal / abnormal / absent
 Comments About Findings: _____

Systems Examinations	Exam.	Not Exam.
General Appearance, Nutrition		
Posture, Gait		
Skin		
Head		
Eyes External		
Eyes Internal		
Ears External & Canal		
Tympanic Membranes		
Nose		
Throat		
Teeth		
Neck		
Heart		
Lungs		
Abdomen		
Genitalia (Troner Stage)		
Bones, Joints, Muscles		
Neurological		
Other		
Etc. of developmental level		
Behavioral Observations		
Cooperation		
Emotional tone		
Activity level		
Summary of abnormal conditions which may require (a) educational evaluation, (b) educational adjustment, or (c) assistance to be rendered:		
Barriers to:		
Physician (print): _____ Signature: _____ Date: _____		
Address: _____ Phone: _____		

PART III
CERTIFICATION OF IMMUNIZATION
Form III to be Completed by a Physician or Health Department Official

Student's Name: _____ Sex: _____ Birth Date: _____ / _____ / _____
 Student's S.S. #: _____ ID #: _____
 Parent/Guardian: _____

IMMUNIZATIONS	RECORD COMPLETE DATES (month/day/year) OF VACCINE DOSES ADMINISTERED
Diphtheria/Tetanus/Perussia (DTP)	_____ / _____ / _____
Diphtheria/Tetanus (DT or Adult TD)	_____ / _____ / _____
Poliomyelitis (OPV or IPV)	_____ / _____ / _____
Mumps (Rubella)	_____ / _____ / _____
Measles (Rubella)	_____ / _____ / _____
Measles/Mumps/Rubella (MMR)	_____ / _____ / _____
Hepatitis B Vaccine	_____ / _____ / _____
Haemophilus influenzae Type b (Hib, Conjugate); PLEASE COMPLETE THE APPROPRIATE SECTION BELOW.	_____ / _____ / _____

Has received complete series of Hib vaccine in accordance with current recommendations of the AMERICAN ACADEMY OF PEDIATRICS OR THE U.S. PUBLIC HEALTH SERVICE.

Has received the AGE-APPROPRIATE doses of Hib vaccine as recommended by the AMERICAN ACADEMY OF PEDIATRICS OR THE U.S. PUBLIC HEALTH SERVICE, the series will be completed on (RECORD COMPLETE DATE (month/day/year)) _____ / _____ / _____

Series Completion Date: _____ / _____ / _____

Hib vaccine is not indicated because this child has had Hib disease at 24 months of age or older.

Being over 30 months of age, this child is not required by law to have proof of immunization against Hib.

MEDICAL EXEMPTION: DTP TD OPV Hib Mumps Measles Rubella _____
 As specified in 25.1-212.2(4)(i) of the Code of Virginia, I certify that administration of this vaccine(s) designated above would be detrimental to this student's health. The vaccine(s) is (are) specifically contraindicated because (please specify): _____

This contraindication is permanent or temporary and expected to preclude immunization until _____ Date: _____

Signature of PHYSICIAN or HEALTH DEPT. OFFICIAL: _____ Date: _____

RELIGIOUS EXEMPTION: The Code of Virginia allows a child an exemption from receiving immunizations required for school attendance if the parent or guardian certifies in writing that the child's religious beliefs are in conflict with the administration of immunization against vaccine with which the child's religious beliefs or practices. Any student enrolling in school for the first time after July 1, 1983, must submit this affidavit on a CERTIFICATE OF RELIGIOUS EXEMPTION (Form CRE-1) which may be obtained at any local health department, school division superintendent's office or local department of Social Services. Ref. Code 25.1-212.2 (C)(b), CODE OF VIRGINIA

*I certify that this student has received at least one dose of each of the vaccines required by the State Board of Health for attending school and that this student has a plan for the completion of higher requirements within the next 90 days (conditional enrollment).

Signature of Physician or Health Dept. Official: _____ Date (month/day/year): _____

**I certify that this student is ADEQUATELY IMMUNIZED in accordance with the MINIMUM requirements for attending school prescribed by the State Board of Health on the reverse side of this form.

Appendix B

PART IV

MINIMUM IMMUNIZATIONS REQUIRED OF NEW STUDENTS BY THE STATE BOARD OF HEALTH FOR *SCHOOL ATTENDANCE

DTP: THREE (3) doses of DTP with one (1) of the three (3) administered after the fourth birthday. If any of these doses must be administered on or after the seventh birthday, ADULT Td should be used instead of DTP.

OPV: THREE (3) doses of trivalent OPV or three (3) doses of eIPV with one of the three administered after the fourth birthday

MEASLES: TWO (2) doses of live virus measles (rubeola) vaccine, one dose given at 12 months of age or older and a second dose administered prior to entering KINDERGARTEN or first grade, whichever occurs first, effective JULY 1, 1991.

RUBELLA: ONE (1) dose of rubella vaccine received at 12 months of age or older.

MUMPS: ONE (1) dose of mumps vaccine received at 12 months of age or older for students entering school on or after AUGUST 1, 1981.

*SCHOOL DEFINITION: a) Any public school from kindergarten through grade 12 operated under the authority of any locality within this Commonwealth; b) Any private or parochial school that offers instruction at any level or grade from kindergarten through grade 12; c) Any private or parochial nursery school or preschool, or any private or parochial child care center licensed by this Commonwealth; and d) Any preschool handicapped classes or Head Start classes operated by the school divisions within this Commonwealth.

If there are questions please call your local health department.

COMMONWEALTH OF VIRGINIA CERTIFICATE OF RELIGIOUS EXEMPTION



01/02/01 11:02

Name _____ Birth Date _____

Student I.D. Number _____

The administration of immunizing agents conflicts with the above named student's my religious tenets or practices. I understand, that in the occurrence of an outbreak, potential epidemic or epidemic of a vaccine-preventable disease in my my child's school, the State Health Commissioner may order my/my child's exclusion from school, for my/my child's own protection, until the danger has passed.

Signature of parent/guardian/student _____ Date _____

I hereby affirm that this affidavit was signed in my presence on this _____ day of _____

Notary Public Seal

APPENDIX D

Appendix C

A SUGGESTED PLAN FOR ENSURING COMPLIANCE

TIME	
Day 0	Conditional enrollment period starts. If student has not received first dose(s) of required vaccines, exclude student.
Day 1 to Day 40	Student should have received second dose(s) of required vaccines.
Day 43 to Day 88	Student should have received third dose(s) of required vaccines.
Day 89 and Day 90	Confirm that immunizations are complete; exclude children not in compliance.

§ 22-1-270. (Effective July 1, 1983) Preschool physical examinations.—A. No pupil shall be admitted for the first time to any public kindergarten or elementary school in a school division unless such pupil shall furnish, prior to admission, (i) a report from a qualified licensed physician of a comprehensive physical examination of a scope prescribed by the State Health Commissioner performed no earlier than twelve months prior to the date such pupil first enters such public kindergarten or elementary school; or (ii) records establishing that such pupil furnished such report upon prior admission to another school or school division and providing the information contained in such report.

B. The physician making a report of a physical examination required by this section shall, at the end of such report, summarize the abnormal physical findings, if any, and shall specifically state what, if any, conditions are found that would identify the child as handicapped.

C. Such physical examination report shall be placed in the child's health record at the school and shall be made available for review by any employee or official of the State Department of Health or any local health department at the request of such employee or official.

D. Such physical examination shall not be required of any child whose parent or guardian shall object on religious grounds and who shows no visual evidence of sickness. Provided that such parent or guardian file with the state in writing that, to the best of his knowledge, such child is in good health and free from any communicable or contagious disease.

E. The health departments of all of the counties and cities of the Commonwealth shall conduct such physical examinations for medically indigent children without charge upon request and may provide such examinations to others on such uniform basis as such departments may establish.

F. G. (Repealed)

H. The provisions of this section shall not apply to any child who was admitted to a public school prior to July 1, 1972.

I. Parents or guardians of entering students shall complete a health information form which shall be distributed by the local school divisions and returned and provided jointly by the Department of Education and Department of Health. Such forms shall be returnable within fifteen days of receipt unless reasonable extensions have been granted by the superintendent or his designee. Upon failure of the parent or guardian to complete such form within the extended time, the superintendent may send to the parent or guardian written notice of the date he intends to exclude the child from school. (Code 1950, § 22-2201; 1972, c. 761; 1973, c. 300; 1974, c. 150; 1975, cc. 130, 260, 1980, c. 559; 1982, c. 510.)

Cross reference.—For this section as in effect until July 1, 1983, see the preceding section, also numbered 22-1-270.

The 1982 amendment, effective July 1, 1983, deletes this section so as to create a reference to immunization certificates.

§ 22-1-271. (Repealed effective July 1, 1983) Failure to complete immunizations.—Upon the admission to any public school of any pupil who has furnished a certificate that indicates that the required immunizations were not completed, the school principal shall notify the parent, guardian or other person having custody or control of the pupil that the immunizations must be completed within sixty days of admission. If the pupil's immunizations are not completed within the sixty-day period, the parent, guardian or other person so notified shall be guilty of a Class 4 misdemeanor and the pupil shall be excluded from school until the pupil furnishes a certificate from a licensed physician that the required immunizations have been completed. (Code 1950, § 22-250; 1980, c. 559; 1981, c. 540.)

Cross reference.—As to punishment for Class 4 misdemeanor, see § 18-211.

The 1981 amendment substituted the language beginning "be excluded from school until the pupil furnishes a certificate from a licensed physician that the required immunizations have been completed" for the language beginning "the parent, guardian or other person so notified shall be guilty of a Class 4 misdemeanor and the pupil shall be excluded from school until the pupil furnishes a certificate from a licensed physician that the required immunizations have been completed." (Code 1950, § 22-250; 1980, c. 559; 1981, c. 540.)

Section repealed effective July 1, 1983. This section is repealed, effective July 1, 1983. By Acts 1982, c. 510.

§ 22.1-271.1. (Effective July 1, 1983) Definitions.—For the purpose of § 22.1-271.2 "Admit" or "admission" means the official enrollment or re-enrollment for attendance at any grade level, whether full-time or part-time, of any student by any school.

"Admitting official" means the school principal or his designated representative if a public school; if a nonpublic school or child-care center, the principal, headmaster or director of the school or center.

"Documentary proof" means written certification that a student has been immunized, such certificate to be on a form provided by the State Department of Health and signed by the licensed immunizing physician or an employee of the immunizing local health department.

"Student" means any person who seeks admission to a school, or for whom admission to a school is sought by a parent or guardian, and who will not have attained the age of twenty years by the start of the school term for which admission is sought.

"Immunized" or "immunization" means initial immunization and any boosters or reimmunizations required by § 32.1-46.

"School" means (i) any public school from kindergarten through grade twelve operated under the authority of any locality within this Commonwealth; (ii) any private or parochial school that offers instruction at any level or grade from kindergarten through grade twelve; and (iii) any private or parochial nursery school or preschool, or any private or parochial child-care center required to be licensed by this Commonwealth. (1982, c. 510)

Effective date.—This section is effective July 1, 1983.

§ 22.1-271.2. (Effective July 1, 1983) Immunization requirements.—A. No student shall be admitted by a school unless at the time of admission the student or his parent or guardian submits documentary proof of immunization to the admitting official of the school or unless the student is exempted from immunization pursuant to subsection C. If a student does not have documentary proof of immunization, the school shall notify the student or his parent or guardian (i) that it has no documentary proof of immunization for the student; (ii) that it may not admit the student without proof unless the student is exempted pursuant to subsection C; (iii) that the student may be immunized and receive certification by a licensed physician or an employee of a local health department; and (iv) how to contact the local health department to learn where and when it performs these services. Neither this Commonwealth nor any school or admitting official shall be liable in damages to any person for complying with this section.

Documentary proof of immunization shall be provided to any person who has been immunized or to his parent or guardian.

B. Any student whose immunizations are incomplete may be admitted conditionally if that student provides documentary proof at the time of enrollment of having received at least one dose of the required immunizations accompanied by a schedule for completion of the required doses within ninety days.

The immunization record of each student admitted conditionally shall be reviewed periodically until the required immunizations have been received.

Any student admitted conditionally and who fails to comply with his schedule for completion of the required immunizations shall be excluded from school until his immunizations are resumed.

C. No certificate of immunization shall be required for the admission to school of any student if (i) the student or his parent or guardian submits an affidavit to the admitting official stating that the administration of immunizing agents conflicts with the student's religious tenets or practices; or (ii) the school has written certification from a licensed physician or a local health department that one or more of the required immunizations may be detrimental to the student's health, indicating the specific nature and probable duration of the medical condition or circumstance that contraindicates immunization.

D. The admitting official of a school shall exclude from the school any student for whom he does not have documentary proof of immunization or notice of exemption pursuant to subsection C.

E. Every school shall record each student's immunizations on the school immunization record. The school immunization record shall be a standardized form provided by the State Department of Health, which shall be a part of the mandatory permanent student record.

Such record shall be open to inspection by officials of the State Department of Health and the local health departments.

The school immunization record shall be transferred by the school whenever the school transfers any student's permanent academic or scholastic records.

Within thirty calendar days after the beginning of each school year or entrance of a student, each admitting official shall file a report with the local health department. The report shall be filed on forms prepared by the State Department of Health and shall state the number of students admitted to school with documentary proof of immunization, the number of students who have been admitted with a medical or religious exemption and the number of students who have been conditionally admitted.

F. The requirement for mumps immunization as provided in § 32.1-46 shall not apply to any child admitted for the first time to any grade level, kindergarten through grade twelve, of a school prior to August 1, 1981.

G. The Board of Health shall promulgate rules and regulations for the implementation of this section in congruence with rules and regulations of the Board of Health promulgated under § 32.1-46 and in cooperation with the Board of Education. (1982, c. 510)

Effective date.—This section is effective July 1, 1983.

§ 32.1-46. Immunization of children against certain diseases.—A. The parent, guardian or person standing in loco parentis of each child within this Commonwealth shall cause such child to be immunized by vaccine against diphtheria, tetanus, whooping cough and poliomyelitis before such child attains the age of one year, again Haemophilus influenzae type b ~~after such child attains the age of eighteen months~~ and before he attains the age of thirty months, and against measles (rubeola), German measles (rubella) and mumps before such child attains the age of two years. All children shall also be required to receive a second dose of measles vaccine prior to entering kindergarten or first grade. The parent, guardian or person standing in loco parentis may have such child immunized by a physician or may present the child to the appropriate local health department which shall administer the required vaccines without charge.

B. A physician or local health department administering a vaccine required by this section shall provide to the person who presents the child for immunizations a certificate which shall state the diseases for which the child has been immunized, the numbers of doses given, the dates when administered and any further immunizations indicated.

C. The vaccines required by this section shall meet the standards prescribed in, and be administered in accordance with, regulations of the Board.

D. The provisions of this section shall not apply if:

1. The parent or guardian of the child objects thereto on the grounds that the administration of immunizing agents conflicts with his religious tenets or practices, unless an emergency or epidemic of disease has been declared by the Board; or

2. The parent or guardian presents a statement from a physician licensed to practice medicine in Virginia which states that the physical condition of the child is such that the administration of one or more of the required immunizing agents would be detrimental to the health of the child.

~~The provisions of this section shall not operate so as to affect the eligibility of any child to be admitted to public schools in Virginia prior to August 17, 1981.~~

APPENDIX E

COMMONWEALTH OF VIRGINIA
STUDENT IMMUNIZATION STATUS REPORT

Please Type or Print All Information!

FACILITY: _____
 MAILING ADDRESS: _____
 CITY: _____ ZIP: _____
 LOCATION STREET: _____
 COUNTY: _____ CITY: _____
 PERSON PREPARING REPORT (PRINT): _____ TITLE: _____
 SIGNATURE: _____ DATE: _____ PHONE: _____

1) Please check one of the following:
 PUBLIC SCHOOL _____ PAROCHIAL SCHOOL _____ HEAD START _____ CHILD CARE CENTER _____
 TYPE OF FACILITY REPORTING!

INSTRUCTIONS:

1) Please complete this report using information in each student's school medical record.
 2) Please refer to the back section of this form for the MINIMUM IMMUNIZATIONS REQUIRED BY THE CODE OF VIRGINIA.
 3) ALL SCHOOLS Please submit to the ADDRESS BELOW by OCTOBER 15.

**VIRGINIA DEPARTMENT OF HEALTH
 BUREAU OF IMMUNIZATION
 1500 E. MAIN ST., SUITE 120
 RICHMOND, VIRGINIA 23219
 PHONE # (804)794-4246**

COMPLETE THE SECTION(S) APPLICABLE TO YOUR FACILITY
 Please note in each section, numbers in columns (b) through (f) should add together to equal the total number of students in column (a).

****SECTION I****
CHILD CARE CENTERS, HEAD STARTS OR PRESCHOOLS

(a) Number of Students Enrolled	(b) Number Adequately Immunized	(c) Number of Medical Exemptions	(d) Number of Religious Exemptions	(e) Number of Conditionally Enrolled	(f) Number Without Records

****SECTION II****
KINDERGARTEN OR FIRST GRADE IF THERE IS NO KINDERGARTEN (PUBLIC, PRIVATE, PAROCHIAL)

(a) Number of Students Enrolled	(b) Number Adequately Immunized	(c) Number of Medical Exemptions	(d) Number of Religious Exemptions	(e) Number Conditionally Enrolled	(f) Number Without Records

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The 1980 amendment inserted the reference to mumps in the first sentence of subsection A and added the last paragraph of subsection D.
 Law Review. For survey of Virginia law on governmental services and social welfare for the year 1978-79, see 66 Va. L. Rev. 501 (1980).

§ 32.1-47. Exclusion from school of children not immunized.--Upon the identification of an outbreak, potential epidemic or epidemic of a vaccine-preventable disease in a public or private school, the Commissioner shall have the authority to require the exclusion from such school of all children who are not immunized against that disease. (1979, c. 711.)

§ 32.1-27. Penalties; injunctions, civil penalties and charges for violations.--
 A. Any person willfully violating or refusing, failing or neglecting to comply with any regulation or order of the Board or Commissioner of any provision of this title shall be guilty of a Class 1 misdemeanor unless a different penalty is specified.

B. Any person violating or failing, neglecting, or refusing to obey any lawful regulation or order of the Board of Commissioner or any provision of this title may be compelled in a proceeding instituted in an appropriate court by the Board or Commissioner to obey such regulation, order or provision of this title and to comply therewith by injunction, mandamus, or other appropriate remedy.

C. Without limiting the remedies which may be obtained under subsection B, any person violating or failing, neglecting or refusing to obey any injunction, mandamus or other remedy obtained pursuant to subsection B shall be subject, in the discretion of the court, to a civil penalty not to exceed ten thousand dollars for each violation. Each day of violation shall constitute a separate offense. Such civil penalties may, in the discretion of the court constitute a separate offense. Such civil penalties may, in the discretion of the court assessing them, be directed to be paid into the treasury of the county, city or town in which the violation occurred, to be used for the purpose of abating environmental pollution therein in such manner as the court may, by order, direct, except that where the owner in violation is such county, city or town itself, or its agent, the court shall direct such penalty to be paid into the State treasury.

D. With the consent of any person who has violated or failed, neglected or refused to obey any regulation or order of the Board or Commissioner or any provision of this title, the Board may provide, in an order issued by the Board against such person, for the payment of civil charges for past violations in specific sums, not to exceed the limit specified in subsection C. Such civil charges shall be instead of any appropriate civil penalty which could be imposed under subsection C. (Code 1951, §832-6.4, 32-15; 1975, c. 564; 1976, c. 623; 1979, c. 711; 1980, c. 378)

Cross reference.--As to punishment for Class 1 misdemeanors, see § 18.2-11.

The 1980 amendment added the third sentence of subsection C.

MINIMUM IMMUNIZATIONS REQUIRED OF NEW STUDENTS BY THE STATE BOARD OF HEALTH
FOR SCHOOL ATTENDANCE

For More Information Please Refer to the Code of Virginia 22.1-271.2 Immunization Requirements and Section 3.06 of the Rules and Regulations for the Immunization of School Children.

DTP: THREE (3) doses of DTP with one (1) of the three (3) administered after the fourth birthday. If any of these doses must be administered on or after the seventh birthday, ADULT Td vaccine should be used instead of DTP.

OPV: THREE (3) doses of trivalent OPV or THREE (3) doses eIPV with one of the three administered after the fourth birthday.

MEASLES: TWO (2) doses of live virus measles (rubeola) vaccine, one (1) dose given at 12 months of age or older and a second dose administered prior to entering KINDERGARTEN or first grade, whichever occurs first.

RUBELLA: ONE (1) dose of rubella vaccine received at 12 months of age or older.

MUMPS: ONE (1) dose of mumps vaccine received at 12 months of age or older for students entering school on or after August 1, 1981.

CONDITIONAL ENROLLMENT: In order for a student to be CONDITIONALLY ENROLLED, the student must have proof of having received at least one (1) dose of each of the required immunizations (DTP, OPV, MEASLES, MUMPS, and RUBELLA) and have a schedule on file to receive the remainder of the required doses within 90 DAYS.

RELIGIOUS EXEMPTIONS: The student or his parent or guardian submits a CERTIFICATE OF RELIGIOUS EXEMPTION (FORM CRE-1), to the admitting official of the school to which the student is seeking admission. Form CRE-1 is an affidavit stating that the administration of immunizing agents conflicts with the student's religious tenets or practices. The CRE-1 must be signed by a NOTARY PUBLIC AND STAMPED WITH THE NOTARY'S SEAL.

MEDICAL EXEMPTIONS: The school must have written certification from a physician or a local health department on FORM MCH213B that one or more of the required immunizations may be detrimental to the student's health. Such certification of medical exemption shall specify the nature and probable duration of the medical condition or circumstance that contraindicates immunization.

IF THERE ARE QUESTIONS REGARDING IMMUNIZATIONS PLEASE CALL YOUR LOCAL HEALTH DEPARTMENT OR THE BUREAU OF IMMUNIZATION
© (804) 786-4246

Form SIS-2, Rev.10/91

Proposed Regulations

BOARD OF MEDICINE AND BOARD OF NURSING

PART I. GENERAL PROVISIONS.

Title of Regulation: VR 465-12-1; VR 495-03-1. Regulations for Prescriptive Authority for Nurse Practitioners.

Statutory Authority: §§ 54.1-2400 and 54.1-2957.01 of the Code of Virginia.

Public Hearing Date: January 29, 1992 - 1:30 p.m.
(See Calendar of Events section for additional information)

Summary:

The General Assembly of Virginia, in 1991, amended §§ 54.1-3401 and 54.1-3408 and added new § 54.1-2957.01 to the Code of Virginia to establish prescriptive authority for nurse practitioners licensed by the Virginia Boards of Medicine and Nursing.

The initial intent was to amend existing regulations, VR 495-01-1 and VR 465-07-1. As consideration was given to the clearest method of establishing these regulations, the decision was made to propose new regulations instead of offering amendments to existing regulations.

These new regulations establish the basis for nurse practitioners to receive approval for prescriptive authority by setting the qualifications and fees for initial and continuing approval. A formulary is established and requirements stated for a practice agreement to be submitted to the boards for approval. Regulations related to supervision, practice sites, and grounds for disciplinary action are included.

The Advisory Committee considered comments received in response to the notice of intended regulatory action. Consideration was given to these comments in the development of the proposed regulations and, where possible, the intention was included in the regulations. The Advisory Committee was appreciative of reports of two meetings with nurse practitioners conducted by The Medical Society of Virginia. The reports were helpful in establishing the formulary in the proposed regulations that is broad rather than limiting in the practice of the nurse practitioners and the physicians with whom they work.

The Boards of Medicine and Nursing received the proposed regulations from the Advisory Committee. On November 28, 1991, the Board of Nursing accepted the draft of regulations for publication as proposed. On December 13, 1991, the Board of Medicine accepted the draft with amendments. A special meeting of the Board of Nursing followed at which those amendments were accepted, and the regulations are now presented for public comment.

VR 465-12-1 and VR 495-03-1. Regulations for Prescriptive Authority for Nurse Practitioners.

§ 1.1. Definitions.

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

"Boards" means the Virginia Board of Medicine and the Virginia Board of Nursing.

"Committee" means the committee of the joint boards of medicine and nursing.

"Formulary" means the listing of categories of drugs which may be prescribed by the nurse practitioner according to these regulations.

"Nurse practitioner" means a registered nurse who has met the additional requirements of education and examination for licensure as a nurse practitioner in the Commonwealth.

"Practice agreement" means a written agreement jointly developed by the supervising physician and the nurse practitioner that describes and directs the prescriptive authority of the nurse practitioner.

"Supervision" means that the physician documents being readily available for medical consultation by the licensed nurse practitioner or the patient, with the physician maintaining ultimate responsibility for the agreed-upon course of treatment and medications prescribed.

§ 1.2. Authority and administration of regulations.

A. Statutory authority.

The statutory authority for these regulations is found in Chapter 29 (§ 54.1-2957.01), Chapter 33 (§ 54.1-3303), and Chapter 34 (§§ 54.1-3401, 54.1-3408) of Title 54.1 of the Code of Virginia.

B. Joint boards of medicine and nursing.

1. The committee of the joint boards shall be appointed to administer these regulations governing prescriptive authority.

2. The boards hereby delegate to the Executive Director of the Virginia Board of Nursing the authority to issue the initial authorization and biennial renewal to those persons who meet the requirements set forth in these regulations. Questions of eligibility shall be referred to the committee.

3. All records and files related to prescriptive authority for nurse practitioners shall be maintained in the office of the Board of Nursing.

Proposed Regulations

C. Exception to authority to prescribe.

A licensed nurse practitioner who has met the requirements for approval shall have the authority to prescribe within the practice requirements as defined in Part III of these regulations with the exception of those licensed in the category of certified registered nurse anesthetist practitioners for whom these regulations are not applicable.

PART II. APPROVAL FOR PRESCRIPTIVE AUTHORITY.

§ 2.1. Authority to prescribe, general.

A. No licensed nurse practitioner shall have authority to prescribe certain controlled substances and devices in the Commonwealth of Virginia except in accordance with these regulations and as authorized by the joint boards of medicine and nursing.

B. The boards shall approve prescriptive authority for applicants who meet the qualifications set forth in § 2.2 of these regulations.

§ 2.2. Qualifications for initial approval of prescriptive authority.

An applicant for prescriptive authority shall meet the following requirements:

1. Hold a current, unrestricted license as a nurse practitioner in the Commonwealth of Virginia; and
2. Provide evidence of the satisfactory completion of a graduate level course or 30 contact hours of education in pharmacology or pharmacotherapeutics acceptable to the Boards of Medicine and Nursing taken within five years prior to submission of the application. The 30 contact hours may be obtained in a formal academic setting as a discrete offering or as noncredit continuing education offerings and shall include the following course content:
 - a. Applicable federal and state laws;
 - b. Prescription writing;
 - c. Drug selection, dosage, and route;
 - d. Drug interactions;
 - e. Information resources; and
 - f. Clinical application of pharmacology related to specific scope of practice.
3. Submit a practice agreement between the nurse practitioner and the supervising physician as required in § 3.2 of these regulations. The practice agreement must be approved by the boards prior to issuance of

prescriptive authority; and

4. File a completed application and pay the fees as required in § 2.5 of these regulations.

§ 2.3. Renewal of prescriptive authority.

An applicant for renewal of prescriptive authority shall:

1. Renew biennially at the same time as the renewal of licensure to practice as a nurse practitioner in Virginia.
2. Submit a completed renewal application along with the renewal fee as prescribed in § 2.5 of these regulations.
3. Submit with the application for renewal of prescriptive authority a current practice agreement which is signed by the nurse practitioner and the supervising physician and which is acceptable to the boards.

§ 2.4. Reinstatement of prescriptive authority.

A. An applicant for reinstatement of lapsed prescriptive authority shall:

1. File the required application and practice agreement as required for renewal in § 2.3; and
2. Provide evidence of a current, unrestricted license to practice as a nurse practitioner in Virginia; and
3. Pay the fee required for reinstatement of a lapsed authorization as prescribed in § 2.5.
4. If the authorization has lapsed for a period of five or more years, the applicant shall provide proof of:
 - a. Continued practice as a licensed nurse practitioner with prescriptive authority in another state; or
 - b. Continuing education consisting of 30 contact hours in pharmacology or pharmacotherapeutics.

B. An applicant for reinstatement of suspended or revoked authorization shall:

1. Request a hearing pursuant to the provisions of the Virginia Administrative Process Act to be held before the committee;
2. Present evidence of competence to resume practice as a nurse practitioner with prescriptive authority; and
3. Meet the qualifications and resubmit the application and fees as required for initial authorization in § 2.2 of these regulations.

§ 2.5. Fees for prescriptive authority.

The following fees have been established by the boards:

Initial issuance of prescriptive authority	\$50
Biennial renewal	\$25
Reinstatement of lapsed authorization	\$25
Reinstatement of suspended or revoked authorization	\$50
Duplicate of authorization	\$10
Return check charge	\$15

**PART III.
PRACTICE REQUIREMENTS.**

§ 3.1. Approved formulary.

A. The approved formulary of drugs which nurse practitioners with prescriptive authority may prescribe, administer, or dispense shall include:

1. Schedule VI drugs and devices with exception of the following:

Radioactive drugs

Ophthalmic aminoglycosides

Ophthalmic steroids

Any compound containing barbiturates

2. No controlled substances defined by the State and Federal Controlled Substances Acts as Schedule I through V.

B. The nurse practitioner may prescribe only those categories of drugs and devices included in the approved formulary and those specific drugs set forth in the practice agreement as submitted for authorization.

C. The approved formulary shall be reviewed annually by the committee and shall be sent to the applicant at the time of initial approval of prescriptive authority and with the applications for renewal or reinstatement.

§ 3.2. Practice agreement.

A. A nurse practitioner with prescriptive authority may prescribe only within the scope of a written practice agreement with a supervising physician.

B. A new practice agreement shall be submitted:

1. With the initial application for prescriptive authority; or

2. With the application for each biennial renewal, if there have been any changes in supervision, authorization, or scope of practice; or

3. At any time a change in the primary supervising physician shall occur.

C. The practice agreement shall contain the following:

1. A description of the prescriptive authority of the nurse practitioner within the scope of the approved formulary and the practice of the nurse practitioner.

2. An authorization for categories of those specific drugs and devices within the requirements of the approved formulary as found in § 3.1 of these regulations.

3. The signatures of the primary supervising physician and any secondary physician who may be regularly called upon in the event of the absence of the primary physician.

§ 3.3. Supervision and site visits.

A. Physicians, other than those employed by, or under contract with local health departments, federally funded comprehensive primary care clinics, or nonprofit health care clinics or programs, shall:

1. Supervise and direct, at any one time, no more than two nurse practitioners with prescriptive authority.

2. Regularly practice in any location in which the licensed nurse practitioner exercises prescriptive authority. A separate practice setting may not be established for the nurse practitioner.

3. Conduct a monthly, random review of patient charts on which the nurse practitioner has entered a prescription for an approved drug or device.

4. Regularly practice in the location in which the certified nurse midwife practices, or in the event that the midwife has established a separate office, the supervising physician shall conduct a monthly site visit and review of patient charts.

B. Physicians employed by, or under contract with local health departments, federally funded comprehensive primary care clinics, or nonprofit health care clinics or programs to provide supervisory services, shall:

1. Supervise and direct, at any one time, no more than four nurse practitioners with prescriptive authority who provide services on behalf of such entities.

2. Regularly practice in such settings or shall make monthly site visits to such settings for chart review

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and direction.

3. Conduct a monthly, random review of patient charts on which the nurse practitioner has entered a prescription for an approved drug or device.

§ 3.4. Disclosure.

A. The nurse practitioner shall include on each prescription written or dispensed his signature and authorization number as issued by the boards.

B. The nurse practitioner shall disclose to patients the name, address and telephone number of the supervising physician. Such disclosure may be included on a prescription pad or may be given in writing to the patient.

C. The nurse practitioner shall wear a name tag with identification as a licensed nurse practitioner or a certified nurse midwife.

§ 3.5. Dispensing.

A. A nurse practitioner may dispense only under the orders of a supervising physician who is authorized to dispense. Such orders shall be included in the written practice agreement as submitted with the initial application or the renewal of authorization.

B. Nurse practitioners may dispense only those drugs allowed by the approved formulary.

PART IV. DISCIPLINE.

The boards may deny approval of prescriptive authority, revoke or suspend authorization, or take other disciplinary actions against a nurse practitioner who:

1. Exceeds his authority to prescribe or prescribes outside of the written practice agreement with the supervising physician.

2. Has had his license as a nurse practitioner suspended, revoked or otherwise disciplined by the boards pursuant to § 5.1 of VR 495-02-1 and VR 465-07-1: Regulations Governing the Licensure of Nurse Practitioners.

§ 4.2. Hearings.

A. The committee of the joint boards of medicine and nursing shall conduct all hearings prescribed herein and shall take action on behalf of the boards.

B. The provisions of the Administrative Process Act shall govern proceedings on questions of violation of § 4.1 of these regulations.

C. When the license of a nurse practitioner has been suspended or revoked by the joint boards, prescriptive

authority shall be suspended pending a hearing simultaneously with the institution of proceedings for a hearing.

D. Any violation of law or of these regulations may result in the revocation or suspension of prescriptive authority and may also result in additional sanctions imposed on the license of the nurse practitioner by the joint boards or upon the license of the registered nurse by the Board of Nursing.

STATE WATER CONTROL BOARD

Title of Regulation: VR 680-15-03. Surface Water Management Area Regulation.

Statutory Authority: Chapter 24 (§ 62.1-242 et seq.) of Title 62.1 of the Code of Virginia.

Public Hearing Dates:

February 26, 1992 - 7 p.m.

February 27, 1992 - 2 p.m.

March 2, 1992 - 7 p.m.

March 4, 1992 - 7 p.m.

(See Calendar of Events section for additional information)

Summary:

In accordance with § 62.1-242 et seq. of the Code of Virginia, the State Water Control Board proposes to adopt a general regulation that delineates the procedures and requirements to be followed in connection with the establishment of surface water management areas, the issuance of surface water withdrawal permits and the issuance of surface water withdrawal certificates. Excluded from the requirements of these regulations are nonconsumptive users, water withdrawals of less than 300,000 gallons in any single month and water withdrawals from wastewater treatment systems. The Code of Virginia, § 62.1-242 et seq., required the final adoption of general regulations six months prior to the designation of any surface water management areas.

Surface water management areas will be established by separate regulations. Proceedings may be initiated to establish a surface water management area anywhere throughout the state when a stream is found to have substantial instream value; low flow conditions could occur which would threaten important instream uses and current or potential offstream uses contribute to or are likely to exacerbate natural low flow conditions.

VR 680-15-03. Surface Water Management Area Regulation.

PART I. GENERAL.

§ 1.1. Definitions.

Unless a different meaning is required by the context, the following terms, as used in these regulations, shall have the following meanings.

"Beneficial use" means both instream and offstream uses. Instream beneficial uses include but are not limited to protection of fish and wildlife habitat, maintenance of waste assimilation, recreation, navigation, and cultural and aesthetic values. Offstream beneficial uses include but are not limited to domestic (including public water supply), agricultural, electric power generation, commercial, and industrial uses. Domestic and other existing beneficial uses shall be considered the highest priority beneficial uses.

"Board" means the State Water Control Board.

"Existing beneficial consumptive user" means a person who is currently withdrawing water from a stream for a beneficial use and not returning that water to the stream near the point from which it was taken.

"Investor-owned water company" means a water supplier owned by private investors which operates independently of the local government and is regulated by the Department of Health.

"Nonconsumptive use" means the use of water withdrawn from a stream in such a manner that it is returned to the stream without substantial diminution in quantity at or near the point from which it was taken and would not result in or exacerbate low flow conditions.

"Public hearing" means a fact-finding proceeding held to afford interested persons an opportunity to submit factual data, views, and arguments to the board.

"Serious harm" means man induced reduction to the flow of a surface water resource that results in impairment of one or more beneficial uses.

"Surface Water Withdrawal Certificate" means a document issued by the board as found in subsection D of § 62.1-243 of the Code of Virginia.

"Surface water withdrawal permit" means a document issued by the board evidencing the right to withdraw surface water.

"Surface water management area" means a geographically defined surface water area in which the board deemed the levels or supply of surface water to be potentially adverse to public welfare, health and safety.

"Surface water" means any water in the Commonwealth, except groundwater as defined in § 62.1-44.85 of the Code of Virginia.

"Water conservation program" means a program incorporating measures or practices which will result in

the alteration of water uses resulting in reduction of water losses as contemplated by subsection B of § 62.1-243.

"Water management program" means a program incorporating measures or practices which will result in the alteration of water uses resulting in reduction of water losses as contemplated by subsection C of § 62.1-243.

§ 1.2. Purpose.

This regulation delineates the procedures and requirements to be followed in connection with establishment of surface water management areas, the issuance of surface water withdrawal permits and the issuance of surface water withdrawal certificates by the board pursuant to the Code of Virginia. The establishment of surface water management areas, the issuance of surface water withdrawal permits and surface water withdrawal certificates provide for the protection of beneficial uses during periods of low stream flow and high offstream user demand.

§ 1.3. Authority for regulations.

The authority for this regulation is found in the Code of Virginia, Chapter 24 (§ 62.1-242 et seq.) of Title 62.1.

§ 1.4. Initiate surface water management area proceeding.

A. The board upon its own motion or, in its discretion, upon receipt of a petition therefor by any county, city or town within the surface water management area in question, or any state agency, may initiate a surface water management area proceeding whenever in its judgment there is evidence to indicate that:

1. A stream has substantial instream values as indicated by evidence of fishery, recreation, habitat, cultural or aesthetic properties;
2. Historical records or current conditions indicate that a low flow condition could occur which would threaten important instream uses; and
3. Current or potential offstream uses contribute to or are likely to exacerbate natural low flow conditions to the detriment of instream values.

B. If the board finds that the conditions required in subsection A of § 1.4 exist and further finds that the public welfare, health and safety require that regulatory efforts be initiated, the board shall, by regulation, declare the area in question to be a surface water management area.

C. In its proceeding to declare an area to be a surface water management area, the board shall, by regulation, determine when the level of flow is such that permit conditions in a surface water management area are in force. This flow level will be determined for each regulation establishing a surface water management area

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and included therein.

D. The board shall include in its decision a definition of the boundaries of the surface water management area.

E. The regulations may provide that the board, or the board executive director may by order, declare that the level of flow is such that permit conditions are applicable for all or part of a surface water management area.

F. The board shall follow its Public Participation Guidelines (VR 680-41-01) for all hearings contemplated under this section. If after a public hearing held pursuant to § 9-6.14:7.1 of the Virginia Administrative Process Act, or at the request of an affected person or on the board motion, a hearing shall be held under § 9-6.14:8 of the Virginia Administrative Process Act.

§ 1.5. Notice of surface water management area.

A. The board shall cause notice of the declaration of a surface water management area to be published in a newspaper of general circulation throughout the area covered by the declaration.

B. The board shall mail a copy of its decision on the proposed declaration of a surface water management area to the mayor or chairman of the governing body of each county, city or town within which any part of the area lies, or which is known by the board to make offstream use of water from the area, and to the chief administrative officer of any federal facility known by the board to be using water from within the area.

§ 1.6. Agreements.

A. The board shall encourage, promote and recognize voluntary agreements among persons withdrawing surface water in the same surface water management area.

B. When the board finds that any such agreement, executed in writing and filed with the board, is consistent with the intent, purposes and requirements of this regulation, the board shall approve the agreement.

C. Board approval of the agreement shall be conducted according to the Virginia Administrative Process Act and the board's Public Participation Guidelines (VR 680-41-01).

D. Upon final adoption as a regulation the agreement shall control in lieu of a formal order, rule or regulation of the board under the provisions of this regulation. Permits issued in accordance with this regulation shall incorporate the terms of this agreement.

E. Any agreement shall specify the amount of water affected thereby.

F. Any agreement approved by the board as a regulation may include conditions which can result in its amendment or termination by the board, following a

public hearing pursuant to § 9-6.14:7.1 of the Virginia Administrative Process Act and the board's Public Participation Guidelines (VR 680-41-01), if the board finds that it or its effect is inconsistent with the intent, purposes and requirements of this regulation. Such conditions include the following:

1. A determination by the board that the agreement originally approved by the board will not further the purposes of this regulation, or
2. A determination by the board that circumstances have changed such that the agreement originally approved by the board will no longer further the purposes of this regulation, or
3. One or more parties to the agreement is not fulfilling its commitments under the agreement.

PART II. PERMIT REQUIREMENTS, APPLICATION AND ISSUANCE.

§ 2.1. Application for a permit.

A. Duty to apply.

Any person who withdraws water or proposes to withdraw water in a surface water management area must have a Surface Water Withdrawal Permit, except persons excluded under subsection B of § 2.1, or exempted under subsection C of § 2.1 of this regulation. A complete application shall be submitted to the board in accordance with this section.

B. Exclusions.

The following do not require a Surface Water Withdrawal Permit but may require other permits under state and federal law:

1. Any nonconsumptive use.
2. Any water withdrawal of less than 300,000 gallons in any single month.
3. Any withdrawal in any area which has not been declared a surface water management area.
4. Any withdrawal from a wastewater treatment system permitted by the State Water Control Board or the Department of Mines, Minerals and Energy.

C. Exemptions.

The following do not require a Surface Water Withdrawal Permit but may require other permits under state and federal law. However, the following do require a Surface Water Withdrawal Certificate containing details of a board approved water conservation or management plan as found in subsection B of § 2.4 and Part V of this

regulation. It is not the intent or purpose of this certification program to affect the withdrawal of water approved by the board.

1. No political subdivision or investor-owned water company permitted by the Department of Health shall be required to obtain a surface water withdrawal permit for:

a. Any withdrawal in existence on July 1, 1989; however, a permit shall be required in a declared surface water management area before the daily rate of any such existing withdrawal is increased beyond the maximum daily withdrawal made before July 1, 1989.

b. Any withdrawal not in existence on July 1, 1989, if the person proposing to make the withdrawal has received, by that date, a § 401 certification from the State Water Control Board pursuant to the requirements of the Clean Water Act to install any necessary withdrawal structures and make such withdrawal; however, a permit shall be required in any surface water management area before any such withdrawal is increased beyond the amount authorized by the said certification.

c. Any withdrawal in existence on July 1, 1989, from an instream impoundment of water used for public water supply purposes; however, during periods when permit conditions in a water management area are in force pursuant to subsection G of § 2.2 and § 3.5 of this regulation, and when the rate of flow of natural surface water into the impoundment is equal to or less than the average flow of natural surface water at that location, the board may require release of water from the impoundment at a rate not exceeding the existing rate of flow of natural surface water into the impoundment. Withdrawals by a political subdivision or investor-owned water company permitted by the Department of Health shall be affected by subdivision 3 of this section only at the option of that political subdivision or investor-owned water company.

2. No existing beneficial consumptive user shall be required to obtain a surface water withdrawal permit for:

a. Any withdrawal in existence on July 1, 1989; however, a permit shall be required in a declared surface water management area before the daily rate of any such existing withdrawal is increased beyond the maximum daily withdrawal made before July 1, 1989.

b. Any withdrawal not in existence on July 1, 1989, if the person proposing to make the withdrawal has received, by that date, a § 401 certification from the State Water Control Board pursuant to the

requirements of the Clean Water Act to install any necessary withdrawal structures and make such withdrawals; however, a permit shall be required in any surface water management area before any such withdrawal is increased beyond the amount authorized by the said certification.

D. Duty to reapply.

1. Any permittee with an effective permit shall submit a new permit application at least 180 days before the expiration date of an effective permit unless permission for a later date has been granted by the board.

2. Owners or persons who have effective permits shall submit a new application 180 days prior to any proposed modification to their activity which will:

a. Result in a significantly new or substantially increased water withdrawal, or

b. Violate or lead to the violation of the terms and conditions of the permit.

E. Complete application required.

1. Any person proposing to withdraw water shall submit a complete application and secure a permit prior to the date planned for commencement of the activity resulting in the withdrawal. There shall be no water withdrawal prior to the issuance of a permit.

2. Any person reapplying to withdraw water shall submit a complete application.

3. A complete Surface Water Withdrawal Permit application to the State Water Control Board shall, as a minimum, consist of the following:

a. The location of the water withdrawal, including the name of the waterbody from which the withdrawal is being made;

b. The average withdrawal, the maximum proposed withdrawal, and any variations of the withdrawal by season including amounts and times of the day or year during which withdrawals may occur;

c. The use for the withdrawal, including the importance of the need for this use;

d. Any alternative water supplies or water storage; and

e. If it is determined that special studies are needed to develop a proper instream flow requirement, then additional information may be necessary.

4. Where an application is considered incomplete the board may require the submission of additional

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information after an application has been filed, and may suspend processing of any application until such time as the applicant has supplied missing or deficient information and the board considers the application complete. Further, where the applicant becomes aware that he omitted one or more relevant facts from a permit application, or submitted incorrect information in a permit application or in any report to the board, he shall immediately submit such facts or the correct information.

5. Any person proposing to withdraw water shall submit an application for a permit 180 days prior to the date planned for commencement of the activity resulting in the withdrawal. There shall be no water withdrawal prior to the issuance of a permit.

6. Any person with an existing unpermitted water withdrawal operation shall submit an application immediately upon discovery by the owner or within 30 days upon being requested to by the board whichever comes first.

F. Informational requirements.

All applicants for a Surface Water Withdrawal Permit shall provide all such information consistent with this regulation as the board deems necessary. All applicants for a permit must submit a complete permit application in accordance with subsection A of § 2.1 of this regulation.

§ 2.2. Conditions applicable to all permits.

A. Duty to comply.

The permittee shall comply with all conditions of the permit. Nothing in these regulations shall be construed to relieve the Surface Water Withdrawal Permit holder of the duty to comply with all applicable federal and state statutes, regulations, standards and prohibitions. Any permit noncompliance is a violation of the law, and is grounds for enforcement action, permit suspension, cancellation, revocation, modification or denial of a permit renewal application.

B. Duty to mitigate.

The permittee shall take all reasonable steps to (i) avoid all adverse environmental impact which could result from the activity, (ii) where avoidance is impractical, minimize the adverse environmental impact and (iii) where impacts cannot be avoided, provide mitigation of the adverse impact on an in-kind basis.

C. Permit action.

1. A permit may be modified, revoked, suspended, cancelled, reissued, or terminated as set forth in this regulation.

2. If a permittee files a request for permit

modification, suspension or cancellation, or files a notification of planned changes, or anticipated noncompliance, the permit terms and conditions shall remain effective until the request is acted upon by the board. This provision shall not be used to extend the expiration date of the effective permit.

3. Permits may be modified, revoked and reissued or terminated upon the request of the permittee, or upon board initiative to reflect the requirements of any changes in the statutes or regulations.

D. Inspection and entry.

Upon presentation of credentials, any duly authorized agent of the board may, at reasonable times and under reasonable circumstances:

1. Enter upon any permittee's property, public or private, and have access to, inspect and copy any records that must be kept as part of the permit conditions;

2. Inspect any facilities, operations or practices including monitoring and control equipment regulated or required under the permit.

E. Duty to provide information.

The permittee shall furnish to the board, within a reasonable time, any information which the board may request to determine whether cause exists for modifying, reissuing, suspending and cancelling the permit, or to determine compliance with the permit. The permittee shall also furnish to the board, upon request, copies of records required to be kept by the permittee. This information shall be furnished to the board pursuant to § 62.1-244 of the Code of Virginia.

F. Monitoring and records requirements.

1. Monitoring shall be conducted according to approved methods as specified in the permit or as approved by the board;

2. Measurements taken for the purpose of monitoring shall be representative of the monitored activity;

3. The permittee shall retain records of all monitoring information, including all calibration and maintenance records and all original strip chart or electronic recordings for continuous monitoring instrumentation, copies of all reports required by the permit, and records of all data used to complete the application for the permit, for a period of at least three years from the date of the expiration of a granted permit. This period may be extended by request of the board at any time.

4. Records of monitoring information shall include:

- a. The date, exact place and time of measurements;
- b. The name of the individual(s) who performed the measurements;
- c. The date the measurements were compiled;
- d. The name of the individual(s) who compiled the measurements;
- e. The techniques or methods supporting the information such as observations, readings, calculations and bench data used; and
- f. The results of such techniques or methods.

G. Permit conditions become applicable.

1. Permit conditions become applicable in a surface water management area upon notice by the board to each permittee by mail or cause notice thereof to be published in a newspaper of general circulation throughout the area.
2. The board shall notify each permittee by mail or cause notice thereof to be published in a newspaper of general circulation throughout the surface water management area when the declaration of water shortage is rescinded.

§ 2.3. Signatory requirements.

Any application, report, or certification shall be signed as follows:

1. Application.

- a. For a corporation: by a responsible corporate official. For purposes of this section, a responsible corporate official means (i) a president, secretary, treasurer, or vice president of the corporation in charge of a principal business function, or any other person who performs similar policy or decision making functions for the corporation, or (ii) the manager of one or more manufacturing, production, or operating facilities employing more than 250 persons or having gross annual sales or expenditures exceeding \$25,000,000 in second quarter 1980 dollars, if authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures.
- b. For a municipality, state, federal or other public agency by either a principal executive officer or ranking elected official. A principal executive officer of a federal, municipal, or state agency includes the chief executive officer of the agency or head executive officer having responsibility for the overall operation of a principal geographic unit of the agency.

c. For a partnership or sole proprietorship, by a general partner or proprietor respectively.

d. Any application for a permit under this regulation must bear the signatures of the responsible party and any agent acting on the responsible party's behalf.

2. Reports. All reports required by permits and other information requested by the board shall be signed by:

a. One of the persons described in subdivision a, b or c of this section; or

b. A duly authorized representative of that person. A person is a duly authorized representative only if:

(1) The authorization is made in writing by a person described in subdivision a, b, or c of this section; and

(2) The authorization specifies either an individual or a position having responsibility for the overall operation of the regulated facility or activity, such as the position of plant manager, superintendent, or position of equivalent responsibility. A duly authorized representative may thus be either a named individual or any individual occupying a named position.

(3) If an authorization is no longer accurate because a different individual or position has responsibility for the overall operation of the facility, a new authorization shall be submitted to the board prior to or together with any separate information, or applications to be signed by an authorized representative.

3. Certification of application and reports. Any person signing a document under subdivision 1 or 2 of this section shall make the following certification: I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system or those persons directly responsible for gathering the information, the information submitted is to the best of my knowledge and belief true, accurate, and complete. I am aware that there are significant penalties for submitting false information including the possibility of fine and imprisonment for knowing violations.

§ 2.4. Establishing applicable limitations or other permit conditions.

In addition to the conditions established in § 2.2 of this regulation, each permit shall include conditions meeting the following requirements where applicable:

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1. Instream flow conditions.

a. Subject to the provisions of the Virginia Code § 62.1-242 et seq. and subject to the authority of the State Corporation Commission over hydroelectric facilities contained in Virginia Code § 62.1-80 et seq. instream flow conditions may include but are not limited to conditions that limit the volume and rate at which water may be withdrawn at certain times and conditions that require water conservation and reductions and water use.

b. This flow requirement shall be appropriate for the protection of beneficial uses.

c. In determining the level of flow in need of protection of beneficial uses, the board shall consider, among other things, recreation and aesthetic factors and the potential for substantial and long-term adverse impact on fish and wildlife found in that particular surface water management area. Should this determination indicate a need to restrict water withdrawal, the board shall consider, among other things, the availability of alternative water supplies, the feasibility of water storage or other mitigating measures, and the socioeconomic impacts of such restriction on the potentially affected water users and on the citizens of the Commonwealth in general.

2. Water conservation or management plans.

a. Subject to the provisions of Virginia Code § 62.1-242 et seq. permit conditions may include voluntary and mandatory conservation measures.

b. Political subdivisions and investor-owned water companies shall have water conservation plans which shall include, but not be limited to, the following:

(1) Use of water saving plumbing fixtures in new and renovated plumbing as provided under the Uniform Statewide Building Code;

(2) A water loss reduction program;

(3) A water use education program; and

(4) Ordinances prohibiting waste of water generally and providing for mandatory water use restrictions, with penalties during water shortage emergencies.

c. Beneficial consumptive users shall have water management plans which shall include, but not be limited to, the following:

(1) Use of water saving plumbing;

(2) A water loss reduction program;

(3) A water use education program; and

(4) Mandatory reductions during water shortage emergencies. However, these reductions shall be on an equitable basis with other uses exempted under subsection C of § 2.1.

3. Compliance requirements. The permit shall include requirements to comply with all appropriate provisions of state laws and regulations.

4. Duration of permits. Surface Water Withdrawal Permits issued under this regulation shall have an effective duration of not more than 10 years. The term of these permits shall not be extended by modification beyond the maximum duration. Extension of permits for the same activity beyond the maximum duration specified in the original permit will require reapplication and reissuance of a new permit.

5. Monitoring requirements as conditions of permits.

a. All permits shall specify:

(1) Requirements concerning the proper use, maintenance and installation, when appropriate, of monitoring equipment or methods when required as a condition of the permit; and

(2) Required monitoring including type, intervals, and frequency sufficient to yield data which are representative of the monitored activity and including, when appropriate, continuous monitoring.

b. All permits shall include requirements to report monitoring results with a frequency dependent on the nature and effect of the water withdrawal, but in no case less than once per year.

6. Reissued permits. When a permit is renewed or reissued, limitations or conditions must be in conformance with current limitations or conditions.

7. Reopening permits. Each permit shall have a condition allowing the reopening of the permit for the purpose of modifying the conditions of the permit to meet new regulatory standards duly adopted by the board or to reflect appropriate conditions to protect the water resource.

§ 2.5. Draft permit formulation.

A. Upon receipt of a complete application, pursuant to subsection A of § 2.1 of this regulation, the board shall review the application and make a tentative determination to issue the permit or deny the application. In considering whether to issue or deny a permit under this section, the board shall consider:

1. The number of persons using a stream and the object, extent and necessity of their representative

withdrawal uses;

2. The nature and size of the stream;
3. The type of businesses or activities to which the various uses are related;
4. The importance and necessity of the uses claimed by permit applicants, or of the water uses of the area and the extent of any injury or detriment caused or expected to be caused to instream or offstream uses;
5. The effects on beneficial uses; and
6. Any other relevant factors.

B. If a tentative decision is to issue the permit then a draft permit shall be prepared in advance of public notice. The following tentative determinations shall be incorporated into a draft permit:

1. The level of flow that activates the permit conditions, water withdrawal limitations, and other requirements applicable to the permit;
2. Monitoring requirements;
3. Instream flow requirements; and
4. Water conservation or management requirements.

C. If the tentative decision is to deny the application, the board shall do so in accordance with § 4.5 of this regulation.

§ 2.6. Permit issuance.

A. Upon completion of all public involvement and consideration of all comments, the executive director may grant the permit, or, at his discretion, transmit the application, together with all written comments thereon and relevant staff documents and staff recommendations, if any, to the board for its decision.

B. Permits issued by priority system.

1. For the purposes of this regulation, the following water-use classification system based on beneficial uses, instream and offstream, shall be used by the board when issuing permits:

a. Class I uses are domestic (including public water supply) and existing uses. Included among existing uses shall be any projected use which has been relied upon in the development of an industrial project and for which a permit has been obtained by January 1, 1989, pursuant to § 404 of the Clean Water Act;

b. Class II uses are protection of fish and wildlife habitat, maintenance of waste assimilation,

agriculture, electric power generation, commercial and industrial; and

c. Class III uses include but are not limited to recreation, navigation, and cultural and aesthetic values.

2. Class I uses shall be given the highest priority in the issuance of permits for other beneficial uses. Class II and Class III uses are of decreasing priority respectively.

3. The board may impose restrictions on one or more classes of beneficial uses as may be necessary to protect the surface water resources of the area from serious harm.

4. In its permit decision, the board shall attempt to balance offstream and instream uses so that the welfare of the citizens of the Commonwealth is maximized without imposing unreasonable burdens on any individual water user or water-user group. The decision to implement this balance may consist of approval of withdrawal without restriction, approval subject to conditions designed to protect instream uses from unacceptable adverse effects, or disapproval of the withdrawal.

§ 2.7. Effect of a permit.

A. Compliance with a Surface Water Withdrawal Permit constitutes compliance with the surface water withdrawal permit requirements of §§ 62.1-242 through 62.1-253 of the Code of Virginia.

B. Nothing contained in this regulation shall be construed as an expressed or implied waiver of other permit requirements, state or federal, including the Virginia Water Protection Permit and Water Withdrawal Reporting (VR 680-15-01) of the Regulations of the State Water Control Board.

C. The issuance of a permit does not convey any property rights in either real or personal property, or any exclusive privileges, nor does it authorize injury to private property or any invasion of personal rights or any infringement of federal, state or local law or regulation.

D. Nothing in this regulation shall be construed as altering, or authorizing any alteration of, any existing riparian rights except as set forth in permits issued pursuant to this chapter. The conditions in such permits shall be in force only in those times when low stream flow, or the potential therefor, result in a declaration as provided for in subsection C of § 1.4.

§ 2.8. Variances and alternative measures.

A. Variances may be applied for, and alternative measures may be used to:

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1. Prevent undue hardship; and
2. Ensure equitable distribution of water resources.

B. Alternative measures may include, but are not limited to, the following:

1. Alternative or secondary water source;
2. Water storage during times of minimum use and high stream flow; and
3. Vary water withdrawal based on time of day, the season or the stream flow.

PART III.

PUBLIC INVOLVEMENT IN PERMIT PROCESS.

§ 3.1. Public notice of permit action and public comment period.

A. Every draft permit shall be given public notice paid for by the owner, by publication once in a newspaper of general circulation in the area affected by the discharge.

B. The board shall allow a period of at least 30 days following the date of the public notice for interested persons to submit written comments on the tentative decision and to request a public hearing.

C. The contents of the public notice of an application for a permit, or proposed permit action shall include:

1. Name and address of the applicant. If the location of the activity resulting in the withdrawal of water differs from the address of the applicant the notice shall also state the location of the withdrawal in sufficient detail such that the specific location may be easily identified.
2. Brief description of the business or activity to be conducted at the withdrawal site.
3. The name of the affected waterway.
4. A statement of the tentative determination to issue or deny a permit.
5. A brief description of the final determination procedure.
6. The address and phone number of a specific person at the state office from whom further information may be obtained.
7. A brief description on how to submit comments and request a public hearing.

§ 3.2. Public access to information.

All information pertaining to permit processing or in

reference to any source of water withdrawal shall be available to the public.

§ 3.3. Public comments and hearing.

A. The board shall provide a comment period of at least 30 days following the date of public notice of the formulation of a draft permit during which interested persons may submit written comments and requests for an informal hearing on the proposed permit. All written comments submitted during the comment period shall be retained by the board and considered during its final decision process.

B. The executive director shall consider all written comments and requests for an informal hearing received during the comment period, and shall make a determination on the necessity of an informal hearing in accordance with § 1.12 of Procedural Rule No. 1 (VR 680-31-01). All proceedings, informal hearings and decisions therefrom will be in accordance with Procedural Rule No. 1.

C. Should the executive director, in accordance with Procedural Rule No. 1, determine to dispense with the informal hearing, he may grant the permit, or, at his discretion, transmit the proposal, application or request, together with all written comments thereon and relevant staff documents and staff recommendations, if any, to the board for its decision.

§ 3.4. Public notice of hearing.

A. Public notice of any informal hearing held pursuant to § 3.3 shall be circulated as follows:

1. Notice shall be published once in a newspaper of general circulation in the county or city where the activity is to occur;
2. Notice of the informal hearing shall be sent to all persons and government agencies which received a copy of the notice of proposed regulation or permit application and to those persons requesting an informal hearing or having commented in response to the public notice.

B. Notice shall be effected pursuant to subdivisions A 1 and 2 above at least 30 days in advance of the informal hearing.

C. The content of the public notice of any hearing held pursuant to § 3.3 shall include at least the following:

1. Name and address of each person whose application will be considered at the informal hearing and a brief description of the person's activities or operations;
2. The precise location of such activity and the state surface waters that will or may be affected. The

location should be described, where possible, with reference to route numbers, road intersections, map coordinates or similar information;

3. A brief reference to the public notice issued for the permit application, including identification number and date of issuance of the permit application unless the public notice includes the informal hearing notice;

4. Information regarding the time and location for the informal hearing;

5. The purpose of the informal hearing;

6. A concise statement of the relevant water withdrawal issues raised by the persons requesting the informal hearing;

7. Contact person and the address of the State Water Control Board office at which the interested persons may obtain further information, request a copy of the draft permit prepared pursuant to § 2.5; and

8. A brief reference to the rules and procedures to be followed at the informal hearing.

§ 3.5 Public notice that permit conditions are in force.

A. When permit conditions become applicable in a surface water management area, the board shall notify each permittee by mail or cause notice thereof to be published in a newspaper of general circulation throughout the area.

B. The board shall notify each permittee by mail or cause notice thereof to be published in a newspaper of general circulation throughout the surface water management area when the declaration of water shortage is rescinded.

PART IV. PERMIT MODIFICATION, REVOCATION AND REISSUANCE, SUSPENSION, CANCELLATION AND DENIAL.

§ 4.1. Rules for modification, revocation and reissuance, suspension, cancellation and denial.

Permits shall be modified, revoked and reissued, suspended, or cancelled only as authorized by this section as follows:

1. A permit may be modified in whole or in part, revoked and reissued, suspended or cancelled.

2. Permit modifications shall not be used to extend the term of a permit.

3. Modification, revocation and reissuance, suspension or cancellation may be initiated by the board, permittee, or other person, under applicable laws or

the provisions of this regulation.

4. After public notice and opportunity for a formal hearing pursuant to § 1.20 of Procedural Rule No. 1 a permit can be suspended or cancelled whenever the board finds that the holder of a permit is willfully violating any provision of such permit or any other provision of § 62.1-242 et seq. Whenever a permit is suspended the conditions to lift the suspension will be included in the board's decision. The determination to suspend, cancel or impose conditions on its future use in order to prevent future violations shall be based on the seriousness of the offense, the permittee's past record, the effect on beneficial uses, the effect on other users in the area and any other relevant factors. The causes for suspension or cancellation are as follows:

a. Noncompliance by the permittee with any condition of the permit;

b. The permittee's failure in the application or during the permit issuance process to disclose fully all relevant facts or the permittee's misrepresentation of any relevant facts at any time;

c. The permittee's violation of a special or judicial order; and

d. A determination that the permitted activity endangers human health or the environment and can be regulated to acceptable levels by permit modification or cancellation.

5. In considering whether to modify, revoke and reissue, or deny a permit under this section, the board shall consider:

a. The number of persons using a stream and the object, extent and necessity of their representative withdrawal uses;

b. The nature and size of the stream;

c. The type of businesses or activities to which the various uses are related;

d. The importance and necessity of the uses claimed by permit applicants, or of the water uses of the area and the extent of any injury or detriment caused or expected to be caused to instream or offstream uses;

e. The effects on beneficial uses; and

f. Any other relevant factors.

§ 4.2. Causes for modification.

A permit may be modified, but not revoked and reissued, except when the permittee agrees or requests,

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when any of the following developments occur:

1. When additions or alterations have been made to the affected facility or activity which require the application of permit conditions that differ from those of the existing permit or are absent from it.
2. When new information becomes available about the operation or withdrawal covered by the permit which was not available at permit issuance and would have justified the application of different permit conditions at the time of permit issuance.
3. When a change is made in the methodology or regulations on which the permit was based.
4. When it becomes necessary to change final dates in schedules due to circumstances over which the permittee has little or no control such as acts of God, materials shortages, etc. However, in no case may a compliance schedule be modified to extend beyond any applicable statutory deadline of the Act.
5. When changes occur which are subject to "reopener clauses" in the permit.
6. When the board determines that minimum instream flow levels resulting from the permittee's withdrawal of water is detrimental to the instream beneficial use and that the withdrawal of water should be subject to further net limitations.
7. When other states were not notified of the change in the permit and their waters may be affected by the discharge.

§ 4.3. Transferability of permits.

A. Transfer by modification.

Except as provided for under automatic transfer in subsection B of this section, a permit shall be transferred only if the permit has been modified to reflect the transfer or has been revoked and reissued to the new owner.

B. Automatic transfer.

Any permit shall be automatically transferred to a new user if:

1. The current user notifies the board 30 days in advance of the proposed transfer of the permit to the facility or property;
2. The notice to the board includes a written agreement between the existing and proposed new user containing a specific date of transfer of permit responsibility, coverage and liability between them; and

3. The board does not within the 30-day time period notify the existing user and the proposed user of its intent to modify or revoke and reissue the permit.

§ 4.4. Minor modification.

A. Upon request of the permittee, or upon board initiative with the consent of the permittee, minor modifications may be made in the permit without following the public involvement procedures.

B. For Surface Water Withdrawal Permits, minor modification may only:

1. Correct typographical errors;
2. Require reporting by the permittee at a greater frequency than required in the permit; and
3. Allow for a change in ownership or operational control when the board determines that no other change in the permit is necessary, provided that a written agreement containing a specific date for transfer of permit responsibility, coverage and liability from the current to the new permittee has been submitted to the board.

§ 4.5. Denial of a permit.

A. The applicant shall be notified by letter of the staff's decision to recommend to the board, denial of the permit requested.

B. The staff shall provide sufficient information to the applicant regarding the rationale for denial, such that the applicant may at his option: (i) modify the application in order to achieve a favorable recommendation; (ii) withdraw his application; or (iii) proceed with the processing on the original application.

C. Should the applicant withdraw his application, no permit will be issued.

D. Should the applicant elect to proceed with the original project, the staff shall make its recommendation of denial to the executive director for determination of the need for public notice as provided for in accordance with Part III of this regulation.

PART V. ISSUANCE OF CERTIFICATES.

§ 5.1. Duty to apply.

A. No political subdivision, investor-owned water company or existing beneficial consumptive user withdrawing water in a declared surface water management area and exempted under subsection C of § 2.1 of this regulation from needing a surface water withdrawal permit shall continue to withdraw water in the surface water management area except as authorized by a

surface water withdrawal certificate.

B. If an area has been declared a surface water management area, any person exempted under subsection C of § 2.1 of this regulation shall apply for a certificate within 90 days of the declaration.

§ 5.2. Surface water withdrawal certificates shall have an effective duration of not more than 10 years.

§ 5.3. Duty to re-apply.

Any person who has an effective surface water withdrawal certificate must apply for a new certification at least 180 days before the expiration date of an effective certificate unless permission for a later date has been granted by the board.

§ 5.4. Complete application required.

A. A complete Surface Water Withdrawal Certificate application to the State Water Control Board shall, as a minimum, consist of the following:

1. The location of the water withdrawal, including the name of the waterbody from which the withdrawal is being made;
2. The average withdrawal, the maximum withdrawal, and any variations of the withdrawal by season including amounts and times of the day or year during which withdrawals may occur;
3. The use of the withdrawal, including the importance for the need for this use; and
4. Any alternative water supplies or water storage.

B. Where an application is considered incomplete the board may require the submission of additional information after an application has been filed, and may suspend processing of any application until such time as the applicant has supplied missing or deficient information and the board considers the application complete. Further, where the applicant becomes aware that he omitted one or more relevant facts from a certificate application, or submitted incorrect information in a certificate application or in any report to the board, he shall immediately submit such facts or the correct information.

§ 5.5. Information requirements.

All applicants for a Surface Water Withdrawal Certificate shall provide all such information consistent with this regulation as the board deems necessary. All applicants for a certificate must submit a complete application in accordance with § 5.4 of this regulation.

§ 5.6. Additional requirements.

In addition to the requirements found in this section, the

requirements in subsections A and G of § 2.2, § 2.3, subdivision 2 of § 2.4, § 2.5, § 2.6, § 2.7, Part III and Part IV of this regulation also apply to certificate holders and certificate applicants.

PART VI. ENFORCEMENT.

§ 6.1. Enforcement.

The board may enforce the provisions of this regulation utilizing all applicable procedures under the law.

PART VII. MISCELLANEOUS.

§ 7.1. Delegation of authority.

The executive director, or a designee acting for him, may perform any act of the board provided under this regulation.

§ 7.2. Transition.

A. No surface water management area shall be designated by regulation sooner than six months following final adoption of this regulation.

B. If a water user holds more than one permit for water withdrawal, in any areas of conflict or disagreement among the permits, the Surface Water Withdrawal Permit shall hold priority.

FINAL REGULATIONS

For information concerning Final Regulations, see information page.

Symbol Key

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

DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES (BOARD OF)

NOTICE FROM THE REGISTRAR OF REGULATIONS: The Virginia Gypsy Moth Quarantine is being revised pursuant to § 3.1-188.23 of the Code of Virginia, which provides authority for the Commissioner of the Virginia Department of Agriculture and Consumer Services to extend or reduce regulated areas described in the quarantine. The Commissioner's action must be reviewed by the Virginia Board of Agriculture and Consumer Services at its next regularly scheduled meeting and within 90 days of the Commissioner's action.

Title of Regulation: VR 115-04-02. Rules and Regulations for Enforcement of the Virginia Pest Law - Virginia Gypsy Moth Quarantine.

Statutory Authority: §§ 3.1-188.23 and 3.1-188.24 of the Code of Virginia.

Effective Date: February 13, 1992.

Summary:

By authority granted under § 3.1-188.23 of the Code of Virginia, the Commissioner of the Virginia Department of Agriculture and Consumer Services hereby extends the regulated areas under the Virginia Gypsy Moth Quarantine due to the detection of larvae or other life stages of the gypsy moth in areas not currently under regulation. The current regulated area is changed by the addition of one independent city (Lexington) and the extension of current regulated areas in portions of Rockbridge and Amherst counties to now include the entire counties. All other parts of the Virginia Gypsy Moth Quarantine will remain unchanged.

VR 115-04-02. Rules and Regulations for Enforcement of the Virginia Pest Law - Virginia Gypsy Moth Quarantine.

§ 1. Definitions.

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

"Associated equipment" means articles associated with mobile homes and recreational vehicles such as, but not limited to: awnings, tents, outdoor

"Compliance agreement" means a written agreement between a person engaged in growing, handling, or moving regulated articles, and the VDACS, U.S. Department of

Agriculture (USDA), or both, wherein the former agrees to comply with the requirements of the compliance agreement.

"Gypsy moth" means the insect "Lymantria dispar" (Linnaeus) in any living stage.

"Hazardous recreational vehicle site" means any site where a recreational vehicle is, or may be parked, which is determined by an inspector to harbor populations of gypsy moth that could be spread by movement of recreational vehicles or associated equipment.

"Inspector" means any employee of the Virginia Department of Agriculture and Consumer Services, or other person authorized by the commissioner to enforce the provisions of the quarantine and regulations.

"Mobile home" means any vehicle, other than a recreational vehicle, designed to serve, when parked, as a dwelling or place of business.

"Outdoor household articles" means articles associated with a household that have been kept outside the home, including but not limited to outdoor furniture, barbecue grills, building materials, children's play things, yard items, trash cans, dog houses, boats, hauling trailers, garden tools, tents, and awnings.

"Recreational vehicles" means highway vehicles, including pickup truck campers, one-piece motor homes, and camping or travel trailers, designed to serve as a temporary dwelling.

"Scientific permit" means a document issued by the Virginia Department of Agriculture and Consumer Services to authorize movement of regulated articles to a specified destination for scientific purposes.

"Virginia Pest Law" means that law set forth in Article 6 (§ 3.1-188.20 et seq.) of Chapter 13 of Title 3.1 of the Code of Virginia.

§ 2. Regulated articles.

The following articles are regulated under the provisions of this quarantine, and shall not be moved into or within Virginia, except in compliance with the conditions prescribed in this quarantine:

1. Trees with roots, shrubs with roots, and persistent woody stems, except if greenhouse grown throughout the year.

2. Logs and pulpwood, except if moved to a mill operating under a compliance agreement.

3. Firewood.

4. Mobile homes and associated equipment.

5. Recreational vehicles and associated equipment, moving from hazardous recreational vehicle sites and the person in charge of the site has been notified.

6. Cut Christmas trees.

7. Any other products, articles (e.g., outdoor household articles), or means of conveyance, of any character whatsoever, when it is determined by an inspector that any life stage of gypsy moth is in proximity to such articles and the articles present a risk of artificial spread of gypsy moth infestations and the person in possession thereof has been so notified.

§ 3. Regulated areas.

A. Any area of another state or the District of Columbia, whether designated high risk or low risk, in which gypsy moth is known to occur and is so geographically described and regulated by the United States Department of Agriculture under the Gypsy Moth and Browntail Moth Quarantine No. 45, or under a state gypsy moth quarantine or other state legislation.

B. The following areas in Virginia:

1. The entire counties of: Accomack, Albemarle, Amelia, Amherst, Arlington, Augusta, Buckingham, Caroline, Charles City, Chesterfield, Clarke, Culpeper, Cumberland, Dinwiddie, Essex, Fairfax, Fauquier, Fluvanna, Frederick, Gloucester, Goochland, Greene, Hanover, Henrico, Highland, Isle of Wight, James City, King George, King and Queen, King William, Lancaster, Loudoun, Louisa, Madison, Mathews, Middlesex, Nelson, New Kent, Northampton, Northumberland, Nottoway, Orange, Page, Powhatan, Prince Edward, Prince George, Prince William, Rappahannock, Richmond, Rockbridge, Rockingham, Shenandoah, Southampton, Spotsylvania, Stafford, Surry, Sussex, Warren, Westmoreland, and York.

2. The entire independent cities of: Alexandria, Buena Vista, Charlottesville, Chesapeake, Colonial Heights, Fairfax City, Falls Church, Franklin, Fredericksburg, Hampton, Harrisonburg, Hopewell, Lexington, Manassas, Manassas Park, Newport News, Norfolk, Petersburg, Poquoson, Portsmouth, Richmond, Staunton, Suffolk, Virginia Beach, Waynesboro, Williamsburg, and Winchester.

3. A portion of the following:

Amherst County - that portion of the county being north of Route 60.

Rockbridge County - that portion of the county being north of Route 60 and east of Interstate 81.

§ 4. Conditions governing movement of regulated articles into or within Virginia.

A regulated article may not be moved into or within the state from a regulated area as described in § 3 unless a certificate or permit has been issued and attached to the regulated article in accordance with § 5.

§ 5. Conditions governing the issuance of certificates and permits.

A. Certificates.

Certificates may be issued by an authorized inspector for the movement of the regulated articles designated in § 2 under any of the following conditions when:

1. In the judgment of the inspector, they have not been exposed to infestations;
2. They have been examined by the inspector and found to be free of gypsy moth;
3. They have been treated to destroy gypsy moth under the direction of the inspector and according to methods selected by him from administratively authorized procedures known to be effective under the conditions in which applied;
4. Grown, produced, manufactured, stored, or handled in such manner that, in the judgement of the inspector, gypsy moth would not be transmitted by movement of the article.

B. Permits.

Permits may be issued by an authorized inspector for the movement of noncertified regulated articles to specified destinations under conditions specified for limited handling, use, processing, or treatment.

C. Compliance agreement.

As a condition of issuance of certificates or permits for the movement of regulated articles, any person engaged in purchasing, assembling, exchanging, handling, processing, utilizing, treating, or moving regulated articles may be required to sign a compliance agreement. The agreement shall stipulate that safeguards will be maintained against the establishment and spread of infestation, and will comply with the conditions governing the maintenance of identity, handling, and subsequent movement of such articles, and the cleaning and treatment of means of conveyance and containers.

D. Use of certificates or permits with shipments.

All regulated articles are required to have a certificate

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or permit attached when offered for movement. If a certificate or permit is attached to the invoice or waybill, the attachment of a certificate or limited permit to the regulated article will not be required. Certificates or permits attached to the invoice, waybill, or other shipping document, shall be given by the carrier to the consignee at the destination of the shipment, or to an inspector when requested.

E. Assembly of articles for inspection.

Persons intending to move any regulated articles shall apply for inspection as far in advance as possible. They shall safeguard the articles from infestation. The articles shall be assembled at a place and in a manner designated by the inspector to facilitate inspection.

§ 6. Cancellation of certificates or permits.

Any certificate or permit which has been issued or authorized will be withdrawn by the inspector if he determines that the holder has not complied with conditions for their use or with any applicable compliance agreement.

§ 7. Inspection and disposal of regulated articles and pests.

Any properly identified inspector is authorized to stop and inspect, and to seize, destroy, or otherwise dispose of, or require disposal of regulated articles and gypsy moths as provided in the Virginia Pest Law under which this quarantine is issued.

§ 8. Shipment for experimental or other scientific purposes.

Any living stage of gypsy moth may be moved intrastate only if such movement is made for scientific purposes under scientific permit from the Virginia Department of Agriculture and Consumer Services, and in accordance with any conditions which may be required in the permit. The permit shall be securely attached to the outside of the shipping container.

§ 9. Nonliability of the department.

The Virginia Department of Agriculture and Consumer Services shall not be liable for any costs incident to inspections required under the provisions of the quarantine and regulations, other than for the services of the inspector.

the Code of Virginia.

Effective Date: February 12, 1992.

Summary:

Under the current definitions and exceptions in the Code of Virginia, the Departments of Education; Mental Health, Mental Retardation and Substance Abuse Services; Social Services; and Youth and Family Services are responsible for the regulation of public and private residential facilities which provide care, treatment, or education to children.

The regulation is designed to assure that adequate care, treatment, and education are provided by children's residential facilities. The revisions amend and clarify requirements governing management of resident behavior in §§ 1.1 and 5.86 et seq. The revisions are designed to: (i) emphasize the use of positive behavioral interventions; (ii) limit, and require documentation of, the use of negative behavioral interventions; (iii) clarify and make distinctions among definitions; and (iv) reduce redundancies between definitions and standards.

The final regulation differs from the proposed regulation. Definitions were added to, deleted from, and revised in § 1.1 to provide additional clarity and to establish consistency with behavioral theory. Substantive revisions were made to §§ 5.86 et seq. to: (i) clarify the requirements, (ii) remove the implication that each facility must have "rules of conduct," (iii) eliminate the requirements for distribution of information about management of resident behavior: (a) to the guardians of residents of specific types of short term care facilities and (b) to residents with diagnosed mental disabilities resulting in the loss of the cognitive ability to understand the information, and (iv) the requirements governing use of physical restraint were (a) relaxed to permit use of physical restraint as the first intervention when failure to restrain would result in harm to the resident or others and (b) strengthened by establishing requirements concerning staff training and documentation of the use of physical restraint.

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

DEPARTMENT OF EDUCATION (STATE BOARD OF)

Title of Regulations: VR 270-01-003. Standards for Interdepartmental Regulation of Residential Facilities for Children.

Statutory Authority: §§ 16.1-311, 22.1-321, 37.1-10, 37.1-182, 37.1-189.1, 63.1-25, 63.1-196.4, 63.1-217, 66-10, and 66-24 of

DEPARTMENT OF MENTAL HEALTH, MENTAL RETARDATION AND SUBSTANCE ABUSE SERVICES (STATE BOARD OF)

Title of Regulations: VR 470-02-01. Standards for Interdepartmental Regulation of Residential Facilities for Children.

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Statutory Authority: §§ 16.1-311, 22.1-321, 37.1-10, 37.1-182, 37.1-189.1, 63.1-25, 63.1-196.4, 63.1-217, 66-10, and 66-24 of the Code of Virginia.

Effective Date: February 12, 1992.

Summary:

Under the current definitions and exceptions in the Code of Virginia, the Departments of Education; Mental Health, Mental Retardation and Substance Abuse Services; Social Services; and Youth and Family Services are responsible for the regulation of public and private residential facilities which provide care, treatment, or education to children.

The regulation is designed to assure that adequate care, treatment, and education are provided by children's residential facilities. The revisions amend and clarify requirements governing management of resident behavior in §§ 1.1 and 5.86 et seq. The revisions are designed to: (i) emphasize the use of positive behavioral interventions; (ii) limit, and require documentation of, the use of negative behavioral interventions; (iii) clarify and make distinctions among definitions; and (iv) reduce redundancies between definitions and standards.

The final regulation differs from the proposed regulation. Definitions were added to, deleted from, and revised in § 1.1 to provide additional clarity and to establish consistency with behavioral theory. Substantive revisions were made to §§ 5.86 et seq. to: (i) clarify the requirements, (ii) remove the implication that each facility must have "rules of conduct," (iii) eliminate the requirements for distribution of information about management of resident behavior: (a) to the guardians of residents of specific types of short term care facilities and (b) to residents with diagnosed mental disabilities resulting in the loss of the cognitive ability to understand the information, and (iv) the requirements governing use of physical restraint were (a) relaxed to permit use of physical restraint as the first intervention when failure to restrain would result in harm to the resident or others and (b) strengthened by establishing requirements concerning staff training and documentation of the use of physical restraint.

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

DEPARTMENT OF SOCIAL SERVICES (BOARD OF)

Title of Regulations: VR 615-29-02. Standards for Interdepartmental Regulation of Residential Facilities for Children.

Statutory Authority: §§ 16.1-311, 22.1-321, 37.1-10, 37.1-182, 37.1-189.1, 63.1-25, 63.1-196.4, 63.1-217, 66-10, and 66-24 of the Code of Virginia.

Effective Date: February 12, 1992.

Summary:

Under the current definitions and exceptions in the Code of Virginia, the Departments of Education; Mental Health, Mental Retardation and Substance Abuse Services; Social Services; and Youth and Family Services are responsible for the regulation of public and private residential facilities which provide care, treatment, or education to children.

The regulation is designed to assure that adequate care, treatment, and education are provided by children's residential facilities. The revisions amend and clarify requirements governing management of resident behavior in §§ 1.1 and 5.86 et seq. The revisions are designed to: (i) emphasize the use of positive behavioral interventions; (ii) limit, and require documentation of, the use of negative behavioral interventions; (iii) clarify and make distinctions among definitions; and (iv) reduce redundancies between definitions and standards.

The final regulation differs from the proposed regulation. Definitions were added to, deleted from, and revised in § 1.1 to provide additional clarity and to establish consistency with behavioral theory. Substantive revisions were made to §§ 5.86 et seq. to: (i) clarify the requirements, (ii) remove the implication that each facility must have "rules of conduct," (iii) eliminate the requirements for distribution of information about management of resident behavior: (a) to the guardians of residents of specific types of short term care facilities and (b) to residents with diagnosed mental disabilities resulting in the loss of the cognitive ability to understand the information, and (iv) the requirements governing use of physical restraint were (a) relaxed to permit use of physical restraint as the first intervention when failure to restrain would result in harm to the resident or others and (b) strengthened by establishing requirements concerning staff training and documentation of the use of physical restraint.

VR 615-29-02. Standards for Interdepartmental Regulation of Residential Facilities for Children.

**PART I.
INTRODUCTION.**

**Article 1.
Definitions.**

§ 1.1. The following words and terms, when used in these regulations, shall have the following meaning, unless the context clearly indicates otherwise:

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[*"Adaptive behavior" means the effectiveness or degree with which individuals with diagnosed mental disabilities meet the standards of personal independence and social responsibility expected of their age and cultural group.*]

"Allegation" means an accusation that a facility is operating without a license or receiving public funds, or both, for services it is not certified to provide.

"Applicant" means the person, corporation, partnership, association or public agency which has applied for a license/certificate.

"Approval" means the process of recognizing that a public facility or an out-of-state facility has complied with standards for licensure or certification. (In this document the words "license" or "licensure" will include approval of public and out-of-state facilities except when describing enforcement and other negative sanctions which are described separately for these facilities.) electricity, heat, cold, light, water, or noise) or substances (e.g. hot pepper or pepper sauce on the tongue) measurable in duration and intensity which when applied to a client are noxious or painful to the client, but in no case shall the term "aversive stimuli" include striking or hitting the client with any part of the body or with an implement or pinching, pulling, or shaking the client.

[*"Behavior management" means planned ; individualized [and systematic use of various techniques] selected [implemented according to group and individual differences] of the children and . [It is designed to teach] awareness of [situationally appropriate behavior, to strengthen desirable behavior (i.e., positive reinforcement) ; and to reduce or to eliminate undesirable behavior (i.e., discipline) : (The term is consistently generic and is not confined to those technicalities which derive specifically from behavior therapy, operant conditioning, etc.) Behavior management encompasses positive reinforcement and discipline.*]

"Body cavity search" means any examination of a client's resident's rectal or vaginal cavities except the performance of medical procedures by medical personnel.

"Case record" or "Record" means written information assembled in one folder or binder relating to one individual. This information includes social and medical data, agreements, notations of ongoing information, service plan with periodic revisions, aftercare plans and discharge summary, and any other data related to the resident.

"Certificate to operate" means documentation of licensure or permission granted by the Department of Education to operate a school for the handicapped that is conveyed on a single license/certificate.

"Certification" means the process of recognizing that a facility has complied with those standards required for it to receive funding from one of the four departments for the provision of residential program services to children.

(Under the Code of Virginia, the Board of Youth and Family Services is given authority to "approve" certain public and private facilities for the placement of juveniles. Similarly, school boards are authorized to pay, under certain conditions, for special education and related services in nonsectarian private residential schools for the handicapped that are "approved" by the Board of Education. Therefore, in this context the word "approval" is synonymous with the word "certification" and will be termed certification for purposes of this process.)

"Chemical restraint" means the use of any [pharmacological] substance [as a means of physically restraining or for the sole purpose of] controlling a resident's behavior [in the absence of a diagnosed medical or psychiatric condition] . Chemical restraint does not include the appropriate use of medications as ordered by a licensed physician for treating medical or psychiatric conditions.

"Child" means any person legally defined as a child under state law. This term includes residents and other children coming in contact with the resident or facility (e.g., visitors).

"Child placing agency" means any person licensed to place children in foster homes or adoptive homes or a local board of public welfare or social services authorized to place children in foster homes or adoptive homes.

"Child with special needs" means a child in need of particular services because he is mentally retarded, developmentally disabled, mentally ill, emotionally disturbed, a substance abuser, in need of special educational services for the handicapped, or requires security services.

"Client" means a person receiving treatment or other services from a program, facility, institution or other entity licensed/certified regulated under these regulations standards whether that person is referred to as a patient, resident, student, consumer, recipient, family member, relative, or another other term.

"Complaint" means an accusation against a licensed/certified facility regarding an alleged violation of standards or law.

"Confinement procedure" means a disciplinary technique designed to reduce or eliminate inappropriate behavior by [temporarily removing staff directed temporary removal of] a child resident from contact with people [or other reinforcing stimuli] through [confining placing] the child resident alone [to in] his bedroom or other normally furnished [room room(s)]. The room in which the child is confined shall not be locked nor the door secured in any manner that will prohibit the child from opening it. See also the definitions of "Timeout Procedure," "Seclusion," "Behavior Management," "Discipline" and other standards related to Behavior Management. [Confinement does not include timeout or seclusion.]

"*Contraband*" means any item prohibited by law or by the rules and regulations of the agency, or any item which conflicts with the program or safety and security of the facility or individual ~~clients~~ residents .

"*Coordinator*" means the person designated by the Coordinating Committee to provide coordination and monitoring of the interdepartmental licensure/certification process.

"*Corporal punishment*" means the inflicting of pain or discomfort to the body through actions such as but not limited to striking or hitting with any part of the body or with an implement; or through pinching, pulling, or shaking; or through any similar action which normally inflicts pain or discomfort.

"*Department of Youth and Family Services standards for youth facilities*" means those additional standards which must be met in order for a facility to receive funding from the Department of Youth and Family Services for the provision of residential treatment services as a juvenile detention facility, a facility providing youth institutional services, a community group home or other residential facility serving children in the custody or subject to the jurisdiction of a juvenile court or of the Department of Youth and Family Services except that the Interdepartmental Standards will be the Department of Youth and Family Services Standards for Youth Facilities for residential facilities receiving public funds pursuant to §§ 16.1-286 or 66-14 of the Code of Virginia for the provision of residential care to children in the custody of or subject to the jurisdiction of a juvenile court or of the Department of Youth and Family Services.

["*Discipline*" means] systematic teaching and training that is [*the implementation of a predetermined set of reasonable, age-appropriate consequences designed to modify inappropriate behavior and designed to correct*] ; mold, or perfect [behavior according to a rule or system of rules governing inappropriate conduct. The] object [objective of discipline is to] encourage self-direction and self-control through teaching the client to accept information, beliefs and attitudes which underlie the required conduct or behavior. The methods of discipline include, besides such instruction, positive reinforcement for exhibiting desirable behavior, as well as reasonable and age-appropriate consequences for exhibiting undesirable behavior, provided that these consequences are applied in a consistent and fair manner that gives the client an opportunity to explain his view of the misbehavior and to [*reduce or eliminate undesirable behavior, teach accountability, teach self-control, and to help the resident learn from the experience.* (See also, "*Behavior Management.*")]

"*Education standards*" means those additional standards which shall be met in order for a facility to (i) receive a certificate to operate an educational program that constitutes a private school for the handicapped; or (ii) be approved to receive public funding for the provision of

special education and related services to eligible children.

"*Emergency*" means a sudden, generally unexpected occurrence or set of circumstances demanding immediate action. Emergency does not include regularly scheduled time off of permanent staff or other situations which should reasonably be anticipated.

"*Excursion*" means a recreational or educational activity during which ~~children~~ residents leave the facility under the direct supervision of facility staff for an extended period of time. Excursions include camping trips, vacations, and other similar overnight activities.

"*Group home*" means a community-based, home-like single dwelling, or its acceptable equivalent, other than the private home of the operator, that is an integral part of the neighborhood and serves up to 12 ~~children~~ residents .

"*Group residence*" means a community-based, home-like single dwelling, or its acceptable equivalent, other than the private home of the operator, that is an integral part of the neighborhood and serves from 13 to 24 ~~children~~ residents .

"*Human research*" means any medical or psychological investigation designed to develop or contribute to general knowledge and which utilizes human subjects who may be exposed to the possibility of physical or psychological injury as a consequence of participation as subjects, and which departs from the application of those established and accepted methods appropriate to meet the subjects' needs but does not include:

1. The conduct of biological studies exclusively utilizing tissue or fluids after their removal or withdrawal from human subject in the course of standard medical practice;
2. Epidemiological investigations; or
3. Medical treatment of an experimental nature intended to save or prolong the life of the subject in danger of death, to prevent the subject from becoming disfigured or physically or mentally incapacitated.

"*Independent living program*" means a program that is specifically approved to provide the opportunity for the ~~clients~~ residents to develop the skills necessary to live successfully on their own following completion of the program.

["*Individual behavior management plan*" means the planned, individualized, and systematic use of specific treatment techniques implemented by, or under the supervision of, personnel who have been professionally trained in behavior management and implemented to increase an individual's appropriate behaviors and to modify an individual's inappropriate or problem behaviors and replace them with behaviors that are appropriate and socially acceptable.]

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"Individualized service plan" means a written plan of action developed, and modified at intervals, to meet the needs of each ~~child~~ resident . It specifies short and long-term goals, the methods and time frames for reaching the goals and the individuals responsible for carrying out the plan.

"Interdepartmental standards" means those standards for residential care which are common to all four departments and which shall be met by all subject residential facilities for children in order to qualify for licensure, certification or approval.

"Intrusive aversive therapy" means a formal behavior management technique designed to reduce or eliminate severely maladaptive, violent, or self-injurious behavior through the application of aversive stimuli contingent upon the exhibition of such behavior. [The term shall *Intrusive aversive therapy* does] not include verbal therapies, seclusion, physical or mechanical restraints used in conformity with the applicable human rights regulations promulgated pursuant to § 37.1-84.1 of the Code of Virginia, or [*psychotropic psychiatric*] medications which are used for purposes other than intrusive aversive therapy.

"Legal guardian" means the natural or adoptive parent(s) or other person(s), agency, or institution who has legal custody of a child.

"Licensee" means the person, corporation, partnership, association or public agency to whom a license is issued and who is legally responsible for compliance with the standards and statutory requirements relating to the facility.

"Licensing/certification authority" means the department or state board that is responsible under the Code of Virginia for the licensure, certification, or approval of a particular residential facility for children.

"Licensure" means the process of granting legal permission to operate a residential facility for children and to deliver program services. (Under the Code of Virginia, no person shall open, operate or conduct a residential school for the handicapped without a "certificate to operate" such school issued by the Board of Education. The issuance of such a "certificate to operate" grants legal permission to operate a school for the handicapped. Therefore, in this context, the term "certificate to operate" is synonymous with the word "licensure" and will be termed licensure for purposes of this process.)

"Live in staff" means staff who are required to be on duty for a period of 24 consecutive hours or more during each work week.

"Living unit" means the space in which a particular group of children in care of a residential facility reside. Such space contains sleeping areas, bath and toilet

facilities, and a living room or its equivalent for use by the children who reside in the unit. Depending upon its design, a building may contain only one living unit or several separate living units.

[*"Management of resident behavior"* means use of various practices, implemented according to group and individual differences, which are designed to teach situationally appropriate behavior and to reduce or eliminate undesirable behavior. Such practices include, but are not limited to, individual behavioral contracting, point systems, rules of conduct, token economies, and individual behavior management plans.]

"Mechanical restraint" means the [application of machinery or tools as a means of physically restraining or controlling a resident's behavior, such as handcuffs, straitjackets, shackles but not including bed straps, bed rails, slings and other devices employed to support or protect physically incapacitated] children [residents use of devices to restrict the movement of an individual or the movement or normal function of a portion of the individual's body, but does not include the appropriate use of those devices used to provide support for the achievement of functional body position or proper balance and those devices used for specific medical and surgical treatment or treatment for self-injurious behavior.] .

"Mental disabilities certification standards" means those standards in addition to the Interdepartmental Standards which shall be met in order for a facility to receive funding from the Department of Mental Health, Mental Retardation and Substance Abuse Services for the provision of residential treatment services to mentally ill, emotionally disturbed, mentally retarded, developmentally disabled [and/] or substance abusing children residents .

"Mental disabilities licensure standards" means, for those facilities that do not receive funding from the Department of Mental Health, Mental Retardation and Substance Abuse Services, those standards in addition to the Interdepartmental Standards which must be met in order for a facility to be licensed to provide care or treatment to mentally ill, emotionally disturbed, mentally retarded, developmentally disabled or substance abusing children residents .

"On duty" means that period of time during which a staff person is responsible for the supervision of one or more children.

"Parent" means a natural or adoptive parent ; guardian, or an individual acting as a parent in the absence of a parental guardian . The parent *Parent* means either parent unless the facility has been provided with evidence that there is a legally binding instrument or a state law or court order governing such matters as divorce, separation, or custody, which provides to the contrary. The term "parent" may include the natural mother or father, the adoptive mother or father, or the legally appointed guardian or committee who has custody of the child. [The

term "parent" Parent] also includes a surrogate parent appointed pursuant to provisions set forth in § H D of the Department of Education's "Regulations Governing Special Education Programs for Handicapped Children and Youth in Virginia." regulations governing special education programs for handicapped children and youth. [A child An individual] 18 years or older may [have the authority to] assert any rights under these the Department of Education's regulations in his own name.

"Pat down" means a thorough external body search of a clothed client resident .

"Physical restraint" means any act by the facility or staff which exercises the [use of physical] confrontation or force [intervention with residents as a] method or [technique of managing harmful resident behavior restraint of a resident's body movements by means of physical contact by staff members. Physical restraint does not include physical prompts or guidance used with individuals with diagnosed mental disabilities in the education or training of adaptive behaviors (See definition of "adaptive behavior")].

"Placement" means an activity by any person which provides assistance to a parent or legal guardian in locating and effecting the movement of a child to a foster home, adoptive home or to a residential facility for children.

["Positive reinforcement" means implementation of a set of reasonable, age-appropriate consequences designed to recognize and reward appropriate behavior. The objective of positive reinforcement is to strengthen desirable behavior, encourage its repetition, and support the resident's efforts to reduce or eliminate inappropriate behavior. (See also, "Behavior Management.")]

"Premises" means the tract(s) of land on which any part of a residential facility for children is located and any buildings on such tract(s) of land.

"Professional child and family service worker" means an individual providing social services to a child residing in resident of a residential facility and his family. Such services are defined in Part V, Article 16.

"Program" means a combination of procedures [and/] or activities carried out in order to meet a specific goal or objective.

"Public funding" means funds paid by, on behalf of, or with the financial participation of the state Departments of Education; Mental Health, Mental Retardation and Substance Abuse Services; Social Services; or Youth and Family Services.

"Resident" means a person admitted to a [children's] residential facility [for children] for supervision, care, training or treatment on a 24-hour [per day] basis. For the purpose of these standards, the words, "resident,"

"child," "client" and "youth" are used interchangeably. Resident includes children making preplacement visits to the facility.

"Residential facility for children" means a publicly or privately owned facility, other than a private family home, where 24-hour care is provided to children separated from their parents legal guardians ; that is subject to licensure, certification or approval pursuant to the provisions of the Code of Virginia cited in the Legal Base; and includes, but is not limited to, group homes, group residences, secure custody facilities, self-contained residential facilities, temporary care facilities and respite care facilities, except:

1. Any facility licensed by the Department of Social Services as a child-caring institution as of January 1, 1987, and which receives no public funds shall be licensed under minimum standards for licensed child-caring institutions as promulgated by the State Board of Social Services and in effect on January 1, 1987 (§ 63.1-196.4 of the Code of Virginia); and

2. Private psychiatric hospitals serving children will be licensed by the Department of Mental Health, Mental Retardation and Substance Abuse Services under its "Rules and Regulations for the Licensure of Private Psychiatric Hospitals."

"Respite care facility" means a facility that is specifically approved to provide short term, periodic residential care to children accepted into its program in order to give the parents/ legal guardians temporary relief from responsibility for their direct care.

"Responsible adult" means an adult, who may or may not be a staff member, who has been delegated authority to make decisions and to take actions necessary to assume responsibility for the safety and well-being of children assigned to his care. The term implies that the facility has reasonable grounds to believe that the responsible adult has sufficient knowledge, judgment and maturity commensurate to the demands of the situation for which he is assuming authority and responsibility.

"Rest day" means a period of not less than 32 consecutive hours during which a staff person has no responsibility to perform duties related to the facility. Two successive rest days shall consist of a period of not less than 48 consecutive hours during which a staff person has no responsibility to perform duties related to the facility. Each successive rest day immediately following the second shall consist of not less than 24 additional consecutive hours.

"Right" is something to which one has a natural, legal or moral claim.

"Rules of conduct" means a listing of [appropriate and inappropriate behaviors and the reasonable, age-appropriate consequences which are implemented to recognize and reward appropriate behavior and to modify

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~~inappropriate behavior rules or regulations which is maintained to inform residents and others about behaviors which are not permitted and the consequences applied when the behaviors occur] .~~

"Sanitize" means to wash or rinse with water containing a laundry bleach with an active ingredient of 5.25% sodium hypochlorite. The amount of bleach used may be in accordance with manufacturer's recommendation on the package.

"Seclusion" means placing a ~~child~~ resident in a room with the door secured in any manner that ~~will prohibit prevents~~ the ~~child~~ resident from opening it.

"Secure custody facility" means a facility designed to provide, in addition to the appropriate treatment ~~and/~~ or service programs, secure environmental restrictions for children who must be detained and controlled on a 24-hour basis.

"Self-contained residential facility" means a residential setting for 13 or more ~~children~~ residents in which program activities are systematically planned and implemented as an integral part of the facility's staff functions (e.g., services are self-contained rather than provided primarily through community resources). The type of program may vary in intensity according to the needs of the residents. Such settings include nonmedical as well as state-operated hospital based care.

"Severe weather" means extreme environment or climate conditions which pose a threat to the health, safety or welfare of residents.

"Shall" means an obligation to act is imposed.

"Shall not" means an obligation not to act is imposed.

"Single license/certificate" means a document which grants approval to operate a residential facility for children and which indicates the status of the facility with respect to compliance with applicable certification standards.

"Standard" means a statement which describes in measurable terms a required minimum performance level.

"Strip search" means a visual inspection of the body of a ~~client~~ resident when that ~~client's~~ resident's clothing is removed and an inspection of the removed clothing including wigs, dentures, etc. except the performance of medical procedures by medical personnel.

"Substantial compliance" means a demonstration by a facility of full compliance with sufficient applicable standards to clearly demonstrate that its program and physical plant can provide reasonably safe and adequate care, while approved plans of action to correct findings of noncompliance are being implemented.

"Team" means one or more representatives of the licensing certification authority(ies) designated to visit a residential facility for children to review its compliance with applicable standards.

"Temporary care facility" means a facility specifically approved to provide a range of services, as needed, on an individual basis for a period not to exceed 60 days except that this term does not include secure detention facilities.

~~"Timeout procedure" means a systematic behavior management technique designed to reduce or eliminate inappropriate behavior by temporarily removing a child resident [from contact with people or other reinforcing stimuli through confining and placing] the child resident alone [to in] a special timeout room that is unfurnished or sparsely furnished and, which contains few reinforcing environmental stimuli. The timeout room shall not be locked nor the door secured in any manner that will prohibit the child from opening it. (See the definitions of "Confinement Procedure," "Seclusion," "Behavior Management," and "Discipline.")~~

"Treatment" means any action which helps a person in the reduction of disability or discomfort, the amelioration of symptoms, undesirable conditions or changes in specific physical, mental, behavioral or social functioning.

"Visually impaired child" means one whose vision, after best correction, limits his ability to profit from a normal or unmodified educational or daily living setting.

"Wilderness camp" means a facility which provides a primitive camping program with a nonpunitive environment and an experience curriculum for ~~children~~ residents nine years of age and older who cannot presently function in home, school and community. In lieu of or in addition to dormitories, cabins or barracks for housing ~~children~~ residents, primitive campsites are used to integrate learning and therapy with real living needs and problems from which the ~~child~~ resident can develop a sense of social responsibility and self worth.

Article 2. Legal Base.

§ 1.2. The Code of Virginia is the basis for the requirement that private residential facilities for children be licensed, certified and approved. It also authorizes the several departments to operate or reimburse certain public facilities. In addition, P. L. 94-63 and Title XX of the Social Security Act require the establishment of quality assurance systems.

§ 1.3. The State Board of Youth and Family Services [~~or~~ and] the Department of Youth and Family Services [~~is~~ are] responsible for approval of facilities used for the placement of court-referred juveniles, as specified by § 16.1-286 and §§ 66-13 and 66-14 of the Code of Virginia, for promulgating a statewide plan for detention and other care facilities and for prescribing standards for such

facilities pursuant to §§ 16.1-310 through 16.1-314 of the Code of Virginia; and for establishing and maintaining a system of community group homes or other residential care facilities pursuant to § 66-24 of the Code of Virginia.

§ 1.4. The State Board of Education is responsible for issuing certificates to operate (licenses) for residential schools for the handicapped in the Commonwealth of Virginia, as specified in Chapter 16 of of Title 22.1 (§§ 22.1-319 through 22.1-335) of the Code of Virginia. It is further responsible for the general supervision of the public school system for all school age residents of Virginia (for handicapped children, ages 2-21) and for approval of private nonsectarian education programs for the handicapped, as specified by § 22.1-218 of the Code of Virginia.

§ 1.5. The Department of Mental Health, Mental Retardation and Substance Abuse Services is responsible for licensure of facilities or institutions for the mentally ill, mentally retarded, and substance abusers within the Commonwealth of Virginia, as specified in Chapter 8 of Title 37.1 (§§ 37.1-179 through 37.1-189) of the Code of Virginia. It is also responsible for the certification of group homes as specified in § 37.1-199 of the Code of Virginia.

§ 1.6. The Department of Social Services is responsible for licensure of certain child welfare agencies and facilities in Virginia, as specified in Chapter 10 of Title 63.1 (§§ 63.1-195 through 63.1-219) of the Code of Virginia. It is also responsible for the certification of local welfare/social services department "agency operated" group homes, as specified in § 63.1-56.1 of the Code of Virginia.

Article 3. Interdepartmental Agreement.

§ 1.7. An "Agreement for Interdepartmental Licensure and Certification of Children's Residential Facilities" was approved by the Director of the Department of Corrections; the Commissioners of the Department of Mental Health, Mental Retardation and Substance Abuse Services and the Department of Social Services; and the Superintendent of Public Instruction and was initially signed on January 8-9, 1979. The agreement was *most recently* updated effective September 30, 1984.

This agreement commits the above departments to apply the same standards to both public and private facilities and provides a framework for:

1. The joint development and application of licensure and certification standards;
2. A single coordinated licensure, certification and approval process that includes:
 - a. A single application for appropriate licensure, certification or approval;

b. A system for review of compliance with applicable standards;

c. A single license/certificate issued under the authority of the appropriate department(s) or board(s); and

d. Clear lines of responsibility for the enforcement of standards.

3. An Office of the Coordinator to provide central coordination and monitoring of the administration of the interdepartmental licensure/certification program.

Article 4. General Licensing/Certification Requirements.

§ 1.8. All residential facilities for children must demonstrate an acceptable level of compliance with the Interdepartmental Standards and other applicable licensure requirements (e.g., Mental Disabilities Licensure Standards) and shall submit a plan of corrective action acceptable to the licensing authority for remedying within a specified time any noncompliance in order to be licensed to operate or be certified to receive children in Virginia. Facilities also shall demonstrate an acceptable level of compliance with other applicable standards, such as Education Standards, Mental Disabilities Certification Standards and Department of Youth and Family Services Standards for Youth Facilities, and submit a plan of corrective action acceptable to the certification authority for remedying within a specified time any noncompliance in order to be certified or approved.

§ 1.9. Investigations of applications for licensure/certification will be carried out by representatives of the licensure/certification authority with each representative participating in the evaluation of compliance with applicable standards. The decision to license or certify will be based primarily on the findings and recommendations of these representatives of the licensing/certification authority.

§ 1.10. Corporations sponsoring residential facilities for children shall maintain their corporate status in accordance with Virginia law. Corporations not organized and empowered solely to operate residential facilities for children shall provide for such operations in their charters.

Article 5. The License/Certificate.

§ 1.11. The interdepartmental program will utilize a single licensure/certification process encompassing the Interdepartmental Standards and certification standards. A single document will be issued to each qualified facility which will, under appropriate statutory authority(ies), grant permission to operate a residential facility for children or certify approval for the placement of children using public funds and which will indicate the status of each facility

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with respect to compliance with applicable certification standards.

§ 1.12. The terms of any license/certificate issued shall include: (i) the operating name of the facility; (ii) the name of the individual, partnership, association or corporation or public agency to whom the license/certificate is issued; (iii) the physical location of the facility; (iv) the nature of the population; (v) the maximum number of persons to be accepted for care; (vi) the effective dates of the license; and (vii) other specifications prescribed within the context of the standards.

§ 1.13. The license/certificate is not transferable and automatically expires when there is a change of ownership, sponsorship, or location, or when there is a substantial change in services or clientele which would alter the evaluation findings and terms under which the facility was licensed/certified.

§ 1.14. Separate licenses/certificates are required for facilities maintained on separate pieces of property which do not have a common boundary, even though these may be operated under the same management and may share services and/or facilities.

§ 1.15. The current license/certificate shall be posted at all times in a place conspicuous to the public.

Article 6.

Types of Licenses/Certificates.

§ 1.16. An annual license/certificate may be issued to a residential facility for children that is subject to the licensure authority of the Departments of Education; Mental Health, Mental Retardation and Substance Abuse Services; or Social Services when its activities, services and requirements substantially meet the minimum standards and requirements set forth in the Interdepartmental Standards, applicable certification standards and any additional requirements that may be specified in relevant statutes. An annual license/certificate is effective for 12 consecutive months, unless it is revoked or surrendered sooner.

§ 1.17. A provisional license/certificate may be issued whenever an applicant is temporarily unable to comply with all of the requirements set forth in the Interdepartmental Standards or applicable certification standards and under the condition that the requirements will be met within a specified period of time. A facility with provisional licensure/certification is required to demonstrate that it is progressing toward compliance. A provisional license/certificate shall not be issued where the noncompliance poses an immediate and direct danger to the health and safety of the residents.

A. For those facilities for which the Department of Mental Health, Mental Retardation and Substance Abuse Services is the licensing authority as specified in Chapter 8

of Title 37.1 of the Code of Virginia, at the discretion of the licensing authority a provisional license may be issued to operate a new facility in order to permit the applicant to demonstrate compliance with all requirements. Such a provisional license may be renewed, but such provisional licensure and any renewals thereof shall not exceed a period of six successive months. A provisional license also may be issued to a facility which has previously been fully licensed when such facility is temporarily unable to comply with all licensing standards. However, pursuant to § 37.1-183.2 of the Code of Virginia, such a provisional license may be issued for any period not to exceed 90 days and shall not be renewed.

B. For those facilities for which the Department of Social Services is the licensing authority as specified in Chapter 10 of Title 63.1 of the Code of Virginia, a provisional license may be issued following the expiration of an annual license. Such provisional licensure and any renewals thereof shall not exceed a period of six successive months. At the discretion of the licensing authority, a conditional license may be issued to operate a new facility in order to permit the applicant to demonstrate compliance with all requirements.

Such a conditional license may be renewed, but such conditional licensure and any renewals thereof shall not exceed a period of six successive months.

§ 1.18. An extended license/certificate may be issued following the expiration of an annual or an extended license/certificate provided the applicant qualifies for an annual license/certificate and, additionally, it is determined by the licensing/certification authority that (i) the facility has a satisfactory compliance history; and (ii) the facility has had no significant changes in its program, population, sponsorship, staffing and management, or financial status during the term of the previous annual or extended license. In determining whether a facility has a satisfactory compliance history, the licensing/certification authority shall consider the facility's maintenance of compliance as evidenced by licensing complaints; monitoring visits by staff of the licensing authority; reports of health, fire and building officials; and other sources of information reflecting on the facility's continued compliance with applicable standards. An extended license is effective for a specified period not to exceed 24 consecutive months, unless it is revoked or surrendered sooner.

§ 1.19. A residential facility for children operating under certification by the Department of Youth and Family Services may be issued a certificate indicating the status of the facility with respect to compliance with applicable certification standards. Such a certificate is effective for a specified period not to exceed 24 consecutive months, unless it is revoked or surrendered sooner.

§ 1.20. The term of any certification(s) issued on an annual, provisional or extended license/certificate shall be coincident with the effective dates of the license.

1.21. There shall be no fee to the licensee for licensure, certification or approval.

Article 7. Preapplication Consultation Services.

§ 1.22. Upon receipt of an inquiry or a referral, preapplication consultation services will be made available by the Office of the Coordinator and the participating departments.

§ 1.23. Preapplication consultation may be designed to accomplish the following purposes:

1. To explain standards and statutes;
2. To help the potential applicant explore the operational demands of a licensed/certified/approved residential facility for children;
3. To provide assistance in locating sources of information and technical assistance;
4. To refer the potential applicant to appropriate agencies; such as, the Department of Health, the State Fire Marshal, local fire department, and local building officials; and
5. To comment, upon request, on plans for proposed construction or on existing property in terms of suitability for the purposes proposed. Such comments shall be limited to advice on basic space considerations.

Article 8. The Initial Application.

§ 1.24. The application for a license to operate a residential facility for children shall be available from the Office of the Coordinator and the participating departments.

§ 1.25. All application forms and related information requests shall be designed to assure compliance with the provision of standards and relevant statutes.

§ 1.26. Completed applications along with other information required for licensure, certification or approval shall be submitted at least 60 days in advance of the planned opening date. Receipt shall be acknowledged.

Article 9. The Investigation.

§ 1.27. Following receipt and evaluation of each completed application, a team will be organized made up of representatives from the departments which will be participating in the review of that particular facility.

§ 1.28. The team will arrange and conduct an on-site inspection of the proposed facility; a thorough review of

the proposed services; and investigate the character, reputation, status, and responsibility of the applicant.

Article 10. Allowable Variance.

§ 1.29. The licensing/certification authority has the sole authority to waive a standard either temporarily or permanently when in its opinion:

1. Enforcement will create an undue hardship;
2. The standard is not specifically required by statute or by the regulations of another government agency; and
3. Resident care would not be adversely affected.

§ 1.30. Any request for an allowable variance shall be submitted in writing to the licensing/certification authority.

§ 1.31. The denial of a request for a variance is appealable through the normal appeals process when it leads to the denial or revocation of licensure/certification.

Article 11. Decision Regarding Licensure/Certification.

§ 1.32. Within 60 days of receipt of a properly completed application, the investigation will be completed and the applicant will be notified in writing of the decision regarding licensure/certification.

Article 12. Issuance of a License, Certificate or Approval.

§ 1.33. Private facilities.

If licensure/certification (either annual, provisional or extended) is granted, the facility will be issued a license/certificate with an accompanying letter citing any areas of noncompliance with standards. This letter will also include any specifications of the license and may contain recommendations.

§ 1.34. Public and out-of-state facilities.

If approval is granted, the facility will be issued a certificate of approval indicating that it has met standards required for it to operate and receive public funds.

Article 13. Intent to Deny a License, Certificate or Approval.

§ 1.35. If denial of a license, certificate or approval is recommended, the facility will be notified in writing of the deficiencies and the proposed action.

§ 1.36. Private facilities.

The notification of intent to deny a license or certificate

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will be a letter signed by the licensing/certification authority(ies) and sent by certified mail to the facility. This notice will include:

1. A statement of the intent of the licensing/certification authorities to deny;
2. A list of noncompliances and circumstances leading to the denial; and
3. Notice of the facility's rights to a hearing.

§ 1.37. Locally-operated facilities.

The notification of intent to deny a license or certificate will be a letter signed by the licensing/certification authority(ies) sent by certified mail to the facility and to the appropriate local governing body or official responsible therefore, stating the reasons for the action, as well as the applicable state board or departmental sanctions or actions to which they are liable.

§ 1.38. State-operated public facilities.

The notification of intent to deny an approval will be a letter signed by the licensing/certification authority(ies) sent by certified mail to the facility, to the appropriate department head, and to the Secretary stating the reasons for the action and advising appropriate sanctions or actions.

§ 1.39. Out-of-state facilities.

The notification of denial of approval will be a letter signed by the licensing/certification authority(ies) sent by certified mail to the facility and to each of the four departments stating the reasons for the action. Any department having children placed in such a facility shall be responsible for immediate removal of the children when indicated.

§ 1.40. The hearing.

An interdepartmental hearing will be arranged when necessary. Hearings will be conducted in accordance with the requirements of the Administrative Process Act, § 9-6.14:1 et seq. of the Code of Virginia. Each licensing/certification authority will be provided with the report of the hearing on which to base the licensing authority's final decision. The Office of the Coordinator will be notified of the licensing authority's decision within 30 days after the report of the hearing is submitted. When more than one licensing/certification authority is involved, they will coordinate the final decision.

§ 1.41. Final decision.

A letter will be sent by registered mail notifying the facility of the final decision of the licensing/certification authorities. This letter will be drafted for the signatures of those departmental authorities who are delegated

responsibility for such actions by statute. In case of denial, the facility shall cease operation or change its program so that it no longer requires licensure/certification. This shall be done within 30 days.

Article 14.

Renewal of License/Certificate.

§ 1.42. Approximately 90 days prior to the expiration of a license/certificate, the licensee will receive notice of expiration and an application for renewal of the license/certificate. The materials to be submitted will be indicated on the application.

In order to renew a license/certificate, the licensee shall complete the renewal application and return it and any required attachments. The licensee should submit this material within 30 days after receipt in order to allow at least 60 days to process the application prior to expiration of the license.

§ 1.43. The process for review of the facility and issuance or denial of the license/certificate will be the same as for an initial application (See Part I, Articles 8, 9, 12, 13).

Article 15.

Early Compliance.

§ 1.44. A provisional or conditional license/certificate may be replaced with an annual license/certificate when all of the following conditions exist:

1. The facility complies with all standards as listed on the face of the provisional or conditional license/certificate well in advance of its expiration date and the facility is in substantial compliance with all other standards;
2. Compliance has been verified by an on-site observation by a representative(s) of the licensing/certification authority or by written evidence provided by the licensee; and
3. All other terms of the license/certificate remain the same.

§ 1.45. A request to replace a provisional license/certificate and to issue an annual license/certificate shall be made in writing by the licensee.

§ 1.46. If the request is approved, the effective date of the new annual license/certificate will be the same as the beginning date of the provisional license/certificate.

Article 16.

Situations Requiring a New Application.

§ 1.47. A new application shall be filed in the following circumstances:

1. Change of ownership ~~and/~~ or sponsorship;
2. Change of location; ~~and/~~ or
3. Substantial change in services provided ~~and/~~ or target population.

Article 17. Modification of License/Certificate.

§ 1.48. The conditions of a license/certificate may be modified during the term of the license with respect to the number of ~~children residents~~, the age range or other conditions which do not constitute substantial changes in the services or target population.

The licensee shall submit a written report of any contemplated changes in operation which would affect either the terms of the license/certificate or the continuing eligibility for a license/certificate.

A determination will be made as to whether changes may be approved and the license/certificate modified accordingly or whether an application for a new license/certificate must be filed. The licensee will be notified in writing within 30 days as to whether the modification is approved or a new license is required.

Article 18. Visitation of Facilities.

1.49. Representatives of the departments shall make announced and unannounced visits during the effective dates of the license/certificate. The purpose of these visits is to monitor compliance with applicable standards.

Article 19. Investigation of Complaints and Allegations.

§ 1.50. The four departments are responsible for complete and prompt investigation of all complaints and allegations, and for notification of the appropriate persons or agencies when removal of ~~children residents~~ may be necessary. Suspected criminal violations shall be reported to the appropriate law-enforcement authority.

Article 20. Revocation of License/Certificate.

§ 1.51. Grounds for revocation.

The license, certificate or approval may be revoked when the licensee:

1. Violates any provision of the applicable licensing laws or any applicable standards made pursuant to such laws;
2. Permits, aids or abets the commission of any illegal act in such facility;

3. Engages in conduct or practices which are in violation of statutes related to abuse or neglect of children; or

4. Deviates significantly from the program or services for which a license was issued without obtaining prior written approval from the licensing/certification authority [~~and/~~ or] fails to correct such deviations within the time specified.

§ 1.52. Notification of intent to revoke.

If revocation of a license, certificate or approval is recommended, the facility will be notified in writing of the deficiencies and the proposed action.

§ 1.53. Private facilities.

The notification of intent to revoke a license or certificate will be a letter signed by the licensing/certification authority(ies) sent by certified mail to the facility. This notice will include:

1. A statement of the intent of the licensing/certification authorities to revoke;
2. A list of noncompliances and circumstances leading to the revocation; and
3. Notice of the facility's rights to a hearing.

§ 1.54. Locally-operated facilities.

The notification of intent to revoke a license or certificate will be a letter signed by the licensing/certification authority(ies) sent by certified mail to the facility and to the appropriate local governing body or official responsible therefore stating the reasons for the action as well as the applicable state board or departmental sanctions or actions to which they are liable.

§ 1.55. State-operated public facilities.

The notification of intent to revoke an approval will be a letter signed by the licensing/certification authority(ies) sent by certified mail to the facility, to the appropriate department head, and to the appropriate Secretary in the Governor's Cabinet, stating the reasons for the action and advising appropriate sanctions or actions.

§ 1.56. Out-of-state facilities.

The notification of revocation of approval will be a letter signed by the licensing/certification authority(ies) sent by certified mail to the facility, and to each of the four departments stating the reasons for the action. Any department having children placed in such a facility shall be responsible for immediate removal of the children when indicated.

§ 1.57. The hearing.

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An interdepartmental hearing will be arranged, when necessary. Hearings will be conducted in accordance with the requirements of the Administrative Process Act, §9-6.14:1 et seq. of the Code of Virginia. Each licensing/certification authority will be provided with the report of the hearing on which to base the licensing authority's final decision. The Office of the Coordinator will be notified of the licensing authority's decision within 30 days after the report of the hearing is submitted. When more than one licensing/certification authority is involved, they will coordinate the final decision.

§ 1.58. Final decision.

A letter will be sent by registered mail notifying the facility of the final decision of the licensing/certification authorities. This letter will be drafted for the signatures of those departmental authorities who are delegated responsibility for such actions by statute. In case of revocation, the facility shall cease operation or change its program so that it no longer requires licensure/certification. This shall be done within 30 days.

§ 1.59. Suppression of unlicensed operations.

The suppression of illegal operations or activities involves action against a person or group operating without a license/certificate or operating after a license/certificate has expired or has been denied or revoked. All allegations of illegal operations shall be investigated promptly. After consultation with counsel, action may be initiated by the licensing/certification authority against illegally operating facilities by means of civil action, by injunction or by criminal action.

§ 1.60. Appeals.

A. Following receipt of the final order transmitting the decision of the licensing/certification authority(ies) after an administrative hearing, the applicant/licensee has the right to appeal pursuant to the applicable sections of the Administrative Process Act, § 9-6.14:1 et seq. of the Code of Virginia.

B. Continued operation of a facility during the appeal process shall conform to applicable sections of the Code of Virginia.

PART II. ORGANIZATION AND ADMINISTRATION.

Article 1. Governing Body.

§ 2.1. The residential facility for children shall clearly identify the corporation, association, partnership, individual, or public agency that is the licensee.

§ 2.2. The licensee shall clearly identify any governing board, body, entity or person to whom it delegates the legal responsibilities and duties of the licensee.

Article 2. Responsibilities of the Licensee.

§ 2.3. The licensee shall appoint a qualified chief administrative officer to whom it delegates in writing the authority and responsibility for the administrative direction of the facility.

§ 2.4. The licensee shall develop and implement written policies governing the licensee's relationship to the chief administrative officer that shall include, but shall not be limited to:

1. Annual evaluation of the performance of the chief administrative officer; and

2. Provision for the chief administrative officer to meet with the governing body or with the immediate supervisor to periodically review the services being provided, the personnel needs and fiscal management of the facility.

§ 2.5. The licensee shall develop a written statement of the philosophy and the objectives of the facility including a description of the population to be served and the program to be offered.

§ 2.6. The licensee shall review, at least annually, the program of the facility in light of the population served and the objectives of the facility.

§ 2.7. The licensee shall review, develop and implement programs and administrative changes in accord with the defined purpose of the facility.

Article 3. Fiscal Accountability.

§ 2.8. The facility shall have a documented plan of financing which gives evidence that there are sufficient funds to operate.

§ 2.9. A new facility shall with the initial application document funds or a line of credit sufficient to cover at least 90 days of operating expenses unless the facility is operated by a state or local government agency, board or commission.

§ 2.10. A new facility operated by a corporation, unincorporated organization or association, an individual or a partnership shall submit with the initial application evidence of financial responsibility. This shall include:

1. A working budget showing projected revenue and expenses for the first year of operation; and

2. A balance sheet showing assets and liabilities.

§ 2.11. Facilities having an approved rate established in accordance with the Interdepartmental Rate Setting Process shall submit evidence of financial responsibility.

This shall include:

1. A copy of the facility's most recently completed financial audit;
2. A report on any changes in income, expenses, assets, and liabilities that significantly change the fiscal condition of the facility as reflected in the financial audit submitted or a statement that no such changes have occurred; and
3. A working budget showing projected revenue and expenses for the coming year.

§ 2.12. Facilities operated by state or local government agencies, boards and commissions that do not have an approved rate established in accordance with the Interdepartmental Rate Setting Process shall submit evidence of financial responsibility. This shall include a working budget showing appropriated revenue and projected expenses for the coming year.

§ 2.13. Facilities operated by corporations, unincorporated organizations or associations, individuals or partnerships that do not have a rate set in accordance with the Interdepartmental Rate Setting Process shall submit evidence of financial responsibility. This shall include:

1. An operating statement showing revenue and expenses for the past operating year;
2. A working budget showing projected revenue and expenses for the coming year;
3. A balance sheet showing assets and liabilities; and
4. A written assurance from the licensee that the documentation provided for in *subdivisions* 1, 2, and 3 above presents a complete and accurate financial report reflecting the current fiscal condition of the facility.

§ 2.14. The facility shall provide additional evidence of financial responsibility as the licensing authority, at its discretion, may require.

Article 4. Internal Operating Procedures.

§ 2.15. There shall be evidence of a system of financial record keeping that is consistent with generally accepted accounting principles unless the facility is a state or local program operating as required by the State Auditor of Public Accounts.

§ 2.16. There shall be a written policy, consistent with generally accepted accounting principles, for collection and disbursement of funds unless the facility is a state or local program operating as required by the State Auditor of Public Accounts.

§ 2.17. There shall be a system of financial record keeping that shows a separation of the facility's accounts from all other records.

Article 5. Insurance.

§ 2.18. A facility shall maintain liability insurance covering the premises and the facility's operations.

§ 2.19. There shall be liability insurance on vehicles operated by the facility.

Article 6. Bonding.

§ 2.20. Those members of the governing body and staff who have been authorized responsibility for handling the funds of the facility shall be bonded.

Article 7. Fund-Raising.

§ 2.21. The facility shall not use ~~children residents~~ in its fund-raising activities without written permission of ~~parent~~, ~~legal guardian~~ or ~~agency holding custody~~.

Article 8. Relationship to Licensing Authority.

§ 2.22. The facility shall submit or make available to the licensing authority such reports and information as the licensing authority may require to establish compliance with these standards and the appropriate statutes.

§ 2.23. The governing body or its official representative shall notify the licensing authority(ies) within five working days of:

1. Any change in administrative structure or newly hired chief administrative officer; and
2. Any pending changes in the program.

§ 2.24. In the event of a disaster, fire, emergency or any other condition at the facility that may jeopardize the health, safety and well-being of the children in care, the facility shall:

1. Take appropriate action to protect the health, safety and well-being of the children in care;
2. Take appropriate actions to remedy such conditions as soon as possible, including reporting to and cooperating with local health, fire, police or other appropriate officials; and
3. Notify the licensing authority(ies) of the conditions at the facility and the status of the ~~children in care~~ *residents* as soon as possible.

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Article 9.

Participation of ~~Children~~ Residents in Research.

§ 2.25. The facility shall establish and implement written policies and procedures regarding the participation of ~~children residents~~ as subjects in research that are consistent with Chapter 13 of Title 37.1 of the Code of Virginia, unless the facility has established and implemented a written policy explicitly prohibiting the participation of ~~children residents~~ as subjects of human research as defined by the above statute.

Article 10.

~~Children's~~ Resident's Records.

§ 2.26. A separate case record on each ~~child resident~~ shall be maintained and shall include all correspondence relating to the care of that ~~child resident~~.

§ 2.27. Each case record shall be kept up to date and in a uniform manner.

§ 2.28. Case records shall be maintained in such manner as to be accessible to staff for use in working with the ~~child resident~~.

Article 11.

Confidentiality of ~~Children's~~ Resident's Records.

§ 2.29. The facility shall make information available only to those legally authorized to have access to that information under federal and state laws.

§ 2.30. There shall be written policy and procedures to protect the confidentiality of records which govern acquiring information, access, duplication, and dissemination of any portion of the records. The policy shall specify what information is available to the ~~youth resident~~.

Article 12.

Storage of Confidential Records.

§ 2.31. Records shall be kept in areas which are accessible only to authorized staff.

§ 2.32. Records shall be stored in a metal file cabinet or other metal compartment.

§ 2.33. When not in use, records shall be kept in a locked compartment or in a locked room.

Article 13.

Disposition of ~~Children's~~ Residents' Records.

§ 2.34. ~~Children's~~ Resident's records shall be kept in their entirety for a minimum of three years after the date of the discharge unless otherwise specified by state or federal requirements.

§ 2.35. Permanent information shall be kept on each ~~child~~

~~resident~~ even after the disposition of the ~~child's~~ resident's record unless otherwise specified by state or federal requirements. Such information shall include:

1. ~~Child's~~ Resident's name;
2. Date and place of ~~child's~~ resident's birth;
3. Dates of admission and discharge;
4. Names and addresses of parents and siblings; and
5. Name and address of legal guardian.

§ 2.36. Each facility shall have a written policy to provide for the disposition of records in the event the facility ceases operation.

Article 14.

Residential Facilities for Children Serving Persons Over the Age of 17 Years.

§ 2.37. Residential facilities for children subject to Interdepartmental licensure/certification which are also approved to maintain in care persons over 17 years of age, shall comply with the requirements of the Interdepartmental Standards for the care of all residents, regardless of age, except that residential programs serving persons over 17 years of age, shall be exempt from this requirement when it is determined by the licensing/certification authority(ies) that the housing, staff and programming for such persons is maintained separately from the housing, staff and programming for the ~~children in care residents~~.

PART III. PERSONNEL.

Article 1. Health Information.

§ 3.1. Health information required by these standards shall be maintained for the chief administrative officer, for all staff members who come in contact with ~~children residents~~ or handle food, and for any individual who resides in a building occupied by ~~children residents~~ including any such persons who are neither staff members nor ~~children in care residents~~ of the facility.

Article 2.

Initial Tuberculosis Examination and Report.

§ 3.2. Within 30 days of employment or contact with ~~children residents~~ each individual shall obtain an evaluation indicating the absence of tuberculosis in a communicable form except that an evaluation shall not be required for an individual who (i) has separated from employment with a facility licensed/certified by the Commonwealth of Virginia, (ii) has a break in service of six months or less, and (iii) submits the original statement of tuberculosis screening.

3.3. Each individual shall submit a statement that he is free of tuberculosis in a communicable form including the type(s) of test(s) used and the test result(s).

§ 3.4. The statement shall be signed by licensed physician the physician's designee, or an official of a local health department.

§ 3.5. The statement shall be filed in the individual's record.

Article 3.

Subsequent Evaluations for Tuberculosis.

§ 3.6. Any individual who comes in contact with a known case of tuberculosis or who develops chronic respiratory symptoms of four weeks duration or longer shall, within 30 days of exposure/development, receive an evaluation in accord with Part III, Article 2.

Article 4.

Physical or Mental Health of Personnel.

§ 3.7. At the request of the licensee/administrator of the facility or the licensing authority a report of examination by a licensed physician shall be obtained when there are indications that the care of ~~children~~ residents may be jeopardized by the physical, mental, or emotional health of a specific individual.

§ 3.8. Any individual who, upon examination by a licensed physician or as result of tests, shows indication of a physical or mental condition which may jeopardize the safety of ~~children in care~~ residents or which would prevent the performance of duties:

1. Shall immediately be removed from contact with ~~children residents~~ and food served to ~~children residents~~ ; and
2. Shall not be allowed contact with ~~children residents~~ or food served to ~~children residents~~ until the condition is cleared to the satisfaction of the examining physician as evidenced by a signed statement from the physician.

Article 5.

Qualifications.

§ 3.9. Standards in Part III, Articles 12-14 establishing minimum position qualifications shall be applicable to all facilities. In lieu of these minimum position qualifications, (i) facilities subject to the rules and regulations of the Virginia Department of Personnel and Training, or (ii) facilities subject to the rules and regulations of a local government personnel office may develop written minimum entry level qualifications in accord with the rules and regulations of the supervising personnel authority.

§ 3.10. Any person who assumes or is designated to

assume the responsibilities of a staff position or any combination of staff positions described in these standards shall meet the qualifications of that position(s) and shall fully comply with all applicable standards for each function.

§ 3.11. When services or consultations are obtained on a contract basis they shall be provided by professionally qualified personnel.

Article 6.

Job Descriptions.

§ 3.12. For each staff position there shall be a written job description which, at a minimum, shall include:

1. The job title;
2. The duties and responsibilities of the incumbent;
3. The job title of the immediate supervisor; and
4. The minimum knowledge, skills and abilities required for entry level performance of the job.

§ 3.13. A copy of the job description shall be given to each person assigned to that position at the time of employment or assignment.

Article 7.

Written Personnel Policies and Procedures.

§ 3.14. The licensee shall approve written personnel policies.

§ 3.15. The licensee shall make its written personnel policies readily accessible to each staff member.

§ 3.16. The facility shall develop and implement written policies and procedures to assure that persons employed in or designated to assume the responsibilities of each staff position possess the knowledge, skills and abilities specified in the job description for that staff position.

§ 3.17. Written policies and procedures related to child abuse and neglect shall be distributed to all staff members. These shall include:

1. Acceptable methods for [~~discipline and behavior~~] management of ~~children~~ [~~residents resident behavior~~];
2. Procedures for handling accusations against staff; and
3. Procedures for promptly referring suspected cases of child abuse and neglect to the local protective service unit and for cooperating with the unit during any investigation. (See § 5.143)

§ 3.18. Each staff member shall demonstrate a working

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knowledge of those policies and procedures that are applicable to his specific staff position.

Article 8. Personnel Records.

§ 3.19. A separate up-to-date personnel record shall be maintained for each staff member. The record shall include:

1. A completed employment application form or other written material providing:
 - a. Identifying information (name, address, phone number, social security number, and any names previously utilized);
 - b. Educational history; and
 - c. Employment history.
2. Written references or notations of oral references;
3. Reports of required health examinations;
4. Annual performance evaluations; and
5. Documentation of staff development activities.

§ 3.20. Each personnel record shall be retained in its entirety for two years after employment ceases.

§ 3.21. Information sufficient to respond to reference requests on separated employees shall be permanently maintained. Information shall minimally include name, social security number, dates of employment, and position(s) held.

Article 9. Staff Development.

§ 3.22. New employees, relief staff, volunteers and students, within one calendar month of employment, shall be given orientation and training regarding the objectives and philosophy of the facility, practices of confidentiality, other policies and procedures that are applicable to their specific positions, and their specific duties and responsibilities.

§ 3.23. Provision shall be made for staff development activities, designed to update staff on items in § 3.22 and to enable them to perform their job responsibilities adequately. Such staff development activities include, but shall not necessarily be limited to, supervision and formal training.

§ 3.24. Regular supervision of staff shall be provided.

§ 3.25. Regular supervision of staff shall not be the only method of staff development.

§ 3.26. Participation of staff, volunteers and students in orientation, training and staff development activities shall be documented.

Article 10. Staff Supervision of Children.

§ 3.27. No member of the child care staff shall be on duty more than six consecutive days between rest days except in an emergency except:

1. A child care staff member may attend training **FOLLOWING WORKING AT THE FACILITY** without a rest day. However, the staff member shall not work more than 10 consecutive days between rest days including working at the facility and training.
2. A child care staff member may accompany an excursion **FOLLOWING WORKING AT THE FACILITY** without a rest day. However, the staff member shall not work more than 14 consecutive days between rest days including working at the facility and the excursion.
3. A child care staff member accompanying an excursion shall not work at the facility for more than two consecutive days **PRIOR TO THE EXCURSION**.
4. A child care staff member may return to work at the facility without a rest day **AFTER ACCOMPANYING AN EXCURSION OR ATTENDING TRAINING**. However, a staff member who returns to work at the facility shall not work more than six consecutive days between rest days including excursion and training days.

§ 3.28. Child care staff shall have an average of not less than two rest days per week in any four-week period. This shall be in addition to vacation time and holidays.

§ 3.29. Child care staff other than live in staff shall not be on duty more than 16 consecutive hours except in an emergency.

§ 3.30. There shall be at least one responsible adult on the premises and on duty at all times that one or more children are present.

§ 3.31. Each facility shall develop and implement written policies and procedures which address deployment of staff and supervision of children. The number of children being supervised may vary among staff members except that the total number of child care staff on duty shall not be less than the minimum number required by §§ 3.33 and 3.34 to supervise the total number of children on the premises and participating in off campus, facility sponsored activities.

§ 3.32. Written policies and procedures governing deployment of staff shall be reviewed and approved by the regulatory authority prior to implementation.

§ 3.33. During the hours that children normally are awake there shall be no less than one child care staff member awake, on duty and responsible for supervision of every 10 children, or portion thereof, on the premises or participating in off campus, facility sponsored activities except that:

1. In approved independent living programs, there shall be one child care staff member awake, on duty and responsible for supervision of every 15 children on the premises or participating in off campus, facility sponsored activities;
2. For children under four years of age, there shall be one child care staff member awake, on duty and responsible for supervision of every three children who are on the premises or participating in off campus, facility sponsored activities except that this requirement shall not apply to severely, multihandicapped, nonambulatory children; and
3. For severely multihandicapped, nonambulatory children under four years of age, there shall be one child care staff member awake, on duty and responsible for supervision of every six children.

§ 3.34. Supervision during sleeping hours.

A. During the hours that ~~children~~ residents normally are sleeping there shall be no less than one child care staff member on duty and responsible for supervision of every 16 children, or portion thereof, on the premises.

B. There shall be at least one child care staff member awake and on duty:

1. In each building where 30 or more children are sleeping,
2. On each floor where 30 or more children are sleeping, and
3. On each major wing of each floor where 30 or more children are sleeping.

§ 3.35. Emergency telephone numbers.

A. When ~~children~~ residents are away from the facility they and the adults responsible for their care during that absence shall be furnished with a telephone number where a responsible facility staff member or other responsible adult may be reached at all times except that this requirement shall not apply to secure detention facilities.

B. When children are on the premises of the facility, the staff on duty shall be furnished with a telephone number where the administrator or his designee may be reached at all times.

§ 3.36. Children shall be provided privacy from routine sight supervision by staff members of the opposite gender

while bathing, dressing, or conducting toileting activities. This requirement shall not apply to medical personnel performing medical procedures, to staff providing assistance to infants, or to staff providing assistance to children whose physical or mental disabilities dictate the need for assistance with these activities as justified in the client's record.

§ 3.37. Searches.

A. If a facility conducts pat downs it shall develop and implement written policies and procedures governing them. A facility that does not conduct pat downs shall have a written policy prohibiting them.

B. Written policies and procedures governing pat downs shall be reviewed and approved by the regulatory authority prior to implementation.

C. Written policies and procedures governing pat downs shall include:

1. A requirement that pat downs be limited to instances where they are necessary to prohibit contraband;
2. A listing of the specific circumstances when pat downs are permitted;
3. A statement that pat downs shall be conducted only in the specific circumstances enumerated in the written policies and procedures;
4. A requirement that pat downs be conducted by personnel of the same gender as the client(s) being searched;
5. A listing of the personnel authorized to conduct pat downs;
6. A statement that pat downs shall be conducted only by personnel authorized to conduct searches by the written policies and procedures;
7. A requirement that witnesses, if any, be of the same gender as the client(s) being searched; and
8. Provisions to ensure the client's privacy.

D. Strip searches and body cavity searches are prohibited except:

1. As permitted by other applicable state regulations, or
2. As ordered by a court of competent jurisdiction.

Article 11.
The Chief Administrative Officer.

§ 3.38. The chief administrative officer shall be

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responsible to the governing body for:

1. The overall administration of the program;
2. Implementation of all policies;
3. Maintenance of the physical plant; and
4. Fiscal management of the residential facility for children.

§ 3.39. Duties of the chief administrative officer may be delegated to qualified subordinate staff.

§ 3.40. Duties delegated by the chief administrative officer shall be reflected in the job description of the position assigned each delegated function.

§ 3.41. A qualified staff member shall be designated to assume responsibility for the operation of the facility in the absence of the chief administrative officer.

Article 12. The Program Director.

§ 3.42. The program director shall be responsible for the development and implementation of the programs and services (See Part V) offered by the residential facility for children.

§ 3.43. A program director appointed after July 1, 1981, shall have:

1. A baccalaureate degree from an accredited college or university with two years of successful work experience with children in the field of institutional management, social work, education or other allied profession; or
2. A graduate degree from an accredited college or university in a profession related to child care and development; or
3. A license or certification in the Commonwealth of Virginia as a drug or alcoholism counselor/worker if the facility's purpose is to treat drug abuse or alcoholism.

§ 3.44. Any qualified staff member, including the chief administrative officer, may serve as the program director.

§ 3.45. When a facility is licensed/certified to care for 13 or more ~~children~~ residents, a full-time, qualified staff member shall fulfill the duties of the program director.

Article 13. Child and Family Service Worker(s).

§ 3.46. If not provided by external resources in accord with § 5.45, counseling and social services (see § 5.43), shall be provided by a staff member(s) qualified to

provide such services.

§ 3.47. If employment begins after July 1, 1981, the Child and Family Service Worker shall have:

1. A graduate degree in social work, psychology, counseling or a field related to family services or child care and development; or
2. A baccalaureate degree and two years of successful experience in social work, psychology, counseling or a field related to family services or child care and development (In lieu of two years of experience, the person may work under the direct supervision of a qualified supervisor for a period of two years); or
3. A license or certificate in the Commonwealth of Virginia to render services as a drug abuse or alcoholism counselor/worker only in facilities which are certified to provide drug abuse or alcoholism counseling; or
4. A license or certificate when required by law issued in the Commonwealth of Virginia to render services in the field of:
 - a. Social Work, or
 - b. Psychology, or
 - c. Counseling (individual, group or family).

Article 14. Child Care Staff.

§ 3.48. In each child care unit a designated staff member shall have responsibility for the development of the daily living program within the child care unit.

§ 3.49. A designated staff member shall be responsible for the coordination of all services offered to each ~~child~~ resident.

§ 3.50. A designated staff member(s) shall have responsibility for the orientation, training and supervision of child care workers.

§ 3.51. An individual employed after July 1, 1981, to supervise child care staff shall have:

1. A baccalaureate degree from an accredited college or university and two years experience in the human services field, at least one of which shall have been in a residential facility for children; or
2. A high school diploma or a General Education Development Certificate (G.E.D.) and a minimum of five years experience in the human service field with at least two years in a residential facility for children.

§ 3.52. The child care worker shall have direct

responsibility for guidance and supervision of the children to whom he is assigned. This shall include:

1. Overseeing physical care;
2. Development of acceptable habits and attitudes;
3. [~~Discipline Management of resident behavior~~]; and
4. Helping to meet the goals and objectives of any required service plan.

§ 3.53. A child care worker shall be no less than 18 years of age.

§ 3.54. A child care worker shall:

1. Be a high school graduate or have a General Education Development Certificate (G.E.D.) except that individuals employed prior to the effective date of these standards shall meet this requirement by July 1, 1986; and
2. Have demonstrated, through previous life and work experiences, an ability to maintain a stable environment and to provide guidance to children in the age range for which the child care worker will be responsible.

Article 15. Relief Staff.

§ 3.55. Sufficient qualified relief staff shall be employed to maintain required staff/child ratios during:

1. Regularly scheduled time off of permanent staff, and
2. Unscheduled absences of permanent staff.

Article 16. Medical Staff.

§ 3.56. Services of a licensed physician shall be available for treatment of ~~children~~ residents as needed.

§ 3.57. Any nurse employed shall hold a current nursing license issued by the Commonwealth of Virginia.

§ 3.58. At all times that ~~youth~~ children are present there shall be at least one responsible adult on the premises who has received within the past three years a basic certificate in standard first-aid (Multi-Media, Personal Safety, or Standard First Aid Modular) issued by the American Red Cross or other recognized authority except that this requirement does not apply during those hours when a licensed nurse is present at the facility.

§ 3.59. At all times that ~~youth~~ children are present there shall be at least one responsible adult on the premises who has received a certificate in cardiopulmonary

resuscitation issued by the American Red Cross or other recognized authority.

Article 17. Recreation Staff.

§ 3.60. There shall be designated staff responsible for organized recreation who shall have:

1. Experience in working with and providing supervision to groups of children with varied recreational needs and interests;
2. A variety of skills in group activities;
3. A knowledge of community recreational facilities; and
4. An ability to motivate children to participate in constructive activities.

Article 18. Volunteers and Students Receiving Professional Training.

§ 3.61. If a facility uses volunteers or students receiving professional training it shall develop written policies and procedures governing their selection and use. A facility that does not use volunteers shall have a written policy stating that volunteers will not be utilized.

§ 3.62. The facility shall not be dependent upon the use of volunteers/students to ensure provision of basic services.

§ 3.63. The selection of volunteers/students and their orientation, training, scheduling, supervision and evaluation shall be the responsibility of designated staff members.

§ 3.64. Responsibilities of volunteers/students shall be clearly defined.

§ 3.65. All volunteers/students shall have qualifications appropriate to the services they render based on experience [~~and~~] or orientation.

§ 3.66. Volunteers/students shall be subject to all regulations governing confidential treatment of personal information.

§ 3.67. Volunteers/students shall be informed regarding liability and protection.

Article 19. Support Functions.

§ 3.68. Facilities shall provide for support functions including, but not limited to, food service, maintenance of buildings and grounds, and housekeeping.

§ 3.69. All food handlers shall comply with applicable State Health Department regulations and with any locally

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adopted health ordinances.

§ 3.70. Child care workers and other staff may assume the duties of service personnel only when these duties do not interfere with their responsibilities for child care.

§ 3.71. ~~Children~~ Residents shall not be solely responsible for support functions.

PART IV. RESIDENTIAL ENVIRONMENT.

Article 1. Location.

§ 4.1. A residential facility for children shall be located so that it is reasonably accessible to schools, transportation, medical and psychiatric resources, churches, and recreational and cultural facilities.

Article 2. Buildings, Inspections and Building Plans.

§ 4.2. All buildings and installed equipment shall be inspected and approved by the local building official when required. This approval shall be documented by a Certificate of Use and Occupancy indicating that the building is classified for its proposed licensed/certified purposes.

§ 4.3. At the time of the original application and at least annually thereafter the buildings shall be inspected and approved by:

1. State fire officials or local fire authorities, as applicable, whose inspection shall determine compliance with the "Virginia Statewide Fire Prevention Code"; and
2. State or local health authorities, whose inspection and approval shall include:
 - a. General sanitation;
 - b. The sewage disposal system;
 - c. The water supply;
 - d. Food service operations; and
 - e. Swimming pools.

§ 4.4. The buildings shall be suitable to house the programs and services provided.

Article 3. Plans and Specifications for New Buildings and Additions, Conversions, and Structural Modifications to Existing Buildings.

§ 4.5. Building plans and specifications for new

construction, conversion of existing buildings, and any structural modifications or additions to existing licensed buildings shall be submitted to and approved by the licensing/certification authority and the following authorities, where applicable, before construction begins:

1. Local building officials;
2. Local fire departments;
3. Local or state health departments; and
4. Office of the State Fire Marshal.

§ 4.6. Documentation of the approvals required by § 4.5 shall be submitted to the licensing authority(ies).

Article 4. Heating Systems, Ventilation and Cooling Systems.

§ 4.7. Heat shall be evenly distributed in all rooms occupied by the ~~children~~ residents such that a temperature no less than 65°F is maintained, unless otherwise mandated by state or federal authorities.

§ 4.8. Natural or mechanical ventilation to the outside shall be provided in all rooms used by ~~children~~ residents .

§ 4.9. All doors and windows capable of being used for ventilation shall be fully screened unless screening particular doors and windows is explicitly prohibited in writing by state or local fire authorities and those doors and windows are not used for ventilation.

§ 4.10. Air conditioning or mechanical ventilating systems, such as electric fans, shall be provided in all rooms occupied by ~~children~~ residents when the temperature in those rooms exceeds 85°F.

Article 5. Lighting.

§ 4.11. Artificial lighting shall be by electricity.

§ 4.12. All areas within buildings shall be lighted for safety.

§ 4.13. Night lights shall be provided in halls and bathrooms.

§ 4.14. Lighting shall be sufficient for the activities being performed in a specific area.

§ 4.15. Operable flashlights or battery lanterns shall be available for each staff member on the premises between dusk and dawn for use in emergencies.

§ 4.16. Outside entrances and parking areas shall be lighted for protection against injuries and intruders.

Article 6.

Plumbing and Toilet Facilities.

§ 4.17. All plumbing shall be maintained in good operational condition.

§ 4.18. There shall be an adequate supply of hot and cold running water available at all times.

§ 4.19. Precautions shall be taken to prevent scalding from running water. In all newly constructed or renovated facilities mixing faucets shall be installed.

§ 4.20. There shall be at least one toilet, one hand basin and one shower or bathtub in each living unit, and there shall be at least one bathroom equipped with a bathtub in each facility.

§ 4.21. There shall be at least one toilet, one hand basin and one shower or tub for every eight ~~children in care~~ residents .

§ 4.22. In any facility constructed or reconstructed after July 1, 1981, except secure detention facilities there shall be one toilet, one hand basin and one shower or tub for every four ~~children in care~~ residents .

§ 4.23. When a separate bathroom is not provided for staff on duty less than 24 hours, the maximum number of staff members on duty in the living unit at any one time shall be counted in the determination of the number of toilets and hand basins.

§ 4.24. There shall be at least one mirror securely fastened to the wall at a height appropriate for use in each room where hand basins are located except in security rooms in hospitals, secure detention facilities and learning centers.

§ 4.25. At all times an adequate supply of personal necessities shall be available to the ~~children~~ residents for purposes of personal hygiene and grooming; such as, but not limited to, soap, toilet tissue, toothpaste, individual tooth brushes, individual combs and shaving equipment.

§ 4.26. Clean, individual washclothes and towels shall be available once each week or more often if needed.

Article 7.

Facilities and Equipment for Residents with Special Toileting Needs.

§ 4.27. When residents are in care who are not toilet trained:

1. Provision shall be made for sponging, diapering and other similar care on a nonabsorbent changing surface which shall be cleaned with warm soapy water after each use.

2. A covered diaper pail, or its equivalent, with leakproof disposable liners shall be available. If both

cloth and disposable diapers are used there shall be a diaper pail for each.

3. Adapter seats and toilet chairs shall be cleaned with warm soapy water immediately after each use.

4. Staff shall thoroughly wash their hands with warm soapy water immediately after assisting an individual ~~resident child~~ or themselves with toileting.

Article 8.

Sleeping Areas.

§ 4.28. When ~~children~~ residents are four years of age or older, boys shall have separate sleeping areas from girls.

§ 4.29. No more than four children may share a bedroom or sleeping area.

§ 4.30. When a facility is not subject to the Virginia Public Building Safety Regulations or the Uniform Statewide Building Code, children who are dependent upon wheelchairs, crutches, canes or other mechanical devices for assistance in walking shall be assigned sleeping quarters on ground level and provided with a planned means of effective egress for use in emergencies.

§ 4.31. There shall be sufficient space for beds to be at least three feet apart at the head, foot and sides and five feet apart at the head, foot and sides for double-decker beds.

§ 4.32. In facilities previously licensed by the Department of Social Services and in facilities established, constructed or reconstructed after July 1, 1981, sleeping quarters shall meet the following space requirements:

1. There shall be not less than 450 cubic feet of air space per person;

2. There shall be not less than 80 square feet of floor area in a bedroom accommodating only one person;

3. There shall be not less than 60 square feet of floor area per person in rooms accommodating two or more persons; and

4. All ceilings shall be at least 7-1/2 feet in height.

§ 4.33. Each child shall have a separate, clean, comfortable bed equipped with mattress, pillow, blanket(s), bed linens, and, if needed, a waterproof mattress cover.

§ 4.34. Bed linens shall be changed at least every seven days or more often, if needed.

§ 4.35. Mattresses and pillows shall be clean and those placed in service after July 1, 1981, shall also be fire retardant as evidenced by documentation from the manufacturer.

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§ 4.36. Cribs shall be provided for ~~children~~ *residents* under two years of age.

§ 4.37. Each ~~child~~ *resident* shall be assigned drawer space and closet space, or their equivalent, accessible to the sleeping area for storage of clothing and personal belongings.

§ 4.38. The sleeping area environment shall be conducive to sleep and rest.

§ 4.39. Smoking by any person shall be prohibited in sleeping areas.

Article 9.

Privacy for ~~Children~~ *Residents* .

§ 4.40. Where bathrooms are not designated for individual use, each toilet shall be enclosed for privacy except in secure detention facilities.

§ 4.41. Where bathrooms are not designated for individual use, bathtubs and showers, except in secure detention facilities, shall provide visual privacy for bathing by use of enclosures, curtains or other appropriate means.

§ 4.42. Windows in bathrooms shall provide for privacy.

§ 4.43. Every sleeping area shall have a door that may be closed for privacy or quiet and this door shall be readily openable in case of fire or other emergency.

§ 4.44. Windows in sleeping and dressing areas shall provide for privacy.

Article 10.

Living Rooms/Indoor Recreation Space.

§ 4.45. Each living unit shall contain a living room or an area for informal use for relaxation and entertainment. The furnishings shall provide a comfortable, home-like environment that is age appropriate.

§ 4.46. In facilities licensed to care for more than 12 ~~children~~ *residents* there shall be indoor recreational space that contains recreational equipment appropriate to the ages and interests of the ~~children in residence~~ *residents* . Such indoor recreational space shall be distinct from the living room in each living unit required by § 4.45, but such space shall not be required in every living unit.

Article 11. Study Space.

§ 4.47. Study space shall be provided in facilities serving a school age population and may be assigned in areas used interchangeably for other purposes.

§ 4.48. Study space shall be well lighted, quiet, and equipped with at least tables or desks and chairs.

Article 12.

Kitchen and Dining Areas.

§ 4.49. Meals shall be served in areas equipped with sturdy tables and benches or chairs of a size appropriate for the sizes and ages of the residents.

§ 4.50. Adequate kitchen facilities and equipment shall be provided for preparation and serving of meals.

§ 4.51. Walk-in refrigerators, freezers, and other enclosures shall be equipped to permit emergency exits.

Article 13.

Laundry Areas.

§ 4.52. If laundry is done at the facility, appropriate space and equipment in good repair shall be provided.

Article 14.

Storage.

§ 4.53. Space shall be provided for safe storage of items such as first-aid equipment, household supplies, recreational equipment, luggage, out-of-season clothing, and other materials.

Article 15.

Staff Quarters.

§ 4.54. A separate (private) bathroom and bedroom shall be provided for staff and their families when staff are required to be in the living unit for 24-hours or more except, that when there are no more than four persons, including staff and family of staff, residing in , ~~and~~ or on duty , in the living unit, a private bathroom is not required for staff.

§ 4.55. Off duty staff and members of their families shall not share bedrooms with ~~children in care~~ *residents* .

§ 4.56. When 13 or more ~~children~~ *residents* reside in one living unit a separate (private) living room shall be provided for child care staff who are required to be in the living unit for 24 hours or more.

§ 4.57. When child care staff are on duty for less than 24 hours, a bed shall be provided for use of each staff member on duty during night hours unless such staff member is required to remain awake.

Article 16.

Office Space.

§ 4.58. Space shall be provided for administrative activities including provision for storage of records and materials (See Part II, Article 12).

Article 17.

Buildings and Grounds.

§ 4.59. Buildings and grounds, including roads, pavements, parking lots, stairways, railings and other potentially hazardous areas, shall be safe, properly maintained and free of clutter and rubbish.

§ 4.60. There shall be outdoor recreational space appropriately equipped for the ~~children to be served~~ residents .

Article 18. Equipment and Furnishings.

§ 4.61. All furnishings and equipment shall be safe, easy to clean, and suitable to the ages and number of residents.

§ 4.62. There shall be at least one continuously operable, nonpay telephone accessible to staff in each building in which children sleep or participate in programs.

§ 4.63. The facility shall have a written policy governing the possession and use of firearms, pellet guns, air rifles and other weapons on the premises of the facility that shall provide that no firearms, pellet guns, air rifles, or other weapons, shall be permitted on the premises of the facility unless they are:

1. In the possession of licensed security personnel; or
2. Kept under lock and key; or
3. Used under the supervision of a responsible adult in accord with policies and procedures developed by the facility for their lawful and safe use.

Article 19. Housekeeping and Maintenance.

§ 4.64. The interior and exterior of all buildings, including required locks and mechanical devices, shall be maintained in good repair.

§ 4.65. The interior and exterior of all buildings shall be kept clean and free of rubbish.

§ 4.66. All buildings shall be well-ventilated and free of stale, musty or foul odors.

§ 4.67. Adequate provisions shall be made for the collection and legal disposal of garbage and waste materials.

§ 4.68. Buildings shall be kept free of flies, roaches, rats and other vermin.

§ 4.69. All furnishings, linens, and indoor and outdoor equipment shall be kept clean and in good repair.

§ 4.70. A sanitizing agent shall be used in the laundering of bed, bath, table and kitchen linens.

§ 4.71. Lead based paint shall not be used on any surfaces

and items with which ~~children residents~~ and staff come in contact.

Article 20. Farm and Domestic Animals.

§ 4.72. Horses and other animals maintained on the premises shall be quartered at a reasonable distance from sleeping, living, eating, and food preparation areas.

§ 4.73. Stables and corrals shall be located so as to prevent contamination of any water supply.

§ 4.74. Manure shall be removed from stalls and corrals as often as necessary to prevent a fly problem.

§ 4.75. All animals maintained on the premises shall be tested, inoculated and licensed as required by law.

§ 4.76. The premises shall be kept free of stray domestic animals.

§ 4.77. Dogs and other small animal pets and their quarters shall be kept clean.

Article 21. Primitive Campsites.

§ 4.78. The standards in Article 21 through Article 28 are applicable exclusively to the residential environment and equipment at primitive campsites. Permanent buildings and other aspects of the residential environment at a wilderness camp shall comply with the remaining standards in Part IV.

§ 4.79. All campsites shall be well drained and free from depressions in which water may stand.

§ 4.80. Natural sink-holes and other surface collectors of water shall be either drained or filled to prevent the breeding of mosquitoes.

§ 4.81. Campsites shall not be in proximity to conditions that create or are likely to create offensive odors, flies, noise, traffic, or other hazards.

§ 4.82. The campsite shall be free from debris, noxious plants, and uncontrolled weeds or brush.

Article 22. Water in Primitive Campsites.

§ 4.83. Drinking water used at primitive campsites and on hikes away from permanent campsites shall be from a source known to be safe (free of coliform organisms) or shall be rendered safe before use in a manner approved by the Virginia Department of Health.

§ 4.84. An adequate supply of water, under pressure where possible, shall be provided at the cooking area for handwashing, dishwashing, food preparation and drinking.

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Article 23.

Food Service Sanitation in Primitive Campsites.

- § 4.85. Food shall be obtained from approved sources and shall be properly identified.
- § 4.86. Milk products shall be pasteurized.
- § 4.87. Food and drink shall be maintained and stored so as to prevent contamination and spoilage.
- § 4.88. The handling of food shall be minimized through the use of utensils.
- § 4.89. Fruits and vegetables shall be properly washed prior to use.
- § 4.90. Food and food containers shall be covered and stored off the ground and on clean surfaces. Refrigerated food shall also be covered.
- § 4.91. Sugar and other condiments shall be packaged or served in closed dispensers.
- § 4.92. Poisonous and toxic materials shall be properly used, properly identified and stored separately from food.
- § 4.93. Persons with wounds or communicable diseases shall be prohibited from handling food.
- § 4.94. Persons who handle food and eating utensils for the group shall maintain personal cleanliness, shall keep hands clean at all times, and shall thoroughly wash their hands with soap and water after each visit to the toilet.
- § 4.95. Food contact surfaces shall be kept clean.
- § 4.96. All eating utensils and cookware shall be properly stored.
- § 4.97. Disposable or single use dishes, receptacles and utensils shall be properly stored, handled and used only once.
- § 4.98. Eating utensils shall not be stored with food or other materials and substances.
- § 4.99. The use of a common drinking cup shall not be permitted.
- § 4.100. Only food which can be maintained in a wholesome condition with the equipment available shall be used at primitive camps.
- § 4.101. Ice which comes in contact with food or drink shall be obtained from an approved source and shall be made, delivered, stored, handled, and dispensed in a sanitary manner and be free from contamination.
- § 4.102. When ice and ice chests are used, meats and other perishable foods shall not be stored for more than

24 hours.

§ 4.103. Eating utensils and cookware shall be washed and sanitized after each use.

§ 4.104. No dish, receptacle or utensil used in handling food for human consumption shall be used or kept for use if chipped, cracked, broken, damaged or constructed in such a manner as to prevent proper cleaning and sanitizing.

§ 4.105. Solid wastes which are generated in primitive camps shall be disposed of at an approved sanitary landfill or similar disposal facility. Where such facilities are not available, solid wastes shall be disposed of daily by burial under at least two feet of compacted earth cover in a location which is not subject to inundation by flooding.

Article 24.

Toilet Facilities in Primitive Campsites.

§ 4.106. Where a water supply is not available sanitary type privies or portable toilets shall be provided. All such facilities shall be constructed as required by the Virginia Department of Health.

§ 4.107. All facilities provided for excreta and liquid waste disposal shall be maintained and operated in a sanitary manner to eliminate possible health or pollution hazards, to prevent access of flies and animals to their contents, and to prevent flybreeding.

§ 4.108. Privies shall be located at least 150 feet from a stream, lake or well and at least 75 feet from a sleeping or housing facility.

§ 4.109. Primitive campsites which are not provided with approved permanent toilet facilities shall have a minimum ratio of one toilet seat for every 15 persons.

§ 4.110. If chemical control is used to supplement good sanitation practices, proper pesticides and other chemicals shall be used safely and in strict accordance with label instructions.

Article 25.

Heating in Primitive Campsites.

§ 4.111. All living quarters and service structures at primitive campsites shall be provided with properly installed, operable, heating equipment.

§ 4.112. No portable heaters other than those operated by electricity shall be used.

§ 4.113. Any stoves or other sources of heat utilizing combustible fuel shall be installed and vented in such a manner as to prevent fire hazards and a dangerous concentration of gases.

§ 4.114. If a solid or liquid fuel stove is used in a room

with wooden or other combustible flooring, there shall be a concrete slab, installed metal sheet, or other fireproof materials on the floor under each stove and extending at least 18 inches beyond the perimeter of the base of the stove.

§ 4.115. Any wall or ceiling within 18 inches of a solid or liquid fuel stove or a stove-pipe shall be of fireproof material.

§ 4.116. A vented metal collar or other insulating device shall be installed around a stove pipe or vent passing through a wall, ceiling, floor or roof to prevent melting or combustion.

§ 4.117. A vented collar, insulating device, or chimney shall extend above the peak of the roof or otherwise be constructed in a manner which allows full draft of smoke.

§ 4.118. When a heating system has automatic controls the controls shall be of the type which will cut off the fuel supply upon the failure or interruption of the flame or ignition, or whenever a predetermined safe temperature or pressure is exceeded.

§ 4.119. All heating equipment shall be maintained and operated in a safe manner to prevent the possibility of fire.

Article 26.

Sleeping Areas and Equipment in Primitive Campsites.

§ 4.120. Bedding shall be clean, dry, and sanitary.

§ 4.121. Bedding shall be adequate to ensure protection and comfort in cold weather.

§ 4.122. If used, sleeping bags shall be fiberfill and rated for 0°F.

§ 4.123. Linens shall be changed as often as required for cleanliness and sanitation but not less frequently than once a week.

§ 4.124. Bedwetters shall have their bedding changed or dried as often as it is wet.

§ 4.125. If mattresses are used they shall be clean.

§ 4.126. Mattresses placed in service after July 1, 1981, shall be fire retardant as evidenced by documentation from the manufacturer.

§ 4.127. A mattress cover shall be provided for each mattress.

§ 4.128. Sleeping areas shall be protected by screening or other means to prevent admittance of flies and mosquitos.

§ 4.129. A separate bed, bunk, or cot shall be made available for each person.

Article 27.

Clothing in Primitive Campsites.

§ 4.130. Each ~~child~~ resident shall be provided with an adequate supply of clean clothing suitable for outdoor living appropriate to the geographic location and season.

§ 4.131. Sturdy, water-resistant, outdoor shoes or boots shall be provided for each ~~child~~ resident .

§ 4.132. An adequate personal storage area shall be available for each resident.

Article 28.

Fire Prevention in Primitive Campsites.

§ 4.133. With the consultation and approval of the local fire authority a written fire plan shall be established indicating the campsite's fire detection system, fire alarm and evacuation procedures.

§ 4.134. The fire plan shall be implemented through the conduct of fire drills at the campsite at least once each month.

§ 4.135. A record of all fire drills shall be maintained.

§ 4.136. The record for each fire drill shall be retained two years subsequent to the drill.

§ 4.137. An approved 2A 10BC fire extinguisher in operable condition shall be maintained immediately adjacent to the kitchen or food preparation area.

§ 4.138. Fire extinguishers of a 2A 10BC rating shall be maintained so that it is never necessary to travel more than 75 feet to a fire extinguisher from combustion-type heating devices, campfires, or other combustion at the primitive campsite.

PART V. PROGRAMS AND SERVICES.

Article I.

Criteria for Admission.

§ 5.1. Each residential facility for children except secure detention facilities shall have written criteria for admission that shall be made available to all parties when placement for a child is being considered. Such criteria shall include:

1. A description of the population to be served;
2. A description of the types of services offered; and
3. Intake and admission procedures including necessary referral documentation.

§ 5.2. No child with special needs shall be accepted for placement by a facility unless that facility has a program appropriate to meet those needs or arrangements are

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made for meeting those needs through community resources unless the child's admission is required by court order.

§ 5.3. The facility shall accept and maintain only those children whose needs are compatible with those services provided through the facility unless a child's admission is required by court order.

§ 5.4. A facility shall not knowingly accept into care a child whose health or behavior shall present a clear and present danger to the child or others residing in the facility unless the facility is licensed or certified to provide such care or a child's admission is required by court order. (See requirements for certification or special licensure.)

Article 2.

Admission of Blind or Visually Impaired Children.

§ 5.5. When a blind or visually impaired child is admitted to a residential facility for children, the facility shall obtain the services of the staff of the Virginia Department for the Visually Handicapped as consultants for assessment, program planning and prescribed teaching (if not previously obtained).

§ 5.6. Provision of the services of the Department for the Visually Handicapped shall be documented in the *child's resident's* record.

§ 5.7. If the services of the Department for the Visually Handicapped are not obtained the *child's resident's* placement shall be considered inappropriate.

Article 3.

Interstate Compact on the Placement of Children.

§ 5.8. No child shall be accepted for placement from outside of the Commonwealth of Virginia without the prior approval of the administrator of the Interstate Compact on the Placement of Children, Virginia Department of Social Services, except that this section shall not apply when the Interstate Compact Relating to Juveniles applies.

§ 5.9. Documentation of approval of the compact administrator shall be retained in the *child's resident's* record.

Article 4.

Documented Study of the Child.

§ 5.10. Acceptance for care, other than emergency or diagnostic care, shall be based on an evaluation of a documented study of the child except that the requirements of this article shall not apply (i) to temporary care facilities, or (ii) to secure detention facilities.

§ 5.11. If a facility is specifically approved to provide residential respite care, the acceptance by the facility of a

child as eligible for respite care is considered admission to the facility. Each individual period of respite care is not considered a separate admission.

§ 5.12. In facilities required to base their acceptance for care on a documented study of the child, at the time of a routine admission or 30 days after an emergency admission each *child's resident's* record shall contain all of the elements of the documented study.

§ 5.13. The documented study of the child shall include all of the following elements (When information on the child is not available, the reason shall be documented in the *child's resident's* record):

1. A formal request or written application for admission;
2. Identifying information documented on a face sheet (see § 5.14);
3. Physical examination as specified in § 5.59;
4. Medical history (see § 5.15);
5. A statement, such as a report card, concerning the *child's resident's* recent scholastic performance, including a current Individual Education Plan (IEP), if applicable;
6. Results of any psychiatric or psychological evaluations of the *child resident*, if applicable;
7. Social and developmental summary (see § 5.16);
8. Reason for referral; and
9. Rationale for acceptance.

§ 5.14. Identifying information on a face sheet shall include:

1. Full name of resident;
2. Last known residence;
3. Birthdate;
4. Birthplace;
5. Sex of *child resident*;
6. Racial and national background;
7. *Child's Resident's* social security number;
8. Religious preference of *child resident* or parents;
9. Custody status indicating name and address of legal guardian, if any;

10. Names, addresses and telephone numbers for emergency contacts, parents, *legal* guardians or representative of the child-placing agency, as applicable; and

11. Date of admission.

§ 5.15. A medical history shall include:

1. Serious illnesses and chronic conditions of the *child's resident's* parents and siblings, if known;
2. Past serious illnesses, infectious diseases, serious injuries, and hospitalizations of the *child resident* ;
3. Psychological, psychiatric and neurological examinations, if applicable;
4. Name, address and telephone number of *child's resident's* former physician(s), when information is available; and
5. Name, address and telephone number of *child's resident's* former dentist(s), when information is available.

§ 5.16. A social and developmental summary shall include:

1. Description of family structure and relationships;
2. Previous placement history;
3. Current behavioral functioning including strengths, talents, and problems;
4. Documentation of need for care apart from the family setting;
5. Names, address(es), Social Security numbers, and marital status of parents; and
6. Names, ages, and sex of siblings.

Article 5. Preplacement Activities Documentation.

§ 5.17. At the time of the admission, except emergency admissions, involuntary admissions to security settings or admissions by court order the facility shall provide evidence of its cooperation with the placing agency in preparing the child and the family for the child's admission by documenting the following:

1. A preplacement visit by the *child resident* accompanied by a family member, an agency representative or other responsible adult;
2. Preparation through sharing information with the *child resident* , the family and the placing agency about the facility, the staff, the *children residents* and activities; and

3. Written confirmation of the admission decision to the family or legal guardian and to the placing agency.

Article 6. Authority to Accept Children.

§ 5.18. Children shall be accepted only by court order or by written placement agreement with [~~parents;~~] legal guardians [~~or other individuals or agencies having legal authority to make such an agreement~~] except that this requirement shall not apply to temporary care facilities when a voluntary admission is made according to Virginia law. (See Part V, Article 9)

Article 7. Written Placement Agreement.

§ 5.19. At the time of admission the *child's resident's* record shall contain the written placement agreement from the individual or agency having custody or a copy of the court order, or both, authorizing the *child's resident's* placement.

§ 5.20. The written placement agreement shall:

1. Give consent for the *child's resident's* placement in the facility designating the name and physical location of the facility and the name of the *child resident* ;
2. Recognize the rights of each of the parties involved in the placement clearly defining areas of joint responsibility in order to support positive placement goals;
3. Include financial responsibility, where applicable;
4. Specify the arrangements and procedures for obtaining consent for necessary medical, dental and surgical treatment or hospitalization;
5. Address the matter of all absences from the facility and shall specify the requirements for notifying or obtaining approval of the party having legal responsibility for the *child resident* . If there are to be regular and routine overnight visits away from the facility without staff supervision the agreement must state that advance approval of the individual(s) or agency legally responsible for the *child resident* is required.

Article 8. Emergency Admissions.

§ 5.21. Facilities other than temporary care facilities or secure detention facilities receiving children under emergency circumstances shall meet the following requirements:

1. Have written policies and procedures governing such admissions; and

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2. Place in each ~~child's~~ *resident's* record a written request for care or documentation of an oral request for care.

Article 9. Temporary Care Facility.

§ 5.22. At the time of admission to a temporary care facility the following shall be documented in the child's record:

1. A written request for admission or documentation of an oral request for care;

2. If the facility is licensed pursuant to Chapter 10 of Title 63.1 of the Code of Virginia as a Child Caring Institution the facility shall obtain and document verbal approval for placement from the legal guardian within eight hours of the child's arrival at the facility and a written placement agreement shall be completed and signed by the legal guardian and facility representative within 24 hours of the child's arrival or by the end of the next business day after the child's arrival, whichever is later;

3. Identifying information documented on a face sheet which shall include:

- a. Full name of ~~child~~ *resident* ,
- b. Birthdate,
- c. Sex of ~~child~~ *resident* ,
- d. Racial/ethnic background,
- e. Last known address,
- f. Names and addresses of persons or agencies to contact in case of emergency,
- g. Date of admission, and
- h. ~~Child's~~ *Resident's* social security number;

4. The ~~child's~~ *resident's* health status including:

- a. A statement of known [~~or~~ *and*] obvious illnesses and handicapping conditions;
- b. A statement of medications currently being taken;
- c. A statement of the ~~child's~~ *resident's* general health status; and
- d. Name, address and telephone number of the ~~child's~~ *resident's* physician, if known; and

5. A statement describing the ~~child's~~ *resident's* need for immediate temporary care.

§ 5.23. When identifying information is not available the reason shall be documented on the face sheet.

Article 10. Discharge.

§ 5.24. If a facility is specifically approved to provide residential respite care a ~~child~~ *resident* will be discharged when the ~~child~~ *resident* and his ~~parents~~ *legal* guardians no longer intend to use the facility's services.

§ 5.25. All facilities, except for secure detention facilities, shall have written criteria for termination of care that shall include:

1. Criteria for a ~~child's~~ *resident's* completion of the program as described for compliance with § 2.5; and
2. Conditions under which a ~~child~~ *resident* may be discharged before completing the program.

§ 5.26. Except when discharge is ordered by a court of competent jurisdiction prior to the planned discharge date each ~~child's~~ *resident's* record shall contain the following:

1. Documentation that the termination of care has been planned with the parent/ *legal* guardian/child-placing agency and with the ~~child~~ *resident* ; and
2. A written discharge plan and documentation that it was prepared and discussed with the ~~child~~ *resident* , when appropriate, prior to the ~~child's~~ *resident's* discharge. The plan shall contain at least:
 - a. An assessment of the ~~child's~~ *resident's* continuing needs; and
 - b. A recommended plan for services in the ~~youth's~~ *resident's* new environment.

§ 5.27. No later than 10 days after any discharge, except those from secure detention, the ~~child's~~ *resident's* record shall contain the following information:

1. Date of discharge;
2. Reason for discharge;
3. Documentation that the reason for discharge was discussed with the parent/ *legal* guardian/child-placing agency and, when appropriate, with the ~~child~~ *resident* , except that this requirement does not apply to court ordered discharges;
4. Forwarding address of the ~~child~~ *resident* , if known;
5. Name and address of legally responsible party to whom discharge was made; and
6. In cases of interstate placement documentation that

the Administrator of the Interstate Compact on the Placement of Children was notified of the discharge.

§ 5.28. A comprehensive discharge summary shall be placed in the *child's resident's* record no later than 30 days after discharge except in a secure detention facility.

§ 5.29. A comprehensive discharge summary shall include:

1. Length of a *child's resident's* residence at the time of discharge;
2. The name of the *child's resident's* designated case coordinator, if assigned;
3. Information concerning new or currently prescribed medication including when and why it was prescribed, the dosage, and whether it is to be continued;
4. Summary of the *child's resident's* overall progress during placement;
5. Summary of family ~~contracts~~ *contacts* during placement, if any; and
6. Reasons for discharge.

§ 5.30. Except in secure detention, ~~children residents~~ shall be discharged only to the legally responsible party from whom they were accepted except (i) in cases where legal responsibility has been transferred to another person or agency during the period of the *child's resident's* stay in the facility or (ii) in cases where a *child resident* committed pursuant to a court order is given a direct discharge by the agents of the appropriate State Board in accordance with law and policy.

Article 11.

Placement of ~~Children~~ *Residents* Outside the Facility.

§ 5.31. Except in a secure detention facility the facility shall not place a *child resident* away from the facility, including in staff residences regardless of location, without first having obtained a Child Placing Agency license from the Department of Social Services. Temporary absences for the purposes of medical care, attendance at day school, or vacations shall not be deemed to be placements.

Article 12. Service Plan.

§ 5.32. A written individualized service plan, based on information derived from the documented study of the child and other assessments made by the facility, shall be developed for each *child resident*, within 30 days of admission and placed in the *child's resident's* master file except that the requirements of this article do not apply (i) to secure detention facilities or (ii) to temporary care facilities.

§ 5.33. The following parties shall participate, unless

clearly inappropriate, in developing the initial individualized service plan:

1. The *child resident*;
2. The *child's resident's* family or legally authorized representative;
3. The placing agency; and
4. Facility staff.

§ 5.34. The degree of participation, or lack thereof, of each of the parties listed in § 5.33 in developing the service plan shall be documented in the *child's resident's* record.

§ 5.35. The individualized service plan shall include, but not necessarily be limited to, the following:

1. A statement of the resident's current level of functioning including strengths and weaknesses, and corresponding educational, residential and treatment/training needs;
2. A statement of goals and objectives meeting the above identified needs;
3. A statement of services to be rendered and frequency of services to accomplish the above goals and objectives;
4. A statement identifying the individual(s) or organization(s) that will provide the services specified in the statement of services;
5. A statement identifying the individual(s) delegated the responsibility for the overall coordination and integration of the services specified in the plan;
6. A statement of the timetable for the accomplishment of the resident's goals and objectives; and
7. The estimated length of the resident's stay.

Article 13. Quarterly Progress Reports.

§ 5.36. For all facilities except secure detention facilities written progress summary reports completed at least every 90 days shall be included in each *child's resident's* record and shall include:

1. Reports of significant incidents, both positive and negative;
2. Reports of visits with the family;
3. Changes in the *child's resident's* family situation;

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4. Progress made toward the goals and objectives described in the Service Plan required by § 5.32;
5. School reports;
6. [~~Discipline~~ Behavioral] problems in the facility and the community;
7. Summary of the *child's resident's* social, emotional, and physical development during the previous three months including a listing of any specialized services and on-going medications prescribed;
8. Reevaluation of the placement including tentative discharge plans.

Article 14. Annual Service Plan Review.

§ 5.37. For all facilities except secure detention facilities at least annually the following parties shall participate, unless clearly inappropriate, in formally reviewing and rewriting the service plan based on the *child's resident's* current level of functioning and needs:

1. The resident;
2. The resident's family or legally authorized representative;
3. The placing agency; and
4. Facility staff.

§ 5.38. The degree of participation, or lack thereof, of each of the parties listed in § 5.37 in reviewing and rewriting the service plan shall be documented in the *child's resident's* record except that this section does not apply to secure detention facilities.

§ 5.39. Staff responsible for the daily implementation of the *child's resident's* individual service plan shall be represented on the staff team that evaluates adjustment and progress and makes plans for individual ~~children~~ *residents* except that this section does not apply to secure detention facilities.

§ 5.40. Staff responsible for daily implementation of the *child's resident's* individualized service plan shall be able to describe resident behavior in terms of the objectives in the service plan except that this section does not apply to secure detention facilities.

Article 15. Service Plan for Temporary Care Facilities.

§ 5.41. An individualized service plan including the elements required by § 5.42 shall be developed for each *child resident* admitted to a temporary care facility and placed in the *child's resident's* master file within 72 hours of admission.

§ 5.42. The individualized service plan shall include:

1. The *child's resident's* description of his situation/problem;
2. Documentation of contact with the *child's resident's* parent or *legal* guardian to obtain his description of the *child's resident's* situation/problem;
3. The facility staff's assessment of the *child's resident's* situation/problem;
4. A plan of action including:
 - a. Services to be provided,
 - b. Activities to be provided,
 - c. Who is to provide services and activities, and
 - d. When services and activities are to be provided;
5. The anticipated date of discharge; and
6. An assessment of the *child's resident's* continuing need for services.

Article 16. Counseling and Social Services.

§ 5.43. For all facilities except secure detention facilities the program of the facility shall be designed to provide counseling and social services which address needs in the following areas:

1. Helping the *child resident* and the parents or *legal* guardian to understand the effects on the *child resident* of separation from the family and the effect of group living;
2. Assisting the *child resident* and the family in maintaining their relationships and planning for the future care of the *child resident* ;
3. Utilizing appropriate community resources in providing services and maintaining contacts with such resources;
4. Helping the *child resident* with problems affecting the ability to have satisfying personal relationships and use of the capacity for growth;
5. Conferring with the child care staff to help them understand the *child's resident's* needs in order to promote adjustment to group living; and
6. Working with the *child resident* and with the family or any placing agency that may be involved in planning for the *child's resident's* future and in preparing the *child resident* for return home, for independent living, or for other residential care.

§ 5.44. The provision of counseling and social services shall be documented in each ~~child's~~ *resident's* record except that this section does not apply to secure detention facilities.

§ 5.45. For all facilities, except secure detention facilities, counseling and [~~for~~] other social services consistent with the goals of the Service Plan shall be provided to meet the specific needs of each ~~child~~ *resident* in one of the following ways:

1. By a qualified staff member;
2. By service staff of the agency that placed the ~~child~~ *resident* provided such staff is available on an as needed basis rather than on a limited basis (e.g., quarterly or semiannually);
3. On a contract basis by a professional child and family service worker licensed to practice in the Commonwealth of Virginia, other state(s) or the District of Columbia; or
4. On a contract basis by a professional child and family service worker who is working under the auspices of a public or private, nonprofit agency sponsored by a community based group.

Article 17. Residential Services.

§ 5.46. There shall be evidence of a structured program of care that is designed to:

1. Meet the ~~child's~~ *resident's* physical needs;
2. Provide protection, guidance and supervision;
3. Promote a sense of security and self-worth; and
4. Meet the objectives of any required service plan.

§ 5.47. There shall be evidence of a structured daily routine that is designed to assure the delivery of program services.

§ 5.48. A daily activity log shall be maintained as a means of informing staff of significant happenings or problems experienced by ~~children~~ *residents* including health and dental complaints or injuries.

§ 5.49. Entries in the daily activity log shall be signed or initialed by the person making the entry.

§ 5.50. Routines shall be planned to assure that each ~~child~~ *resident* shall have the amount of sleep and rest appropriate for his age and physical condition.

§ 5.51. Staff shall provide daily monitoring and supervision, and instruction, as needed, to promote the personal hygiene of the ~~children~~ *residents*.

Article 18. Health Care Procedures.

§ 5.52. Facilities shall have written procedures for the prompt provision of:

1. Medical and dental services for health problems identified at admission;
2. Routine ongoing and follow-up medical and dental services after admission; and
3. Emergency services for each ~~child~~ *resident* as provided by statute or by agreement with the ~~child's~~ *resident's* parent(s) or legal guardian ; or ~~both~~ .

§ 5.53. For all facilities except temporary care facilities written information concerning each ~~child~~ *resident* shall be readily accessible to staff who may have to respond to a medical or dental emergency:

1. Name, address, and telephone number of the physician [~~or and~~] dentist[; or ~~both~~ ;] to be notified;
2. Name, address, and telephone number of relative or other person to be notified;
3. Medical insurance company name and policy number or Medicaid number except that this requirement does not apply to secure detention facilities;
4. Information concerning:
 - a. Use of medication,
 - b. Medication allergies,
 - c. Any history of substance abuse except that this requirement does not apply to secure detention, and
 - d. significant medical problems; and
5. Written permission for emergency medical or dental care or a procedure and contacts for obtaining consent for emergency medical or dental care except that this section does not apply to secure detention facilities.

§ 5.54. Facilities specifically approved to provide respite care shall update the information required by § 5.53 at the time of each individual stay at the facility.

Article 19. Physical Examinations.

§ 5.55. Each child accepted for care shall have a physical examination by or under the direction of a licensed physician no earlier than 90 days prior to admission to the facility, except that (i) the report of an examination within the preceding 12 months shall be acceptable if a child

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transfers from one residential facility licensed or certified by a state agency to another, (ii) a physical examination shall be conducted within 30 days after admission if a child is admitted on an emergency basis and a report of physical examination is not available, and (iii) this section does not apply if a child is admitted to a secure detention facility or to a temporary care facility.

§ 5.56. Following the initial examination, each ~~child~~ *resident* shall have a physical examination annually except that this section does not apply to (i) security detention facilities, or (ii) temporary care facilities.

§ 5.57. In all facilities except (i) secure detention facilities, and (ii) temporary care facilities additional or follow-up examination and treatment shall be required when:

1. Prescribed by the examining physician; or
2. Symptoms indicate the need for an examination or treatment by a physician.

§ 5.58. Each physical examination report shall be included in the ~~child's~~ *resident's* record.

§ 5.59. For all facilities except (i) secure detention facilities and (ii) temporary care facilities each physical examination report shall include:

1. Immunizations administered;
2. Visual acuity;
3. Auditory acuity;
4. General physical condition, including documentation of apparent freedom from communicable disease including tuberculosis;
5. Allergies, chronic conditions, and handicaps, if any;
6. Nutritional requirements, including special diets, if any;
7. Restriction of physical activities, if any;
8. Recommendations for further treatment, immunizations, and other examinations indicated;
9. The date of the physical examination; and
10. The signature of a licensed physician, the physician's designee, or an official of a local health department.

§ 5.60. In all facilities except (i) secure detention facilities and (ii) temporary care facilities a child with a communicable disease, whose best interests would not be served by prohibiting admission, may be admitted only after a licensed physician certifies that:

1. The facility is capable of providing care to the child without jeopardizing ~~other children in care~~ *residents* and staff; and

2. The facility is aware of the required treatment for the child and procedures to protect ~~other children in care~~ *residents* and staff.

§ 5.61. Recommendations for follow-up medical observation and treatment shall be carried out at the recommended intervals except that this section does not apply to (i) secure detention facilities or (ii) temporary care facilities.

§ 5.62. Except for (i) secure detention facilities, (ii) temporary care facilities, and (iii) respite care facilities, each facility shall provide written evidence of:

1. Annual examinations by a licensed dentist; and
2. Follow-up dental care as recommended by the dentist or as indicated by the needs of each ~~child~~ *resident*.

§ 5.63. Each ~~child's~~ *resident's* record shall include notations of health and dental complaints and injuries showing symptoms and treatment given.

§ 5.64. Each ~~child's~~ *resident's* record shall include a current record of ongoing psychiatric or other mental health treatment and reports, if applicable.

§ 5.65. Provision shall be made for suitable isolation of any ~~child~~ *resident* suspected of having a communicable disease.

§ 5.66. A well stocked first-aid kit shall be maintained and readily accessible for minor injuries and medical emergencies.

Article 20. Medication.

§ 5.67. All medication shall be securely locked and properly labeled.

§ 5.68. Medication shall be delivered only by staff authorized by the director to do so.

§ 5.69. Staff authorized to deliver medication shall be informed of any known side effects of the medication and the symptoms of the effect.

§ 5.70. A program of medication shall be instituted for a specific ~~child~~ *resident* only when prescribed in writing by a licensed physician.

§ 5.71. Medications that are classified as "controlled substances" as defined in § 54.1-3401 of the Code of Virginia shall only be obtained from a licensed physician or from a licensed pharmacist upon individual prescription of a licensed physician.

§ 5.72. A daily log shall be maintained of all medicines received by the individual ~~child~~ resident .

§ 5.73. The attending physician shall be notified immediately of drug reactions or medication errors.

§ 5.74. The telephone number of a Regional Poison Control Center shall be posted on or next to at least one nonpay telephone in each building in which children sleep or participate in programs.

§ 5.75. At least one 30cc bottle of syrup of Ipecac shall be available on the premises of the facility for use at the direction of the Poison Control Center or physician.

Article 21. Nutrition.

§ 5.76. Provisions shall be made for each ~~child~~ resident to have three nutritionally balanced meals daily.

§ 5.77. Menus shall be planned at least one week in advance.

§ 5.78. Any deviation(s) from the menu shall be noted.

§ 5.79. The menus including any deviations shall be kept on file for at least six months.

§ 5.80. The daily diet for ~~children~~ residents shall be based on the generally accepted "Four Food Groups" system of nutrition planning. (The Virginia Polytechnic Institute and State University Extension Service is available for consultation.)

§ 5.81. The quantity of food served shall be adequate for the ages of the ~~children~~ in care residents .

§ 5.82. Special diets shall be provided when prescribed by a physician.

§ 5.83. The established religious dietary practices of the ~~child~~ resident shall be observed.

§ 5.84. Staff who eat in the presence of the ~~children~~ residents shall be served the same meals.

§ 5.85. There shall be no more than 15 hours between the evening meal and breakfast the following day.

Article 22. Discipline and Management of Resident Behavior.

§ 5.86. The facility shall have written ~~disciplinary and policies and procedures governing management of resident behavior management policies~~ [; including written rules . Rules] of conduct, [appropriate to the age and developmental level of the if any,] ~~children in care~~ [residents. Policies and procedures governing management of resident behavior shall address both discipline and positive reinforcement shall be included in the written

~~policies and procedures~~] .

[§ 5.87. The facility shall have written procedures for documenting and monitoring management of resident behavior.]

[§ 5.87. § 5.88.] ~~Disciplinary and behavior management policies~~ [Policies governing Written information concerning] management of resident behavior [; which address both discipline and positive reinforcement; and rules of conduct] shall be provided to ~~children~~ prospective residents , [except those with diagnosed mental disabilities resulting in the loss of the cognitive ability to understand the information;] ~~families~~ legal guardian(s) [;] and referral agencies prior to admission except that for court ordered or emergency admissions this information shall be provided within 72 hours after admission. :

1. To residents [, except those with diagnosed mental disabilities resulting in the loss of the cognitive ability to understand the information,] within 12 hours following admission, [and]

2. To [~~legal guardian(s)~~ and] referral agencies within 72 hours following the resident's admission [; , and

3. To legal guardians within 72 hours following the resident's admission except that this requirement shall not apply:

a. To secure detention facilities;

b. When a facility is providing temporary care of 30 days or less while conducting a diagnostic evaluation to identify the most appropriate long-term placement for a child who has been committed to the Board of Youth and Family Services; and

c. When a state mental hospital is evaluating a child's treatment needs as provided by § 16.1-275 of the Code of Virginia.]

[§ 5.88. § 5.89.] [~~Policies~~ When substantive revisions are made to policies] governing management of resident behavior, [which address both discipline and positive reinforcement; and rules of conduct written information concerning the revisions] shall be provided to [~~residents,~~ legal guardians, and referral agencies when substantive revisions are made. :

1. Residents, except those with diagnosed mental disabilities resulting in the loss of the cognitive ability to understand the information, and referral agencies, and

2. Legal guardians except that this requirement shall not apply:

a. To secure detention facilities;

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b. When a facility is providing temporary care of 30 days or less while conducting a diagnostic evaluation to identify the most appropriate long-term placement for a child who has been committed to the Board of Youth and Family Services; and

c. When a state mental hospital is evaluating a child's treatment needs as provided in § 16.1-275 of the Code of Virginia.]

~~§ 5.88. [§ 5.89.] There [The facility shall] be [have written procedures for documenting and monitoring use of] the disciplinary and behavior management policies [discipline.]~~

~~§ 5.89. § 5.90. Control, discipline and behavior management shall be the responsibility of the staff. Only [trained] staff [members] may [administer discipline manage resident behavior] .~~

Article 23. Confinement Procedures .

~~§ 5.90. § 5.91. When a child resident is confined to his own room as a means of discipline , the room shall not be locked nor the door secured in any manner that will prohibit prevents the child resident from opening it, except that this section does not apply to secure custody facilities such as learning centers and secure detention facilities.~~

~~§ 5.91. § 5.92. Any child resident confined to his own room shall be able to communicate with staff.~~

~~§ 5.92. § 5.93. There shall be a staff check on the room at least every 30 minutes.~~

~~§ 5.93. § 5.94. The use of confinement procedures shall be documented when confinement is used as [discipline a technique for managing resident behavior] .~~

Article 24. Prohibitions.

~~§ 5.94. § 5.95. The following actions are prohibited:~~

1. Deprivation of drinking water or food necessary to meet a ~~client's resident's~~ daily nutritional needs except as ordered by a licensed physician for a legitimate medical purpose and documented in the ~~client's resident's~~ record;

2. ~~Denial of Limitation on~~ contacts and visits with attorney, probation officer, *regulatory personnel* or placing agency representative;

3. ~~Denial of Bans on~~ contacts and visits with family or legal guardian *guardian(s)* except as permitted by other applicable state regulations or by order of a court of competent jurisdiction;

4. Delay or withholding of incoming or outgoing mail

except as permitted by other applicable state and federal regulations or by order of a court of competent jurisdiction;

5. Any action which is humiliating, degrading, or abusive;

6. Corporal punishment ~~except as permitted in a public school or a school maintained by the state pursuant to § 22.1-280 of the Code of Virginia ;~~

7. Subjection to unsanitary living conditions;

8. Deprivation of opportunities for bathing or access to toilet facilities except as ordered by a licensed physician for a legitimate medical purpose and documented in the ~~client's resident's~~ record;

9. Deprivation of health care including counseling;

~~10. Intrusive aversive therapy except as permitted by other applicable state regulations;~~

[~~10. Deprivation of appropriate services and treatment;~~]

~~11. [10. 11.] Application of aversive stimuli except as permitted as part of an intrusive aversive therapy plan approved pursuant to other applicable state regulations;~~

~~12. [11. 12.] Administration of laxatives, enemas, or emetics except as ordered by a licensed physician for a legitimate medical purpose and documented in the ~~client's resident's~~ record;~~

~~13. [12. 13.] Deprivation of opportunities for sleep or rest except as ordered by a licensed physician for a legitimate medical purpose and documented in the ~~client's resident's~~ record; and~~

~~14. [13. 14.] Denial of Limitation on contacts and visits with advocates employed by the Department of Mental Health, Mental Retardation and Substance Abuse Services to implement § 37.1-84.1 of the Code of Virginia and advocates employed by the Department for Rights of the Disabled Virginian's With Disabilities to implement §§ 51.5-36 through 51.5-39 of the Code of Virginia, PL 99-319 § 201.42 USC 10841, and PL 98-527, 42 USC § 6000 et seq.~~

Article 25. Chemical or Mechanical Restraints.

~~§ 5.95. § 5.96. The use of mechanical or chemical restraints is prohibited unless use is specifically permitted by a special license or certification module except as permitted by other applicable state regulations or as ordered by a court of competent jurisdiction .~~

~~§ 5.97. The use of chemical restraints is prohibited.~~

Article 26. Physical Restraint.

§ 5.96. § 5.98. ~~A~~ [~~After~~ Only after] less intrusive interventions have failed [or when failure to restrain a resident would result in harm to the resident or others] , child [trained] staff [members] may be physically restrained only when restrain a resident [if the] child's [resident's uncontrolled behavior would result in harm to the] child [resident or others] and when less restrictive interventions have failed .

§ 5.97. § 5.99. The use of physical restraint shall be only that which is minimally necessary to protect the child resident or others.

§ 5.100. The facility shall have written policies and procedures governing the use of physical restraint.

§ 5.98. § 5.101. If the use of physical restraint or the use of other measures permitted by a certification module is unsuccessful in calming and moderating the child's behavior the child's physician, the rescue squad, the police or other emergency resource shall be contacted for assistance. The facility's procedures shall include methods to be followed should physical restraint, less intrusive interventions, or measures permitted by other applicable state regulations prove unsuccessful in calming and moderating the resident's behavior.

5.99. § 5.102. Any Each application of physical restraint shall be fully documented in the child's resident's record [as to date, time, staff involved, circumstances, reasons for use of physical restraint, duration and] extent [method(s) of physical restraint used. including:

1. Date;
2. Time;
3. Staff involved;
4. Circumstances;
5. Reason(s) for use of physical restraint;
6. Duration;
7. Method(s) of physical restraint used; and
8. Less intrusive interventions which were unsuccessfully attempted prior to using physical restraint.]

§ 5.103. Each staff member responsible for supervision of children shall receive basic orientation to the facility's physical restraint procedures [and techniques] and [to] less intrusive interventions [as follows]:

1. Within seven days of employment, and

2. Prior to assuming sole responsibility for the supervision of one or more residents.

Article 27. Seclusion.

§ 5.100. § 5.104. Secluding a child in a room with the door secured in any manner that will prohibit the child from opening it shall be prohibited unless it is specifically permitted by a special license or certification module. Seclusion is allowed only as permitted by other applicable state regulations.

Article 28. Timeout Procedures .

§ 5.101. § 5.105. Timeout procedures may only be used at times and under conditions specified in the facility's disciplinary or behavior management policies. Timeout is allowed only as permitted by other applicable state regulations.

§ 5.102. When a child is placed in a timeout room, the room shall not be locked nor the door secured in any manner that will prohibit the child from opening it.

§ 5.103. Any child in a timeout room shall be able to communicate with staff.

§ 5.104. The use of timeout procedures shall not be used for periods longer than 30 consecutive minutes.

§ 5.105. Written documentation shall be maintained verifying that each child placed in a timeout room has been checked by staff at least every 15 minutes.

§ 5.106. A child placed in a timeout room shall have bathroom privileges according to need. [Repealed.]

§ 5.107. If a meal is scheduled while a child is in timeout, the meal shall be provided to the child at the end of the timeout procedure. [Repealed.]

Article 29. Education.

§ 5.108. Each child resident of compulsory school attendance age shall be enrolled in an appropriate educational program as provided in the Code of Virginia.

§ 5.109. The facility shall provide educational guidance and counseling for each child resident in selection of courses and shall ensure that education is an integral part of the child's resident's total program.

§ 5.110. Facilities operating educational programs for handicapped children shall operate those programs in compliance with applicable state and federal regulations.

§ 5.111. When a handicapped child has been placed in a residential facility without the knowledge of school division

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personnel in the ~~child's~~ *resident's* home locality, the facility shall contact the superintendent of public schools in that locality in order to effect compliance with applicable state and federal requirements relative to the education of handicapped children.

§ 5.112. When a facility has an academic or vocational program that is not certified or approved by the Department of Education, teachers in the program shall provide evidence that they meet the qualifications that are required in order to teach those specific subjects in the public schools.

Article 30. Religion.

§ 5.113. The facility shall have written policies regarding the opportunities for the ~~children~~ *residents* to participate in religious activities.

§ 5.114. The facility's policies on religious participation shall be available to the ~~child~~ *resident* and any individual or agency considering the placement of a child in the facility.

§ 5.115. ~~Children~~ *Residents* shall not be coerced to participate in religious activities.

Article 31. Recreation.

§ 5.116. There shall be a written description of the recreation program for the facility showing activities which are consistent with the facility's total program and with the ages, developmental levels, interests, and needs of the ~~children~~ *residents* and which includes:

1. Opportunities for individual and group activities;
2. Free time for ~~children~~ *residents* to pursue personal interests which shall be in addition to a formal recreation program;
3. Except in secure detention facilities, use of available community recreational resources and facilities;
4. Scheduling of activities so that they do not conflict with meals, religious services, educational programs or other regular events; and
5. Regularly scheduled indoor and outdoor recreational activities that are specifically structured to develop skills and attitudes (e.g., cooperation, acceptance of losing, etc.).

§ 5.117. The recreational program provided indoors, outdoors (both on and off the premises), and on field trips shall be directed and supervised by adults who are knowledgeable in the safeguards required for the specific activities.

§ 5.118. Opportunities shall be provided for coeducational activities appropriate to the ages and developmental levels of the ~~children~~ *residents*.

Article 32. Community Relationships.

§ 5.119. Opportunities shall be provided for the ~~children~~ *residents* in a group living situation to participate in activities and to utilize resources in the community except that this section does not apply to secure detention facilities.

§ 5.120. Community interest in ~~children~~ *residents* and efforts on their behalf (public parties, entertainment, invitations to visit families) shall be carefully evaluated to ascertain that these are in the best interest of the ~~children~~ *residents*.

Article 33. Clothing.

§ 5.121. Provisions shall be made for each ~~child~~ *resident* to have his own adequate supply of clean, comfortable, well-fitting clothes and shoes for indoor and outdoor wear.

§ 5.122. Clothes and shoes shall be similar in style to those generally worn by children of the same age in the community who are engaged in similar activities.

§ 5.123. ~~Children~~ *Residents* shall have the opportunity to participate in the selection of their clothing except that this section does not apply to secure detention facilities.

§ 5.124. Each ~~child's~~ *resident's* clothing shall be inventoried and reviewed at regular intervals to assure repair or replacement as needed.

§ 5.125. The ~~child~~ *resident* shall be allowed to take personal clothing when the ~~child~~ *resident* leaves the facility.

Article 34. Allowances and Spending Money.

§ 5.126. The facility shall provide opportunities appropriate to the ages and developmental levels of the ~~children~~ *residents* for learning the value and use of money through earning, budgeting, spending, giving and saving except that this section does not apply to secure detention facilities.

§ 5.127. There shall be a written policy regarding allowances except that this section does not apply to secure detention facilities.

§ 5.128. The written policy regarding allowances shall be made available to ~~parents or legal guardians ; or both~~, at the time of admission except that this section does not apply to secure detention facilities.

§ 5.129. The facility shall provide for safekeeping and for

record keeping of any money that belongs to ~~children~~ residents .

Article 35. Work and Employment.

§ 5.130. Any assignment of chores, which are paid or unpaid work assignments, shall be in accordance with the age, health, ability, and service plan of the ~~child~~ resident .

§ 5.131. Chores shall not interfere with regular school programs, study periods, meals or sleep.

§ 5.132. Work assignments or employment outside the facility including reasonable rates of payment shall be approved by the program director with the knowledge and consent of the ~~parent, legal guardian or placing agency~~ except that this section does not apply to secure detention facilities.

§ 5.133. The facility shall ensure that any ~~child~~ resident employed inside or outside the facility is paid at least at the minimum wage required by the applicable law concerning wages and hours and that such employment complies with all applicable laws governing labor and employment except that this section does not apply to secure detention facilities.

§ 5.134. Any money earned through employment of a ~~child~~ resident shall accrue to the sole benefit of that ~~child~~ resident .

Article 36. Visitation at the Facility and to the ~~Child's~~ Resident's Home.

§ 5.135. The facility shall provide written visitation policies and procedures permitting reasonable visiting privileges and flexible visiting hours.

§ 5.136. Copies of the written visitation policies and procedures shall be made available to the parents, *legal* guardians, the ~~child~~ resident, and other interested persons important to the ~~child~~ resident no later than the time of admission except that when parents or *legal* guardians do not participate in the admission process, visitation policies and procedures shall be mailed to them within 12 hours after admission.

Article 37. Use of Vehicles and Power Equipment.

§ 5.137. Any transportation provided for or used by children shall be in compliance with state, federal or international laws relating to:

1. Vehicle safety and maintenance;
2. Licensure of vehicles; and
3. Licensure of drivers.

§ 5.138. There shall be written safety rules for transportation of children, including handicapped children, appropriate to the population served.

§ 5.139. There shall be written safety rules for the use and maintenance of vehicles and power equipment.

Article 38. Reports to Court.

§ 5.140. When the facility has received legal custody of a child pursuant to §§ 16.1-279 A or 16.1-279 B of the Code of Virginia copies of any foster care plans (required by §§ 16.1-281 and 16.1-282 of the Code of Virginia) submitted to the court shall be filed in the ~~child's~~ resident's record except that this section does not apply to secure detention facilities.

Article 39. Emergency Reports.

§ 5.141. Any serious incident, accident or injury to the ~~child~~ resident ; any overnight absence from the facility without permission; any runaway; [~~or~~ and] any other unexplained absence shall be reported to the parent/ *legal* guardian/placing agency within 24 hours.

§ 5.142. The ~~child's~~ resident's record shall contain:

1. The date and time the incident occurred;
2. A brief description of the incident;
3. The action taken as a result of the incident;
4. The name of the person who completed the report;
5. The name of the person who made the report to the parent/ *legal* guardian or placing agency; and
6. The name of the person to whom the report was made.

Article 40. Suspected Child Abuse or Neglect.

§ 5.143. Any case of suspected child abuse or neglect shall be reported immediately to the local department of public welfare/social services as required by § 63.1-248.3 of the Code of Virginia.

§ 5.144. The ~~child's~~ resident's record shall include:

1. Date and time the suspected abuse or neglect occurred;
2. Description of the incident;
3. Action taken as a result of the incident; and
4. Name of the person to whom the report was made

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at the local department.

PART VI. DISASTER OR EMERGENCY PLANS.

Article 1. Procedures for Meeting Emergencies.

§ 6.1. Established written procedures shall be made known to all staff and residents, as appropriate for health and safety, for use in meeting specific emergencies including:

1. Severe weather;
2. Loss of utilities;
3. Missing persons;
4. Severe injury; and
5. Emergency evacuation including alternate housing.

Article 2. Written Fire Plan.

§ 6.2. Each facility with the consultation and approval of the appropriate local fire authority shall develop a written plan to be implemented in case of a fire at the facility.

§ 6.3. Each fire plan shall address the responsibilities of staff and residents with respect to:

1. Sounding of fire alarms;
2. Evacuation procedures including assembly points, head counts, primary and secondary means of egress, evacuation of residents children with special needs, and checking to ensure complete evacuation of the building(s);
3. A system for alerting fire fighting authorities;
4. Use, maintenance and operation of fire fighting and fire warning equipment;
5. Fire containment procedures including closing of fire doors, fire windows or other fire barriers;
6. Posting of floor plans showing primary and secondary means of egress; and
7. Other special procedures developed with the local fire authority.

§ 6.4. Floor plans showing primary and secondary means of egress shall be posted on each floor in locations determined by the appropriate local fire authority.

§ 6.5. The written fire plan shall be reviewed with the local fire authority at least annually and updated, if necessary.

§ 6.6. The procedures and responsibilities reflected in the written fire plan shall be made known to all staff and residents.

Article 3. Posting of Fire Emergency Phone Number.

§ 6.7. The telephone number of the fire department to be called in case of fire shall be prominently posted on or next to each telephone in each building in which children sleep or participate in programs.

Article 4. Portable Fire Extinguishers.

§ 6.8. Portable fire extinguishers shall be installed and maintained in the facility in accordance with state and local fire/building code requirements. In those buildings where no such code requirements apply, on each floor there shall be installed and maintained at least one approved type ABC portable fire extinguisher having at least a 2A rating.

§ 6.9. Fire extinguishers shall be mounted on a wall or a post where they are clearly visible and so that the top is not more than five feet from the floor except that if a fire extinguisher weighs more than 140 pounds, it shall be installed so that the top is not more than 2-1/2 feet from the floor. They shall be easy to reach and remove and they shall not be tied down, locked in a cabinet, or placed in a closet or on the floor, except that where extinguishers are subject to malicious use, locked cabinets may be used provided they include a means of emergency access.

§ 6.10. All required fire extinguishers shall be maintained in operable condition at all times.

§ 6.11. Each fire extinguisher shall be checked by properly oriented facility staff at least once each month to ensure that the extinguisher is available and appears to be in operable condition. A record of these checks shall be maintained for at least two years and shall include the date and initials of the person making the inspection.

§ 6.12. Each fire extinguisher shall be professionally maintained at least once each year. Each fire extinguisher shall have a tag or label securely attached which indicates the month and year the maintenance check was last performed and which identifies the company performing the service.

Article 5. Smoke Alarms.

§ 6.13. Smoke detectors or smoke detection systems shall be installed and maintained in the facility in accordance with state and local fire/building code requirements. In those buildings where no such code requirements apply, the facility shall provide at least one approved and properly installed smoke detector:

1. In each bedroom hallway;
2. At the top of each interior stairway;
3. In each area designated for smoking;
4. In or immediately adjacent to each room with a furnace or other heat source; and
5. In each additional location directed by the local building official, the local fire authority, or the state fire authority.

§ 6.14. Each smoke detector shall be maintained in operable condition at all times.

§ 6.15. If the facility is provided with single station smoke detectors each smoke detector shall be tested by properly oriented facility staff at least once each month and if it is not functioning, it shall be restored immediately to proper working order. A record of these tests shall be maintained for at least two years and shall include the date and initials of the person making the test.

§ 6.16. If the facility is provided with an automatic fire alarm system, the system shall be inspected by a qualified professional firm at least annually. A record of these inspections shall be maintained for at least two years and shall include the date and the name of the firm making the inspection.

Article 6. Fire Drills.

§ 6.17. At least one fire drill (the simulation of fire safety procedures included in the written fire plan) shall be conducted each month in each building at the facility occupied by ~~children~~ residents .

§ 6.18. Fire drills shall include, as a minimum:

1. Sounding of fire alarms;
2. Practice in building evacuation procedures;
3. Practice in alerting fire fighting authorities;
4. Simulated use of fire fighting equipment;
5. Practice in fire containment procedures; and
6. Practice of other simulated fire safety procedures as may be required by the facility's written fire plan.

§ 6.19. During any three consecutive calendar months, at least one fire drill shall be conducted during each shift.

§ 6.20. False alarms shall not be counted as fire drills.

§ 6.21. The facility shall designate at least one staff member to be responsible for conducting and documenting

fire drills.

§ 6.22. A record shall be maintained on each fire drill conducted and shall include the following information:

1. Building in which the drill was conducted;
2. Date of drill;
3. Time of drill;
4. Amount of time to evacuate building;
5. Specific problems encountered;
6. Staff tasks completed:
 - a. Doors and windows closed,
 - b. Head count,
 - c. Practice in notifying fire authority, and
 - d. Other;
7. Summary; and
8. Signature of staff member responsible for conducting and documenting the drill.

§ 6.23. The record for each fire drill shall be retained for two years subsequent to the drill.

§ 6.24. The facility shall designate a staff member to be responsible for the fire drill program at the facility who shall:

1. Ensure that fire drills are conducted at the times and intervals required by these standards and the facility's written fire plan;
2. Review fire drill reports to identify problems in the conduct of fire drills and in the implementation of the requirements of the written fire plan;
3. Consult with the local fire authority, as needed, and plan, implement and document training or other actions taken to remedy any problems found in the implementation of the procedures required by the written fire plan; and
4. Consult and cooperate with the local fire authority to plan and implement an educational program for facility staff and residents on topics in fire prevention and fire safety.

Article 7. Staff Training in Fire Procedures.

§ 6.25. Each new staff member shall be trained in fire procedures and fire drill procedures within seven days

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after employment.

§ 6.26. Each new staff member shall be trained in fire procedures and fire drill procedures prior to assuming sole responsibility for the supervision of one or more children.

Article 8.

"Sighted Guide" Training for Emergency Use.

§ 6.27. When a blind or visually impaired child is admitted the facility shall obtain the services of an orientation and mobility specialist from the Department of Visually Handicapped to provide "sighted guide" training for use in emergencies except that this requirement shall not apply to secure detention facilities.

§ 6.28. "Sighted guide" training for use in emergencies shall be required of all personnel having responsibility for supervision of a blind or visually handicapped child except that this requirement shall not apply to secure detention facilities.

STATE WATER CONTROL BOARD

Title of Regulation: VR 680-16-02. Roanoke River Basin Water Quality Management Plan.

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

Effective Date: February 12, 1992.

Summary:

Water quality management plans provide a management tool to assist the Commonwealth, units of local government, industrial firms and agricultural interests in achieving and maintaining applicable water quality goals. This amendment to the Roanoke River Basin Water Quality Management Plan deletes those portions of the plan to be covered by adoption of the Upper Roanoke River Subarea Water Quality Management Plan. Concurrently with the amendment to the Roanoke River Basin Water Quality Management Plan, the board adopted the Upper Roanoke River Subarea Water Quality Management Plan. The new Subarea Plan identifies water quality programs and outlines remedial actions to alleviate these problems so that desired water quality objectives can be met.

NOTICE: As provided in § 9-6.14:22 of the Code of Virginia, this regulation is not being republished. The regulation was adopted as it was proposed in 8:1 V.A.R. 33-61 October 7, 1991.

REGISTRAR'S NOTICE: Due to its length, the following regulation filed by the State Water Control Board is not being published. However, in accordance with § 9-6.14:22

of the Code of Virginia, the summary is being published in lieu of 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.

Title of Regulation: VR 680-16-02.1. Upper Roanoke River Subarea Water Quality Management Plan.

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

Effective Date: February 12, 1992.

Summary:

Water quality management plans provide a management tool to assist the Commonwealth, units of local government, industrial firms and agricultural interests in achieving and maintaining applicable water quality goals. The purpose of this regulatory action is to adopt the Upper Roanoke River Subarea Water Quality Management Plan. The new plan updates those portions of the Roanoke River Basin Water Quality Management Plan in the Roanoke River Subarea. Concurrently with this adoption, the existing Roanoke River Basin Water Quality Management Plan has been amended to delete references to those areas to be covered by the Upper Roanoke River Subarea Plan.

The updated subarea reflects current Virginia Pollutant Discharge Elimination System (VPDES) final permit limits and wasteload allocations as defined by federal regulations. Water quality problems in the Upper Roanoke River Subarea are identified and remedial actions to alleviate these problems are outlined so that desired water quality objectives can be met. The plan includes chapters entitled: Introduction, Water Quality Evaluation, Point Sources, Nonpoint Sources, Coordination with Other Planning (Compliance Schedules and Loan Eligibility for Facilities), Ground Water Strategy, and Management and Implementation of the plan.

Following these chapters is a presentation of specific actions to be taken by the State Water Control Board in implementing the plan

As a result of the public comment received, one change was made to § 4.5 to clarify that the treatment schemes described in that section may be changed as a result of the facility planning process.

Title of Regulation: VR 680-16-05. York River Basin Water Quality Management Plan. EB

Statutory Authority: §§ 62.1-44.15(3a) and 62.1-44.15(13) of the Code of Virginia.

Effective Date: February 12, 1992.

Summary:

Water quality management plans (WQMP) serve as a regulatory guide for the State Water Control Board in the implementation of mandated water quality goals. Two main components of the plans are the stream segment classifications and the establishment of total maximum daily loads which contain waste load allocations for segments classified as water quality limiting.

The purpose of the amendment to the York River Basin Water Quality Management Plan (Plan) is to remove the waste load allocations in stream segment 8-12 for American Oil, York and James City SD #1, and York Regional STP. The three facilities discharge to an effluent limiting stream segment, which is not required by federal or state laws or regulations to have waste load allocations.

NOTICE: As provided in § 9-6.14:22 of the Code of Virginia, this regulation is not being republished. The regulation was adopted as it was proposed in 7:23 VA.R. 3592-3594 August 12, 1991.



DEPARTMENT OF YOUTH AND FAMILY SERVICES (STATE BOARD OF)

Title of Regulations: VR 690-40-004. Standards for Interdepartmental Regulation of Residential Facilities for Children.

Statutory Authority: §§ 16.1-311, 22.1-321, 37.1-10, 37.1-182, 37.1-189.1, 63.1-25, 63.1-196.4, 63.1-217, 66-10, and 66-24 of the Code of Virginia.

Effective Date: February 12, 1992.

Summary:

Under the current definitions and exceptions in the Code of Virginia, the Departments of Education; Mental Health, Mental Retardation and Substance Abuse Services; Social Services; and Youth and Family Services are responsible for the regulation of public and private residential facilities which provide care, treatment, or education to children.

The regulation is designed to assure that adequate care, treatment, and education are provided by children's residential facilities. The revisions amend and clarify requirements governing management of

resident behavior in §§ 1.1 and 5.86 et seq. The revisions are designed to: (i) emphasize the use of positive behavioral interventions; (ii) limit, and require documentation of, the use of negative behavioral interventions; (iii) clarify and make distinctions among definitions; and (iv) reduce redundancies between definitions and standards.

The final regulation differs from the proposed regulation. Definitions were added to, deleted from, and revised in § 1.1 to provide additional clarity and to establish consistency with behavioral theory. Substantive revisions were made to §§ 5.86 et seq. to: (i) clarify the requirements, (ii) remove the implication that each facility must have "rules of conduct," (iii) eliminate the requirements for distribution of information about management of resident behavior: (a) to the guardians of residents of specific types of short term care facilities and (b) to residents with diagnosed mental disabilities resulting in the loss of the cognitive ability to understand the information, and (iv) the requirements governing use of physical restraint were (a) relaxed to permit use of physical restraint as the first intervention when failure to restrain would result in harm to the resident or others and (b) strengthened by establishing requirements concerning staff training and documentation of the use of physical restraint.

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

EMERGENCY REGULATIONS

DEPARTMENT OF MEDICAL ASSISTANCE SERVICES (BOARD OF)

Title of Regulation: Emergency Regulations for Early and Periodic Screening, Diagnosis and Treatment.

VR 460-01-22. Services.

VR 460-03-3.1100. Narrative for the Amount, Duration and Scope of Services.

VR 460-02-3.1300. Standards Established and Methods Used to Assure High Quality of Care.

VR 460-02-4.1920. Methods and Standards for Establishing Payment Rates - Other Types of Care.

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

Effective Dates: December 12, 1991, through December 11, 1992.

Summary:

1. **REQUEST:** The Governor's approval is hereby requested to adopt the emergency regulation entitled Early and Periodic Screening, Diagnosis and Treatment (EPSDT). This EPSDT policy will bring the Plan into conformance with federal requirements specified in the Omnibus Budget Reconciliation Act of 1989.

2. **RECOMMENDATION:** Recommend approval of the Department's request to take an emergency adoption action regarding EPSDT to supersede the previous emergency regulation. The Department intends to initiate the public notice and comment requirements contained in the Code of Virginia § 9-6.14:7.1.

/s/ Bruce U. Kozlowski, Director
Date: November 16, 1991

3. CONCURRENCES:

/s/ Howard M. Cullum
Secretary of Health and Human Resources
Date: December 2, 1991

4. GOVERNOR'S ACTION:

/s/ Lawrence Douglas Wilder
Governor
Date: December 11, 1991

5. FILED WITH:

/s/ Joan W. Smith
Registrar of Regulations
Date: December 12, 1991

DISCUSSION

6. **BACKGROUND:** The sections of the State Plan for Medical Assistance (the Plan) affected by this emergency regulation are: preprinted pages 22 and 27;

the Amount, Duration, and Scope of Services narrative (Supplement 1 to Attachment 3.1 A and B); Standards Established and Methods Used to Assure High Quality of Care (Attachment 3.1 C); and Methods and Standards for Establishing Payment Rates - Other Types of Care (Attachment 4.19 B).

The Omnibus Budget Reconciliation Act of 1989 (OBRA '89) requires that state Medicaid programs provide to recipients any and all services permitted to be covered under federal law, when the need for those services are identified as a result of screenings through the Early and Periodic Screening, Diagnosis, and Treatment Program. Such services must be provided even if they are not otherwise covered under the Plan, and are thus not available to recipients independent of EPSDT referral.

The EPSDT program provides for screening and diagnostic services to determine physical and mental defects in recipients up to age 21; and health care, treatment, and other services to correct or ameliorate any defects or chronic conditions discovered. EPSDT is a mandatory program which must be provided for all Medicaid-eligible recipients who are 18 years old or younger and, at the state's option, up to age 21. The Commonwealth provides EPSDT to recipients to age 21.

One service now required to covered for recipients because of EPSDT is inpatient psychiatric services in psychiatric facilities. These regulations reflect the definition of the services in the Code of Federal Regulations (42 CFR § 440.160) and describe a unique reimbursement methodology associated with the service.

All other services now required to be covered for recipients younger than 21 because of EPSDT will be reimbursed using either a fee-for-service or a cost-based reimbursement methodology, depending on the provider type.

During the development of the Department's policy concerning EPSDT, the Health Care Financing Administration (HCFA) provided initial guidance to the states. DMAS incorporated this guidance into its emergency regulation. Subsequent to DMAS's adoption of its initial emergency regulation, HCFA provided additional guidance necessitating another emergency regulation action. This new emergency regulation incorporates all known federal mandates related to EPSDT, and prescribes reimbursement methodologies consistent with those requirements.

7. **AUTHORITY TO ACT:** The Code of Virginia (1950) as amended, § 32.1-324, grants to the Director of the Department of Medical Assistance Services (DMAS) the authority to administer and amend the Plan for Medical Assistance in lieu of Board action pursuant to the Board's requirements. The Code also provides, in

the Administrative Process Act (APA) § 9-6.14:4.1(c)(5), for an agency's adoption of emergency regulations subject to the Governor's prior approval. Subsequent to the emergency adoption action and filing with the Registrar of Regulations, this agency will initiate the public notice and comment process as contained in Article 2 of the APA.

8. FISCAL/BUDGETARY IMPACT: DMAS proposes to reimburse for this service in accordance with OBRA '89 which increased the number of services paid for by the state under EPSDT. Prior to the changes mandated by OBRA '89, states only covered those services (detected by screening programs) that were included in their Medicaid plans. The law now requires that Medicaid programs pay for all health care services authorized under the federal Medicaid program whether or not those services are covered in a state's Plan. In addition, the law requires states to accomplish a greater number of screenings. Increased EPSDT services will cost an additional \$2.808 million GF (FY 91 - \$0.953 M; FY 92 - \$1.855 M).

9. RECOMMENDATION: Recommend approval of this request to take an emergency adoption action to become effective upon its adoption by the Director and filing with the Registrar. From its effective date, this regulation is to remain in force for one full year or until superseded by final regulations promulgated through the APA. Without an effective emergency regulation, the Department would lack the authority to reimburse for these additional services, including inpatient psychiatric services related to EPSDT.

10. APPROVAL SOUGHT FOR VR 460-01-22, 460-03-3.1100, 460-02-3.1300, 460-02-4.1920.

Approval of the Governor is sought for an emergency modification of the Medicaid State Plan in accordance with the Code of Virginia § 9-6.14:4.1(C)(5) to adopt the following regulation:

Emergency Regulations

VR 460-01-22. Services.

STATE PLAN UNDER TITLE XIX OF THE SOCIAL SECURITY ACT

State of VIRGINIA

Citation

3.1(A)(5) (Continued)

(iii) Services made available to the medically needy are equal in amount, duration, scope for each person in a medically needy coverage group.

Yes.

Not applicable. The medically needy are not included in the plan.

441.55 50 FR 43654,
P.L. 101-239 (§6403)
and 1902(a)(43),
1905(a)(4), and 1905(r)
of the Act.

(a)(6) The Medicaid agency meets the requirements of 42 CFR 441.56 through 441.62 and P.L. 101-239 with respect to early and periodic screening, diagnosis, and treatment (EPSDT) services.

The Medicaid agency has in effect agreements with continuing care providers. Described below are the methods employed to assure the providers' compliance with their agreements.

TN.No. _____ Approval Date _____ Effective Date _____
Supersedes
TN.No. _____

Emergency Regulations

VR 460-03-3.1100. Narrative for the Amount, Duration and Scope of Service.

4b. Early and periodic screening and diagnosis of individuals under 21 years of age, and treatment of conditions found.

A. ~~Consistent with 42 CFR 441.57, payment~~ Payment of medical assistance services shall be made on behalf of individuals under ~~twenty-one (21)~~ years of age, who are Medicaid eligible, for medically necessary stays in acute care facilities, and the accompanying attendant physician care, in excess of ~~twenty-one (21)~~ days per admission when such services are rendered for the purpose of diagnosis and treatment of health conditions identified through a physical examination.

B. Routine physicians and immunizations (except as provided through EPSDT) are not covered except that well-child examinations in a private physician's office are covered for foster children of the local social services departments on specific referral from those departments.

C. Orthoptics services shall only be reimbursed if medically necessary to correct a visual defect identified by an EPSDT examination or evaluation. The department shall place appropriate utilization controls upon this service

D. *Consistent with the Omnibus Budget Reconciliation Act of 1989 § 6403, early and periodic screening, diagnostic, and treatment services means the following services: screening services, vision services, dental services, hearing services, and such other necessary health care, diagnostic services, treatment, and other measures described in Social Security Act § 1905(a) to correct or ameliorate defects and physical and mental illnesses and conditions discovered by the screening services and which are medically necessary, whether or not such services are covered under the State Plan and notwithstanding the limitations, applicable to recipients ages 21 and over, provided for by the Act § 1905(a).*

4c. Family planning services and supplies for individuals of child-bearing age.

A. Service must be ordered or prescribed and directed or performed within the scope of the license of a practitioner of the healing arts.

§ 5. Physician's services whether furnished in the office, the patient's home, a hospital, a skilled nursing facility or elsewhere.

A. Elective surgery as defined by the Program is surgery that is not medically necessary to restore or materially improve the body function.

B. Cosmetic surgical procedures are not covered unless performed for physiological reasons and require Program prior approval.

VR 460-02-3.1300. Standards Established and Methods Used to Assure High Quality of Care.

f. Utilization review shall be performed to determine if services are appropriately provided and to ensure that the services provided to Medicaid recipients are medically necessary and appropriate. Services not specifically documented in the patient's medical record as having been rendered shall be deemed not to have been rendered and no coverage shall be provided.

g. When the resident no longer meets long stay hospital criteria or requires services that the facility is unable to provide, the resident must be discharged.

C. Inpatient Psychiatric Care resulting from an EPSDT screening.

Consistent with the Omnibus Budget Reconciliation Act of 1989 § 6403 and § 4b to Attachment 3.1 A and B Supplement 1, inpatient psychiatric services shall be covered, based on their prior authorization of medical need, for individuals younger than 21 years of age when the need for such services has been identified in a screening as defined by the Early and Periodic Screening, Diagnosis, and Treatment program. The following utilization control requirements shall be met before preauthorization of payment for services can occur.

1. *Definitions. The following words and terms, when used in the context of these regulations, shall have the following meaning, unless the context clearly indicates otherwise:*

"CFR" means the Code of Federal Regulations.

"Covered psychiatric services" means admission to a psychiatric facility for psychiatric services.

"DMHMRSAS" means the Department of Mental Health, Mental Retardation, and Substance Abuse Services.

"DMAS" means the Department of Medical Assistance Services.

"JCAHO" means the Joint Commission on Accreditation of Hospitals.

"Medical necessity" means that the use of the inpatient setting under the direction of a physician has been demonstrated to be necessary to provide such services in lieu of other treatment settings and the services can reasonably be expected to improve the recipient's condition or to prevent further regression so that the services will no longer be needed.

"VDH" means the Virginia Department of Health.

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2. It shall be documented that treatment is medically necessary and that the necessity was identified as a result of an EPSDT screening. Required patient documentation shall include, but not be limited to, the following:

a. Copy of the screening report showing the identification of the need for further psychiatric diagnosis and possible treatment.

b. Copy of supporting diagnostic medical documentation showing the diagnosis that supports the treatment recommended.

c. For admission to a psychiatric facility, for psychiatric services, certification of the need for services by an interdisciplinary team meeting the requirements of 42 CFR §§ 44.1-153 or 44.1-156 that:

(1) Ambulatory care resources available in the community do not meet the recipient's treatment needs;

(2) Proper treatment of the recipient's psychiatric condition requires services on an inpatient basis under the direction of a physician; and

(3) The services can reasonably be expected to improve the recipient's condition or prevent further regression so that the services will no longer be needed, consistent with 42 CFR § 441.152.

3. The absence of any of the above required documentation shall result in DMAS' denial of the requested preauthorization.

4. Providers of inpatient psychiatric services must:

a. be accredited by JCAHO as a psychiatric facility or program (42 CFR 440.160);

b. assure that services are provided under the direction of a physician (42 CFR 440.160); and

c. meet the requirements in 42 CFR Part 441 Subpart D.

d. demonstrate that it is their policy to provide services to individuals in need of comprehensive services without regard to the individual's ability to pay or eligibility for Medicaid reimbursement.

VR 460-02-4.1920. Methods and Standards for Establishing Payment Rates - Other Types of Care.

o. Refund of Overpayments (continued)

(e) Once an initial determination of overpayment has been made, DMAS shall undertake full recovery of such overpayment whether or not the provider disputes, in whole or in part, the initial

determination of overpayment. If an appeal follows, interest shall be waived during the period of administrative appeal of an initial determination of overpayment.

Interest charges on the unpaid balance of any overpayment shall accrue pursuant to § 32.1-313 of the Code of Virginia from the date the director's determination becomes final.

The director's determination shall be deemed to be final on (i) the due date of any cost report filed by the provider indicating that an overpayment has occurred, or (ii) the issue date of any notice of overpayment, issued by DMAS, if the provider does not file an appeal, or (iii) the issue date of any administrative decision issued by DMAS after an informal fact finding conference, if the provider does not file an appeal, or (iv) the issue date of any administrative decision signed by the director, regardless of whether a judicial appeal follows. In any event, interest shall be waived if the overpayment is completely liquidated within 30 days of the date of the final determination. In cases in which a determination of overpayment has been judicially reversed, the provider shall be reimbursed that portion of the payment to which it is entitled, plus any applicable interest which the provider paid to DMAS.

p. Consistent with the Omnibus Budget Reconciliation Act of 1989 § 6403, reimbursement shall be provided for services resulting from early and periodic screening, diagnostic, and treatment services. Reimbursement shall be provided for such other measures described in Social Security Act § 1905(a) required to correct or ameliorate defects and physical and mental illnesses and conditions discovered by the screening services, whether or not such services are covered under the State Plan.

1. Payments to fee-for-service providers shall be the lowest of (i) State agency fee schedule; (ii) actual charge (charge to the general public; (iii) or Medicare (Title XVIII) allowances.

2. Payments to outpatient cost-based providers (referenced at 4.19B(d) shall be on the basis of reasonable costs in accordance with the standards and principles applicable to the Title XVIII Program as referenced in 4.19B(d).

3. Inpatient psychiatric services for individuals under age 21 (42 CFR 440.160) shall be reimbursed at a uniform all-inclusive per diem fee and shall apply to all service providers. The fee shall be all-inclusive to include physician and pharmacy services. The methodology to be used to determine the per diem fee shall be as follows. The base period uniform per diem fee for long-term inpatient psychiatric services shall be the median (weighted by children's admissions in State-operated psychiatric hospitals) variable per diem

cost of long-stay State-operated psychiatric hospitals in the fiscal year ending June 30, 1990. The base period per diem fee shall be updated each year using the hospital market basket factor utilized in the reimbursement of acute care hospitals in the Commonwealth.

STATE CORPORATION COMMISSION

PROPOSED REGULATION

STATE CORPORATION COMMISSION

AT RICHMOND, DECEMBER 13, 1991

COMMONWEALTH OF VIRGINIA

At the relation of the

CASE NO PUE910076

STATE CORPORATION COMMISSION

Ex Parte: In re: Revision of
Commission rules governing public
utility rate increase applications

ORDER DIRECTING NOTICE AND INVITING COMMENT

By its "Order Adopting Revised Rules," dated December 4, 1984 in Case No. PUE820056, the Commission adopted rules governing utility applications for increases in rates. The rules adopted in 1984 amended more general rules adopted in 1980 in Case No. PUE800071 and established the basic structure of the rate case rules which are currently in effect. On August 21, 1985, the Commission issued a "Final Order" in Case No. PUE850022 making several revisions in the 1984 rules but preserving their overall structure. The rate case rules have not been amended or revised since 1985.

The Commission has faced frequent controversy surrounding the existing rules, and we believe that the time is now ripe to explore revisions. In Virginia Power's 1988 rate case, the Commission recognized that expedited rate case procedures under the rules had "been evolving since the adoption of House Joint Resolution 348 by the 1979 General Assembly." 1988 S.C.C. Ann. Rept. 312 at 313. As the Commission has observed, it has "wrestled frequently with the question of how best to design and conduct a proceeding more simplified and expeditious than a general rate case, while observing the constitutional, statutory and case law strictures applicable to all of our cases." Id. at 314. However, in the recent past, procedural issues about the scope of expedited cases have made them longer and more complex.

As part of the continuing necessity to seek more expeditious rate case decisions, we have received recommendations of our Staff to repeal the current rules and substitute newly revised rules. A copy of the proposed revisions is Attachment A to this order. The proposed rules would:

- (1) Eliminate expedited rate cases;
- (2) Establish a 60-day suspension period for all proposed rate increases;
- (3) Limit the age of the historical test year used by the Company in its application to no more than 120

days before the filing date;

(4) Modify the current test period methodology to allow ratemaking adjustments to reflect the expected conditions throughout the entire period during which rates will be effective (the rate year); and

(5) Revise the detailed schedules required to be filed with the application to simplify them, specify information needs more clearly and conform them to the proposed rules.

These changes would, in the Staff's view, reduce procedural disputes over the rate case process and expedite all rate cases by permitting the Commission to reach the merits of the ratemaking issues more directly.

NOW THE COMMISSION finds that public notice of the Staff's recommendations should be given and interested parties should be provided an opportunity to comment and request a hearing. Accordingly,

IT IS ORDERED:

(1) That any person may file written comments concerning the proposed rule revisions and may request a hearing thereon. An original and fifteen copies of any comments or request for hearing must be filed, no later than February 14, 1992, with William J. Bridge, Clerk of the State Corporation Commission, c/o Document Control Center, P.O. Box 2118, Richmond, Virginia 23216;

(2) That, on or before January 3, 1992, the Commission's Division of Public Utility Accounting shall cause a copy of the following notice to be published in newspapers having a general circulation throughout the Commonwealth:

NOTICE OF CONSIDERATION BY THE
VIRGINIA STATE CORPORATION COMMISSION
OF PROPOSED REVISIONS TO ITS PUBLIC
UTILITY RATE CASE RULES
CASE NO. PUE910076

.....

The State Corporation Commission has initiated consideration of changes in its existing rules governing public utility rate increase applications. The revisions are a Staff proposal designed to:

- (1) Eliminate expedited rate cases.
- (2) Establish a 60-day suspension period for all proposed rate increases.
- (3) Limit the age of the historical test year used by the Company in its application to no more than 120 days before the filing date.

(4) Modify the current test period methodology to allow ratemaking adjustments to reflect the expected conditions throughout the entire period during which rates will be effective (the rate year).

(5) Revise the detailed schedules required to be filed with the application.

The text of the proposed rule revisions may be reviewed by the public at the Commission's Document Control Center, located on Floor B-1 of the Jefferson Building, Bank and Governor Streets, Richmond, Virginia, from Monday through Friday between the hours of 8:15 a.m. and 5:00 p.m.

Any interested person who wishes to submit written comments on the proposed rule revisions or to request a hearing on them must file an original and fifteen copies of such comments or request with William J. Bridge, Clerk of the State Corporation Commission, c/o Document Control Center, P.O. Box 2118, Richmond, Virginia 23216 no later than February 14, 1992.

VIRGINIA STATE CORPORATION COMMISSION DIVISION OF PUBLIC UTILITY ACCOUNTING

(3) That the Division of Public Utility Accounting shall, forthwith, send a copy of this Order, and Attachment A thereto, to the Virginia Register for publication;

(4) That this Order, including Attachment A, be sent to all electric utilities, natural gas utilities, local exchange telephone companies, water and sewer companies, and other parties listed in the attached Service List, and to the Division of Consumer Counsel, Office of the Attorney General of Virginia, 101 N. 8th Street, Richmond, Virginia 23219, and the Commission's Office of General Counsel and Divisions of Energy Regulation, Communications, Public Utility Accounting and Economics and Finance.

SERVICE LIST

ELECTRIC COMPANIES

Mr. Joseph H. Vipperman, President
Appalachian Power Company
Post Office Box 2021
Roanoke, VA 24022-2121

Mr. James R. Wittine
General Manager Regulatory Practice
Delmarva Power & Light Company
800 King Street
Post Office Box 231
Wilmington, Delaware 19899

Mr. Harold E. Armsey, Manager
Old Dominion Power Company
Post Office Drawer 658

Norton, VA 24273

Mr. Alan J. Noia, President
The Potomac Edison Company
Downsville Pike
Hagerstown, Maryland 21740

Mr. Thomas J. O'Neil
Vice President-Regulation
Virginia Power Company
Box 26666
Richmond, VA 23261

GAS COMPANIES

Commonwealth Gas Services, Inc.
Mr. Thomas E. Harris, President
800 Moorefield Park Drive
P.O. Box 35800
Richmond, Virginia 23236-3659

Commonwealth Public Service Corp.
Mr. Carlton Smith, Vice President &
General Manager
P.O. Box 589
Bluefield, West Virginia 24701
Roanoke Gas Company
Mr. Frank A. Farmer, Jr., President
P.O. Box 13007
Roanoke, Virginia 24011

Shenandoah Gas Company
Mr. Kenneth G. Behrens,
General Manager
P.O. Box 2400
Winchester, Virginia 22601

Southwestern Virginia Gas Company
Mr. Allan McClain, President
P.O. Drawer 5391
Martinsville, Virginia 24115

United Cities Gas Company
Mr. Gene Koonce, President &
General Manager
5300 Maryland Way
Brentwood, Tennessee 37027

Virginia Natural Gas
Mr. W. F. Fritsche, Jr.
President & CEO
5100 East Virginia Beach Blvd.
Norfolk, Virginia 23502

Washington Gas Light Company
Northern Virginia Natural Gas
Shenandoah Gas Company
Mr. Patrick J. Maher, President
1100 H. Street, N.W.
Washington, D.C. 20005

State Corporation Commission

TELEPHONE COMPANIES

Mr. Joseph E. Hicks, Vice President
Amelia Telephone Corporation,
New Castle Telephone Corporation &
Virginia Telephone Corporation
P.O. Box 22995
Knoxville, Tennessee 37933-0995

Mr. J. Thomas Brown
President - VA/NC
Central Telephone Company of Virginia
P.O. Box 6788
Charlottesville, Virginia 22906

Mr. Hugh R. Stallard, President
and Chief Executive Officer
Chesapeake & Potomac Telephone Company
600 East Main Street
P.O. Box 27241
Richmond, Virginia 23261
Mr. James S. Quarforth, President
Clifton Forge-Waynesboro Telephone Company
P.O. Box 1990
Waynesboro, Virginia 22980-1990

Mr. Stephen C. Spencer
Regional Director - External Affairs
GTE Virginia
1108 E. Main Street, Suite 1108
Richmond, Virginia 23219

Mr. L. Ronald Smith
President/General Manager
Mountain Grove-Williamsville Telephone Company
P.O. Box 105
Williamsville, Virginia 24487

Mr. K. L. Chapman, Jr., President
New Hope Telephone Company
P.O. Box 38
New Hope, Virginia 24469

Mr. E. B. Fitzgerald, Jr.
President & General Manager
Peoples Mutual Telephone Company, Inc.
P.O. Box 367
Gretna, Virginia 24557

Mr. Allen Layman, President
Roanoke & Botetourt Telephone Company
Daleville, Virginia 24083

Mr. Christopher E. French
President
Shenandoah Telephone Company
P.O. Box 459
Edinburg, Virginia 22824

Mr. William K. Smith, President
United Inter-Mountain Telephone Company

112 Sixth Street, P.O. Box 699
Bristol, Tennessee 37620

Ralph L. Frye
Virginia Telephone Association
11 South 12th Street
Suite 410
Richmond, Virginia 23219

WATER AND SEWER COMPANIES

Dale Service Corporation
c/o Norris Sisson
13901 Jefferson Davis Highway
Woodbridge, Virginia 22191

Virginia American Water Company
(Alexandria & Prince William County
and Hopewell Area)
c/o David Legg, Manager
or Cheryl Snyder, Customer Service
2223 Duke Street
Alexandria, Virginia 22310

OTHERS

Evans B. Brasfield, Esquire
Richard D. Gary, Esquire
Hunton & Williams
Riverfront Plaza, East Tower
951 East Byrd Street
Richmond, Virginia 23219-4074

Stephen H. Watts, Esquire
McGuire, Woods, Battle and Boothe
One James Center
901 East Cary Street
Richmond, Virginia 23219

Edward L. Flippen, Esquire
Donald G. Owens, Esquire
Mays & Valentine
P.O. Box 1122
1111 East Main Street
Richmond, Virginia 23208-9970

Hullihen W. Moore, Esquire
Louis R. Monacell, Esquire
James C. Dimitri, Esquire
Christian, Barton, Epps, Brent & Chappell
1200 Mutual Building
Richmond, Virginia 23219

Wilbur L. Hazlegrove, Esquire
Allen Glover, Esquire
Woods, Rogers, Hazlegrove
P.O. Box 720
Roanoke, Virginia 24004-0720

ATTACHMENT A

RULES GOVERNING UTILITY RATE INCREASE APPLICATIONS AND ANNUAL REVIEW FILINGS

I. RATE CASE FILING REQUIREMENTS

A. An application for a rate increase filed by a public utility, as defined in Section 56-232 of the Code of Virginia (except Electric Cooperatives, as defined in Section 56-209, et. seq., of the Code of Virginia, and Telephone Cooperatives, as defined in Section 56-487, et. seq., of the Code of Virginia, and except as provided in Rule IV.B hereof), having annual revenues exceeding \$1,000,000, which proposes to increase annual operating revenues shall include:

- (1) The name and post office address of the applicant and the name and post office address of its counsel,
- (2) A full and clear statement of the facts which the applicant is prepared to prove by competent evidence, the proof of which will warrant the objectives sought,
- (3) A statement of the legal basis for the objectives sought,
- (4) An exhibit consisting of schedules 1 - 18 prepared in accordance with the Appendix to these rules, provided that the filing of such schedules 1 - 18 shall not be deemed to limit the issues in any rate case or the admissibility of any evidence which is relevant and material thereto,
- (5) An exhibit containing all changes to rate schedules and tariff sheets, including any changes to rules, regulations or terms of service,
- (6) All written direct testimony and other exhibits which applicant intends to introduce as evidence to support the objective sought, and
- (7) A table of contents of the Company's filing, including the testimony and exhibits.

B. All exhibits and schedules shall be identified with an appropriate schedule number and shall be prepared in accordance with the following general instructions:

1. The applicant shall verify the accuracy of all data and calculations contained in, and pertaining to, every exhibit submitted.
2. Each exhibit shall be labeled with the name of the applicant and the initials of the sponsoring witness in the upper right hand corner as shown below:

Exhibit No. (Leave Blank)

Witness: (Initials)

Statement or Schedule Number

The first page of all exhibits shall contain a caption which describes the subject matter of the exhibit.

3. If the accounting and statistical data submitted differ from the books of the applicant, then the applicant shall include in its filing a reconciliation schedule for each account or subaccount which differs, together with an explanation describing the nature of the difference.

4. The required accounting and statistical data shall include all work papers and other information necessary to ensure that items, statements and schedules are verifiable and are not misleading.

C. All applications shall be filed in twenty (20) copies with the Clerk of the Commission, c/o Document Control Center, P.O. Box 2118, Richmond, Virginia 23216. The applicant shall serve a copy of the information required by paragraphs (1) through (3) of Rule I.A upon the Commonwealth Attorney and Chairman of the Board of Supervisors of each county (or equivalent officials in the counties having alternate forms of government) affected by the proposed increase and upon the Mayor or Manager and the Attorney of every city and town (or equivalent officials in cities and towns having alternate forms of government) affected by the proposed increase. The applicant shall also serve each such official with a statement that a copy of the complete application may be obtained at no cost by making a request therefor orally or in writing to a specified company official or location. In addition, the applicant shall serve a copy of its complete application upon the Division of Consumer Counsel of the Office of the Attorney General of Virginia. All such service specified by this rule shall be made by either (a) personal delivery or (b) first class mail, to the customary place of business or to the residence of the person served.

D. An application shall not be deemed filed under Section 56-238 of the Code of Virginia unless it contains the statements, testimony and exhibits required by Rule I.A. The effective date of any rate or revenue increase requested pursuant to these rules shall be suspended for sixty (60) days from the filing thereof and may be made effective thereafter only if subject to refund with interest in accordance with Section 56-238.

E. The application shall be based on a test period consisting of twelve months of historic accounting data ending no more than 120 days prior to submission of the application. The historic revenue and expense data may be adjusted for all changes which are reasonably certain to occur through the end of the rate year. The amount of any adjustments for such changes shall reflect the actual number of months (or parts thereof) during which the change is expected to have an effect in the rate year.

F. Rate base shall be based on the year-end rate base for the historic test period described in paragraph I.E. The historic rate base data may be adjusted for all changes which are reasonably certain to occur through the end of

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the rate year. The amount of any adjustments for such changes shall reflect the actual number of months (or parts thereof) during which the change is expected to have an effect in the rate year.

G. The components of the actual capital structure at the end of the historic test period may be adjusted in the same manner as rate base may be adjusted under Rule I.F. Interest, dividends on preferred stock, and other expenses associated with capital structure components other than common equity may be adjusted in the same manner as expenses may be adjusted under Rule I.E.

H. For purposes of these rules, the term "rate year" shall mean the twelve (12) months following the earliest effective date of the proposed rates permitted by these rules.

I. Applicant shall file no later than 60 days after the end of the rate year a comparison of estimated to actual cost of service items for the rate year. All revenue, expense and investment projections shall be detailed by primary account and compared to actual amounts during the rate year. All variations shall be explained in detail. Two copies shall be filed with the Division of Public Utility Accounting and one copy filed with the Division of Economics and Finance.

II. FUEL FACTOR AND COGENERATION RATE FILING REQUIREMENTS

A. When an electric utility files for a rate increase, fuel factor projections and cogeneration rates shall not be filed as part of the original application. The Commission shall, by order, establish a filing date for fuel factor and cogeneration testimony. The filing shall be required to include the projections required by the Commission's Fuel Monitoring System and testimony and exhibits to support the projections and cogeneration rates.

B. In the event that an electric utility files an application to increase its fuel factor only, fuel factor projections and proposed cogeneration rates shall be filed six weeks prior to the proposed effective date. The filing shall include the projections required by the Commission's Fuel Monitoring System and testimony and exhibits supporting the projections, proposed new fuel factor and cogeneration rates.

C. When an electric utility deems it unnecessary to request any change to its base rates or fuel factor, it shall nevertheless file fuel factor projections at least six weeks prior to the expiration of the last projection or as otherwise required by the Commission.

III. ANNUAL REVIEW FILING REQUIREMENTS

A. Any utility not requesting a base rate increase in any year shall make an annual review filing consisting of Schedules 1-13 as required pursuant to Rule I.A (4). The test year shall be the current 12 months ending in the

same month as the test year used in the utility's most recent rate application. This information shall be filed with the Commission within 120 days after the end of the new test year.

B. Adjustments reflected in Column (2) of Schedule 4 which do not incorporate the ratemaking treatment approved by the Commission in the utility's last rate case shall be separately identified as new proposed adjustments in Schedule 7.

C. In computing its cost of capital, as prescribed in Schedules 10 and 11 of the Appendix attached hereto, the applicant shall use the highest and lowest equity return rates found reasonable by the Commission in the utility's most recent rate case and the rate used to determine the revenue requirements in that case.

D. Annual review filings shall be made available to the public by the company on request. Nothing in this Rule III shall be interpreted to limit the access of the Commission's Staff or the public to additional information from any utility company to the extent otherwise required or permitted by law.

IV. RELATIONSHIP TO OTHER LAWS

A. Nothing in these rules shall be interpreted to relieve the applicant of its burden to prove all the elements of a rate case or to establish that its proposed rate increase is just and reasonable and results in no undue discrimination among customers.

B. These regulations shall not apply to any telephone company participating in the experimental plan for the optional regulation of telephone companies, adopted by the Commission effective January 1, 1989 (Ex Parte: In the matter of promulgating an experimental plan for the optional regulation of telephone companies, Case No. PUC880035, 1988 S.C.C. Ann. Rept. 249). Applications for rate increases and annual review filings prepared by telephone companies participating in the plan shall be in such form and shall contain such information as required by the Division of Public Utility Accounting consistent with the requirements of the plan and Case No. PUE850022.

C. Nothing in these regulations shall be interpreted to apply to applications for temporary reductions of rates pursuant to Section 56-242 of the Code of Virginia or temporary increases in rates pursuant to Section 56-245 of the Code of Virginia.

APPENDIX

Contents

Schedule Number	Schedule Title
1.	Annual Reports
2.	Securities and Exchange Commission Reports
3.	Per Books Rate of Return Statement

4. Fully Adjusted Rate of Return Statement
5. Net Original Cost Rate Base - Per Books
6. Net Original Cost Rate Base - Fully Adjusted
7. Detail of Ratemaking Adjustments
8. Working Papers for Ratemaking Adjustments
9. Jurisdictional Allocation
10. Per Books Capital Structure and Cost of Capital Statement and Supporting Schedules
11. Fully Adjusted Capital Structure and Cost of Capital Statement and Supporting Schedules
12. Revenue and Expense Variance Analysis
13. Affiliate Transactions
14. Proposed Rates and Tariffs
15. Additional Revenue
16. Sample Billing
17. Block Billing
18. Class Cost of Service Study

Schedule 1

Annual Reports

Provide the most recent Stockholder's Annual Report for the applicant, and for the consolidated company if the applicant is a subsidiary. (No photocopies)

Schedule 2

Securities and Exchange Commission Reports

Provide the most recent SEC Form 10-K and SEC Form 10-Q for the applicant, and for the consolidated company if the applicant is a subsidiary. (No photocopies)

Schedule 3

Per Books Rate of Return Statement

Instructions: Use format of the attached schedule.

Amounts reflected in lines (23) and (24), Column (1) shall be obtained from Column (1) of Schedule 10. Amounts reflected in lines (23) and (24), Column (3) shall be obtained from Column (3) of Schedule 10.

Adjustments in Column (2) reflect any financial differences between GAAP and ratemaking accounting as prescribed by the SCC. Each Column (2) adjustment shall be separately identified and reflected in an attached subschedule 3a using the format prescribed for Schedule 7.

Jurisdictional allocation factors used to eliminate non-Virginia jurisdictional business in Column (4) shall be fully supported in Schedule 9.

Gas utilities shall provide a supporting subschedule 3b detailing interest paid on supplier refunds.

Applicant shall provide a supporting subschedule 3c detailing the sources of other income (expense) reflected in line (14), Column (1). The amount shown in Column (5)

shall only be that portion of other income (expense) recognized as jurisdictional in the applicant's last rate case.

Applicant shall provide a subschedule 3d detailing by cost component interest expense, which reconciles to line (15), Column (1).

For subsidiary companies that receive all external capital from the parent, lines (15) and (16), Column (3) shall be allocated from the consolidated parent's interest expense and preferred dividends. The allocation factor shall be equal to Column (3) rate base divided by the total adjusted capitalization reflected in Schedule 10.

Lines (15), (16), (23) and (24) shall be allocated from Column (3) to Column (5) using an allocation factor equal to Virginia jurisdictional rate base divided by the total adjusted capitalization reflected in Schedule 10.

Line (17), JDC capital expense, shall be reflected as an adjustment due to ratemaking requirements in Column (2), if applicable. Also, the associated income tax savings shall be reflected in line (4), Column (2). For purposes of this schedule, JDC capital expense shall be calculated by multiplying line (13), adjusted operating income by the weight of JDC capital in the capital structure reflected in Column (4), Schedule 10. The associated income tax savings shall be calculated by multiplying line (22), total rate base, times the weight of JDC capital times the weighted cost of debt component of the JDC cost rate times the applicable income tax rate.

Schedule 4

Fully Adjusted Rate of Return Statement

Instructions: Use format of the attached schedule.

Each Column (2) adjustment shall be separately identified and reflected in Schedule 7.

After ratemaking adjustments, lines (15), (16) and (24) shall be calculated consistent with the ratemaking capital structure reflected in Schedule 11.

After ratemaking adjustments, JDC capital expense shall be calculated by multiplying line (22), total rate base, by the weighted cost of JDC capital in the ratemaking capital structure reflected in Schedule 11. The associated income tax savings shall be calculated as described in the instructions to Schedule 3.

Schedule 5

Net Original Cost Rate Base - Per Books

Instructions: Use format of the attached schedule.

Adjustments in Column (2) reflect any financial differences between GAAP and ratemaking accounting as

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prescribed by the SCC. Each Column (2) adjustment shall be separately identified and reflected in an attached subschedule 5a using the format prescribed for Schedule 7.

Jurisdictional allocation factors used to eliminate non-Virginia jurisdictional business in Column(4) shall be fully supported in Schedule 9.

Applicant shall provide a supporting subschedule 5b detailing property held for future use by item and date of planned use.

Applicant shall provide subschedule 5c, which reconciles between per books balance sheet accounts and amounts reflected as rate base deductions for accumulated deferred income taxes and other cost free capital.

Applicant shall provide subschedule 5d to support all rate base components not readily substantiated from per books balance sheet accounts, such as thirteen month average amounts and cash working capital.

The cash working capital allowance based on the methodology approved by the Commission for the applicant shall be reflected beginning in Column (1).

Schedule 6

Net Original Cost Rate Base - Fully Adjusted

Instructions: Use format of the attached schedule.

Each Column (2) adjustment shall be separately identified and reflected in Schedule 7.

If a cash working capital allowance that is based on the results of a lead/lag study has been approved by the Commission for the applicant, subschedules 6a and 6b shall be provided detailing the cash working capital computation for Columns (1) and (3), respectively.

Applicant shall provide a supporting subschedule 6c if historic rate base data is adjusted for changes occurring during the rate year. Adjusted rate base figures (by component) shall be shown for each month following the historic year end. Adjustments shall be reflected only in the month in which the change is expected to occur and subsequent months of the rate year.

Schedule 7

Detail of Ratemaking Adjustments

Instructions: Use format of the attached schedule.

Applicant may adjust all cost of service items for any changes expected to occur through the end of the rate year. Each adjustment shall be numbered sequentially and listed under the appropriate description category (Operating Revenues, O&M Expenses, etc.). The impact on cost of service from each adjustment shall be detailed in

Columns (1) through (10). Total adjusted Operating Income (A.O.I.) adjustments reflected in this schedule should equal total A.O.I. adjustments reflected in Column (2), line (13) of Schedule 4.

Interest synchronization and cash working capital changes may be reflected as single adjustments based on fully adjusted cost of service.

Each ratemaking adjustment is to be fully explained in a supporting subschedule 7a to this statement.

Detailed workpapers substantiating each adjustment shall be provided in Schedule 8.

Schedule 8

Working Papers for Ratemaking Adjustments

Provide detailed workpapers and supporting schedules of all proposed adjustments. Each supporting document shall identify the origin of the data shown. Also, indicate whether data is actual or estimated. Working papers shall be indexed and tabbed for each adjustment. Two copies shall be filed with the Division of Public Utility Accounting and one copy to the Division of Energy Regulation.

Schedule 9

Jurisdictional Allocation

Provide summary schedules by primary account reflecting all revenue, expense and rate base items allocated to Virginia jurisdiction. Schedules should reflect the Virginia jurisdictional cost of service both before and after ratemaking adjustments. Provide working papers to support all calculated amounts including the development of allocation factors.

Provide detailed schedules reflecting the computation of current and deferred income taxes. These schedules should identify the allocation of each Schedule M item reconciling between book and taxable income.

Provide a narrative explanation and justification of the allocation methodology used. Discuss any changes in the applicant's operations which materially affect any allocation factor.

Where utility service to local, state and federal government customers is not subject to the jurisdiction of the Commission, the revenues, expenses and investment associated with such service shall be identified separately in the allocation study and removed from jurisdictional business.

Schedule 10

PerBooks Capital Structure and Cost of Capital Statement and Supporting Schedules

Instructions: Use format of the attached schedule.

Column (1) shall reflect the per books capital structure at the end of the test year. Data in Column (1) shall be compatible with the applicant's Stockholders' Annual Report, SEC Form 10-K or 10-Q, and/or other publicly available financial statements. Columns (2) through (6) shall reflect data for the entity whose capital structure is proposed. A per books consolidated capital structure shall be provided in Column (2A) if a consolidated capital structure is used for ratemaking; otherwise, Column (2A) is not applicable. Show all other adjustments due to ratemaking requirements in Column (2B). Adjustments in Column (2B) shall be explained in detail in an accompanying schedule.

Capital components not applicable to a company shall be denoted as such. Capital components other than those shown shall be included, if applicable. A separate description and amount shall be provided for each component of "other" capital, if applicable.

Schedules supporting both the amount and cost rate for each capital component shall be provided. For job development credits, if applicable, supporting schedules shall be provided as needed.

Schedule 11

Fully Adjusted Capital Structure and Cost of Capital Statement and Supporting Schedules

Instructions: Use format of the attached schedule.

This schedule shall reflect the capital structure and cost of capital supporting the proposed revenue requirement. Data from this schedule shall be used to develop lines 15, 16, 17 and 24, Column (3) of Schedule 4, the Fully Adjusted Rate of Return Statement.

Capital components not applicable to a company shall be denoted as such. Capital components other than those shown shall be included, if applicable. A separate description and amount shall be provided for each component of "other" capital, if applicable.

Schedules supporting both the amount and cost rate for each capital component shall be provided. The dollar amounts for each component shall be reconciled in a supporting schedule to Column (3), Schedule 10. For job development credits, if applicable, supporting schedules shall be provided as needed.

Schedule 12

Revenue and Expense Variance Analysis

Applicant shall quantify jurisdictional operating revenues and system operating and maintenance ("O&M") expenses by primary account during the test period and the preceding twelve months. Also, provide jurisdictional sales

volumes by customer class for the test period.

Applicant shall provide a detailed explanation of all jurisdictional revenue and system expense increases or decreases of more than 10% during the test period compared to the previous twelve month period. The expense variance analysis applies to test period expense items greater than one-hundredth of one percent (.0001) of total O&M expenses for utilities with O&M expenses exceeding

100 million, and one-tenth of one percent (.001) of total O&M expenses for utilities with O&M expenses below

100 million.

Schedule 13

Affiliate Transactions

Provide a narrative summary of affiliated services received and/or provided during the test period.

Provide a summary of service charges detailing the nature of costs incurred by functional group for each month of the test period. Also, show the final account disposition of all costs incurred for each month of the test period.

If applicant is part of a holding company, separately identify all costs allocated to the parent and then back to the operating company.

Schedule 14

Proposed Rates and Tariffs

Provide a copy of the rates designed to effect the proposed revenue increase. Where tariff revisions are proposed, provide existing tariff sheets with a line (-) or X (xx) through those portions of the tariff to be deleted, and bold, italicize or underline proposed new tariff language or provisions.

Schedule 15

Additional Revenue

Provide by rate schedule the calculations of additional gross revenues that would be produced by the new rates during the test period. Detail by rate schedule all miscellaneous charges and other revenues, if applicable, and reconcile Schedule 15-Additional Revenue with the revenue shown on Schedule 4-Rate of Return Statement.

Schedule 16

Sample Billing

Provide a sample billing analysis detailing the effect on each rate schedule at representative levels of consumption

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and the percentage of the number of bills rendered for that consumption level during the test year.

Schedule 17

Block Billing

Provide the following where applicable:

Calculations by rate schedule and rate block of the revenue effect of weather normalization;

Calculations by rate schedule and rate block of the revenue effect of sales and rate annualization and customer growth; and,

Calculation by rate schedule and rate block of proposed additional revenue and percentage increase.

The above calculations for Schedule 17 should be separated into base and fuel components for electric utilities and gas and non-gas components for gas utilities.

Schedule 18

Class Cost of Service Study

Provide the results of a class cost of service study, including all supporting workpapers including the development of the allocation factors. The classes shall reflect existing rate schedules broken down by customer class, and the study shall be based on adjusted test year information.

PER BOOKS
RATE OF RETURN STATEMENT

Line No.	(Col. 1) Total Company Per Book	(Col. 2) Adjustments Due to Rate-making Requirements	(Col. 3) Total Company As Adjusted	(Col. 4) Non-VA Jurisdictional Business	(Col. 5) VA Jurisdictional Business
1	<u>Total Operating Revenues</u>				
2	Operating and Maintenance Expenses				
3	Depreciation and Amortization				
4	Income Taxes				
5	Taxes Other Than Income Taxes				
6	Gain/Loss on Property Disposition				
7	<u>Total Operating Expenses and Taxes</u>				
8	<u>Net Operating Income</u>				
9	Plus: Allowance for Funds Used During Construction				
10	Less: Charitable & Educational Donations (Net of FIT)				
11	Interest Expense on Customer Deposits				
12	Interest Expense on Supplier Refunds				
13	<u>Adjusted Operating Income</u>				
14	Plus: Other Income/(Expenses)				
15	Less: Interest Expenses				
16	Preferred Dividends				
17	JDC Capital Expenses				
	N/A				
18	<u>Income Available for Common Equity</u>				
19	Net Utility Plant				
20	Less: Other Rate Base Deductions				
21	Plus: Allowance for Working Capital				
22	<u>Total Rate Base</u>				
23	Total Capital				
24	Common Equity Capital				
25	Rate of Return Earned on Rate Base (L13/L22=X)				
26	Rate of Return Earned on Common Equity (L18/L24=X)				
27	Authorized ROR on Common Equity				
	N/A				

FULLY ADJUSTED RATE OF RETURN STATEMENT

Line No.	(Col. 1) VA Jurisdictional Business	(Col. 2) Ratemaking Adjustments	(Col. 3) Amounts After Adjustments	(Col. 4) Revenue Requirement for a ---X Return on Common Equity	(Col. 5) Amounts After Additional Revenue Requirements
1	<u>Total Operating Revenues</u>				
2	Operating and Maintenance Expenses				
3	Depreciation and Amortization				
4	Income Taxes				
5	Taxes Other Than Income Taxes				
6	Gain/Loss on Property Disposition				
7	<u>Total Operating Expenses and Taxes</u>				
8	<u>Net Operating Income</u>				
9	Plus: Allowance for Funds Used During Construction				
10	Less: Charitable & Educational Donations (Net of FIT)				
11	Interest Expense on Customer Deposits				
12	Interest Expense on Supplier Refunds				
13	<u>Adjusted Operating Income</u>				
14	Plus: Other Income/(Expenses)				
15	Less: Interest Expenses				
16	Preferred Dividends				
17	JDC Capital Expenses				
18	<u>Income Available for Common Equity</u>				
19	Net Utility Plant				
20	Less: Other Rate Base Deductions				
21	Plus: Allowance for Working Capital				
22	<u>Total Rate Base</u>				
23	Total Capital for Ratemaking				
24	Common Equity Capital for Ratemaking				
25	Rate of Return Earned on Rate Base (L13/L22=X)				
26	Rate of Return Earned on Common Equity (L18/L24=X)				
27	Authorized ROR on Common Equity				

Line No.	NET ORIGINAL COST RATE BASE PER BOOKS					Schedule 5	
	(Col. 1) Total Company Per Book	(Col. 2) Adjustments Due to Ratemaking Requirements	(Col. 3) Total Company As Adjusted	(Col. 4) Non-VA Jurisdictional Business	(Col. 5) VA Jurisdictional Business		
1	<u>Net Utility Plant</u>						
2	Utility Plant in Service						
3	Acquisition Adjustments						
4	Construction Work in Progress						
5	Plant Held for Future Use						
6	Less: Accumulated Provision for Depr. and Amort.						
7	Customer Advances for Construction						
8	<u>Total Net Utility Plant</u>						
9	<u>Other Rate Base Deductions</u>						
10	Accumulated Deferred Income Taxes						
11	Customer Deposits						
12	Supplier Refunds						
13	Other Cost Free Capital						
14	<u>Total Other Rate Base Deductions</u>						
15	<u>Allowance for Working Capital</u>						
16	Cash Working Capital						
17	Materials and Supplies						
18	Deferred Fuel/Deferred Gas						
19	Other Working Capital						
20	<u>Total Allowance for Working Capital</u>						
21	<u>Total Rate Base</u>						

NET ORIGINAL COST RATE BASE
FULLY ADJUSTED

Line No.	(Col. 1) <u>VA Jurisdictional Business</u>	(Col. 2) <u>Ratemaking Adjustments</u>	(Col. 3) <u>Amounts After Adjustments</u>
1	<u>Net Utility Plant</u>		
2	Utility Plant in Service		
3	Acquisition Adjustments		
4	Construction Work in Progress		
5	Plant Held for Future Use		
6	Less: Accumulated Provision for Depr. and Amort.		
7	Customer Advances for Construction		
8	<u>Total Net Utility Plant</u>		
9	<u>Other Rate Base Deductions</u>		
10	Accumulated Deferred Income Taxes		
11	Customer Deposits		
12	Supplier Refunds		
13	Other Cost Free Capital		
14	<u>Total Other Rate Base Deductions</u>		
15	<u>Allowance for Working Capital</u>		
16	Cash Working Capital		
17	Materials and Supplies		
18	Deferred Fuel/Deferred Gas		
19	Other Working Capital		
20	<u>Total Allowance for Working Capital</u>		
21	<u>Total Rate Base</u>		

Subschedule 6a or 6b

COMPUTATION OF CASH WORKING CAPITAL

Line No.	(Col. 1) Per Column (1) or Column (3) of Schedule 4	(Col. 2) Daily Amount (Col. 1/365)	(Col. 3) Lead Days	(Col. 4) Lag Days	(Col. 5) Net Days	(Col. 6) CWC (Col. 2*Col. 1)
1	<u>Cost of Operations</u>					
2	O & M Expenses					
3	Depreciation & Amortization					
4	Income Taxes					
5	(Gain)/Loss					
6	(AFUDC)					
7	Charitable Donations (Net of FIT)					
8	Interest on Customer Deposits					
9	Other (Income)/Expenses					
10	Interest Expense					
11	Preferred Dividends					
12	JDC Expense					
13	Common Equity					
14	<u>Subtotal</u>					
15						
16						
17						

* Items Recognized per
Balance Sheet Analysis

**Cash Working Capital

* Attach schedule listing in detail
all items included in balance sheet analysis

** Reconciles to CWC reflected in
column (1) or column (3) of schedule 6

DETAIL OF RATEMAKING ADJUSTMENTS

Adj. No.	Description	Col. (1) Operating Revenues	Col. (2) O & M Expense	Col. (3) Depr. Amort.	Col. (4) Income Taxes	Col. (5) Taxes Other	Col. (6) Other	Col. (7) A.D.I	Col. (8) Net Utility Plant	Col. (9) Other Deductions	Col. (10) Working Capital
	Operating Revenues										
	O & M Expenses										
	Depreciation & Amortization										
	Income Taxes										
	Taxes Other										
	Other										
	<u>Total - A. O. I.</u>										
	Net Utility Plant										
	Other Deductions										
	Working Capital										
	<u>Total - Rate Base</u>										

Schedule 10

PER BOOKS CAPITAL STRUCTURE AND COST OF CAPITAL STATEMENT

<u>Component</u>	(Col. 1)	(Col. 2)	(Col. 3)	(Col. 4)	(Col. 5)	(Col. 6)	
	Amount Outstanding <u>Per Books</u>	(A)	(B)	Amount Outstanding <u>As Adjusted</u>	Percentage Of <u>Total</u>	Cost Rate	Weighted Cost
		Adjustments Due To Ratemaking <u>Requirements</u>					
Short-Term Debt							
Long-Term Debt							
Preferred Stock							
Common Equity							
Job Development Credits							
Other							
Total							

STATEMENT SUPPORTING COST OF JOB DEVELOPMENT CREDITS

<u>Component</u>	(Col. 1)	(Col. 2)	(Col. 3)	(Col. 4)	(Col. 5)	(Col. 6)	
	Amount Outstanding <u>Per Books</u>	(A)	(B)	Amount Outstanding <u>As Adjusted</u>	Percentage Of <u>Total</u>	Cost Rate	Weighted Cost
		Adjustments Due To Ratemaking <u>Requirements</u>					
Long-Term Debt							
Preferred Stock							
Common Equity							
Total							

State Corporation Commission

Schedule 11

FULLY ADJUSTED CAPITAL STRUCTURE AND COST OF CAPITAL STATEMENT

<u>Component</u>	(Col. 1) Amount Outstanding <u>Fully Adjusted</u>	(Col. 2) Percentage Of <u>Total</u>	(Col. 3) Cost Rate	(Col. 4) Weighted <u>Cost</u>
Short-Term Debt				
Long-Term Debt				
Preferred Stock				
Common Equity				
Job Development Credits				
Other				
Total				

STATEMENT SUPPORTING COST OF JOB DEVELOPMENT CREDITS

<u>Component</u>	(Col. 1) Amount Outstanding <u>Fully Adjusted</u>	(Col. 2) Percentage Of <u>Total</u>	(Col. 3) Cost Rate	(Col. 4) Weighted <u>Cost</u>
Long-Term Debt				
Preferred Stock				
Common Equity				
Total				

GOVERNOR

GOVERNOR'S COMMENTS ON PROPOSED REGULATIONS

(Required by § 9-6.12:9.1 of the Code of Virginia)

DEPARTMENT OF AIR POLLUTION CONTROL (STATE BOARD OF)

Title of Regulation: **VR 120-01. Regulations for the Control and Abatement of Air Pollution.**

Governor's Comment:

These regulations are intended to ensure that public health and welfare is protected and to bring Virginia's air pollution standards in line with federal standards by adopting the latest technical and scientific information. Pending public comment, I recommend approval.

/s/ Lawrence Douglas Wilder
Governor
Date: December 16, 1991

VIRGINIA HEALTH SERVICES COST REVIEW COUNCIL

Title of Regulation: **VR 370-01-001. Rules and Regulations of the Virginia Health Services Cost Review Council.**

Governor's Comment:

I approve the form and the content of this proposal. My final approval will be contingent upon a review of the public's comments.

/s/ Lawrence Douglas Wilder
Governor
Date: December 17, 1991

BOARD FOR HEARING AID SPECIALISTS

Title of Regulation: **VR 375-01-02. Board for Hearing Aid Specialists Regulations.**

Governor's Comment:

These regulations are intended to update and clarify the Board for Hearing Aid Specialists' existing regulations. Pending public comment, I recommend approval.

/s/ Lawrence Douglas Wilder
Governor
Date: December 16, 1991

DEPARTMENT OF MEDICAL ASSISTANCE SERVICES (BOARD OF)

Title of Regulation: **VR 460-03-3.1100. Amount, Duration,**

and Scope of Services: Reduction of Threshold Days for Hospital Utilization Review; SSOP.

Governor's Comment:

I concur with the form and the content of this proposal. My final approval will be contingent upon a review of the public's comments.

/s/ Lawrence Douglas Wilder
Governor
Date: December 20, 1991

BOARD OF MEDICINE

Title of Regulation: **VR 465-10-01. Certification of Radiological Technology Practitioners.**

Governor's Comment:

I concur with the form and the content of this proposal. My final approval will be contingent upon a review of the public's comments.

/s/ Lawrence Douglas Wilder
Governor
Date: December 17, 1991

BOARD OF PHARMACY

Title of Regulation: **VR 530-01-2. Regulations for Practitioners of the Healing Arts to Sell Controlled Substances.**

Governor's Comment:

I concur with the form and the content of this proposal. My final approval will be contingent upon a review of the public's comments.

/s/ Lawrence Douglas Wilder
Governor
Date: December 17, 1991

DEPARTMENT OF SOCIAL SERVICES (BOARD OF)

Title of Regulation: **VR 615-33-01. Fee Requirements for Processing Applications.**

Governor's Comment:

I concur with the form and the content of this proposal. My final approval will be contingent upon a review of the public's comments.

/s/ Lawrence Douglas Wilder
Governor
Date: December 18, 1991

GENERAL NOTICES/ERRATA

Symbol Key †

† Indicates entries since last publication of the Virginia Register

GENERAL NOTICES

NOTICE

Notices of Intended Regulatory Action are being published as a separate section of the Register beginning with the October 7, 1991, issue. The new section appears at the beginning of each issue.

DEPARTMENT OF LABOR AND INDUSTRY

Notice to the Public

The Virginia State Plan for the enforcement of occupational safety and health laws (VOSH) commits the Commonwealth to adopt regulations identical to, or as effective as, those promulgated by the U.S. Department of Labor, Occupational Safety and Health Administration.

Accordingly, public participation in the formulation of such regulations must be made during the adoption of such regulations at the Federal level. Therefore, the Virginia Department of Labor and Industry is issuing the following notice:

U.S. Department of Labor

Occupational Safety and Health Administration

29 CFR Parts 1910

Docket No. H-122

RIN 1218-AB37

Occupational Exposure to Indoor Air Pollutants; Request for Information

AGENCY: Occupational Safety and Health Administration, Department of Labor.

ACTION: Request for Information.

SUMMARY: In the September 20, 1991 issue of the Federal Register, the Occupational Safety and Health Administration (OSHA) published a notice of request for information on issues pertinent to indoor air quality in occupational environments (56 FR 47892). This notice raises major issues which OSHA needs to consider in determining whether regulatory action is appropriate and feasible to control health problems related to poor indoor

air quality. The issues on which comment is requested are organized into five broad categories: (1) Definition of and Health Effects Pertaining to Indoor Air Quality; (2) Monitoring and Exposure Assessment; (3) Controls; (4) Local Policies and Practices; and (5) Potential Content of Regulations.

In addition to seeking information regarding Indoor Air Quality concerns in general, issues addressed in this notice also focus on specific indoor air contaminants, such as passive tobacco smoke (PTS), radon and bioaerosols. With respect to these particular contaminants, information is requested on their relative contribution to the overall degradation of indoor air quality as well as associated health effects and methods of exposure assessment and mitigation. The information received in response to this notice will assist OSHA to determine whether it is necessary and appropriate to pursue regulatory action concerning occupational exposures to indoor air contaminants.

DATES: Written comments concerning this notice of request for information on issues pertinent to occupational exposure to indoor air pollutants must be postmarked on or before January 21, 1992.

ADDRESSES: Comments should be submitted in quadruplicate to the Docket Officer, Docket No. H-122, room N-2625, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20210, telephone (202) 523-7894.

An additional copy of your comments should be submitted to the Director of Enforcement Policy, Virginia Department of Labor and Industry, 13 South Thirteenth Street, Richmond, VA 23219.

FOR FURTHER INFORMATION CONTACT: James F. Foster, Occupational Safety and Health Administration, Office of Public Affairs, Room N-3649, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20210. Telephone (202) 423-8151.

Notice to the Public

The Safety and Health Codes Board adopted the following Federal OSHA Standards at its meeting on November 26, 1991:

1. Technical Amendments to the Safety Standards for Stairways and Ladders Used in the Construction Industry, 1926.1050 through 1926.1060.

Effective date is February 1, 1992.

2. Extension of the Partial Stay to the Amendment to the General Industry and Construction Industry Standards for Occupational Exposure to Asbestos, Tremolite, Anthophyllite and Actinolite, 1910.1001 and 1926.58.

Effective date is November 27, 1991.

3. Extension of Administrative Stay to the General Industry Standard for Occupational Exposure to Formaldehyde, 1910.1048(m)(1)(i) through (m)(4)(ii).

Effective date is November 27, 1991.

Contact person for additional information: John J. Crisanti, Director of Office of Enforcement Policy, (804) 786-2384.

Notice to the Public

Statement of Final Agency Action

Virginia Occupational Safety and Health Standards for the General Industry

Extension of Partial Stay to Amendment to the General Industry Standard for Occupational Exposure to Asbestos, Tremolite, Anthophyllite and Actinolite, 1910.1001, 1926.58

VR 425-02-10

On November 26, 1991, the Virginia Safety and Health Codes Board adopted an Extension of the Partial Stay to the Amended Standard to the Final Rule of the Virginia Occupational Safety and Health Standards for General Industry entitled, "VR 425-02-10, Occupational Exposure to Asbestos, Tremolite, Anthophyllite and Actinolite, 1910.1001 and 1926.58."

The effective date of the stay is November 27, 1991, and it will remain in effect until February 28, 1992, to allow OSHA to complete supplemental rulemaking limited to the issue of whether non-asbestiform tremolite, anthophyllite and actinolite should continue to be regulated in the same standard as asbestos, or should be treated in some other way. OSHA also is making minor conforming amendments to notes to the affected standards.

Notice to the Public

Statement of Final Agency Action

Virginia Occupational Safety and Health Standards for the General Industry

Extension of Partial Stay to Amendment to the General Industry Standard for Occupational Exposure to Formaldehyde

VR 425-02-35

On November 26, 1991, the Virginia Safety and Health

Codes Board adopted an additional extension of the administrative stay for Occupational Exposure to Formaldehyde - § 1910.1048(m)(1)(9i).

The effective date of the stay is November 27, 1991, and it will remain in effect until February 4, 1992.

General Notice

January 31, 1992 - 9 a.m. - Public Briefing

Fourth Floor Auditorium, Richmond Plaza Building, 110 South Seventh Street, Richmond, Virginia 23219.

The federal Occupational Safety and Health Administration (OSHA) has authorized 23 states to operate state plans for the administration of occupational safety and health. The Virginia State Plan for Occupational Safety and Health (VOSH), operated by the Department of Labor and Industry, is one of 14 such plans to achieve final plan approval.

In September of 1991, following the accident at Imperial Food Products in Hamlet, N.C., Congress directed the U.S. Department of Labor to conduct a special reevaluation of all such state plans.

The Department of Labor and Industry will hold a public briefing to provide information regarding the special reevaluation of the VOSH program by federal OSHA. To receive registration materials for the briefing, contact Regina Hamilton, Powers-Taylor Building, Department of Labor and Industry, 13 South Thirteenth Street, Richmond, Virginia 23219, telephone (804) 786-8705.

VIRGINIA CODE COMMISSION

NOTICE TO STATE AGENCIES

Change of Address: Our new mailing address is: Virginia Code Commission, 910 Capitol Street, General Assembly Building, 2nd Floor, Richmond, VA 23219. You may FAX in your notice; however, we ask that you do not follow-up with a mailed in copy. Our FAX number is: 371-0169.

FORMS FOR FILING MATERIAL ON DATES FOR PUBLICATION IN THE VIRGINIA REGISTER OF REGULATIONS

All agencies are required to use the appropriate forms when furnishing material and dates for publication in the Virginia Register of Regulations. The forms are supplied by the office of the Registrar of Regulations. If you do not have any forms or you need additional forms, please contact: Virginia Code Commission, 910 Capitol Street, General Assembly Building, 2nd Floor, Richmond, VA 23219, telephone (804) 786-3591.

FORMS:

General Notices/Errata

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

OR GUBERNATORIAL OBJECTIONS - RR08

DEPARTMENT of PLANNING AND BUDGET
(Transmittal Sheet) - DPBRR09

Copies of the Virginia Register Form, Style and Procedure Manual may also be obtained at the above address.

CALENDAR OF EVENTS

Symbols Key	
†	Indicates entries since last publication of the Virginia Register
♿	Location accessible to handicapped
☎	Telecommunications Device for Deaf (TDD)/Voice Designation

NOTICE

Only those meetings which are filed with the Registrar of Regulations by the filing deadline noted at the beginning of this publication are listed. Since some meetings are called on short notice, please be aware that this listing of meetings may be incomplete. Also, all meetings are subject to cancellation and the Virginia Register deadline may preclude a notice of such cancellation.

For additional information on open meetings and public hearings held by the Standing Committees of the Legislature during the interim, please call Legislative Information at (804) 786-6530.

VIRGINIA CODE COMMISSION

EXECUTIVE

BOARD FOR ACCOUNTANCY

January 27, 1992 - 10 a.m. – Open Meeting
† January 28, 1992 - 8 a.m. – Open Meeting
Department of Commerce, 3600 West Broad Street, 5th Floor, Richmond, Virginia. ♿

A meeting to (i) review applications; (ii) review correspondence; (iii) review and disposition of enforcement cases; (iv) review committee reports; and (v) conduct routine board business.

Contact: Roberta L. Banning, Assistant Director, 3600 West Broad Street, Richmond, VA 23230-4917, telephone (804) 367-8590.



DEPARTMENT FOR THE AGING

Governor's Advisory Board on Aging

January 14, 1992 - 10 a.m. – Open Meeting
January 15, 1992 - 9:30 a.m. – Open Meeting

The Jefferson Hotel, Franklin and Adams Street, Richmond, Virginia. ♿ (interpreter for deaf provided upon request)

The sessions will consist of committee meetings, business meetings and joint meetings with the Virginia Association of Area Agencies on Aging.

Contact: Cathy Saunders, Special Assistant to the Commissioner, 700 E. Franklin Street, 10th Floor, Richmond, VA 23219, telephone (804) 225-2272, toll-free 1-800-552-3402 or (804) 225-2271/TDD ☎

DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES

Pesticide Control Board

January 16, 1992 - 10 a.m. – Open Meeting
January 17, 1992 - 9 a.m. – Open Meeting
Virginia Department of Agriculture and Consumer Services, Board Room No. 204, 1100 Bank Street, Richmond, Virginia. ♿

Portions of the meeting may be held in closed session pursuant to § 2.1-344 of the Code of Virginia. The public will have an opportunity to comment on any matter not on the Pesticide Control Board's agenda at 9 a.m., January 17, 1992. The board anticipates hearing a presentation on pesticides by a speaker, yet to be determined, at 8 p.m., January 16, 1992, following their dinner, at the Commonwealth Park Suites Hotel, Ninth and Bank Streets, Richmond, VA.

Contact: Dr. Marvin A. Lawson, Program Manager, Office of Pesticide Management, Virginia Department of Agriculture and Consumer Services, P.O. Box 1163, Room 401, Richmond, VA 23219, telephone (804) 371-6558.

Virginia Apple Board

February 20, 1992 - 10 a.m. – Open Meeting
1219 Stoneburner Street, Staunton, Virginia. (Interpreter for deaf provided upon request)

The board convenes to conduct matters of business affecting the Virginia Apple Industry. The board will entertain public comment at the conclusion of all other business for a period not to exceed 30 minutes.

NOTE: CHANGE OF ADDRESS

Contact: Clayton O. Griffin, Director, P.O. Box 718, Staunton, VA 24401, telephone (703) 332-7790.

Calendar of Events

Virginia Farmers' Market Board

† January 16, 1992 - 10 a.m. - Open Meeting
Sheraton Airport Inn, 4700 S. Laburnum Road, Richmond,
Virginia.

A general business meeting to include update on all
markets. The board will entertain public comment at
the conclusion of all other business for a period not to
exceed 30 minutes.

Contact: Nancy Israel, Farmers' Market Network Program
Director, Virginia Department of Agriculture and Consumer
Services, 1100 Bank Street, Richmond, VA 23219, telephone
(804) 371-6157.

Virginia Sweet Potato Board

March 11, 1992 - 7:30 p.m. - Open Meeting
Eastern Shore Agriculture Experiment Station, Route 1,
Box 133, Research Drive, Painter, Virginia. ☐

A meeting to discuss marketing, promotion, research
and education programs for the state's sweet potato
industry and to develop the board's annual budget. At
the conclusion of other business, the board will
entertain public comments for a period not to exceed
30 minutes.

Contact: J. William Mapp, Program Director, Box 26,
Onley, VA 23418, telephone (804) 787-5867.

ALCOHOLIC BEVERAGE CONTROL BOARD

† January 22, 1992 - 9:30 a.m. - Open Meeting
† February 3, 1992 - 9:30 a.m. - Open Meeting
† February 19, 1992 - 9:30 a.m. - Open Meeting
† March 2, 1992 - 9:30 a.m. - Open Meeting
† March 16, 1992 - 9:30 a.m. - Open Meeting
† March 30, 1992 - 9:30 a.m. - Open Meeting
2901 Hermitage Road, Richmond, Virginia. ☐

A meeting to receive and discuss reports and activities
from staff members. Other matters not yet
determined.

Contact: Robert N. Swinson, Secretary to the Board, 2901
Hermitage Road, P.O. Box 27491, Richmond, VA 23261,
telephone (804) 367-0616.

ARCHITECTS, LAND SURVEYORS, PROFESSIONAL ENGINEERS AND LANDSCAPE ARCHITECTS, BOARD FOR

Board for Architects

January 23, 1992 - 9:30 a.m. - Open Meeting
Department of Commerce, 3600 West Broad Street,
Richmond, Virginia. ☐

A meeting to (i) approve minutes from November 7,
1991, meeting; (ii) review correspondence; (iii) review
enforcement files; and (iv) review applications.

Contact: Willie Fobbs, III, Assistant Director, Department
of Commerce, 3600 W. Broad Street, Richmond, VA 23230,
telephone (804) 367-8514.

COMMISSION FOR THE ARTS

January 15, 1992 - 12:15 p.m. - Open Meeting
The Valentine Museum, 1015 East Clay Street, Richmond,
Virginia. ☐

A quarterly business meeting.

Contact: Wanda T. Smith, Executive Secretary, 223
Governor Street, Richmond, VA 23219-2010, telephone (804)
225-3132.

ASAP POLICY BOARD - CENTRAL VIRGINIA

January 29, 1992 - 7 p.m. - Open Meeting
Central Virginia Alcohol Safety Action Program Policy
Board, 2316 Atherholt Road, Suite 200, Lynchburg, Virginia.

A meeting regarding program activities and future
operations.

Contact: L. T. Townes, P.O. Box 4345, Fort Hill Station,
Lynchburg, VA 24502, telephone (804) 528-4073.

ASAP POLICY BOARD - VALLEY

January 13, 1992 - 8:30 a.m. - Open Meeting
Augusta County School Board Office, Fishersville, Virginia.
☐

A regular meeting of the local policy board to conduct
business pertaining to (i) court referrals; (ii) financial
reports; (iii) director's reports; and (iv) statistical
reports.

Contact: Rhoda G. York, Executive Director, 2 Holiday
Court, Staunton, VA 24401, telephone (703) 886-5616 or
(Waynesboro #) 943-4405.

BOARD OF AUDIOLOGY AND SPEECH PATHOLOGY

January 16, 1992 - 9:30 a.m. - Open Meeting
1601 Rolling Hills Drive, Richmond, Virginia. ☐

A regularly scheduled board meeting.

Contact: Meredyth P. Partridge, Executive Director, 1601
Rolling Hills Drive, Richmond, VA 23229-5005, telephone
(804) 662-7390.

STATE BUILDING CODE TECHNICAL REVIEW BOARD

January 17, 1992 - 10 a.m. – Open Meeting
Virginia Housing Development Authority, 601 Belvidere Street, Conference Room #1, Richmond, Virginia. ☒
(Interpreter for deaf provided upon request)

A meeting to (i) consider requests for interpretation of the Virginia Uniform Statewide Building Code; (ii) consider appeals from the rulings of local appeal boards regarding application of the Virginia Uniform Statewide Building Code; and (iii) approve minutes of previous meeting.

Contact: Jack A. Proctor, 205 N. 4th Street, Richmond, VA 23219, telephone (804) 371-7772.

CHESAPEAKE BAY LOCAL ASSISTANCE BOARD

January 17, 1992 - 10 a.m. – Open Meeting
DIT Auditorium, 110 South 7th Street, Richmond, Virginia.
☒ (Interpreter for deaf provided upon request)

The board will consider "other lands" provisions and buffer area provisions of Preservation Areas and status of local Preservation Act programs. Public comment will be heard early in the meeting. A tentative agenda will be available from the Chesapeake Bay Local Assistance Department by January 10, 1992.

Contact: Receptionist, Chesapeake Bay Local Assistance Department, 805 E. Broad St., Suite 701, Richmond, VA 23219, telephone (804) 225-3440 or toll-free 1-800-243-7229/TDD ☎

January 30, 1992 - 10 a.m. – Open Meeting
Virginia Housing Development Authority, Conference Room #1, 601 South Belvidere Street, Richmond, Virginia. ☒
(Interpreter for deaf provided upon request)

The board will conduct general business, including review of local Chesapeake Bay Preservation Area programs. Public comment will be heard early in the meeting. A tentative agenda will be available from the Chesapeake Bay Local Assistance Department by January 23, 1992.

Contact: Receptionist, Chesapeake Bay Local Assistance Department, 805 E. Broad St., Suite 701, Richmond, VA 23219, telephone (804) 225-3440 or toll-free 1-800-243-7229/TDD ☎

February 27, 1992 - 10 a.m. – Open Meeting
Virginia Housing Development Authority, Conference Room #1, 601 South Belvidere Street, Richmond, Virginia. ☒
(Interpreter for deaf provided upon request)

The board will conduct general business, including review of local Chesapeake Bay Preservation Area

programs. Public comment will be heard early in the meeting. A tentative agenda will be available from the Chesapeake Bay Local Assistance Department by February 20, 1992.

Contact: Receptionist, Chesapeake Bay Local Assistance Department, 805 E. Broad St., Suite 701, Richmond, VA 23219, telephone (804) 225-3440 or toll-free 1-800-243-7229/TDD ☎

March 26, 1992 - 10 a.m. – Open Meeting
State Water Control Board, Conference Room, Innsbrook Corporate Center, 4900 Cox Road, Glen Allen, Virginia. ☒
(Interpreter for deaf provided upon request)

The board will conduct general business, including review of local Chesapeake Bay Preservation Area programs. Public comment will be heard early in the meeting. A tentative agenda will be available from the Chesapeake Bay Local Assistance Department by March 19, 1992.

Contact: Receptionist, Chesapeake Bay Local Assistance Department, 805 E. Broad St., Suite 701, Richmond, VA 23219, telephone (804) 225-3440 or toll-free 1-800-243-7229/TDD ☎

Central Area Review Committee

January 13, 1992 - 1 p.m. – Open Meeting
Middle Peninsula Planning District Commission, Business 17, Saluda, Virginia. ☒ (Interpreter for deaf provided upon request)

January 27, 1992 - 1 p.m. – Open Meeting
James City County Offices, 101A Mounts Bay Road, Williamsburg, Virginia. ☒ (Interpreter for deaf provided upon request)

The committee will review Chesapeake Bay Preservation Area Programs for the Central Area. Persons interested in observing should call the Chesapeake Bay Local Assistance Department to verify meeting time, location and schedule. No comments from the public will be entertained at the Review Committee meetings. However, written comments are welcome.

Contact: Receptionist, Chesapeake Bay Local Assistance Department, 805 E. Broad St., Suite 701, Richmond, VA 23219, telephone (804) 225-3440 or toll-free 1-800-243-7229/TDD ☎

Northern Area Review Committee

January 22, 1992 - 10 a.m. – Open Meeting
February 12, 1992 - 10 a.m. – Open Meeting
February 26, 1992 - 10 a.m. – Open Meeting
March 11, 1992 - 10 a.m. – Open Meeting
March 25, 1992 - 10 a.m. – Open Meeting
Council on the Environment, Conference Room, 9th Street

Calendar of Events

Office Building, Richmond, Virginia. ☒ (Interpreter for deaf provided upon request)

The committee will review Chesapeake Bay Preservation Area Programs for the Northern Area. Persons interested in observing should call the Chesapeake Bay Local Assistance Department to verify meeting time, location and schedule. No comments from the public will be entertained at the Review Committee meetings. However, written comments are welcome.

Contact: Receptionist, Chesapeake Bay Local Assistance Department, 805 E. Broad St., Suite 701, Richmond, VA 23219, telephone (804) 225-3440 or toll-free 1-800-243-7229/TDD ☎

Regulatory Review Committee and Program Study Group

January 15, 1992 - 10 a.m. - Open Meeting
February 19, 1992 - 10 a.m. - Open Meeting
Monroe Building, Meeting Room C, 101 North 14th Street, Richmond, Virginia. ☒ (Interpreter for deaf provided upon request)

March 18, 1992 - 10 a.m. - Open Meeting
Monroe Building, Meeting Room E, 101 North 14th Street, Richmond, Virginia. ☒ (Interpreter for deaf provided upon request)

The committee will consider issues relating to Chesapeake Bay Preservation Area Designation and Management Regulations, VR 173-02-01. No public comment will be taken.

Contact: Receptionist, Chesapeake Bay Local Assistance Department, 805 E. Broad St., Suite 701, Richmond, VA 23219, telephone (804) 225-3440 or toll-free 1-800-243-7229/TDD ☎

Southern Area Review Committee

January 15, 1992 - 10 a.m. - Open Meeting
February 5, 1992 - 10 a.m. - Open Meeting
February 19, 1992 - 10 a.m. - Open Meeting
March 4, 1992 - 10 a.m. - Open Meeting
March 18, 1992 - 10 a.m. - Open Meeting
Council on the Environment, Conference Room, 9th Street Office Building, Richmond, Virginia. ☒ (Interpreter for deaf provided upon request)

The committee will review Chesapeake Bay Preservation Area Programs for the Southern Area. Persons interested in observing should call the Chesapeake Bay Local Assistance Department to verify meeting time, location and schedule. No comments from the public will be entertained at the Review Committee meetings. However, written comments are welcome.

Contact: Receptionist, Chesapeake Bay Local Assistance

Department, 805 E. Broad St., Suite 701, Richmond, VA 23219, telephone (804) 225-3440 or toll-free 1-800-243-7229/TDD ☎

CHILD DAY-CARE COUNCIL

† January 23, 1992 - 8 a.m. - Open Meeting
Koger Executive Center, West End, Wythe Building, Conference Rooms A and B, 1604 Santa Rosa Road, Richmond, Virginia. ☒ (Interpreter for deaf provided upon request)

A meeting to discuss issues, concerns and programs that impact child care centers, camps, school age programs, and preschool/nursery schools.

Contact: Peggy Friedenberg, Legislative Analyst, Office of Governmental Affairs, Department of Social Services, 8007 Discovery Drive, Richmond, VA 23229-8699, telephone (804) 662-9217.

COUNCIL ON CHILD DAY CARE AND EARLY CHILDHOOD PROGRAMS

January 14, 1992 - 10 a.m. - Open Meeting
Crestar Financial Corporation, Piedmont Room, 4th Floor, 919 East Main Street, Richmond, Virginia. ☒

A quarterly council meeting. Public comments will not be received at the meeting.

Contact: Margaret A. Smith, Acting Director, Virginia Council on Child Day Care and Early Childhood Programs, Suite 1116, Washington Building, 1100 Bank Street, Richmond, VA 23219, telephone (804) 371-8603.

INTERDEPARTMENTAL COUNCIL ON RATESETTING FOR CHILDREN'S FACILITIES

† January 22, 1992 - 9 a.m. - Open Meeting
St. Joseph's Villa, 8000 Washington Highway, Richmond, Virginia. ☒

A meeting to (i) call to order; (ii) accept public comments; (iii) review approval of December minutes; (iv) review correspondence; and (v) conduct a work session to define mission/principle for rate-setting.

Contact: Gloria N. Jarrell, Executive Secretary, P.O. Box 3AG, Richmond, VA 23208-1108, telephone (804) 371-2305.

BOARD OF COMMERCE

February 24, 1992 - 10 a.m. - Open Meeting
Department of Commerce, 3600 West Broad Street, Richmond, Virginia. ☒

A regular quarterly meeting. Agenda will likely consist of briefings from staff on the status of bills in the General Assembly that can have an impact upon agency operations, and agency regulatory programs.

Contact: Alvin D. Whitley, Secretary/Policy Analyst, Department of Commerce, 3600 W. Broad Street, Richmond, VA 23230, telephone (804) 367-8564.

STATE BOARD FOR COMMUNITY COLLEGES

January 21, 1992 - Time to be Determined - Open Meeting

Monroe Building, 15th Floor, 101 North 14th Street, Richmond, Virginia.

State board committee meetings.

January 22, 1992 - 9 a.m. - Open Meeting

Monroe Building, 15th Floor, 101 North 14th Street, Richmond, Virginia.

A regularly scheduled state board meeting. Agenda available by January 8, 1992.

Contact: Joy Graham, Assistant Chancellor, Public Affairs, Virginia Community College System, 101 N. 14th Street, Richmond, VA 23219, telephone (804) 225-2126 or (804) 371-8504/TDD ☎

DEPARTMENT OF CONSERVATION AND RECREATION

Falls of the James Scenic River Advisory Board

January 17, 1992 - Noon - Open Meeting

Planning Commission Conference Room, Fifth Floor, City Hall, Richmond, Virginia.

A meeting to review river issues and programs.

Contact: Richard G. Gibbons, Environmental Program Manager, Department of Conservation and Recreation, 203 Governor St., Suite 326, Richmond, VA 23219, telephone (804) 786-4132 or (804) 786-2121/TDD ☎

Virginia Soil and Water Conservation Board

January 16, 1992 - 9 a.m. - Open Meeting

Farm Credit, Mechanicsville, Virginia.

A bi-monthly meeting.

Contact: Donald L. Wells, Department of Conservation and Recreation, 203 Governor St., Suite 206, Richmond, VA 23219, telephone (804) 786-2064.

BOARD FOR CONTRACTORS

† **January 15, 1992 - 9 a.m. - Open Meeting**
3600 West Broad Street, Richmond, Virginia. ☒

A meeting to (i) address policy and procedural issues; (ii) review and render decisions on applications for contractors' licenses; and (iii) 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 discussed in Executive Session.

Contact: Florence R. Brassier, Assistant Director, 3600 West Broad Street, Richmond, VA 23230-4917, telephone (804) 367-8557.

Applications Review Committee

† **January 14, 1992 - 9 a.m. - Open Meeting**
3600 West Broad Street, Richmond, Virginia. ☒

A meeting to review license applications for which there are criminal convictions and/or complaints of possible regulatory violations.

Contact: Christopher C. Rudolph, Jr., Assistant Administrator, 3600 West Broad Street, Richmond, VA 23230, telephone (804) 367-8557.

VIRGINIA COUNCIL ON COORDINATING PREVENTION

January 17, 1992 - 10 a.m. - Open Meeting

Virginia Housing Development Authority, 601 Belvidere Street, Richmond, Virginia. ☒

A quarterly meeting to review pending legislative activity relating to prevention and other business to be determined by the council.

Contact: Ron Collier, Director, P.O. Box 1797, Richmond, VA 23214, telephone (804) 786-1530.

BOARD OF CORRECTIONS

February 12, 1992 - 10 a.m. - Open Meeting

6900 Atmore Drive, Board of Corrections Board Room, Richmond, Virginia. ☒

A regular monthly meeting to consider such matters as may be presented to the board.

Contact: Mrs. Vivian Toler, Secretary to the Board, 6900 Atmore Drive, Richmond, VA 23225, telephone (804) 674-3235.

Liaison Committee

February 13, 1992 - 9:30 a.m. - Open Meeting

Calendar of Events

6900 Atmore Drive, Board of Corrections Board Room, Richmond, Virginia. ☒

A meeting to address criminal justice issues.

Contact: Louis E. Barber, Sheriff, Montgomery County, P.O. Drawer 149, Christiansburg, VA 24073, telephone (703) 382-2951.

DEPARTMENT OF CORRECTIONS (STATE BOARD OF)

NOTE: CHANGE IN PUBLIC HEARING DATE

February 12, 1992 - 10 a.m. – Public Hearing
6900 Atmore Drive, Richmond, Virginia.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the State Board of Corrections intends to amend regulations entitled: **VR 230-30-006. Work/Study Release Standards for Local Facilities.** The proposed regulations establish the minimum operational standards for work or study release programs in local correctional facilities.

Statutory Authority: §§ 53.1-5 and 53.1-131 of the Code of Virginia.

Written comments may be submitted until January 3, 1992.

Contact: Mike Howerton, Chief of Operations, 6900 Atmore Drive, Richmond, VA 23225, telephone (804) 674-3041.

BOARD FOR COSMETOLOGY

January 13, 1992 - 9 a.m. – Open Meeting

February 3, 1992 - 9 a.m. – Open Meeting

Department of Commerce, 3600 West Broad Street, Richmond, Virginia.

A general business meeting.

Contact: Demetra Y. Kontos, Assistant Director, Board for Cosmetology, Department of Commerce, 3600 West Broad Street, Richmond, VA 23230, telephone (804) 367-2175.

DEPARTMENT OF CRIMINAL JUSTICE SERVICES

**Virginia Juvenile Justice and Delinquency Prevention
Advisory Committee**

† **January 22, 1992 - 10 a.m. – Open Meeting**

Virginia Housing Development Authority, 601 South Belvidere Street, Richmond, Virginia. ☒

A meeting to discuss matters relating to the prevention and treatment of juvenile delinquency and the administration of juvenile justice in the Commonwealth.

Contact: Paula J. Scott, Executive Assistant, Department of

Criminal Justice Services, 805 East Broad Street, Richmond, Virginia 23219, telephone (804) 786-4000.

DEPARTMENT OF CRIMINAL JUSTICE SERVICES (BOARD OF)

March 6, 1992 - 1 p.m. – Public Hearing
Virginia Housing Development Authority, 601 South Belvidere Street, Richmond, Virginia.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Board of Criminal Justice Services intends to adopt regulations entitled: **VR 240-04-3. Rules Relating to the Court-Appointed Special Advocate Program (CASA).** The purpose of the proposed regulation is to regulate the operation of local Court-Appointed Special Advocate programs.

Statutory Authority: §§ 9-173.7 and 9-173.8 of the Code of Virginia.

Written comments may be submitted until February 3, 1992, to Francine Ecker, Department of Criminal Justice Services, 805 East Broad Street, Richmond, Virginia 23219.

Contact: Paula J. Scott, Executive Assistant, Department of Criminal Justice Services, 805 East Broad Street, Richmond, Virginia 23219, telephone (804) 786-8730.

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† **April 1, 1992 - 9 a.m. – Public Hearing**

General Assembly Building, House Room D, Richmond, Virginia.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Criminal Justice Services Board intends to amend regulations entitled: **VR 240-01-2. Rules Relating to Compulsory In-Service Training Standards for Law-Enforcement Officers, Jailors or Custodial Officers, Courtroom Security Officers, Process Service Officers and Officers of the Department of Corrections Institutional Services.** The proposed amendments mandate in-service training requirements for those criminal justice officers specified in the title of the regulation.

STATEMENT

Basis, purpose and impact: The purpose of this regulatory action is to amend existing regulations to provide regulated entities alternative methods to obtain required in-service training. Additionally, the amended regulation provides an additional firearms training course which may be selected by criminal justice agencies whose personnel must qualify with a firearm carried in the performance of duty.

Estimated impact:

Number and types of regulated entities affected: Such

regulation currently affects approximately 400 public criminal justice agencies and 23,000 employees statewide. These criminal justice agencies are comprised of state and local police departments, sheriffs offices, the Department of Corrections and regional jails and jail farms.

Projected cost to regulated entities for implementation and compliance: The proposed amendment does not contain any increase in training hours required and does not affect the time in which training must be completed. The proposed amendments should allow for cost savings to criminal justice agencies by allowing officers to attend such training either all at one time or in a cumulative manner. Currently, firearms requirements exist. Therefore, the addition of an additional optional course has no fiscal impact on regulated entities.

Projected cost to agency for implementation and enforcement: Cost incurred by the Department of Criminal Justice Services for implementation is primarily for printing, mailing and complying with the provisions of the Administrative Process Act, Executive Orders and the Department's Public Participation Guidelines. Implementation cost to the agency is not expected to exceed three thousand dollars.

Compliance and monitoring activities are currently being conducted with existing regulation. Compliance and monitoring activities associated with the amended rules will be handled in the same manner as is now in place for the existing regulation. Compliance and monitoring cost will not be adversely affected.

Explanation of need and potential consequences that may result in the absence of these regulations: These regulations are needed to continue to provide guidelines and training to those individuals responsible for the protection of the general populace. Such regulations ensure that criminal justice personnel receive periodic training in areas related to legal issues, use of force and other job related training. Such criminal justice personnel should be knowledgeable and sensitive of individual rights and the laws that impact upon their duties. Without these regulations, protection of the public safety would be severely limited.

Forms: Procedural requirements and forms required are to be the same as is currently in use. The primary form, Form 41, is a reporting roster indicating successful completion of in-service training completion.

Statutory Authority: § 9-170 of the Code of Virginia.

Written comments may be submitted until March 12, 1992.

Contact: L.T. Eckenrode, Division Director, Department of Criminal Justice Services, 805 East Broad Street, Richmond, Virginia 23219, telephone (804) 786-4000.

† April 1, 1992 - 9 a.m. - Public Hearing
General Assembly Building, House Room D, Richmond, Virginia.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Criminal Justice Services Board intends to amend regulations entitled: **VR 240-01-12. Rules Relating to Certification of Criminal Justice Instructors.** These proposed amendments set forth mandated training requirements for certification of Criminal Justice Instructors.

STATEMENT

Basis, purpose and impact: The purpose of this regulation is to mandate compulsory minimum training standards for the certification of criminal justice instructors and, in doing so, to ensure that criminal justice officers attending compulsory minimum training are instructed by competent and professional instructors devoted to a quality of training that best serves to protect the health, safety and welfare of the public at large.

Estimated impact:

Number and types of regulated entities affected: Approximately 400 public criminal justice agencies and 32 certified training academies that train or employ law-enforcement officers, jail or custodial officers, courtroom security officers, process service officers and officers of the Department of Corrections, Division of Adult Institutions, and dispatchers.

Projected costs to regulated entities for implementation and compliance: Projected costs to regulated entities should be minimal. The amended rules add a new category of instructor in the area of radar training to comply with amendments to § 9-170 of the Code of Virginia made by the 1991 General Assembly, mandating radar training compliance to the department. However, the addition of this category of instructor will provide additional flexibility for local criminal justice agencies in the manner in which training is provided in this area. Some additional hours are being added to the apprenticeship requirement which currently exists in the rules and regulations. This cost is not a direct cost, but may be classified more as an in-kind cost.

Projected cost to agency for implementation and enforcement: Cost incurred by the Department of Criminal Justice Services for implementation is primarily for printing, mailing and complying with the provisions of the Administrative Process Act, Executive Orders and the Department's Public Participation Guidelines. Implementation cost to the agency is not expected to exceed \$3,000.

Compliance and monitoring activities are currently being conducted with existing regulations. Compliance and

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monitoring activities associated with the he amended rules will be handled in the same manner as is now in place for the existing regulation. Compliance and monitoring cost will not be adversely affected.

Explanation of need and potential consequences that may result in the absence of these regulations: These regulations are needed to continue to provide guidelines and training standards to those individuals responsible for instructing criminal justice officers through certified training academies. Certified Criminal Justice Instructors should be proficient not only in their knowledge of subject they instruct, but in the manner in which they present their instructional material. Without these regulations, the instructional competency of criminal justice instructors and their presentation of knowledge, skills and abilities mandated for compulsory minimum and in-service training standards for criminal justice officers may be more challengeable in the courts. The beneficiary of such amendments is the general public to whom services are provided by criminal justice officers receiving the training.

Forms: Forms to be used in conjunction with these regulations will need to be revised in order to comply with the amendment. The primary form, Criminal Justice Instructor - Application for Certification/Recertification is a reporting form for certifying compliance of mandated instructor training and apprenticeship qualifications and authorization from the employing agency administrator and certified academy director.

Statutory Authority: § 9-170 of the Code of Virginia.

Written comments may be submitted until March 12, 1992.

Contact: L.T. Eckenrode, Division Director, Department of Criminal Justice Services, 805 East Broad Street, Richmond, Virginia 23219, telephone (804) 786-8475.

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April 1, 1992 - 2:30 p.m. – Public Hearing
General Assembly Building, House Room D, Richmond, Virginia.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Criminal Justice Services Board intends to adopt regulations entitled: **VR 240-04-2. Rules Relating to the Forfeited Drug Asset Sharing Program.** The purpose of the proposed regulation is to regulate the administration of the Forfeited Drug Asset Sharing Program.

Statutory Authority: §§ 19.2-386.4, 19.2-386.10 and 19.2-386.14 of the Code of Virginia.

Written comments may be submitted until February 28, 1992.

Contact: Paula J. Scott, Executive Assistant, Department of Criminal Justice Services, 805 East Broad Street,

Richmond, Virginia 23219, telephone (804) 786-8730.

DEPARTMENT FOR THE DEAF AND HARD OF HEARING

† **January 14, 1992 - 6 p.m. – Public Hearing**
Virginia School for the Deaf-Blind, Staunton, Virginia.

† **January 17, 1992 - 6 p.m. – Public Hearing**
Lynchburg College, 1501 Lakeside Drive, Hopwood Building Room 4, Lynchburg, Virginia.

† **January 18, 1992 - 1 p.m. – Public Hearing**
Holiday Inn-South Hill, South Hill, Virginia.

NOTE: CHANGE IN MEETING TIME
† **January 21, 1992 - 6 p.m. – Public Hearing**
Virginia School for the Deaf-Blind, 700 Shell Road, Hampton, Virginia.

† **January 28, 1992 - 6 p.m. – Public Hearing**
Fairfax High School, 3500 Old Lee Highway, 1st Floor, Multipurpose Room, Fairfax, Virginia

† **January 31, 1992 - 6 p.m. – Public Hearing**
New River Community College, Dublin, Virginia.

† **February 1, 1992 - 2 p.m. – Public Hearing**
Holiday Inn-Norton, Norton, Virginia.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Department for the Deaf and Hard of Hearing intends to amend regulations entitled: **VR 245-02-01. Regulations Governing Eligibility Standards and Application Procedures for the Distribution of Telecommunications Equipment.** The regulations are used to (i) screen individuals with hearing losses and speech problems who apply for telecommunications equipment through the Telecommunications Assistance Program; (ii) determine contributions, if any; and (iii) ensure confidentiality. It also ensures that the department retains ownership of equipment costing \$5,000 or more. Consideration is being given to expanding range of telecommunications equipment.

Statutory Authority: § 63.1-85.4 of the Code of Virginia.

Written comments may be submitted until February 2, 1992.

Contact: Kathy E. Vesley, Deputy Director, Department for the Deaf and Hard of Hearing, Washington Building, Capitol Square, 1100 Bank Street, 12th Floor, Richmond, Virginia 23219, telephone (804) 225-2570/Voice/TDD ☎ or toll-free 1-800-552-7917/Voice/TDD ☎

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January 14, 1992 - 6 p.m. – Public Hearing

Virginia School for the Deaf-Blind, Staunton, Virginia.
† **January 17, 1992 - 6 p.m.** – Public Hearing
Lynchburg College, 1501 Lakeside Drive, Hopwood Building
Room 4, Lynchburg, Virginia.

NOTE: CHANGE IN MEETING TIME

January 18, 1992 - 1 p.m. – Public Hearing
Holiday Inn-South Hill, South Hill, Virginia.

January 21, 1992 - 6 p.m. – Public Hearing
Virginia School for the Deaf-Blind, 700 Shell Road,
Hampton, Virginia.

January 28, 1992 - 6 p.m. – Public Hearing
Fairfax High School, 3500 Old Lee Highway, 1st Floor,
Multipurpose Room, Fairfax, Virginia

January 31, 1992 - 6 p.m. – Public Hearing
New River Community College, Dublin, Virginia.

February 1, 1992 - 2 p.m. – Public Hearing
Holiday Inn-Norton, Norton, Virginia.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Department for the Deaf and Hard of Hearing intends to amend regulations entitled: **VR 245-03-01. Regulations Governing Interpreter Services for the Deaf and Hard of Hearing.** These regulations are used to establish guidelines for assessing transliterating or interpreting skills of individuals who wish to achieve a VQAS screening level.

Statutory Authority: § 63.1-85.4 of the Code of Virginia.

Written comments may be submitted until February 28, 1992.

Contact: Kathy E. Vesley, Deputy Director, Department for the Deaf and Hard of Hearing, Washington Building, Capitol Square, 1100 Bank Street, 12th Floor, Richmond, Virginia 23219, telephone (804) 225-2570/Voice/TDD ☎ or toll-free 1-800-552-7917/Voice/TDD ☎

BOARD OF DENTISTRY

January 18, 1992 - 10 a.m. – Open Meeting
Northern Virginia Community College, 8333 Little River Turnpike, Annadale, Virginia. ☒

January 22, 1992 - 11:30 a.m. – Open Meeting
Alcoholic Beverage Commission, 4907 Mercury Boulevard, Hampton, Virginia. ☒

Informal conferences.

January 29, 1992 - 1 p.m. – Open Meeting
Department of Health Professions, 1601 Rolling Hills Drive, Richmond, Virginia. ☒

Informal conferences beginning at 1 p.m. Legislative committee meeting at 5:30 p.m. Examination committee meeting at 7:30 p.m. Endorsement committee meeting at 8:30 p.m. Advertising committee meeting at 9 p.m. This is a public meeting and the public is invited to observe. No public testimony will be received by the board at this meeting. Please contact the board office prior to the meeting to make sure it is scheduled.

January 30, 1992 - 8:30 a.m. – Open Meeting
January 31, 1992 - 8:30 a.m. – Open Meeting

A meeting to receive committee reports, conduct regular board business and conduct formal hearings. This is a public meeting and the public is invited to observe. No public testimony will be received by the board at this meeting. Please contact the board office prior to the meeting to make sure it is scheduled.

Contact: Nancy Taylor Feldman, Executive Director, 1601 Rolling Hills Drive, Richmond, VA, telephone (804) 662-9906.

STATE COUNCIL OF HIGHER EDUCATION FOR VIRGINIA

† **February 11, 1992 - 9 a.m.** – Open Meeting
Monroe Building, Council Conference Room, 9th Floor, Richmond, Virginia. ☒

A general business meeting. For more information contact the Council.

Contact: Anne Pratt, Associate Director, 101 North Fourteenth Street, 9th Floor, Richmond, VA 23219, telephone (804) 225-2629.

LOCAL EMERGENCY PLANNING COMMITTEE - CHESTERFIELD COUNTY

February 6, 1992 - 5:30 p.m. – Open Meeting
Chesterfield County Administration Building, 10001 Ironbridge Road, Chesterfield, Virginia. ☒

A meeting to meet requirements of Superfund Amendment and Reauthorization Act of 1986.

Contact: Linda G. Furr, Assistant Emergency Services, Chesterfield Fire Department, P.O. Box 40, Chesterfield, VA 23832, telephone (804) 748-1236.

LOCAL EMERGENCY PLANNING COMMITTEE - HANOVER COUNTY

† **January 21, 1992 - 9 a.m.** – Open Meeting
Hanover Courthouse Volunteer Fire Co., #5, Route 1004 at Route 301 North, Hanover, Virginia.

Calendar of Events

A meeting to (i) introduce LEPC and Board of Supervisors/Co. Administrator with brief explanation of purpose and responsibilities; (ii) update 1991 incidents; (iii) review old business; (iv) review new business; (v) review videotape "Sheltering in Place"; and (vi) update chemical transport tabletop exercise in March, 1992.

Contact: John F. Trivellin, Hazardous Materials Coordinator, Hanover County Fire Administration, P.O. Box 470, Hanover, VA 23069, telephone (804) 798-8554.

LOCAL EMERGENCY PLANNING COMMITTEE - NEW KENT COUNTY

January 16, 1992 - 7:30 p.m. - Open Meeting
New Kent County Administration Building, New Kent, Virginia. ☒

An annual meeting to review the New Kent County Hazardous Materials Response Plan as required by SARA Title III.

Contact: J. Lawrence Gallaher, Director of Public Safety, P.O. Box 50, New Kent, VA 23124, telephone (804) 966-9680.

COUNCIL ON THE ENVIRONMENT

† **January 14, 1992 - 7:30 p.m. - Open Meeting**
General Assembly Building, House Room C, Capitol Square, Richmond, Virginia. ☒

An annual environmental legislation review meeting. It is an opportunity for the public to learn about environmental legislation which will be debated before the 1992 General Assembly. Members of the General Assembly will make presentations on environmental legislation they are sponsoring and state natural resource agencies will discuss their respective legislative proposals. The Council will also review and discuss a draft report on the protection and management of forest lands in Virginia.

Contact: Hannah Crew, Assistant Administrator, or Keith Buttleman, Administrator, Council on the Environment, 202 N. Ninth Street, Suite 900, Richmond, VA 23219, telephone (804) 786-4500.

BOARD OF FUNERAL DIRECTORS AND EMBALMERS

February 4, 1992 - 9 a.m. - Open Meeting
1601 Rolling Hills Drive, Surry Building, Richmond, Virginia. ☒

A full board meeting. Public comment period will be from 9 a.m. to 9:30 a.m.

February 5, 1992 - 9 a.m. - Open Meeting
1601 Rolling Hills Drive, Surry Building, Richmond, Virginia. ☒

Informal hearings.

February 6, 1992 - 9 a.m. - Open Meeting
Martinsville City Hall, Circuit Court Room, 55 West Church Street, Martinsville, Virginia. ☒

Formal hearings.

Contact: Meredyth P. Partridge, Executive Director, 1601 Rolling Hills Drive, Richmond, VA 23229-9907, telephone (804) 662-9907 or (804) 662-7197/TDD ☎

DEPARTMENT OF GAME AND INLAND FISHERIES

January 16, 1992 - 10 a.m. - Open Meeting
4010 West Broad Street, Richmond, Virginia.

Committees of the Board of Game and Inland Fisheries will meet, beginning at 9:30 a.m. with the Wildlife and Boat Committee, followed by the Liaison, Planning, Finance Committees and ending with the Law and Education Committee. Discussion will focus on topics appropriate to each committee's responsibility.

January 17, 1992 - 9 a.m. - Open Meeting
4010 West Broad Street, Richmond, Virginia.

A meeting to review any possible legislation that might affect the department. In addition, proposed deer farming regulations will be reviewed, as well as other possible general and administrative matters that might be necessary.

Contact: Belle Harding, Secretary to Bud Bristow, 4010 West Broad Street, Richmond, VA 23230, telephone (804) 367-1000.

HAZARDOUS MATERIALS TRAINING COMMITTEE

† **January 21, 1992 - 10 a.m. - Open Meeting**
Holiday Inn Conference Center, Koger Center South, 1021 Koger Center Boulevard, Richmond, Virginia.

A meeting to discuss curriculum course development and review existing hazardous materials courses.

Contact: Mr. N. Paige Bishop, 2873 Moyer Road, Powhatan, VA 23139, telephone (804) 598-3370.

DEPARTMENT OF GENERAL SERVICES

January 31, 1992 - Written comments may be submitted until this date.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Department of General Services intends to adopt regulations entitled: **VR 330-05-01. Regulations for the Approval of Field Tests for Detection of Drugs.** The purpose of the proposed regulation is to establish requirements for approval of field tests for drugs by the Division of Forensic Science, Department of General Services.

Statutory Authority: §§ 2.1-424 and 19.2-188.1 of the Code of Virginia.

Written comments may be submitted until January 31, 1992.

Contact: Paul B. Ferrara, Division Director, Division of Forensic Science, 1 North 14th Street, Richmond, VA 23219, telephone (804) 786-2281.

Statutory Authority: §§ 32.1-12 and 32.1-102.1 of the Code of Virginia.

Written comments may be submitted until February 28, 1992.

Contact: Paul E. Parker, Director, Division of Resources Development, Virginia Department of Health, P.O. Box 2448, Richmond, VA 23218, telephone (804) 786-7463.

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† February 19, 1992 - 10 a.m. - Public Hearing
Main Floor Conference Room, James Madison Building,
109 Governor Street, Richmond, Virginia.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the State Board of Health intends to amend regulations entitled: **VR 355-28-300. Rules and Regulations of the Board of Health, Commonwealth of Virginia, for the Immunization of School Children.** The proposed amendments will make the regulations consistent with the current recommendations of the U.S. Public Health Service.

STATEMENT

Summary of Basis, Purpose, Substance, Issues and Impact: Amendments to the Regulations for the Immunization of School Children, granted preliminary approval by the Board of Health on December 13, 1991.

Purpose: The purpose of these amendments is to make the following four amendments to the regulations:

- 1. Require all children enrolling in school for the first time (be it kindergarten or first grade) to have documentary proof of having received two doses of measles vaccine.

The intent is to stem the recent increase in the number of cases of measles in Virginia as well as the nation. For example, in March 1991, an outbreak of measles at the Medical College of Virginia (MCV) resulted in over 3,250 measles-susceptible employees at MCV being immunized against measles. At about the same time, a teenager in a juvenile detention center and a student in an elementary school in Richmond developed measles, requiring the immunization of all measles-susceptible persons who were exposed to either of these cases. Because of the resurgence of measles, the Governor issued an emergency regulation to require children enrolling in school to receive two doses of measles vaccine (as recommended by the Public Health Service) before the start of the 1991 school year. Since the emergency regulation will expire on June 30, 1992, the intent is to make it a permanent part of the regulations.

- 2. Require all children up to 30 months of age enrolling in day care centers to have documentary



DEPARTMENT OF HEALTH (STATE BOARD OF)

† January 21, 1992 - 10 a.m. - Open Meeting
Community Room, Main Street Station, 1500 East Main Street, Richmond, Virginia. ☒

A meeting to discuss the proposed plan for HIV Care Grant Monies under Title II of the Ryan White Care Comprehensive AIDS Resource Emergency Act of 1990.

Contact: Kathryn A. Hafford, Coordinator, Education, Information Training, Department of Health, Bureau of STD/AIDS, Room 112, P.O. Box 2448, Richmond, VA 23219, telephone (804) 225-4844.

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February 10, 1992 - 9 a.m. - Public Hearing
Monroe Building, Conference Room B, 101 North 14th Street, Richmond, Virginia.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the State Board of Health intends to amend regulations entitled: **VR 355-30-000-06. Virginia Medical Care Facilities Certificate of Public Need Rules and Regulations.** The proposed regulations amend the existing Virginia Medical Care Facilities Certificate of Public Need (COPN) Rules and Regulations in order to implement the COPN Program to be consistent with the amended COPN law which became effective July 1, 1991.

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proof of immunization against *Haemophilus influenzae* type b (Hib) in accordance with the recommendations of the Public Health Service.

While *Haemophilus influenzae* type b (Hib) disease is not as contagious as measles and rarely results in epidemics, its consequences are usually more serious (especially in children under 2 years of age). The most serious Hib disease is meningitis (inflammation of the membrane (hat covers the brain). About 12,000 cases of Hib meningitis are reported in the nation each year, and about 80% occur in children under 2 years of age. In Virginia, 81 cases of Hib meningitis were reported in 1989, and 41 in 1990. About 1 in every 20 with Hib meningitis dies and about 1 in 4 survivors has some degree of neurological impairment such as hearing loss. Hib vaccine is very safe and effective. The Governor also issued an emergency regulation pertaining to Hib vaccine, and the intent is to make it a permanent part of the regulations.

3. Replace the words "inactivated poliomyelitis vaccine (IPV)" in the regulations with "enhanced-potency IPV."

Only enhanced-potency IPV is currently manufactured, and as the name implies, it is more effective than the previously available IPV.

4. Delete the section pertaining to currently enrolled students.

When the regulations were promulgated in 1983, the Board of Health prescribed slightly less stringent immunization requirements for currently enrolled students (those enrolled before 1983). School officials were required to check the immunization records of both currently enrolled and new students in 1983, but only the records of new students during subsequent years. Accordingly, there is no need to retain the requirements for currently enrolled students.

Impact:

1. Children will benefit because they will be better protected against measles and Hib.

2. Schools will benefit because they are considerably less likely to experience disruption of day-to-day activities caused by measles outbreaks.

3. Day care centers will benefit because they are considerably less likely to experience disruption of day-to-day activities caused by Hib disease in a child. A case of Hib disease in a day care center usually calls for administration of the drug rifampin to close contacts of the infected child. Administering rifampin is time consuming and inconvenient for day care centers, local health departments, and private physicians. The disease can be easily prevented by immunizations.

Statutory Authority: §§ 22.1-271.1, 22.1-272.1, 32.1-46 and 32.1-12 of the Code of Virginia.

Written comments may be submitted until March 16, 1992, to A. Martin Cader, M.D., Virginia Department of Health, Division of Communicable Disease Control, P.O. Box 2448, Room 113, Richmond, VA 23218.

Contact: Marie Krauss, Executive Secretary, Virginia Department of Health, Division of Communicable Disease Control, P.O. Box 2448, Room 113, Richmond, VA 23218, telephone (804) 786-6261.

STATE BOARD OF HEALTH

† **January 27, 1992 - 7 p.m. – Dinner**

Richmond Marriott, 500 East Broad Street, Richmond, Virginia. ☒ (Interpreter for deaf provided if requested)

Informal dinner.

† **January 28, 1992 - 7:30 a.m. – Breakfast**

Richmond Marriott, 500 East Broad Street, Richmond, Virginia. ☒ (Interpreter for deaf provided if requested)

Legislative breakfast. Legislative day for board members.

† **January 29, 1992 - 9 a.m. – Open Meeting**

Richmond Marriott, 500 East Broad Street, Richmond, Virginia. ☒ (Interpreter for deaf provided if requested)

A business meeting.

Contact: Susan R. Rowland, Assistant to the Commissioner, Virginia Department of Health, P.O. Box 2448, Richmond, VA 23118, telephone (804) 786-3561.

BOARD OF HEALTH PROFESSIONS

January 21, 1991 - 10:30 a.m. – Open Meeting

Department of Health Professions, 1601 Rolling Hills Drive, Conference Room 1, Richmond, Virginia. ☒

A regular quarterly meeting. Agenda includes consideration of need for statutory certification of therapeutic recreation specialists and the appropriate supervision requirements for dental hygienists in nontraditional settings. Public comments will be received at noon.

Contact: Richard D. Morrison, Executive Director, 1601 Rolling Hills Drive, Richmond, VA 23229, telephone (804) 662-9904 or (804) 662-7197/TDD ☎

VIRGINIA HEALTH SERVICES COST REVIEW COUNCIL

January 15, 1992 – Written comments may be submitted until this date.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Virginia Health Services Cost Review Council intends to amend regulations entitled: **VR 370-01-001. Rules and Regulations of the Virginia Health Services Cost Review Council.** The proposed regulation will amend regulations to require health care institutions to file certified audited financial statements with the council no later than 120 days after the end of the institutions's fiscal year. A 30-day extension could be granted for extenuating circumstances. A late charge of \$10 per working day would be assessed for filings submitted past the due date.

Statutory Authority: §§ 9-158, 9-159 and 9-164(2) of the Code of Virginia.

Written comments may be submitted until January 15, 1992.

Contact: G. Edward Dalton, Deputy Director, 805 E. Broad St., 6th Floor, Richmond, VA 23219, telephone (804) 786-6371/TDD ☎

January 27, 1992 - 7 p.m. – Open Meeting
Medical College of Hampton Roads, Hofeimer Hall, 7th Floor Board Room, 725 Fairfax Avenue, Norfolk, Virginia. ☎

The council will conduct its monthly meeting. Public comment is welcome. Public comments must be limited to three minutes; written statements requested.

Contact: Kim Schulte Barnes, Information Officer, 805 East Broad St., 6th Floor, Richmond, VA 23219, telephone (804) 786-6371/TDD ☎

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March 15, 1992 – Written comments may be submitted until this date.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Virginia Health Services Cost Review Council intends to amend regulations entitled: **VR 370-01-001. Rules and Regulations of the Virginia Health Services Cost Review Council.** The proposed amendments (i) waive the audit requirement and the imposition of a penalty if an "extenuating circumstance," such as a bankruptcy proceeding, exists; (ii) require the filing of an institution's historical and its certified audited financial statement prior to acceptance by council of the filing of a subsequent year's budget or the filing of any request for an interim rate increase; and (iii) require each individual licensed health care institution

to submit filings, but that the screening process would still be applied to allow for hospital systems to be analyzed systemwide by the Virginia Hospital Rate Review Program.

Statutory Authority: §§ 9-158, 9-159 and 9-164 of the Code of Virginia.

Written comments may be submitted until March 15, 1992.

Contact: G. Edward Dalton, Deputy Director, 805 E. Broad St., 6th Floor, Richmond, VA 23219, telephone (804) 786-6371/TDD ☎

HOPEWELL INDUSTRIAL SAFETY COUNCIL

February 4, 1992 - 9 a.m. – Open Meeting
Hopewell Community Center, Second and City Point Road, Hopewell, Virginia. ☎ (Interpreter for deaf provided if requested)

Local Emergency Preparedness Committee Meeting on Emergency Preparedness as required by SARA Title III.

Contact: Robert Brown, Emergency Services Coordinator, 300 North Main Street, Hopewell, VA 23860, telephone (804) 541-2298.

BOARD OF HOUSING AND COMMUNITY DEVELOPMENT

Amusement Device Technical Advisory Committee

January 16, 1992 - 9 a.m. – Open Meeting
Seventh Floor Conference Room, 205 North Fourth Street, Richmond, Virginia. ☎

A meeting to review and discuss regulations pertaining to the construction, maintenance, operation and inspection of amusement devices adopted by the Board of Housing and Community Development.

Contact: Jack A. Proctor, Deputy Director, Building Regulation, Department of Housing and Community Development, 205 North Fourth St., Richmond, VA 23219, telephone (804) 786-4752 or (804) 786-5405/Voice/TDD ☎

VIRGINIA HOUSING DEVELOPMENT AUTHORITY

† **January 21, 1992 - 11 a.m.** – Open Meeting
601 South Belvidere Street, Richmond, Virginia. ☎

A regular meeting of the board to (i) review and, if appropriate, approve the minutes from the prior monthly meeting; (ii) consider for approval and ratification mortgage loan commitments under its various programs; (iii) review the authority's

Calendar of Events

operations for the prior month; and (iv) consider such other matters and take such other actions as it may deem appropriate. Various committees of the board may also meet before or after the regular meeting and consider matters within their purview. The planned agenda of the meeting will be available at the offices of the authority one week prior to the date of the meeting.

Contact: J. Judson McKellar, Jr., General Counsel, Virginia Housing Development Authority, 601 S. Belvidere Street, Richmond, VA 23220, telephone (804) 782-1986

DEPARTMENT OF LABOR AND INDUSTRY

January 14, 1992 - 7 p.m. – Public Hearing
Fourth Floor Conference Room, Powers-Taylor Building, 13 South 13th Street, Richmond, Virginia.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Department of Labor and Industry intends to adopt regulations entitled: **VR 425-01-81. Regulations Governing the Employment of Minors on Farms, in Gardens, and in Orchards.** Provision of regulations concerning child labor in agriculture.

Statutory Authority: §§ 40.1-6(3), 40.1-100 A 9, and 40.1-114 of the Code of Virginia.

Written comments may be submitted until October 28, 1991.

Contact: John J. Crisanti, Director, Office of Enforcement Policy, Powers-Taylor Building, Department of Labor and Industry, 13 South 13th Street, Richmond, VA 23219, telephone (804) 786-2384.

LIBRARY BOARD

NOTE: CHANGE IN MEETING DATE

January 13, 1992 - 9:30 a.m. – Open Meeting
Virginia State Library and Archives, 3rd Floor, Supreme Court Room, 11th Street at Capitol Square, Richmond, Virginia. ☒

A meeting to discuss administrative matters.

Contact: Jean H. Taylor, Secretary to State Librarian, Virginia State Library and Archives, 11th Street at Capitol Square, Richmond, VA 23219, telephone (804) 786-2332.

COMMISSION ON LOCAL GOVERNMENT

January 14, 1992 - 10 a.m. – Open Meeting
Department of Planning and Budget, Ninth Street Office Building, Room 409, Richmond, Virginia.

A regular meeting to consider such matters as may be presented.

Persons desiring to participate in the Commission's oral presentations and requiring special accommodations or interpreter services should contact the Commission's offices by January 7, 1992.

Contact: Barbara W. Bingham, Administrative Assistant, 702 Eighth Street Office Building, Richmond, VA 23219, telephone (804) 786-6508 or (804) 786-1860/TDD ☎

LONGWOOD COLLEGE

Board of Visitors

† **February 3, 1992 - 9:30 a.m.** – Open Meeting
Longwood College, Ruffner Building, Virginia Room, Farmville, Virginia. ☒

A meeting to conduct business relating to the 1992 Session of the General Assembly.

Contact: William F. Dorrill, President, President's Office, Longwood College, Farmville, VA 23901, telephone (804) 395-2001.

STATE LOTTERY BOARD

January 27, 1992 - 10 a.m. – Open Meeting
February 24, 1992 - 10 a.m. – Open Meeting
State Lottery Department, 2201 West Broad Street, Richmond, Virginia. ☒

A regular monthly meeting. Business will be conducted according to items listed on the agenda which has not yet been determined. Two periods for public comment are scheduled.

Contact: Barbara L. Robertson, Lottery Staff Officer, State Lottery Department, 2210 W. Broad Street, Richmond, VA 23901, telephone (804) 367-9433.

MARINE RESOURCES COMMISSION

January 28, 1992 - 9:30 a.m. – Open Meeting
2600 Washington Avenue, 4th Floor, Room 403, Newport News, Virginia. ☒

The commission will hear and decide marine environmental matters at 9:30 a.m.: permit applications for projects in wetlands, bottom lands, coastal primary sand dunes and beaches; appeals of local wetland board decisions; policy and regulatory issues.

The commission will hear and decide fishery management items at approximately 2 p.m.: regulatory proposals, fishery management plans, fishery

conservation issues, licensing, shellfish leasing.

* * * * *

Meetings are open to the public. Testimony is taken under oath from parties addressing agenda items on permits and licensing. Public comments are taken on resource matters, regulatory issues, and items scheduled for public hearing. The commission is empowered to promulgate regulations in the areas of marine environmental management and marine fishery management.

Contact: Cathy W. Everett, Secretary to the Commission, P.O. Box 756, Room 1006, Newport News, VA 23607, telephone (804) 594-7933.

BOARD OF MEDICAL ASSISTANCE SERVICES

† January 29, 1992 - 9 a.m. - Open Meeting
600 East Broad Street, Board Room, Suite 1300, Richmond, Virginia. ☒

A meeting to discuss medical assistance services and issues pertinent to the board.

Contact: Patricia A. Sykes, Legislative Analyst, 600 East Broad Street, Suite 1300, Richmond, VA 23219, telephone (804) 225-3481 or 1-800-343-0634/TDD ☎

DEPARTMENT OF MEDICAL ASSISTANCE SERVICES
(BOARD OF)

January 17, 1992 - Written comments may be submitted until this date.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Board of Medical Assistance Services intends to amend regulations entitled: **Fee-for-Service Reimbursement for Home Health Services. VR 460-02-4.1920. Methods and Standards for Establishing Payment Rates-Other Types of Care. VR 460-03-4.1923. Establish Rate Per Visit.** This regulation proposes to make permanent the policy providing for the fee for service reimbursement to home health agencies which is currently in place with an emergency regulation.

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

Written comments may be submitted until 4:30 p.m., January 3, 1992, to Betty Cochran, Director, Division of Quality Assurance, 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 East Broad Street, Suite 1300, Richmond, VA 23229, telephone (804) 786-7933.

January 17, 1992 - Written comments may be submitted until this date.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Board of Medical Assistance Services intends to amend regulations entitled: **VR 460-03-3.1100. Amount, Duration, and Scope of Services: State Plan for Medical Assistance Relating to Reduction of Threshold Days for Hospital UR and Second Surgical Opinion Program.** The purpose of the proposed regulation is to promulgate permanent regulations to supersede the existing emergency regulations which provide for substantially the same policies.

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

Written comments may be submitted until 4:30 p.m., January 17, 1992, to Mack Brankley, Director, Division of Client Services, 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 East Broad Street, Suite 1300, Richmond, VA 23229, telephone (804) 786-7933.

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January 31, 1992 - Written comments may be submitted until this date.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Board of Medical Assistance Services intends to amend regulations entitled: **VR 460-03-4.1940:1. Nursing Home Payment System (PIRS).** This regulation proposes to promulgate permanent regulations to supersede three existing emergency regulations providing for mortgage debt refinancing, nursing facility rate change, and technical language changes.

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

Written comments may be submitted until 4:30 p.m., January 31, 1992, to William R. Blakely, Jr., Director, Division of Cost Settlement and Audit, 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 East Broad Street, Suite 1300, Richmond, VA 23229, telephone (804) 786-7933.

Calendar of Events

BOARD OF MEDICINE

February 3, 1992 – Written comments may be submitted until this date.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Board of Medicine intends to amend regulations entitled: **VR 465-03-01. Regulations Governing the Practice of Physical Therapy.** The board proposes to further define supervisory responsibilities of the licensed physical therapist for traineeship, on-site supervision of the physical therapy assistant in the work area, and further define the work settings of patient care.

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

Written comments may be submitted until February 3, 1992, to Hilary H. Connor, M.D., Executive Director, Board of Medicine, 1601 Rolling Hills Dr., Richmond, VA 23229.

Contact: Eugenia K. Dorson, Deputy Executive Director, 1601 Rolling Hills Dr., Richmond, VA 23229, telephone (804) 662-9925.

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February 3, 1992 – Written comments may be submitted until this date.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Board of Medicine intends to amend regulations entitled: **VR 465-05-01. Regulations Governing the Practice of Physician's Assistants.** The board proposes to amend §§ 3.4 and 5.1 B to require biennial renewal of license in each odd numbered year on the licensee's birth month and substitute the term "license" for "certification" to conform with the Code of Virginia, throughout the regulations.

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

Written comments may be submitted until February 3, 1992, to Hilary H. Connor, M.D., Executive Director, Board of Medicine, 1601 Rolling Hills Dr., Richmond, VA 23229.

Contact: Eugenia K. Dorson, Deputy Executive Director, 1601 Rolling Hills Dr., Richmond, VA 23229, telephone (804) 662-9925.

Advisory Board on Physical Therapy

January 17, 1992 - 9 a.m. – Open Meeting
Department of Health Professions, Board Room 2, 1601 Rolling Hills Drive, Richmond, Virginia. ☐

A meeting to (i) review and discuss regulations, bylaws, procedure manuals; (ii) receive reports; and (iii) discuss other items which may come before the advisory board. Public comments will not be received.

March 6, 1992 - 9 a.m. – Open Meeting

Department of Health Professions, Board Room 2, 1601 Rolling Hills Drive, Richmond, Virginia. ☐

A meeting to (i) review and respond to public comments on proposed regulations, bylaws, procedure manuals; (ii) receive reports; and (iii) discuss other items which may come before the advisory board. Public comments will be received at the pleasure of the chairperson.

Contact: Eugenia K. Dorson, Deputy Executive Director, 1601 Rolling Hills Drive, Richmond, VA 23229, telephone (804) 662-9925.

DEPARTMENT OF MENTAL HEALTH, MENTAL RETARDATION AND SUBSTANCE ABUSE SERVICES

Mental Retardation Advisory Council

January 15, 1992 - 10 a.m. – Open Meeting

James Madison Building, 8th Floor Conference Room, 109 Governor Street, Richmond, Virginia. ☐ (Interpreter for deaf provided upon request)

A quarterly meeting to conduct business relative to the council's responsibility for advising the State Mental Health, Mental Retardation and Substance Abuse Services Board on issues pertaining to mental retardation. Agenda will be available January 15, 1992.

Contact: Stanley J. Butkus, Ph.D., Director, MR Services, Department of Mental Health, Mental Retardation and Substance Abuse Services, P.O. Box 1797, 109 Governor Street, Richmond, VA 23214, telephone (804) 786-1746.

STATE MENTAL HEALTH, MENTAL RETARDATION AND SUBSTANCE ABUSE SERVICES BOARD

January 22, 1992 - 10 a.m. – Open Meeting

Central Office, James Madison Building, Richmond, Virginia. ☐

A regular monthly meeting. The agenda will be published on January 15. The agenda may be obtained by calling Jane Helfrich.

Tuesday: Committee Meeting - 7:30 p.m. - Informal Session - 8 p.m.

Wednesday: Regular Session - 10 a.m.

See agenda for location.

Contact: Jane V. Helfrich, Board Administrator, State Mental Health, Mental Retardation and Substance Abuse Services Board, P.O. Box 1797, 109 Governor Street, Richmond, VA 23214, telephone (804) 786-3921.

MIDDLE VIRGINIA BOARD OF DIRECTORS AND THE MIDDLE VIRGINIA COMMUNITY CORRECTIONS RESOURCES BOARD

† February 6, 1992 - 7 p.m. - Open Meeting
† March 5, 1992 - 7 p.m. - Open Meeting
502 South Main Street #4, Culpeper, Virginia.

From 7 p.m. until 7:30 p.m. the Board of Directors will hold a business meeting to discuss DOC contract, budget, and other related business. Then the CCRB will meet to review cases before for eligibility to participate with the program. It will review the previous month's operation (budget and program related business).

Contact: Lisa Ann Peacock, Program Director, 502 South Main Street #4, Culpeper, VA 22701, telephone (703) 825-4562.

VIRGINIA MILITARY INSTITUTE

Board of Visitors

† February 15, 1992 - 8:30 a.m. - Open Meeting
Virginia Military Institute, Smith Hall, Board Room,
Lexington, Virginia. ☒

A regular meeting to (i) consider committee reports; (ii) consider 1992-1993 budget; and (iii) discuss reports on visits to academic departments.

Contact: Colonel Edwin L. Dooley, Jr., Secretary to the Board of Visitors, Virginia Military Institute, Lexington, VA 24450, telephone (703) 464-7206.

DEPARTMENT OF MOTOR VEHICLES

Motor Vehicle Dealers' Advisory Board

† January 21, 1992 - 9:30 a.m. - Open Meeting
DMV, 2300 West Broad Street, Richmond, Virginia. ☒
(Interpreter for deaf provided upon request)

The board will discuss issues and plans concerning the administration of the Motor Vehicle Dealer Licensing Act.

Contact: Jerome L. Stein, Manager, Dealer and Records, DMV, 2300 W. Broad Street, Room 521, Richmond, VA 23220, telephone (804) 367-0455 or (804) 367-1752/TDD ☎

VIRGINIA MUSEUM OF FINE ARTS

Accessions Committee

† January 14, 1992 - 2 p.m. - Open Meeting
Virginia Museum of Fine Arts, The Mellon Galleries,

Richmond, Virginia. ☒

A meeting to consider gifts and purchase recommendations for art works.

Contact: Emily C. Robertson, Secretary of the Museum, Virginia Museum of Fine Arts, Boulevard and Grove Avenue, Richmond, VA 23221-2466, telephone (804) 367-0553.

Finance Committee

† January 16, 1992 - 10:30 a.m. - Open Meeting
Virginia Museum of Fine Arts, The Payne Room, Members Suite, 2800 Grove Avenue, Richmond, Virginia. ☒

A meeting to review financial statements and to discuss budget cuts mandated by the Governor's Office.

Contact: Emily C. Robertson, Secretary of the Museum, Virginia Museum of Fine Arts, Boulevard and Grove Avenue, Richmond, VA 23221-2466, telephone (804) 367-0553.

Board of Trustees

† January 16, 1992 - 11:30 a.m. - Open Meeting
Virginia Museum Auditorium, 2800 Grove Avenue,
Richmond, Virginia. ☒

A regularly scheduled meeting to discuss budgetary, committee and staff reports. Art acquisition approval.

Contact: Emily C. Robertson, Secretary of the Museum, Virginia Museum of Fine Arts, Boulevard and Grove Avenue, Richmond, VA 23221-2466, telephone (804) 367-0553.

VIRGINIA MUSEUM OF NATURAL HISTORY

Board of Trustees

January 15, 1992 - 9 a.m. - Open Meeting
The Jefferson Hotel, Franklin and Adams Streets,
Richmond, Virginia. ☒

The meeting will include reports from the executive, finance, education and exhibits, marketing, personnel, planning/facilities, and research and collections committees. Public comment will be received following approval of the minutes of the October meeting.

Contact: Rhonda J. Knighton, Executive Secretary, Virginia Museum of Natural History, 1001 Douglas Avenue, Martinsville, VA 24112, telephone (703) 666-8616, SCATS (703) 857-6959/857-6951 or (703) 666-8638/TDD ☎

Calendar of Events

BOARD OF NURSING

January 27, 1992 - 9 a.m. - Open Meeting
January 28, 1992 - 9 a.m. - Open Meeting
January 29, 1992 - 9 a.m. - Open Meeting
Department of Health Professions, Conference Room 1,
1601 Rolling Hills Drive, Richmond, Virginia. ☒
(Interpreter for deaf provided upon request)

A regular meeting to consider (i) matters related to nursing education programs; (ii) discipline of licensees; (iii) licensure by examination and endorsement; and (iv) other matters under the jurisdiction of the board.

Public comment will be received during an open forum session beginning at 11 a.m. on Monday, January 27, 1992.

Contact: Corrine F. Dorsey, R.N., Executive Director, 1601 Rolling Hills Drive, Richmond, VA 23229, telephone (804) 662-9909 or (804) 662-7197/TDD ☎

Education Advisory Committee

January 14, 1992 - 10 a.m. - Open Meeting
Department of Health Professions, Conference Room 3,
1601 Rolling Hills Drive, Richmond, Virginia. ☒
(Interpreter for deaf provided upon request)

A regular meeting to consider matters related to educational programs approved by the Board of Nursing and make recommendations to the board as needed.

Public comment will be accepted at 1 p.m.

Contact: Corrine F. Dorsey, R.N., Executive Director, 1601 Rolling Hills Drive, Richmond, VA 23229, telephone (804) 662-9909 or (804) 662-7197/TDD ☎

BOARD OF NURSING HOME ADMINISTRATORS

January 21, 1992 - 8:30 a.m. - Open Meeting
January 22, 1992 - 8:30 a.m. - Open Meeting
1601 Rolling Hills Drive, Richmond, Virginia. ☒

A board meeting to review continuing education submittals regarding licensure renewal.

Contact: Meredyth P. Partridge, Executive Director, 1601 Rolling Hills Drive, Richmond, VA 23229-5005, telephone (804) 662-9111.

BOARDS OF NURSING AND MEDICINE

† January 29, 1992 - 1:30 p.m. - Public Hearing
Department of Health Professions, Conference Room 1,
1601 Rolling Hills Drive, Richmond, Virginia.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Boards of Nursing and Medicine intend to adopt regulations entitled: **VR 465-12-1 and VR 495-03-1. Regulations for Prescriptive Authority for Nurse Practitioners.** The proposed regulations authorize limited prescriptive authority for nurse practitioners as allowed by changes in law enacted during the 1991 session of the General Assembly of Virginia.

STATEMENT

Basis: Title 54.1, Chapter 29 (§ 54.1-2957.01), Chapter 33 (§ 54.1-3303), and Chapter 34 (§ 54.1-3401 and § 54.1-3408) of the Code of Virginia.

Purpose: The purpose of these regulations is to set forth the criteria and fees for approval of limited prescriptive authority for nurse practitioners, to describe requirements for their practice, and to establish grounds and procedures for discipline. Responding to the need to improve access to primary care in the Commonwealth, the Boards of Medicine and Nursing have promulgated these regulations in fulfillment of their responsibility to protect the health, safety, and welfare of its citizens.

Estimated impact:

Regulated entities: There are 1,011 nurse practitioners licensed in Virginia in all categories with the exception of the certified registered nurse anesthetists, for whom these regulations are not applicable.

Projected costs to regulated entities: Some of these amendments represent projected costs for the regulated entities.

Expected costs to the agency: Costs to implement these regulations would include staff time to review and process applications and renewals, supplies and forms, postage, and investigations of complaints. An additional staff person is not proposed at this time. No additional costs would be required for the Committee of the Joint Boards, since it is anticipated that matters related to prescriptive authority would be considered during its regularly scheduled meetings.

Source of funds: All funds of the boards are derived from the fees paid by applicants and by regulated practitioners.

Explanation of need of proposed regulations: The proposed regulations are needed to establish requirements for the approval and practice of prescriptive authority by nurse practitioners in the Commonwealth as prescribed in §§ 54.2957.01, 54.1-3303, and 54.1-3408 of the Code of Virginia.

Impact on small business: To the extent that nurse practitioners, particularly nurse midwives, may have formed a small business, the proposed regulations would require the additional costs of seeking and maintaining prescriptive authority. The regulations should provide a

positive impact on small businesses in the form of professional corporations engaged in the delivery of health care to the public, especially in medically underserved areas of the Commonwealth.

Alternatives considered: Since the passage of legislation to enact the applicable code sections granting limited prescriptive authority to nurse practitioners, the staff has researched various methods of regulation by other states with similar laws. Curriculum guidelines and descriptions of educational courses in pharmacology have been reviewed, along with information and data compiled from a national conference on nurses and prescriptive authority.

These materials together with comments received from the public in response to the Notice on Intended Regulatory Action were reviewed and considered by an Advisory Committee appointed by the Boards of Medicine and Nursing in drafting proposed regulations. In recognition of the public comments, the Advisory Committee recommended that the Practice Agreement should list the categories of drugs to be prescribed by nurse practitioners. That regulation was amended by the Board of Medicine to require a list of specific drugs approved for prescriptive authority. The amendment was subsequently accepted by the Board of Nursing and may result in comment from the public during the hearing and in written comment period.

Statutory Authority: §§ 54.1-2400 and 54.1-2757.01 of the Code of Virginia.

Written comments may be submitted until March 12, 1992.

Contact: Corrine F. Dorsey, R.N., Executive Director, Board of Nursing, 1601 Rolling Hills Drive, Richmond, VA 23229, telephone (804) 662-9909.

BOARD OF PHARMACY

January 22, 1992 - 9 a.m. - Open Meeting
Department of Health Professions, 1601 Rolling Hills Drive, Conference Room #3, Richmond, Virginia.

A board meeting. Public comments will be accepted at the beginning of the meeting or any appropriate occasion during the meeting.

Contact: Scotti W. Milley, Executive Director, Virginia Board of Pharmacy, 1601 Rolling Hills Drive, Richmond, VA 23229, telephone (804) 662-9911.

BOARD OF PSYCHOLOGY

† **January 23, 1992 - 7:30 a.m. - Open Meeting**
† **January 24, 1992 - 8 a.m. - Open Meeting**
Department of Health Professions, 1601 Rolling Hills Drive, Richmond, Virginia. ☒

A meeting to (i) conduct oral examinations; (ii) conduct general board business; and (iii) continue regulatory review. Public comment will not be received.

Contact: Evelyn B. Brown, Executive Director, 1601 Rolling Hills Drive, Suite 200, Richmond, VA 23229-5005, telephone (804) 662-9913 or (804) 662-7197/TDD ☒

REAL ESTATE APPRAISER BOARD

January 18, 1992 - Written comments may be submitted until this date.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Real Estate Appraiser Board is withdrawing the proposed regulation published in 8:2 V.A.R. 206-226 October 21, 1991 and will adopt new regulations entitled: **VR 583-01-03. Real Estate Appraiser Board Regulations.** The purpose of the proposed regulations is to establish the qualifications for licensure and standards of practice for real estate appraisers.

Statutory Authority: § 54.1-2013 of the Code of Virginia.

Written comments may be submitted until January 18, 1992.

Contact: Demetra Y. Kontos, Assistant Director, Real Estate Appraiser Board, 3600 West Broad Street, Richmond, VA 23230, telephone (804) 367-2175.

January 21, 1992 - 9 a.m. - Open Meeting
Department of Commerce, 3600 West Broad Street, Richmond, Virginia.

A business meeting to adopt final rules and regulations.

Contact: Demetra Y. Kontos, Assistant Director, Real Estate Appraiser Board, 3600 West Broad Street, Richmond, VA 23230, telephone (804) 367-2175.

REAL ESTATE BOARD

† **January 16, 1992 - 9 a.m. - Open Meeting**
Richmond Marriott, 500 East Broad Street, Richmond, Virginia. ☒

A meeting to consider board business including license application, disciplinary cases, adoption of final regulations and other items.

Contact: Joan L. White, Assistant Director, 3600 West Broad Street, Richmond, VA 23230, telephone (804) 367-8552.

Calendar of Events

BOARD OF REHABILITATIVE SERVICES

† February 13, 1992 - 10 a.m. - Open Meeting
4901 Fitzhugh Avenue, Richmond, Virginia. ☒ (Interpreter for deaf provided upon request)

A meeting to (i) receive department reports; (ii) consider regulatory matters; and (iii) conduct the regular business of the board.

Contact: Susan L. Urofsky, Commissioner, 4901 Fitzhugh Avenue, Richmond, VA 23230, telephone (804) 367-0319, toll-free 1-800-552-5019/TDD/Voice ☎ or (804) 367-0280/TDD ☎

Finance Committee

† February 13, 1992 - 9 a.m. - Open Meeting
4901 Fitzhugh Avenue, Richmond, Virginia. ☒ (Interpreter for deaf provided upon request)

A meeting to review monthly financial reports and budgetary projections.

Contact: Susan L. Urofsky, Commissioner, 4901 Fitzhugh Avenue, Richmond, VA 23230, telephone (804) 367-0319, toll-free 1-800-552-5019/TDD and Voice ☎ or (804) 367-0280/TDD ☎

Legislation Committee

† February 13, 1992 - 9 a.m. - Open Meeting
4901 Fitzhugh Avenue, Richmond, Virginia. ☒ (Interpreter for deaf provided upon request)

General Assembly legislative update.

Contact: Susan L. Urofsky, Commissioner, 4901 Fitzhugh Avenue, Richmond, VA 23230, telephone (804) 367-0319, toll-free 1-800-552-5019/TDD and Voice ☎ or (804) 367-0280/TDD ☎

Program and Evaluation Committee

† February 13, 1992 - 9 a.m. - Open Meeting
4901 Fitzhugh Avenue, Richmond, Virginia. ☒ (Interpreter for deaf provided upon request)

A meeting to discuss appropriate program information relative to General Assembly issues.

Contact: Susan L. Urofsky, Commissioner, 4901 Fitzhugh Avenue, Richmond, VA 23230, telephone (804) 367-0319, toll-free 1-800-552-5019/TDD and Voice ☎ or (804) 367-0280/TDD ☎

STATE SEWAGE HANDLING AND DISPOSAL APPEALS REVIEW BOARD

† January 22, 1992 - 10 a.m. - Open Meeting

Richmond Marriott, 501 East Broad Street, Richmond, Virginia. ☒

The board shall hear all administrative appeals of denials on on-site sewage disposal system permits and render its decision on any such appeal, which the decision shall be the final administrative decision.

Contact: Mrs. Deborah G. Pegram, Department of Health, Division of Sanitarian Services, Main Street Station, Suite 144, Richmond, VA 23218, telephone (804) 786-3559.

DEPARTMENT OF SOCIAL SERVICES (BOARD OF)

January 17, 1992 - Written comments may be submitted until this date.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Board of Social Services intends to amend regulations entitled: **VR 615-01-36. General Relief (GR) Program - Locality Options.** The purpose of the proposed amendment is to allow local departments of Social Services to continue options for assistance provided from the General Relief Program.

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

Written comments may be submitted until January 17, 1992, to Ms. Diana Salvatore, Program Manager, Medical Assistance Unit, Virginia Department of Social Services, 8007 Discovery Drive, Richmond, Virginia 23229.

Contact: Peggy Friedenbergh, Legislative Analyst, Office of Governmental Affairs, Department of Social Services, 8007 Discovery Drive, Richmond, VA 23229-8699, telephone (804) 662-9217.

* * * * *

January 21, 1992 - 5 p.m. - Public Hearing
YMCA, Second Floor Auditorium, 605 First Street, Roanoke, Virginia.

January 23, 1992 - 4 p.m. - Public Hearing
Wythe Building, 1st Floor Conference Room, 1604 Santa Rosa Road, Richmond, Virginia.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Board of Social Services intends to adopt regulations entitled: **VR 615-25-01:l. Minimum Standards for Licensed Group Family Day Care Homes.** The proposed regulation makes major additions and revisions in the licensing standards caused by changes in the Code of Virginia relating to a group family day care homes and deemed necessary to update licensing requirements which have not been significantly revised since 1979.

Statutory Authority: § 63.1-202 of the Code of Virginia.

Written comments may be submitted until February 28, 1992.

Contact: Peggy Friedenberg, Legislative Analyst, Office of Governmental Affairs, Department of Social Services, 8007 Discovery Drive, Richmond, VA 23229-8699, telephone (804) 662-9217.

* * * * *

February 28, 1992 – Written comments may be submitted until this date.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Board of Social Services intends to repeal regulations entitled: **VR 615-25-01. Minimum Standards for Licensed Family Day Care Homes.** The existing regulation, Minimum Standards for Licensed Family Day Care Homes, is proposed for repeal while concurrently promulgating Minimum Standards for Licensed Group Family Day Care Homes.

Statutory Authority: § 63.1-202 of the Code of Virginia.

Written comments may be submitted until February 28, 1992.

Contact: Peggy Friedenberg, Legislative Analyst, Office of Governmental Affairs, Department of Social Services, 8007 Discovery Drive, Richmond, VA 23229-8699, telephone (804) 662-9217.

STATE BOARD OF SOCIAL SERVICES

January 15, 1992 - 2 p.m. – Open Meeting
January 16, 1992 - if necessary - 9 a.m. – Open Meeting
† **February 19, 1992 - 2 p.m.** – Open Meeting
† **February 20, 1992 - if necessary - 9 a.m.** – Open Meeting
Department of Social Services, 8007 Discovery Drive, Richmond, Virginia. ☒

Work session and formal business meeting of the board.

Contact: Phyllis Sisk, Staff Specialist, Department of Social Services, 8007 Discovery Drive, Richmond, VA 23229, telephone (804) 662-9236, toll-free 1-800-552-3431 or 1-800-552-7096/TDD ☎

DEPARTMENT OF TAXATION

January 24, 1992 - 9 a.m. – Public Hearing
Department of Taxation, Training Room, 2220 West Broad Street, Richmond, Virginia.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Department of

Taxation intends to adopt regulations entitled: **VR 630-10-74.1. Nonprescription Drugs and Proprietary Medicines.** This regulation explains the exemption from the retail sales and use tax for nonprescription drugs and proprietary medicines.

Statutory Authority: § 58.1-203 of the Code of Virginia.

Written comments may be submitted until February 14, 1992.

Contact: Janie E. Bowen, Director, Tax Policy, P.O. Box 6-L, Richmond, VA 23282, telephone (804) 367-8010.

COMMONWEALTH TRANSPORTATION BOARD

January 15, 1992 - 2 p.m. – Open Meeting
Virginia Department of Transportation, Board Room, 1401 East Broad Street, Richmond, Virginia. ☒ (Interpreter for deaf provided upon request)

Work session of the Commonwealth Transportation Board and the Department of Transportation staff.

January 16, 1992 - 10 a.m. – Open Meeting
Virginia Department of Transportation, Board Room, 1401 East Broad Street, Richmond, Virginia. ☒ (Interpreter for deaf provided upon request)

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.

Contact: John G. Milliken, Secretary of Transportation, 1491 East Broad Street, Richmond, VA 23219, telephone (804) 786-6670.

TRANSPORTATION SAFETY BOARD

NOTE: CHANGE IN MEETING TIME

January 23, 1992 - 10:30 a.m. – Open Meeting
Department of Motor Vehicles, Room 702, 2300 West Broad Street, Richmond, Virginia. ☒

A meeting to discuss various transportation safety topics and issues.

Contact: William H. Leighty, Deputy Commissioner, 2300 West Broad Street, Richmond, VA 23269, telephone (804) 367-6614 or (804) 367-1752/TDD ☎

Calendar of Events

VIRGINIA RESOURCES AUTHORITY

January 14, 1992 - 9 a.m. – Open Meeting
February 11, 1992 - 9 a.m. – Open Meeting
† March 10, 1992 - 9 a.m. – Open Meeting
The Mutual Building, 909 East Main Street, Suite 707,
Conference Room A, Richmond, Virginia.

The board will meet to (i) approve minutes of its previous meeting; (ii) review the Authority's operations for the prior months; and (iii) consider other matters and take other actions as it may deem appropriate. The planned agenda of the meeting will be available at the offices of the Authority one week prior to the date of the meeting.

Public comments will be received at the beginning of the meeting.

Contact: Mr. Shockley D. Gardner, Jr., 909 East Main Street, Suite 707, Mutual Building, Richmond, VA 23219, telephone (804) 644-3100 or FAX number (804) 644-3109.

BOARD FOR THE VISUALLY HANDICAPPED

January 21, 1992 - 1:30 p.m. – Open Meeting
397 Azalea Avenue, Richmond, Virginia. ☒ (Interpreter for deaf provided upon request)

A quarterly meeting to review policy and procedures of the Virginia Department for the Visually Handicapped. The board reviews and comments on the Department's budget.

Contact: Joseph A. Bowman, Executive Assistant, 397 Azalea Avenue, Richmond, VA 23227, telephone (804) 371-3140 or toll-free 1-800-622-2155.

DEPARTMENT OF WASTE MANAGEMENT (VIRGINIA WASTE MANAGEMENT BOARD)

February 24, 1992 - 10 a.m. – Public Hearing
101 North 14th Street, Conference Room C, Richmond, Virginia.

February 26, 1992 - 1 p.m. – Public Hearing
Room 2123, Amherst Building, Central Virginia Community College, Lynchburg, Virginia.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Virginia Waste Management Board intends to adopt regulations entitled: **VR 672-20-11. Solid Waste Management Facility Permit Application Fees.** The purpose of the proposed regulation is to establish schedules and procedures pertaining to the payment and collection of fees from any applicant seeking a new permit or seeking an amendment to an existing permit for operation of a solid or infectious waste management

facility in the Commonwealth.

Statutory Authority: § 10.1-1402 of the Code of Virginia.

Written comments may be submitted until March 1, 1992.

Contact: W. Gulevich, 101 N. 14th Street, Richmond, Virginia 23219, telephone (804) 371-2383.

* * * * *

February 28, 1992 - 11 a.m. – Public Hearing
Virginia Department of Waste Management, 11th Floor, Monroe Building, 101 North 14th Street, Richmond, Virginia.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Virginia Waste Management Board intends to amend regulations entitled: **VR 672-30-1. Virginia Regulations Governing the Transportation of Hazardous Materials.** The purpose of the proposed amendments is to incorporate by reference changes that were made by U.S. DOT to Title 49, Code of Federal Regulations from July 1, 1990, to June 30, 1991.

Statutory Authority: §§ 10.1-1402 and 10.1-1450 of the Code of Virginia.

Written comments may be submitted until February 28, 1992, to John E. Fly, Virginia Department of Waste Management, 11th Floor, Monroe Building, Richmond, Virginia 23219.

Contact: C. Ronald Smith, Hazardous Waste Enf. Chief, Virginia Department of Waste Management, 11th Floor, Monroe Building, 101 N. 14th Street, Richmond, Virginia 23219, telephone (804) 225-4761 or toll-free 1-800-552-2075.

STATE WATER CONTROL BOARD

January 14, 1992 - 7 p.m. – Public Hearing
Virginia Military Institute, Room 507, Nichols Engineering Building, Lexington, Virginia. ☒

A public hearing to receive comments on the proposed Virginia Pollutant Discharge Elimination System (VPDES) Permit No. VA0086967 for Young Life-Jump Mountain Sewage Treatment Plant, 120 Coles Cove Road, Weaverville, North Carolina 28787. The purpose of the hearing is to receive comments on the proposed issuance or denial of the permit and the effect of the discharge on water quality or beneficial uses of state waters.

Contact: Lori Freeman Jackson, Hearings Reporter, Office of Policy Analysis, State Water Control Board, P.O. Box 11143, 4900 Cox Road, Richmond, Virginia 23230-1143, telephone (804) 527-5163.

Calendar of Events

† **January 30, 1992 - 7 p.m.** – Public Hearing
City of Lynchburg Public Library, Community Meeting
Room, 2315 Memorial Avenue, Lynchburg, Virginia. ☐

A public hearing to receive comments on the proposed Virginia Pollutant Discharge Elimination System (VPDES) Permit No. VA0051888 for the City of Lynchburg Abert Water Treatment Plant, 525 Taylor Street, Lynchburg, Virginia 24504. The purpose of the hearing is to receive comments on the proposed issuance or denial of the permit and the effect of the discharge on water quality or beneficial uses of state waters.

Contact: Lori Freeman Jackson, Hearings Reporter, Office of Policy Analysis, State Water Control Board, P.O. Box 11143, 4900 Cox Road, Richmond, Virginia 23230-1143, telephone (804) 527-5163.

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January 27, 1992 - 7:30 p.m. – Public Hearing
Virginia Beach City Council Chambers, City Hall Building,
Second Floor, Courthouse Drive, Virginia Beach, Virginia.

January 28, 1992 - 7:30 p.m. – Public Hearing
State Water Control Board, Board Room, Innsbrook
Corporate Center, 4900 Cox Road, Richmond, Virginia.

January 29, 1992 - 7:30 p.m. – Public Hearing
Roanoke County Administration Center, Community Room,
738 Brambleton Avenue, S.W., Roanoke, Virginia.

February 3, 1992 - 7:30 p.m. – Public Hearing
Spotsylvania County Board of Supervisors Room, County
Administration Building, Route 208 at Spotsylvania
Courthouse, Spotsylvania, Virginia.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the State Water Control Board intends to adopt regulations entitled: **VR 680-15-02. Virginia Water Protection Permit Regulation.** The proposed regulation delineates the procedures and requirements to be followed for issuance of a Virginia Water Protection Permit. An informal question and answer period has been scheduled before each hearing. At that time, staff will answer questions from the public on the proposal. The questions and answer period will begin at 6:30 p.m. on the same day and at the same location as the public hearings.

Statutory Authority: § 62.1-44.15:5 of the Code of Virginia.

Written comments may be submitted until 4 p.m., February 17, 1992, to Doneva Dalton, Hearing Reporter, State Water Control Board, P.O. Box 11143, Richmond, Virginia 23230.

Contact: Martin Ferguson, Office of Water Resources Management, State Water Control Board, P.O. Box 11143,

Richmond, Virginia 23230, telephone (804) 527-5030.

* * * * *

January 21, 1992 - 7 p.m. – Educational Meeting
State Water Control Board, Board Room, 4900 Cox Road,
Innsbrook Corporate Center, Glen Allen, Virginia.

January 22, 1992 - 6:30 p.m. – Educational Meeting
Randolph Hall 110, VPI&SU, Blacksburg, Virginia.

January 23, 1992 - 2 p.m. – Educational Meeting
Harrisonburg City Council Chambers, 345 South Main
Street, Harrisonburg, Virginia.

February 10, 1992 - 7 p.m. – Public Hearing
Harrisonburg City Council Chambers, 345 South Main
Street, Harrisonburg, Virginia. 7

February 12, 1992 - 7 p.m. – Public Hearing
University of Virginia, Southwest Center, Classroom 1 and
2, Highway 19 North, Abingdon, Virginia.

February 13, 1992 - 2 p.m. – Public Hearing
Lynchburg Public Library, Community Meeting Room, 2315
Memorial Avenue, Lynchburg, Virginia.

February 19, 1992 - 7 p.m. – Public Hearing
James City County, Board of Supervisors Room, 101C
Mounts Bay Road, Williamsburg, Virginia.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the State Water Control Board intends to amend regulations entitled: **VR 680-21-00. Water Quality Standards.** The purpose of the proposal is to adopt, for statewide application, standards for toxics for protection of aquatic life and human health to comply with the Clean Water Act. The board will hold a formal hearing at a time and place to be established, if a petition for such a hearing is received and granted. Affected persons may petition for a formal hearing concerning any issue of fact directly relevant to the legal validity of the proposed action. Petitions must meet the requirements of § 1.23(b) of the board's Procedural Rule No. 1 (1980), and must be received by the contact person designated below by 4 p.m. on Thursday, January 30, 1992.

Statutory Authority: § 62.1-44.15(3a) of the Code of Virginia.

Written comments may be submitted until 4 p.m., March 2, 1992, to Doneva Dalton, Hearing Reporter, State Water Control Board, P.O. Box 11143, Richmond, Virginia 23230.

Contact: Jean Gregory, Office of Environmental Research and Standards, State Water Control Board, P.O. Box 11143, Richmond, Virginia 23230, telephone (804) 527-5093.

Calendar of Events

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February 10, 1992 - 7 p.m. – Public Hearing
Harrisonburg City Council Chambers, 345 South Main Street, Harrisonburg, Virginia.

February 14, 1992 - 2 p.m. – Public Hearing
State Water Control Board, Board Room, 4900 Cox Road, Innsbrook Corporate Center, Glen Allen, Virginia.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the State Water Control Board intends to adopt regulations entitled: **VR 680-14-09. Virginia Pollutant Discharge Elimination System (VPDES) General Permit for Domestic Sewage Discharges of Less Than or Equal to 1,000 Gallons Per Day.** The purpose of the proposal is to adopt as a permanent regulation the emergency regulation which became effective July 12, 1991, authorizing the issuance of a general permit for qualifying domestic sewage discharges of less than or equal to 1,000 gallons per day.

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

Written comments may be submitted until 4 p.m., March 2, 1992, to Doneva Dalton, Hearing Reporter, State Water Control Board, P.O. Box 11143, Richmond, Virginia 23230.

Contact: Richard Ayers, Office of Water Resources Management, State Water Control Board, P.O. Box 11143, Richmond, Virginia 23230, telephone (804) 527-5059.

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February 12, 1992 - 2 p.m. – Public Hearing
Russel County Circuit Court Room, Main Street, Lebanon, Virginia.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the State Water Control Board intends to amend regulations entitled: **VR 680-21-00. Water Quality Standards (VR 680-21-08.15 Tennessee and Big Sandy River Basin, Clinch River Subbasin and VR 680-21-07.1 Special Standards and Requirements.** The purpose of the proposed amendment is to establish a site-specific numerical water quality criterion for copper in the Clinch River between Carbo and St. Paul. The board will hold a formal hearing at a time and place to be determined, if a petition for such a hearing is received and granted. Affected persons may petition for a formal hearing concerning any issue of fact directly relevant to the legal validity of the proposed action. Petitions must meet the requirements of § 1.23(b) of the board's Procedural Rule No. 1 (1980), and must be received by the contact person designated below by 4 p.m. on Thursday, January 30, 1992.

Statutory Authority: § 62.1-44.15(3a) of the Code of

Virginia.

Written comments may be submitted until 4 p.m., March 2, 1992, to Doneva Dalton, Hearing Reporter, State Water Control Board, P.O. Box 11143, Richmond, Virginia 23230.

Contact: Jean Gregory, Office of Environmental Research and Standards, State Water Control Board, P.O. Box 11143, Richmond, Virginia 23230, telephone (804) 527-5093.

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† **February 26, 1992 - 7 p.m. – Public Hearing**
Harrisonburg City Council Chambers, 345 South Main Street, Harrisonburg, Virginia.

† **February 27, 1992 - 2 p.m. – Public Hearing**
Municipal Office, Multi-Purpose Room, 150 East Monroe Street, Wytheville, Virginia.

† **March 2, 1992 - 7 p.m. – Public Hearing**
Prince William County Boardroom, 1 County Complex, McCourt Building, Prince William, Virginia.

† **March 4, 1992 - 7 p.m. – Public Hearing**
James City County, Board of Supervisors Room, Building C, 101C Mounts Bay Road, Williamsburg, Virginia.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the State Water Control Board intends to adopt regulations entitled: **VR 680-15-03. Surface Water Management Area Regulation.** The purpose of the proposed regulation is to establish the procedures and requirements to be followed in connection with establishment of surface water management areas, and the issuance of surface water withdrawal permits and certificates.

STATEMENT

Basis and statutory authority: Under the authority of § 62.1-242 et seq. of the Code of Virginia the State Water Control Board is authorized to establish surface water management areas, issue surface water withdrawal permits and issue surface water withdrawal certificates. Included as part of this authorization is a requirement that the State Water Control Board develop general regulations to implement the above. No surface water management areas shall be designated by regulation sooner than six months following final adoption of general regulations.

Purpose: In 1989, the General Assembly passed several pieces of legislation dealing with the issue of water quantity. These pieces of legislation included requirements on reporting water use, including instream flow levels as part of certain permits, establishing surface water management areas and permitting the water user. The purpose of these legislative actions is to provided for the protection of beneficial uses of the surface waters of the Commonwealth during periods of low stream flow.

By adopting this regulation the Commonwealth is fulfilling the requirements of the law. This regulation gives the State Water Control Board the ability to implement § 62.1-242 et seq. of the Code of Virginia and start the process of designating surface water management areas.

In surface water management areas, existing water users as of July 1, 1989, will have to apply for a Surface Water Withdrawal Permit. Water users in existence after July 1, 1989, will have to apply for a Surface Water Withdrawal Permit which will contain withdrawal limits, instream flow conditions and a water conservation or management plan.

Impact: The proposed regulation will impact persons withdrawing water equal to or greater than 300,000 gallons per month, in any area which has been declared a surface water management area. Since the extent and location of the surface after management areas are unknown at this time, the number of withdrawers that could potentially be impacted by the proposed regulation cannot be determined. However, there are approximately 900 surface water withdrawers who are required to report the amount of water withdrawals under the water withdrawal reporting regulation (VR 680-15-01), but not all of these withdrawers will be affected by this regulation. The number is expected to be considerably less.

There is no immediate impact to the proposed regulated withdrawers since the requirement to apply for a withdrawal permit or certificate provided by this regulation will only become effective after an area has been declared a surface water management area. The impact of each regulation establishing a surface water management area will be determined during the surface water management area proceedings. The declaration of a surface water management area will be conducted in accordance with the Virginia Administrative Process Act.

In addition, since this proposal only establishes the general regulations to implement § 62.1-242 et seq., no direct impact will be placed on the board as a result of the adoption of this regulation. However, in the event a surface water management area is declared the board will be impacted. The staffing and budget implications of future declarations are not fully known at this time. If necessary, the work load will be monitored and assessed and addressed in future budget requests.

The board seeks comments on any impact the public believes to exist as a result of this proposed amendment.

Issues: Public participation to date has not raised any issues. A potential issue could be the issuance of Surface Water Withdrawal Permits by a priority system based on beneficial use. Domestic and existing uses are given the highest priority as Class I uses. Class II uses are protection of fish and wildlife habitat, maintenance of waste assimilation, agriculture, electric power generation, commercial and industrial uses. Class III uses include but are not limited to recreation, navigation, and cultural and aesthetic values.

Statutory Authority: Chapter 25 (§ 62.1-242 et seq.) of Title 62.1 of the Code of Virginia.

Written comments may be submitted until 4 p.m., March 16, 1992, to Doneva Dalton, Hearing Reporter, State Water Control Board, P.O. Box 11143, Richmond, Virginia 23230.

Contact: Thomas Felvey, State Water Control Board, P.O. Box 11143, Richmond, Virginia 23230, telephone (804) 527-5092.



DEPARTMENT OF YOUTH AND FAMILY SERVICES (BOARD OF)

January 31, 1992 - Written comments may be submitted until this date.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Board of Youth and Family Services intends to adopt regulations entitled: **VR 690-30-001. Standards for Secure Detention Homes.** The purpose of the proposed regulation is to establish operating standards for the care and custody of youth in secure detention homes.

Statutory Authority: §§ 16.1-311 and 66-10 of the Code of Virginia.

Written comments may be submitted until January 31, 1992.

Contact: Paul Steiner, Policy Coordinator, Department of Youth and Family Services, P.O. Box 3AG, Richmond, VA 23208-1108, telephone (804) 371-0692.

CHRONOLOGICAL LIST

OPEN MEETINGS

January 13

ASAP Policy Board - Valley
Chesapeake Bay Local Assistance Board
- Central Area Review Committee
Cosmetology, Board of

January 14

Aging, Department for the
- Governor's Advisory Board on Aging
Child Day Care and Early Childhood Programs,
Council on

Calendar of Events

† Contractors, Board for
- Applications Review Committee
† Environment, Council on the
Local Government, Commission on
† Museum of Fine Arts, Virginia
- Accessions Committee
Nursing, Board of
- Education Advisory Committee
Virginia Resources Authority

January 15

Aging, Department for the
- Governor's Advisory Board on Aging
Arts, Commission for the
Chesapeake Bay Local Assistance Board
- Regulatory Review Committee and Program Study
Group
- Southern Area Review Committee
† Contractors, Board for
Mental Health, Mental Retardation and Substance
Abuse Services, Department of
- Mental Retardation Advisory Council
Museum of Natural History, Virginia
- Board of Trustees
Social Service, State Board of
Transportation Board, Commonwealth

January 16

† Agriculture and Consumer Services, Department of
- Virginia Farmers' Market Board
- Pesticide Control Board
Audiology and Speech Pathology, Board of
Conservation and Recreation, Department of
- Virginia Soil and Water Conservation Board
Emergency Planning Committee, Local - New Kent
County
Game and Inland Fisheries, Board of
Housing and Community Development, Board of
- Amusement Device Technical Advisory Committee
† Museum of Fine Arts, Virginia
- Board of Trustees
- Finance Committee
† Real Estate Board
Social Services, State Board of
Transportation Board, Commonwealth

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Agriculture and Consumer Services, Department of
- Pesticide Control Board
Building Code Technical Review Board, State
Chesapeake Bay Local Assistance Board
Conservation and Recreation, Department of
- Falls of the James Scenic River Advisory Board
Coordinating Preventions, Virginia Council on
Game and Inland Fisheries, Board of
Medicine, Board of
- Advisory Board on Physical Therapy

January 18

Dentistry, Board of

January 21

Community Colleges, State Board for
† Emergency Planning Committee, Local - Hanover
County
† Hazardous Materials Training Committee
Health Professions, Board of
† Health, Department of
† Housing Development Authority, Virginia
Library Board
† Motor Vehicles, Department of
- Motor Vehicle Dealer's Advisory Board
Nursing Home Administrators, Board of
Real Estate Appraiser Board
Visually Handicapped, Board for the
Water Control Board, State

January 22

† Alcoholic Beverage Control Board
Chesapeake Bay Local Assistance Board
- Northern Area Review Committee
† Children's Facilities, Interdepartmental Council on
Ratesetting for
Community Colleges, State Board for
† Criminal Justice Services, Department of
- Virginia Juvenile Justice and Delinquency
Prevention Advisory Committee
Dentistry, Board of
Mental Health, Mental Retardation and Substance
Abuse Services Board, State
Nursing Home Administrators, Board of
Pharmacy, Board of
† Sewage Handling and Disposal Appeals Review
Board, State
Water Control Board, State

January 23

Architects, Land Surveyors, Professional Engineers and
Landscape Architects, Board for
- Board for Architects
† Child Day-Care Council
† Psychology, Board of
Transportation Safety Board
Water Control Board, State

January 24

† Psychology, Board of

January 27

† Accountancy, Board for
Chesapeake Bay Local Assistance Board
- Central Area Review Committee
Health Services Cost Review Council, Virginia
Lottery Department, State
Nursing, Board of

January 28

† Accountancy, Board for
Marine Resources Commission
Nursing, Board of

January 29

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† Health, State Board of
† Medical Assistance Services, Board of
Nursing, Board of
- January 30**
Chesapeake Bay Local Assistance Board
Dentistry, Board of
- January 31**
Dentistry, Board of
- February 3**
† Alcoholic Beverage Control Board
Cosmetology, Board for
† Longwood College
- Board of Visitors
- February 4**
Funeral Directors and Embalmers, Board of
Hopewell Industrial Safety Council
- February 5**
Chesapeake Bay Local Assistance Board
- Southern Area Review Committee
Funeral Directors and Embalmers, Board of
- February 6**
Emergency Planning Committee, Local - Chesterfield
County
Funeral Directors and Embalmers, Board of
† Middle Virginia Board of Directors and the Middle
Virginia Community Corrections Resources Board
- February 11**
† Higher Education for Virginia, State Council on
Virginia Resources Authority
- February 12**
Chesapeake Bay Local Assistance Board
- Northern Area Review Committee
Corrections, Board of
- February 13**
Corrections, Board of
- Liaison Committee
† Rehabilitative Services, Board of
- Finance Committee
- Legislation Committee
- Program and Evaluation Committee
- February 15**
† Military Institute, Virginia
- Board of Visitors
- February 19**
† Alcoholic Beverage Control Board
Chesapeake Bay Local Assistance Board
- Regulatory Review Committee and Program Study
Group
- Southern Area Review Committee
† Social Services, State Board of
- February 20**
Agriculture and Consumer Services, Department of
- Virginia Apple Board
- February 24**
Commerce, Board of
Lottery Department, State
- February 26**
Chesapeake Bay Local Assistance Board
- Northern Area Review Committee
- February 27**
Chesapeake Bay Local Assistance Board
- March 2**
† Alcoholic Beverage Control Board
- March 4**
Chesapeake Bay Local Assistance Board
- Southern Area Review Committee
- March 5**
† Middle Virginia Board of Directors and the Middle
Virginia Community Corrections Resources Board
- March 6**
Medicine, Board of
- Advisory Board on Physical Therapy
- March 10**
† Virginia Resources Authority
- March 11**
Agriculture and Consumer Services, Department of
- Virginia Sweet Potato Board
Chesapeake Bay Local Assistance Board
- Northern Area Review Committee
- March 16**
† Alcoholic Beverage Control Board
- March 18**
Chesapeake Bay Local Assistance Board
- Regulatory Review Committee and Program Study
Group
- Southern Area Review Committee
- March 25**
Chesapeake Bay Local Assistance Board
- Northern Area Review Committee
- March 26**
Chesapeake Bay Local Assistance Board
- March 30**
† Alcoholic Beverage Control Board

Calendar of Events

PUBLIC HEARINGS

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Water Control Board, State

January 17
† Deaf and Hard of Hearing, Department for the

January 21
Deaf and Hard of Hearing, Department for the
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January 23
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January 24
Taxation, Department of

January 27
Water Control Board, State

January 28
Water Control Board, State

January 29
† Nursing and Medicine, Boards of
Water Control Board, State

January 30
† Water Control Board, State

February 3
Water Control Board, State

February 10
Health, Department of
Water Control Board, State

February 12
Corrections, Department of
Water Control Board, State

February 13
Water Control Board, State

February 14
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† Health, Department of
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Waste Management, Department of
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† Water Control Board, State

February 28
Waste Management, Department of

March 2
† Water Control Board, State

March 4
† Water Control Board, State

March 6
Criminal Justice Services, Department of

April 1
Criminal Justice Services, Department of