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# THE VIRGINIA REGISTER INFORMATION PAGE

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**THE VIRGINIA REGISTER** is an official state publication issued every other week throughout the year. Indexes are published quarterly, and the last index of the year is cumulative. **THE VIRGINIA REGISTER** has several functions. The new and amended sections of regulations, both as proposed and as finally adopted, 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 and executive orders issued by the Governor, the Virginia Tax Bulletin issued periodically by the Department of Taxation, and notices of 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 intended regulatory action; a basis, purpose, substance and issues statement; an economic impact analysis prepared by the Department of Planning and Budget; the agency's response to the economic impact analysis; a summary; a notice giving the public an opportunity to comment on the proposal; and the text of the proposed regulation.

Following publication of the proposal in the *Virginia Register*, the promulgating agency receives public comments for a minimum of 60 days. The Governor reviews the proposed regulation to determine if it is necessary to protect the public health, safety and welfare, and if it is clearly written and easily understandable. If the Governor chooses to comment on the proposed regulation, his comments must be transmitted to the agency and the Registrar no later than 15 days following the completion of the 60-day public comment period. The Governor's comments, if any, will be published in the *Virginia Register*. Not less than 15 days following the completion of the 60-day public comment period, the agency may adopt the proposed regulation.

The appropriate standing committee of each branch of the General Assembly may meet during the promulgation or final adoption process and file an objection with the Registrar and the promulgating agency. The objection will be published in the *Virginia Register*. Within 21 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 agency again publishes the text of the regulation as adopted, highlighting all changes made to the proposed regulation and explaining any substantial changes made since publication of the proposal. A 30-day final adoption period begins upon final publication in the *Virginia Register*.

The Governor may review the final regulation during this time and, if he objects, forward his objection to the Registrar and the agency. In addition to or in lieu of filing a formal objection, the Governor may suspend the effective date of a portion or all of a regulation until the end of the next regular General Assembly session by issuing a directive signed by a majority of the members of the appropriate standing committees and the Governor. The Governor's objection or suspension of the regulation, or both, will be published in the *Virginia Register*. If the Governor finds that changes made to the proposed regulation have substantial impact, he may require the agency to provide an additional 30-day public comment period on the changes. Notice of the additional public comment period required by the Governor will be published in the *Virginia Register*.

The agency shall suspend the regulatory process for 30 days when it receives requests from 25 or more individuals to solicit additional public comment, unless the agency determines that the changes have minor or inconsequential impact.

A regulation becomes effective at the conclusion of the 30-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 21-day extension

period; (ii) the Governor exercises his authority to require the agency to provide for additional public comment, in which event the regulation, unless withdrawn, becomes effective on the date specified, which shall be after the expiration of the period for which the Governor has provided for additional public comment; (iii) the Governor and the General Assembly exercise their authority to suspend the effective date of a regulation until the end of the next regular legislative session; or (iv) the agency suspends the regulatory process, in which event the regulation, unless withdrawn, becomes effective on the date specified, which shall be after the expiration of the 30-day public comment period.

Proposed regulatory action may be withdrawn by the promulgating agency at any time before the regulation becomes final.

## EMERGENCY REGULATIONS

If an agency demonstrates that (i) there is an immediate threat to the public's health or safety; or (ii) Virginia statutory law, the appropriation act, federal law, or federal regulation requires a regulation to take effect no later than (a) 280 days from the enactment in the case of Virginia or federal law or the appropriation act, or (b) 280 days from the effective date of a federal regulation, it then requests the Governor's approval to adopt 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 to addressing specifically defined situations and may not exceed 12 months in duration. Emergency regulations are published as soon as possible in the *Register*.

During the time the emergency status is in effect, the agency may proceed with the adoption of permanent regulations through the usual procedures. To begin promulgating the replacement regulation, the agency must (i) file the Notice of Intended Regulatory Action with the Registrar within 60 days of the effective date of the emergency regulation; and (ii) file the proposed regulation with the Registrar within 180 days of the effective date of the emergency regulation. If the agency chooses not to adopt the regulations, the emergency status ends when the prescribed time limit expires.

## STATEMENT

The foregoing constitutes a generalized statement of the procedures to be followed. For specific statutory language, it is suggested that Article 2 (§ 9-6.14:7.1 et seq.) of Chapter 1.1:1 of the Code of Virginia be examined carefully.

## CITATION TO THE VIRGINIA REGISTER

The *Virginia Register* is cited by volume, issue, page number, and date. **12:8 VA.R. 1096-1106 January 8, 1996**, refers to Volume 12, Issue 8, pages 1096 through 1106 of the *Virginia Register* issued on January 8, 1996.

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*The Virginia Register of Regulations* is published pursuant to Article 7 (§ 9-6.14:22 et seq.) of Chapter 1.1:1 of Title 9 of the Code of Virginia. Individual copies, if available, may be purchased for \$4.00 each from the Registrar of Regulations.

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Staff of the Virginia Register: **Jane D. Chaffin**, Registrar of Regulations.

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# PUBLICATION DEADLINES AND SCHEDULES

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This schedule is available on the *Register's* Internet home page (<http://legis.state.va.us/codecomm/register/regindex.htm>).

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## September 1998 through June 1999

<u>Volume:Issue</u>	<u>Material Submitted By Noon*</u>	<u>Will Be Published On</u>
14:26	August 26, 1998	September 14, 1998
<b>FINAL INDEX - Volume 14</b>		<b>October 1998</b>
15:1	September 9, 1998	September 28, 1998
15:2	September 23, 1998	October 12, 1998
15:3	October 7, 1998	October 26, 1998
15:4	October 21, 1998	November 9, 1998
15:5	November 4, 1998	November 23, 1998
15:6	November 17, 1998 <b>(Tuesday)</b>	December 7, 1998
15:7	December 2, 1998	December 21, 1998
<b>INDEX 1 - Volume 15</b>		<b>January 1999</b>
15:8	December 15, 1998 <b>(Tuesday)</b>	January 4, 1999
15:9	December 29, 1998 <b>(Tuesday)</b>	January 18, 1999
15:10	January 13, 1999	February 1, 1999
15:11	January 27, 1999	February 15, 1999
15:12	February 10, 1999	March 1, 1999
15:13	February 24, 1999	March 15, 1999
15:14	March 10, 1999	March 29, 1999
<b>INDEX 2 - Volume 15</b>		<b>April 1999</b>
15:15	March 24, 1999	April 12, 1999
15:16	April 7, 1999	April 26, 1999
15:17	April 21, 1999	May 10, 1999
15:18	May 5, 1999	May 24, 1999
15:19	May 19, 1999	June 7, 1999
15:20	June 2, 1999	June 21, 1999
<b>INDEX 3 - Volume 15</b>		<b>July 1999</b>

\*Filing deadlines are Wednesdays unless otherwise specified.

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SECTION NUMBER	ACTION	CITE	EFFECTIVE DATE
<b>Title 1. Administration</b>			
1 VAC 75-30-60	Amended	14:25 VA.R. 4065	9/30/98
<b>Title 2. Agriculture</b>			
2 VAC 5-180-10	Amended	14:19 VA.R. 2666	7/8/98
2 VAC 5-180-20	Amended	14:19 VA.R. 2667	7/8/98
2 VAC 5-180-30	Amended	14:19 VA.R. 2668	7/8/98
2 VAC 5-180-50	Amended	14:19 VA.R. 2668	7/8/98
2 VAC 5-180-60	Amended	14:19 VA.R. 2668	7/8/98
2 VAC 5-180-80	Amended	14:19 VA.R. 2668	7/8/98
2 VAC 5-180-90	Amended	14:19 VA.R. 2669	7/8/98
2 VAC 5-180-120	Amended	14:19 VA.R. 2669	7/8/98
2 VAC 5-205-10 through 2 VAC 5-205-110	Added	14:19 VA.R. 2670	7/8/98
2 VAC 5-390-180	Amended	14:14 VA.R. 2136	3/1/98
<b>Title 4. Conservation and Natural Resources</b>			
4 VAC 5-20-20	Amended	14:24 VA.R. 3906	9/18/98
4 VAC 15-260-140	Amended	14:24 VA.R. 3907	9/1/98
4 VAC 15-260-170	Added	14:24 VA.R. 3907	9/16/98
4 VAC 15-290-140	Amended	14:16 VA.R. 2357	7/1/98
4 VAC 20-260-20	Amended	14:15 VA.R. 2231	3/13/98
4 VAC 20-280-10	Amended	14:16 VA.R. 2357	3/31/98
4 VAC 20-345-10	Added	14:15 VA.R. 2236	3/1/98
4 VAC 20-345-20	Added	14:15 VA.R. 2236	3/1/98
4 VAC 20-345-20	Amended	14:18 VA.R. 2513	5/4/98
4 VAC 20-345-30	Added	14:15 VA.R. 2236	3/1/98
4 VAC 20-345-40	Added	14:15 VA.R. 2237	3/1/98
4 VAC 20-345-40	Amended	14:18 VA.R. 2513	5/4/98
4 VAC 20-380-30	Amended	14:16 VA.R. 2357	3/31/98
4 VAC 20-380-60	Amended	14:16 VA.R. 2358	3/31/98
4 VAC 20-395-10 through 4 VAC 20-395-40	Added	14:22 VA.R. 3205-3206	7/1/98
4 VAC 20-500-40	Amended	14:14 VA.R. 2137	3/1/98
4 VAC 20-560-10	Amended	14:18 VA.R. 2514	5/1/98
4 VAC 20-560-20	Amended	14:18 VA.R. 2514	5/1/98
4 VAC 20-560-40	Amended	14:18 VA.R. 2515	5/1/98
4 VAC 20-560-50	Amended	14:18 VA.R. 2516	5/1/98
4 VAC 20-620-50	Amended	14:16 VA.R. 2358	4/1/98
4 VAC 20-620-60	Amended	14:16 VA.R. 2358	4/1/98
4 VAC 20-880-40	Amended	14:14 VA.R. 2137	3/1/98
4 VAC 20-880-40	Amended	14:18 VA.R. 2516	5/1/98
4 VAC 20-880-50	Amended	14:14 VA.R. 2138	3/1/98
4 VAC 20-880-50	Amended	14:18 VA.R. 2517	5/1/98
4 VAC 20-890-30	Amended	14:25 VA.R. 4065	8/5/98
4 VAC 20-910-45	Amended	14:12 VA.R. 1915	1/30/98

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## Cumulative Table of VAC Sections Adopted, Amended, or Repealed

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SECTION NUMBER	CITE	EFFECTIVE DATE
	Amended	14:16 VA.R. 2358
4 VAC 20-950-45	Added	1/30/98
4 VAC 20-950-45	14:16 VA.R. 2359	4/1/98
	Amended	14:16 VA.R. 2359
4 VAC 20-960-45	Added	4/1/98
4 VAC 20-1000-10	14:12 VA.R. 1916	1/30/98
	Added	14:12 VA.R. 1916
4 VAC 20-1000-30	Added	1/30/98
4 VAC 20-1000-40	14:12 VA.R. 1916	1/30/98
	Amended	14:17 VA.R. 2428
4 VAC 25-40-20	14:17 VA.R. 2430	7/1/98
VAC 25-40-25	Added	7/1/98
4	Repealed	14:17 VA.R. 2430
4 VAC 25-40-40	Amended	7/1/98
4 VAC 25-40-50	14:17 VA.R. 2430	7/1/98
VAC 25-40-60	Repealed	7/1/98
4 VAC 25-40-70	14:17 VA.R. 2431	7/1/98
VAC 25-40-80	Repealed	7/1/98
4 VAC 25-40-90	14:17 VA.R. 2431	7/1/98
	Amended	14:17 VA.R. 2431
4 VAC 25-40-110	14:17 VA.R. 2432	7/1/98
VAC 25-40-120	Amended	7/1/98
4	Amended	14:17 VA.R. 2432
4 VAC 25-40-140	14:17 VA.R. 2432	7/1/98
VAC 25-40-145	Added	7/1/98
4	Amended	14:17 VA.R. 2432
4 VAC 25-40-200	14:17 VA.R. 2432	7/1/98
VAC 25-40-210	Amended	7/1/98
4	Amended	14:17 VA.R. 2432
4 VAC 25-40-250	14:17 VA.R. 2432	7/1/98
VAC 25-40-270	Amended	7/1/98
4	Amended	14:17 VA.R. 2432
4 VAC 25-40-310	14:17 VA.R. 2432	7/1/98
VAC 25-40-320	Repealed	7/1/98
4	Amended	14:17 VA.R. 2432
4 VAC 25-40-385	14:17 VA.R. 2433	7/1/98
VAC 25-40-388	Added	7/1/98
4	Amended	14:17 VA.R. 2434
4 VAC 25-40-400	14:17 VA.R. 2434	7/1/98
VAC 25-40-440	Amended	7/1/98
4	Amended	14:17 VA.R. 2434
4 VAC 25-40-460	14:17 VA.R. 2434	7/1/98
VAC 25-40-490	Amended	7/1/98
4	Amended	14:17 VA.R. 2434
4 VAC 25-40-510	14:17 VA.R. 2434	7/1/98
VAC 25-40-520	Amended	7/1/98
4	Amended	14:17 VA.R. 2434
4 VAC 25-40-540	14:17 VA.R. 2434	7/1/98
VAC 25-40-550	Amended	7/1/98
4	Amended	14:17 VA.R. 2434
4 VAC 25-40-630	14:17 VA.R. 2434	7/1/98
VAC 25-40-660	Amended	7/1/98
4	Amended	14:17 VA.R. 2435
4 VAC 25-40-690	14:17 VA.R. 2435	7/1/98
VAC 25-40-710	Amended	7/1/98

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## Cumulative Table of VAC Sections Adopted, Amended, or Repealed

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4 VAC 25-40-720	Amended	14:17 VA.R. 2435	7/1/98
4 VAC 25-40-730	Repealed	14:17 VA.R. 2435	7/1/98
4 VAC 25-40-750	Repealed	14:17 VA.R. 2435	7/1/98
4 VAC 25-40-770	Amended	14:17 VA.R. 2435	7/1/98
4 VAC 25-40-780	Amended	14:17 VA.R. 2435	7/1/98
4 VAC 25-40-790	Amended	14:17 VA.R. 2436	7/1/98
4 VAC 25-40-800	Amended	14:17 VA.R. 2436	7/1/98
4 VAC 25-40-810	Amended	14:17 VA.R. 2437	7/1/98
4 VAC 25-40-820	Amended	14:17 VA.R. 2437	7/1/98
4 VAC 25-40-830	Amended	14:17 VA.R. 2438	7/1/98
4 VAC 25-40-870	Amended	14:17 VA.R. 2438	7/1/98
4 VAC 25-40-880	Amended	14:17 VA.R. 2438	7/1/98
4 VAC 25-40-890	Amended	14:17 VA.R. 2438	7/1/98
4 VAC 25-40-895	Added	14:17 VA.R. 2438	7/1/98
4 VAC 25-40-900	Amended	14:17 VA.R. 2438	7/1/98
4 VAC 25-40-910	Amended	14:17 VA.R. 2438	7/1/98
4 VAC 25-40-920	Amended	14:17 VA.R. 2439	7/1/98
4 VAC 25-40-930	Amended	14:17 VA.R. 2439	7/1/98
4 VAC 25-40-940	Repealed	14:17 VA.R. 2439	7/1/98
4 VAC 25-40-960	Repealed	14:17 VA.R. 2439	7/1/98
4 VAC 25-40-970	Amended	14:17 VA.R. 2439	7/1/98
4 VAC 25-40-1030	Amended	14:17 VA.R. 2439	7/1/98
4 VAC 25-40-1060	Amended	14:17 VA.R. 2439	7/1/98
4 VAC 25-40-1070	Amended	14:17 VA.R. 2439	7/1/98
4 VAC 25-40-1090	Amended	14:17 VA.R. 2439	7/1/98
4 VAC 25-40-1100	Amended	14:17 VA.R. 2439	7/1/98
4 VAC 25-40-1130	Amended	14:17 VA.R. 2440	7/1/98
4 VAC 25-40-1140	Amended	14:17 VA.R. 2440	7/1/98
4 VAC 25-40-1180	Amended	14:17 VA.R. 2440	7/1/98
4 VAC 25-40-1200	Amended	14:17 VA.R. 2440	7/1/98
4 VAC 25-40-1210	Amended	14:17 VA.R. 2440	7/1/98
4 VAC 25-40-1220	Amended	14:17 VA.R. 2440	7/1/98
4 VAC 25-40-1250	Amended	14:17 VA.R. 2440	7/1/98
4 VAC 25-40-1260	Amended	14:17 VA.R. 2440	7/1/98
4 VAC 25-40-1280	Amended	14:17 VA.R. 2440	7/1/98
4 VAC 25-40-1300	Repealed	14:17 VA.R. 2440	7/1/98
4 VAC 25-40-1310	Repealed	14:17 VA.R. 2440	7/1/98
4 VAC 25-40-1320	Amended	14:17 VA.R. 2440	7/1/98
4 VAC 25-40-1340	Amended	14:17 VA.R. 2440	7/1/98
4 VAC 25-40-1350	Amended	14:17 VA.R. 2440	7/1/98
4 VAC 25-40-1370	Amended	14:17 VA.R. 2440	7/1/98
4 VAC 25-40-1490	Repealed	14:17 VA.R. 2440	7/1/98
4 VAC 25-40-1540	Amended	14:17 VA.R. 2440	7/1/98
4 VAC 25-40-1550	Amended	14:17 VA.R. 2440	7/1/98
4 VAC 25-40-1560	Amended	14:17 VA.R. 2441	7/1/98
4 VAC 25-40-1580	Amended	14:17 VA.R. 2441	7/1/98
4 VAC 25-40-1590	Amended	14:17 VA.R. 2441	7/1/98
4 VAC 25-40-1670	Amended	14:17 VA.R. 2441	7/1/98
4 VAC 25-40-1685	Added	14:17 VA.R. 2441	7/1/98
4 VAC 25-40-1690	Amended	14:17 VA.R. 2441	7/1/98
4 VAC 25-40-1740	Amended	14:17 VA.R. 2441	7/1/98
4 VAC 25-40-1780	Amended	14:17 VA.R. 2441	7/1/98
4 VAC 25-40-1785	Added	14:17 VA.R. 2442	7/1/98
4 VAC 25-40-1810	Amended	14:17 VA.R. 2442	7/1/98
4 VAC 25-40-1880	Amended	14:17 VA.R. 2442	7/1/98

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## Cumulative Table of VAC Sections Adopted, Amended, or Repealed

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SECTION NUMBER	ACTION	CITE	EFFECTIVE DATE
4 VAC 25-40-1940	Repealed	14:17 VA.R. 2442	7/1/98
4 VAC 25-40-2010	Amended	14:17 VA.R. 2442	7/1/98
4 VAC 25-40-2015	Added	14:17 VA.R. 2442	7/1/98
4 VAC 25-40-2040	Amended	14:17 VA.R. 2442	7/1/98
4 VAC 25-40-2080	Amended	14:17 VA.R. 2442	7/1/98
4 VAC 25-40-2100	Amended	14:17 VA.R. 2442	7/1/98
4 VAC 25-40-2140	Amended	14:17 VA.R. 2442	7/1/98
4 VAC 25-40-2170	Amended	14:17 VA.R. 2442	7/1/98
4 VAC 25-40-2180	Amended	14:17 VA.R. 2442	7/1/98
4 VAC 25-40-2210	Amended	14:17 VA.R. 2442	7/1/98
4 VAC 25-40-2220	Amended	14:17 VA.R. 2442	7/1/98
4 VAC 25-40-2250	Amended	14:17 VA.R. 2442	7/1/98
4 VAC 25-40-2260	Repealed	14:17 VA.R. 2443	7/1/98
4 VAC 25-40-2270	Amended	14:17 VA.R. 2443	7/1/98
4 VAC 25-40-2280	Amended	14:17 VA.R. 2443	7/1/98
4 VAC 25-40-2300	Amended	14:17 VA.R. 2443	7/1/98
4 VAC 25-40-2340	Amended	14:17 VA.R. 2443	7/1/98
4 VAC 25-40-2390	Amended	14:17 VA.R. 2443	7/1/98
4 VAC 25-40-2400	Amended	14:17 VA.R. 2443	7/1/98
4 VAC 25-40-2410	Amended	14:17 VA.R. 2443	7/1/98
4 VAC 25-40-2420	Amended	14:17 VA.R. 2443	7/1/98
4 VAC 25-40-2440	Amended	14:17 VA.R. 2443	7/1/98
4 VAC 25-40-2450	Amended	14:17 VA.R. 2443	7/1/98
4 VAC 25-40-2480	Amended	14:17 VA.R. 2443	7/1/98
4 VAC 25-40-2490	Amended	14:17 VA.R. 2443	7/1/98
4 VAC 25-40-2500	Amended	14:17 VA.R. 2443	7/1/98
4 VAC 25-40-2510	Repealed	14:17 VA.R. 2443	7/1/98
4 VAC 25-40-2530	Amended	14:17 VA.R. 2443	7/1/98
4 VAC 25-40-2540	Amended	14:17 VA.R. 2443	7/1/98
4 VAC 25-40-2550	Amended	14:17 VA.R. 2443	7/1/98
4 VAC 25-40-2590	Amended	14:17 VA.R. 2444	7/1/98
4 VAC 25-40-2610	Amended	14:17 VA.R. 2444	7/1/98
4 VAC 25-40-2650	Amended	14:17 VA.R. 2444	7/1/98
4 VAC 25-40-2660	Amended	14:17 VA.R. 2444	7/1/98
4 VAC 25-40-2680	Amended	14:17 VA.R. 2444	7/1/98
4 VAC 25-40-2700	Amended	14:17 VA.R. 2444	7/1/98
4 VAC 25-40-2720	Amended	14:17 VA.R. 2444	7/1/98
4 VAC 25-40-2750	Amended	14:17 VA.R. 2444	7/1/98
4 VAC 25-40-2760	Amended	14:17 VA.R. 2444	7/1/98
4 VAC 25-40-2770	Amended	14:17 VA.R. 2444	7/1/98
4 VAC 25-40-2790	Amended	14:17 VA.R. 2444	7/1/98
4 VAC 25-40-2800	Amended	14:17 VA.R. 2445	7/1/98
4 VAC 25-40-2810	Amended	14:17 VA.R. 2445	7/1/98
4 VAC 25-40-2820	Amended	14:17 VA.R. 2445	7/1/98
4 VAC 25-40-2850	Amended	14:17 VA.R. 2445	7/1/98
4 VAC 25-40-2870	Amended	14:17 VA.R. 2445	7/1/98
4 VAC 25-40-2880	Amended	14:17 VA.R. 2445	7/1/98
4 VAC 25-40-2910	Amended	14:17 VA.R. 2445	7/1/98
4 VAC 25-40-2915	Added	14:17 VA.R. 2445	7/1/98
4 VAC 25-40-2920	Amended	14:17 VA.R. 2445	7/1/98
4 VAC 25-40-2930	Amended	14:17 VA.R. 2445	7/1/98
4 VAC 25-40-2980	Amended	14:17 VA.R. 2445	7/1/98
4 VAC 25-40-3000	Amended	14:17 VA.R. 2445	7/1/98
4 VAC 25-40-3030	Amended	14:17 VA.R. 2446	7/1/98
4 VAC 25-40-3050	Amended	14:17 VA.R. 2446	7/1/98

## Cumulative Table of VAC Sections Adopted, Amended, or Repealed

SECTION NUMBER	ACTION	CITE	EFFECTIVE DATE
4 VAC 25-40-3070	Amended	14:17 VA.R. 2446	7/1/98
4 VAC 25-40-3080	Amended	14:17 VA.R. 2446	7/1/98
4 VAC 25-40-3110	Amended	14:17 VA.R. 2446	7/1/98
4 VAC 25-40-3120	Amended	14:17 VA.R. 2446	7/1/98
4 VAC 25-40-3160	Amended	14:17 VA.R. 2447	7/1/98
4 VAC 25-40-3170	Amended	14:17 VA.R. 2447	7/1/98
4 VAC 25-40-3220	Amended	14:17 VA.R. 2447	7/1/98
4 VAC 25-40-3230	Repealed	14:17 VA.R. 2447	7/1/98
4 VAC 25-40-3240	Amended	14:17 VA.R. 2447	7/1/98
4 VAC 25-40-3280	Amended	14:17 VA.R. 2447	7/1/98
4 VAC 25-40-3290	Amended	14:17 VA.R. 2447	7/1/98
4 VAC 25-40-3300	Amended	14:17 VA.R. 2447	7/1/98
4 VAC 25-40-3310	Amended	14:17 VA.R. 2447	7/1/98
4 VAC 25-40-3320	Amended	14:17 VA.R. 2447	7/1/98
4 VAC 25-40-3325	Added	14:17 VA.R. 2447	7/1/98
4 VAC 25-40-3328	Added	14:17 VA.R. 2447	7/1/98
4 VAC 25-40-3330	Amended	14:17 VA.R. 2447	7/1/98
4 VAC 25-40-3340	Amended	14:17 VA.R. 2447	7/1/98
4 VAC 25-40-3350	Amended	14:17 VA.R. 2447	7/1/98
4 VAC 25-40-3420	Amended	14:17 VA.R. 2447	7/1/98
4 VAC 25-40-3430	Amended	14:17 VA.R. 2448	7/1/98
4 VAC 25-40-3450	Amended	14:17 VA.R. 2448	7/1/98
4 VAC 25-40-3460	Amended	14:17 VA.R. 2448	7/1/98
4 VAC 25-40-3475	Added	14:17 VA.R. 2448	7/1/98
4 VAC 25-40-3478	Added	14:17 VA.R. 2448	7/1/98
4 VAC 25-40-3590	Amended	14:17 VA.R. 2448	7/1/98
4 VAC 25-40-3595	Added	14:17 VA.R. 2448	7/1/98
4 VAC 25-40-3620	Amended	14:17 VA.R. 2448	7/1/98
4 VAC 25-40-3660	Amended	14:17 VA.R. 2448	7/1/98
4 VAC 25-40-3680	Amended	14:17 VA.R. 2448	7/1/98
4 VAC 25-40-3690	Amended	14:17 VA.R. 2448	7/1/98
4 VAC 25-40-3700	Amended	14:17 VA.R. 2448	7/1/98
4 VAC 25-40-3710	Amended	14:17 VA.R. 2448	7/1/98
4 VAC 25-40-3720	Amended	14:17 VA.R. 2448	7/1/98
4 VAC 25-40-3830	Amended	14:17 VA.R. 2448	7/1/98
4 VAC 25-40-3840	Amended	14:17 VA.R. 2449	7/1/98
4 VAC 25-40-3855	Added	14:17 VA.R. 2449	7/1/98
4 VAC 25-40-3890	Amended	14:17 VA.R. 2449	7/1/98
4 VAC 25-40-3930	Amended	14:17 VA.R. 2449	7/1/98
4 VAC 25-40-3955	Added	14:17 VA.R. 2449	7/1/98
4 VAC 25-40-3958	Added	14:17 VA.R. 2450	7/1/98
4 VAC 25-40-3980	Amended	14:17 VA.R. 2450	7/1/98
4 VAC 25-40-3990	Amended	14:17 VA.R. 2450	7/1/98
4 VAC 25-40-4060	Amended	14:17 VA.R. 2450	7/1/98
4 VAC 25-40-4090	Amended	14:17 VA.R. 2450	7/1/98
4 VAC 25-40-4100	Amended	14:17 VA.R. 2450	7/1/98
4 VAC 25-40-4110	Amended	14:17 VA.R. 2451	7/1/98
4 VAC 25-40-4140	Amended	14:17 VA.R. 2451	7/1/98
4 VAC 25-40-4160	Amended	14:17 VA.R. 2451	7/1/98
4 VAC 25-40-4220	Amended	14:17 VA.R. 2451	7/1/98
4 VAC 25-40-4230	Amended	14:17 VA.R. 2451	7/1/98
4 VAC 25-40-4260	Amended	14:17 VA.R. 2451	7/1/98
4 VAC 25-40-4280	Amended	14:17 VA.R. 2451	7/1/98
4 VAC 25-40-4290	Amended	14:17 VA.R. 2452	7/1/98
4 VAC 25-40-4320	Amended	14:17 VA.R. 2452	7/1/98

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## Cumulative Table of VAC Sections Adopted, Amended, or Repealed

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SECTION NUMBER	ACTION	CITE	EFFECTIVE DATE
4 VAC 25-40-4330	Amended	14:17 VA.R. 2452	7/1/98
4 VAC 25-40-4350	Amended	14:17 VA.R. 2452	7/1/98
4 VAC 25-40-4430	Amended	14:17 VA.R. 2452	7/1/98
4 VAC 25-40-4440	Amended	14:17 VA.R. 2452	7/1/98
4 VAC 25-40-4460	Amended	14:17 VA.R. 2452	7/1/98
4 VAC 25-40-4540	Amended	14:17 VA.R. 2452	7/1/98
4 VAC 25-40-4590	Amended	14:17 VA.R. 2452	7/1/98
4 VAC 25-40-4650	Amended	14:17 VA.R. 2452	7/1/98
4 VAC 25-40-4750	Amended	14:17 VA.R. 2452	7/1/98
4 VAC 25-40-4770	Amended	14:17 VA.R. 2452	7/1/98
4 VAC 25-40-4910	Amended	14:17 VA.R. 2452	7/1/98
4 VAC 25-40-4920	Amended	14:17 VA.R. 2452	7/1/98
4 VAC 25-40-4970	Amended	14:17 VA.R. 2452	7/1/98
4 VAC 25-40-4980	Amended	14:17 VA.R. 2452	7/1/98
4 VAC 25-40-5040	Repealed	14:17 VA.R. 2452	7/1/98
4 VAC 25-40-5050	Repealed	14:17 VA.R. 2453	7/1/98
4 VAC 25-40-5060	Amended	14:17 VA.R. 2453	7/1/98
4 VAC 25-40-5070	Amended	14:17 VA.R. 2453	7/1/98
4 VAC 25-40-5120	Amended	14:17 VA.R. 2453	7/1/98
4 VAC 25-40-5170	Amended	14:17 VA.R. 2453	7/1/98
4 VAC 25-40-5180	Amended	14:17 VA.R. 2453	7/1/98
4 VAC 25-40-5200	Amended	14:17 VA.R. 2453	7/1/98
4 VAC 25-40-5210	Amended	14:17 VA.R. 2453	7/1/98
4 VAC 25-40-5230	Amended	14:17 VA.R. 2454	7/1/98
4 VAC 25-40-5290	Amended	14:17 VA.R. 2454	7/1/98
4 VAC 25-40-5310	Amended	14:17 VA.R. 2454	7/1/98
4 VAC 25-40-5320	Amended	14:17 VA.R. 2454	7/1/98
4 VAC 25-40-5330	Amended	14:17 VA.R. 2454	7/1/98
4 VAC 25-40-5340	Amended	14:17 VA.R. 2454	7/1/98
4 VAC 25-40-5370	Amended	14:17 VA.R. 2454	7/1/98
4 VAC 25-40-5400	Amended	14:17 VA.R. 2454	7/1/98
4 VAC 25-40-5450	Amended	14:17 VA.R. 2454	7/1/98
4 VAC 25-40-5470	Amended	14:17 VA.R. 2454	7/1/98
4 VAC 25-40-5550	Amended	14:17 VA.R. 2454	7/1/98
4 VAC 25-40-5580	Amended	14:17 VA.R. 2454	7/1/98
4 VAC 25-40-5590	Amended	14:17 VA.R. 2455	7/1/98
4 VAC 25-40-5630	Amended	14:17 VA.R. 2455	7/1/98
4 VAC 25-40-5660	Amended	14:17 VA.R. 2455	7/1/98
4 VAC 25-40-5670	Amended	14:17 VA.R. 2455	7/1/98
4 VAC 25-40-5680	Repealed	14:17 VA.R. 2455	7/1/98
4 VAC 25-40-5690	Repealed	14:17 VA.R. 2455	7/1/98
4 VAC 25-40-5710	Amended	14:17 VA.R. 2455	7/1/98
4 VAC 25-40-5720	Repealed	14:17 VA.R. 2455	7/1/98
4 VAC 25-40-5730	Repealed	14:17 VA.R. 2455	7/1/98
4 VAC 25-40-5740	Repealed	14:17 VA.R. 2456	7/1/98
4 VAC 25-40-5750	Added	14:17 VA.R. 2456	7/1/98
4 VAC 25-40-5760	Added	14:17 VA.R. 2456	7/1/98
4 VAC 25-40-5770	Added	14:17 VA.R. 2457	7/1/98
4 VAC 25-40-5780	Added	14:17 VA.R. 2457	7/1/98
<b>Title 6. Criminal Justice and Corrections</b>			
6 VAC 15-60-10 through 6 VAC 15-60-100	Repealed	14:17 VA.R. 2457	9/1/98
6 VAC 15-61-10 through 6 VAC 15-61-300	Added	14:17 VA.R. 2457	9/1/98
6 VAC 20-170-10	Amended	14:24 VA.R. 3908	9/16/98

# Cumulative Table of VAC Sections Adopted, Amended, or Repealed

SECTION NUMBER	ACTION	CITE	EFFECTIVE DATE
6 VAC 20-170-80	Amended	14:24 VA.R. 3910	9/16/98
6 VAC 20-170-90	Amended	14:24 VA.R. 3911	9/16/98
6 VAC 20-170-270	Amended	14:24 VA.R. 3911	9/16/98
6 VAC 20-170-350	Amended	14:24 VA.R. 3912	9/16/98
6 VAC 20-170-470	Amended	14:24 VA.R. 3913	9/16/98
6 VAC 20-170-475	Amended	14:24 VA.R. 3913	9/16/98
6 VAC 20-170-520	Amended	14:24 VA.R. 3913	9/16/98
6 VAC 20-170-530	Amended	14:24 VA.R. 3913	9/16/98
6 VAC 20-170-540	Amended	14:24 VA.R. 3914	9/16/98
6 VAC 20-170-550	Amended	14:24 VA.R. 3915	9/16/98
6 VAC 20-170-615	Amended	14:24 VA.R. 3916	9/16/98
6 VAC 20-170-617	Amended	14:24 VA.R. 3919	9/16/98
6 VAC 20-170-626	Added	14:24 VA.R. 3919	9/16/98
6 VAC 20-170-627	Added	14:24 VA.R. 3919	9/16/98
6 VAC 20-170-1000	Amended	14:24 VA.R. 3919	9/16/98
6 VAC 20-170-1110	Added	14:24 VA.R. 3921	9/16/98
<b>Title 8. Education</b>			
8 VAC 20-20-750	Repealed	14:20 VA.R. 2754	7/22/98
8 VAC 20-20-770	Repealed	14:20 VA.R. 2754	7/22/98
8 VAC 20-20-780	Repealed	14:20 VA.R. 2754	7/22/98
8 VAC 20-20-790	Repealed	14:20 VA.R. 2754	7/22/98
8 VAC 20-21-425	Added	14:20 VA.R. 2754	7/22/98
8 VAC 20-21-430	Added	14:20 VA.R. 2755	7/22/98
8 VAC 20-21-435	Added	14:20 VA.R. 2756	7/22/98
8 VAC 20-21-440	Added	14:20 VA.R. 2757	7/22/98
8 VAC 20-21-445	Added	14:20 VA.R. 2758	7/22/98
<b>Title 9. Environment</b>			
9 VAC 5-20-203	Amended	14:11 VA.R. 1804	4/1/98
9 VAC 5-20-204	Amended	14:11 VA.R. 1804	4/1/98
9 VAC 5-20-205	Amended	14:11 VA.R. 1805	4/1/98
9 VAC 5-20-220	Added	14:11 VA.R. 1812	4/1/98
9 VAC 5-20-230	Added	14:11 VA.R. 1812	4/1/98
9 VAC 5-50-400	Amended	14:11 VA.R. 1807	4/1/98
9 VAC 5-60-60	Amended	14:11 VA.R. 1807	4/1/98
9 VAC 5-60-90	Amended	14:11 VA.R. 1807	4/1/98
9 VAC 5-60-100	Amended	14:11 VA.R. 1808	4/1/98
9 VAC 5-80-40	Repealed	14:11 VA.R. 1813	4/1/98
9 VAC 5-80-800	Added	14:11 VA.R. 1820	4/1/98
9 VAC 5-80-810	Added	14:11 VA.R. 1820	4/1/98
9 VAC 5-80-820	Added	14:11 VA.R. 1822	4/1/98
9 VAC 5-80-830	Added	14:11 VA.R. 1823	4/1/98
9 VAC 5-80-840	Added	14:11 VA.R. 1823	4/1/98
9 VAC 5-80-850	Added	14:11 VA.R. 1823	4/1/98
9 VAC 5-80-860	Added	14:11 VA.R. 1825	4/1/98
9 VAC 5-80-870	Added	14:11 VA.R. 1825	4/1/98
9 VAC 5-80-880	Added	14:11 VA.R. 1825	4/1/98
9 VAC 5-80-890	Added	14:11 VA.R. 1826	4/1/98
9 VAC 5-80-900	Added	14:11 VA.R. 1826	4/1/98
9 VAC 5-80-910	Added	14:11 VA.R. 1826	4/1/98
9 VAC 5-80-920	Added	14:11 VA.R. 1826	4/1/98
9 VAC 5-80-930	Added	14:11 VA.R. 1826	4/1/98
9 VAC 5-80-940	Added	14:11 VA.R. 1826	4/1/98
9 VAC 5-80-950	Added	14:11 VA.R. 1826	4/1/98
9 VAC 5-80-960	Added	14:11 VA.R. 1826	4/1/98
9 VAC 5-80-970	Added	14:11 VA.R. 1827	4/1/98

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## Cumulative Table of VAC Sections Adopted, Amended, or Repealed

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SECTION NUMBER	ACTION	CITE	EFFECTIVE DATE
9 VAC 5-80-980	Added	14:11 VA.R. 1827	4/1/98
9 VAC 5-80-990	Added	14:11 VA.R. 1828	4/1/98
9 VAC 5-80-1000	Added	14:11 VA.R. 1828	4/1/98
9 VAC 5-80-1010	Added	14:11 VA.R. 1828	4/1/98
9 VAC 5-80-1020	Added	14:11 VA.R. 1829	4/1/98
9 VAC 5-80-1030	Added	14:11 VA.R. 1830	4/1/98
9 VAC 5-80-1040	Added	14:11 VA.R. 1831	4/1/98
9 VAC 5-190-80	Erratum	14:12 VA.R. 1937	--
9 VAC 25-31-800	Erratum	14:12 VA.R. 1937	--
9 VAC 25-31-800	Erratum	14:17 VA.R. 2477	--
9 VAC 25-31-840	Erratum	14:12 VA.R. 1937	--
9 VAC 25-31-900	Erratum	14:17 VA.R. 2477	--
9 VAC 25-31-920	Amended	14:16 VA.R. 2360	5/27/98
9 VAC 25-90-10 through 9 VAC 25-90-70	Repealed	14:18 VA.R. 2517	6/24/98
9 VAC 25-91-10 through 9 VAC 25-91-220	Added	14:18 VA.R. 2518	6/24/98
9 VAC 25-91-20	Erratum	14:23 VA.R. 3682	--
9 VAC 25-91-120	Erratum	14:23 VA.R. 3682	--
9 VAC 25-91-130	Erratum	14:23 VA.R. 3682	--
9 VAC 25-91-170	Erratum	14:23 VA.R. 3682	--
9 VAC 25-91-180	Erratum	14:23 VA.R. 3682	--
9 VAC 25-91-220	Erratum	14:23 VA.R. 3682	--
9 VAC 25-100-10 through 9 VAC 25-100-70	Repealed	14:18 VA.R. 2547	6/24/98
9 VAC 25-101-10 through 9 VAC 25-101-70	Added	14:18 VA.R. 2547	6/24/98
9 VAC 25-101-40	Erratum	14:23 VA.R. 3682	--
9 VAC 25-101-50	Erratum	14:23 VA.R. 3682	--
9 VAC 25-130-10 through 9 VAC 25-130-100	Repealed	14:18 VA.R. 2517	6/24/98
9 VAC 25-140-10 through 9 VAC 25-140-110	Repealed	14:18 VA.R. 2518	6/24/98
9 VAC 25-193-10 through 9 VAC 25-193-80	Added	14:24 VA.R. 3922	10/1/98
9 VAC 25-196-50	Erratum	14:12 VA.R. 1937	--
9 VAC 25-196-70	Erratum	14:12 VA.R. 1937	--
9 VAC 25-260-20	Erratum	14:12 VA.R. 1937	--
9 VAC 25-260-110	Erratum	14:12 VA.R. 1937	--
9 VAC 25-260-140	Erratum	14:12 VA.R. 1937	--
9 VAC 25-260-350	Erratum	14:12 VA.R. 1937	--
9 VAC 25-260-370	Erratum	14:12 VA.R. 1937	--
9 VAC 25-260-390	Erratum	14:12 VA.R. 1937	--
9 VAC 25-260-400	Erratum	14:12 VA.R. 1937	--
9 VAC 25-260-450	Erratum	14:12 VA.R. 1937	--
9 VAC 25-260-540	Erratum	14:12 VA.R. 1937	--
9 VAC 25-590-10 through 9 VAC 25-590-230	Amended	14:23 VA.R. 3607	9/2/98
9 VAC 25-590-240	Added	14:23 VA.R. 3621	9/2/98
9 VAC 25-590-250	Added	14:23 VA.R. 3621	9/2/98
9 VAC 25-590-260	Added	14:23 VA.R. 3621	9/2/98
9 VAC 25-590, Appendix I	Amended	14:23 VA.R. 3621	9/2/98
9 VAC 25-590, Appendix II	Amended	14:23 VA.R. 3623	9/2/98
9 VAC 25-590, Appendices V through X	Amended	14:23 VA.R. 3625	9/2/98

# Cumulative Table of VAC Sections Adopted, Amended, or Repealed

SECTION NUMBER	ACTION	CITE	EFFECTIVE DATE
9 VAC 25-590, Appendix XI	Added	14:23 VA.R. 3631	9/2/98
<b>Title 10. Finance and Financial Institutions</b>			
10 VAC 5-60-40	Amended	14:14 VA.R. 2139	3/10/98
10 VAC 5-60-50	Amended	14:14 VA.R. 2139	3/10/98
10 VAC 5-70-20	Amended	14:14 VA.R. 2140	3/10/98
10 VAC 5-70-30	Amended	14:14 VA.R. 2140	3/10/98
10 VAC 5-70-50	Amended	14:14 VA.R. 2140	3/10/98
<b>Title 11. Gaming</b>			
11 VAC 10-70-20	Amended	14:11 VA.R. 1831	3/19/98
11 VAC 10-70-30	Amended	14:11 VA.R. 1831	3/19/98
11 VAC 10-70-40	Amended	14:11 VA.R. 1831	3/19/98
11 VAC 10-70-50	Amended	14:11 VA.R. 1831	3/19/98
11 VAC 10-70-60	Amended	14:11 VA.R. 1832	3/19/98
11 VAC 10-70-70	Amended	14:11 VA.R. 1832	3/19/98
11 VAC 10-70-80	Amended	14:11 VA.R. 1833	3/19/98
11 VAC 10-70-110	Amended	14:11 VA.R. 1833	3/19/98
11 VAC 10-70-170	Amended	14:11 VA.R. 1833	3/19/98
11 VAC 10-70-180	Amended	14:11 VA.R. 1833	3/19/98
11 VAC 10-90-10	Amended	14:11 VA.R. 1835	3/19/98
11 VAC 10-90-20	Amended	14:11 VA.R. 1835	3/19/98
11 VAC 10-90-30	Amended	14:11 VA.R. 1835	3/19/98
11 VAC 10-90-40	Amended	14:11 VA.R. 1835	3/19/98
11 VAC 10-90-50	Amended	14:11 VA.R. 1835	3/19/98
11 VAC 10-90-60	Amended	14:11 VA.R. 1836	3/19/98
11 VAC 10-180-10	Amended	14:22 VA.R. 3207	8/20/98
11 VAC 10-180-20	Amended	14:22 VA.R. 3207	8/20/98
11 VAC 10-180-30	Amended	14:22 VA.R. 3208	8/20/98
11 VAC 10-180-50	Amended	14:22 VA.R. 3209	8/20/98
11 VAC 10-180-60	Amended	14:22 VA.R. 3211	8/20/98
11 VAC 10-180-70	Amended	14:22 VA.R. 3212	8/20/98
11 VAC 10-180-80	Amended	14:22 VA.R. 3213	8/20/98
11 VAC 10-180-90	Amended	14:22 VA.R. 3213	8/20/98
<b>Title 12. Health</b>			
12 VAC 5-210-10	Amended	14:15 VA.R. 2237	6/1/98
12 VAC 5-210-20	Amended	14:15 VA.R. 2243	6/1/98
12 VAC 5-220-10	Amended	14:12 VA.R. 1917	4/2/98
12 VAC 5-220-105	Added	14:12 VA.R. 1920	4/2/98
12 VAC 5-220-150	Amended	14:12 VA.R. 1920	4/2/98
12 VAC 5-220-180	Amended	14:12 VA.R. 1920	4/2/98
12 VAC 5-220-200	Amended	14:12 VA.R. 1921	4/2/98
12 VAC 5-220-230	Amended	14:12 VA.R. 1923	4/2/98
12 VAC 5-220-280	Amended	14:12 VA.R. 1924	4/2/98
12 VAC 5-220-290	Amended	14:12 VA.R. 1925	4/2/98
12 VAC 5-220-385	Amended	14:12 VA.R. 1925	4/2/98
12 VAC 5-220-500	Amended	14:12 VA.R. 1926	4/2/98
12 VAC 30-50-30	Amended	14:18 VA.R. 2568	7/1/98
12 VAC 30-50-70	Amended	14:18 VA.R. 2568	7/1/98
12 VAC 30-50-100	Amended	14:18 VA.R. 2571	7/1/98
12 VAC 30-50-100 emer	Amended	14:22 VA.R. 3270	7/1/98 - 6/30/99
12 VAC 30-50-100	Amended	14:25 VA.R. 4066	9/30/98
12 VAC 30-50-105	Amended	14:18 VA.R. 2573	7/1/98
12 VAC 30-50-105 emer	Amended	14:22 VA.R. 3272	7/1/98 - 6/30/99
12 VAC 30-50-105	Amended	14:25 VA.R. 4068	9/30/98
12 VAC 30-50-140	Amended	14:12 VA.R. 1926	4/1/98
12 VAC 30-50-140	Amended	14:18 VA.R. 2574	7/1/98

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SECTION NUMBER	ACTION	CITE	EFFECTIVE DATE
12 VAC 30-50-150	Amended	14:12 VA.R. 1927	4/1/98
12 VAC 30-50-160	Amended	14:18 VA.R. 2564	7/1/98
12 VAC 30-50-200	Amended	14:18 VA.R. 2579	7/1/98
12 VAC 30-50-220	Amended	14:18 VA.R. 2569	7/1/98
12 VAC 30-50-229.1	Added	14:18 VA.R. 2581	7/1/98
12 VAC 30-50-540	Amended	14:18 VA.R. 2575	7/1/98
12 VAC 30-50-550	Added	14:18 VA.R. 2576	7/1/98
12 VAC 30-50-560	Added	14:18 VA.R. 2577	7/1/98
12 VAC 30-50-570	Added	14:18 VA.R. 2578	7/1/98
12 VAC 30-60-20 emer	Amended	14:22 VA.R. 3273	7/1/98 - 6/30/99
12 VAC 30-60-25 emer	Amended	14:22 VA.R. 3274	7/1/98 - 6/30/99
12 VAC 30-60-40	Amended	14:12 VA.R. 1928	4/1/98
12 VAC 30-60-90	Repealed	14:17 VA.R. 2465	6/10/98
12 VAC 30-60-120	Amended	14:12 VA.R. 1929	4/1/98
12 VAC 30-70-200 through 12 VAC 30-70-500 emer	Amended	14:22 VA.R. 3275-3297	7/1/98 - 6/30/99
12 VAC 30-70-440	Repealed	14:15 VA.R. 2248	6/1/98
12 VAC 30-70-441	Added	14:15 VA.R. 2248	6/1/98
12 VAC 30-80-30	Amended	14:12 VA.R. 1933	4/1/98
12 VAC 30-80-30	Amended	14:18 VA.R. 2582	7/1/98
12 VAC 30-80-170 emer	Amended	14:22 VA.R. 3299	7/1/98 - 6/30/99
12 VAC 30-90-52	Amended	14:22 VA.R. 3220	8/19/98
12 VAC 30-90-266	Added	14:22 VA.R. 3220	8/19/98
12 VAC 30-90-330	Added	14:22 VA.R. 3221	8/19/98
12 VAC 30-100-120	Amended	14:18 VA.R. 2583	7/1/98
12 VAC 30-100-400	Added	14:25 VA.R. 4070	10/1/98
12 VAC 30-100-410	Added	14:25 VA.R. 4070	10/1/98
12 VAC 30-100-420	Added	14:25 VA.R. 4071	10/1/98
12 VAC 30-100-430	Added	14:25 VA.R. 4074	10/1/98
12 VAC 30-100-440	Added	14:25 VA.R. 4074	10/1/98
12 VAC 30-100-450	Added	14:25 VA.R. 4075	10/1/98
12 VAC 30-100-460	Added	14:25 VA.R. 4075	10/1/98
12 VAC 30-100-470	Added	14:25 VA.R. 4075	10/1/98
12 VAC 30-100-480	Added	14:25 VA.R. 4076	10/1/98
12 VAC 30-100-490	Added	14:25 VA.R. 4076	10/1/98
12 VAC 30-120-360	Amended	14:18 VA.R. 2584	7/1/98
12 VAC 30-120-360 emer	Amended	14:22 VA.R. 3300	7/1/98 - 6/30/99
12 VAC 30-120-370	Amended	14:18 VA.R. 2585	7/1/98
12 VAC 30-120-370 emer	Amended	14:22 VA.R. 3301	7/1/98 - 6/30/99
12 VAC 30-120-385	Added	14:18 VA.R. 2587	7/1/98
12 VAC 30-120-410	Amended	14:18 VA.R. 2587	7/1/98
12 VAC 30-120-420	Amended	14:18 VA.R. 2587	7/1/98
12 VAC 30-120-490 through 12 VAC 30-120-550	Added	14:18 VA.R. 2590	7/1/98
<b>Title 13. Housing</b>			
13 VAC 5-51-135 emer	Added	14:18 VA.R. 2605	4/27/98 - 4/26/99
13 VAC 5-61-440	Amended	14:18 VA.R. 2600	7/1/98
13 VAC 5-111-10	Amended	14:24 VA.R. 3943	9/17/98
13 VAC 5-111-60	Amended	14:24 VA.R. 3947	9/17/98
13 VAC 5-111-85	Amended	14:24 VA.R. 3947	9/17/98
13 VAC 5-111-150	Amended	14:24 VA.R. 3947	9/17/98
13 VAC 5-111-170	Amended	14:24 VA.R. 3948	9/17/98
13 VAC 5-111-335	Added	14:24 VA.R. 3948	9/17/98
13 VAC 10-10-20	Amended	14:17 VA.R. 2466	5/1/98
13 VAC 10-20-20	Amended	14:17 VA.R. 2467	5/1/98



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SECTION NUMBER	ACTION	CITE	EFFECTIVE DATE
13 VAC 10-40-100	Amended	14:11 VA.R. 1838	1/28/98
13 VAC 10-40-110	Amended	14:11 VA.R. 1839	1/28/98
13 VAC 10-40-120	Amended	14:11 VA.R. 1839	1/28/98
13 VAC 10-40-130	Amended	14:11 VA.R. 1839	1/28/98
13 VAC 10-40-140	Amended	14:11 VA.R. 1841	1/28/98
13 VAC 10-40-190	Amended	14:11 VA.R. 1842	1/28/98
13 VAC 10-40-210	Amended	14:11 VA.R. 1843	1/28/98
13 VAC 10-40-230	Added	14:11 VA.R. 1843	1/28/98
13 VAC 10-130-30	Amended	14:17 VA.R. 2468	5/1/98
13 VAC 10-140-20	Amended	14:17 VA.R. 2469	5/1/98
13 VAC 10-180-50	Amended	14:14 VA.R. 2141	3/4/98
13 VAC 10-180-60	Amended	14:14 VA.R. 2142	3/4/98
<b>Title 16. Labor and Employment</b>			
16 VAC 10-20-10	Amended	14:20 VA.R. 2759	7/1/98
16 VAC 10-20-20	Amended	14:20 VA.R. 2760	7/1/98
16 VAC 10-20-30	Amended	14:20 VA.R. 2760	7/1/98
16 VAC 10-20-40	Amended	14:20 VA.R. 2760	7/1/98
16 VAC 10-20-50	Repealed	14:20 VA.R. 2760	7/1/98
16 VAC 10-20-60	Repealed	14:20 VA.R. 2760	7/1/98
16 VAC 10-20-70	Repealed	14:20 VA.R. 2760	7/1/98
16 VAC 10-20-80	Amended	14:20 VA.R. 2760	7/1/98
16 VAC 10-20-90	Repealed	14:20 VA.R. 2761	7/1/98
16 VAC 10-20-100	Repealed	14:20 VA.R. 2761	7/1/98
16 VAC 10-20-110	Amended	14:20 VA.R. 2761	7/1/98
16 VAC 10-20-140	Amended	14:20 VA.R. 2761	7/1/98
16 VAC 10-20-150	Amended	14:20 VA.R. 2761	7/1/98
16 VAC 10-20-160	Amended	14:20 VA.R. 2761	7/1/98
16 VAC 10-20-170	Amended	14:20 VA.R. 2762	7/1/98
16 VAC 10-20-180	Repealed	14:20 VA.R. 2762	7/1/98
16 VAC 10-20-190	Amended	14:20 VA.R. 2762	7/1/98
16 VAC 10-20-200	Amended	14:20 VA.R. 2762	7/1/98
16 VAC 10-20-210	Repealed	14:20 VA.R. 2763	7/1/98
16 VAC 10-20-220	Repealed	14:20 VA.R. 2763	7/1/98
16 VAC 10-20-230	Repealed	14:20 VA.R. 2764	7/1/98
16 VAC 10-20-240	Amended	14:20 VA.R. 2764	7/1/98
16 VAC 10-20-250	Repealed	14:20 VA.R. 2765	7/1/98
16 VAC 10-20-260	Repealed	14:20 VA.R. 2765	7/1/98
16 VAC 10-20-270	Repealed	14:20 VA.R. 2766	7/1/98
16 VAC 10-20-275	Added	14:20 VA.R. 2766	7/1/98
16 VAC 10-20-280	Amended	14:20 VA.R. 2766	7/1/98
16 VAC 10-20-290	Repealed	14:20 VA.R. 2766	7/1/98
16 VAC 10-20-300	Amended	14:20 VA.R. 2766	7/1/98
16 VAC 10-20-310 through 16 VAC 10-20-460	Repealed	14:20 VA.R. 2767-2770	7/1/98
16 VAC 25-90-1910.94	Amended	14:15 VA.R. 2250	6/1/98
16 VAC 25-90-1910.111	Amended	14:15 VA.R. 2250	6/1/98
16 VAC 25-90-1910.134	Amended	14:15 VA.R. 2250	6/1/98
16 VAC 25-90-1910.134	Amended	14:22 VA.R. 3222	9/1/98
16 VAC 25-90-1910.139	Added	14:15 VA.R. 2250	6/1/98
16 VAC 25-90-1910.156	Amended	14:15 VA.R. 2250	6/1/98
16 VAC 25-90-1910.252	Amended	14:15 VA.R. 2250	6/1/98
16 VAC 25-90-1910.261	Erratum	14:17 VA.R. 2477	6/1/98
16 VAC 25-90-1910.1001	Amended	14:15 VA.R. 2250	6/1/98
16 VAC 25-90-1910.1003	Amended	14:15 VA.R. 2250	6/1/98
16 VAC 25-90-1910.1003	Amended	14:22 VA.R. 3222	9/1/98

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SECTION NUMBER	ACTION	CITE	EFFECTIVE DATE
16 VAC 25-90-1910.1017	Amended	14:15 VA.R. 2250	6/1/98
16 VAC 25-90-1910.1018	Amended	14:15 VA.R. 2250	6/1/98
16 VAC 25-90-1910.1025	Amended	14:15 VA.R. 2250	6/1/98
16 VAC 25-90-1910.1025	Amended	14:22 VA.R. 3222	9/1/98
16 VAC 25-90-1910.1027	Amended	14:15 VA.R. 2250	6/1/98
16 VAC 25-90-1910.1028	Amended	14:15 VA.R. 2250	6/1/98
16 VAC 25-90-1910.1028	Amended	14:22 VA.R. 3222	9/1/98
16 VAC 25-90-1910.1029	Amended	14:15 VA.R. 2250	6/1/98
16 VAC 25-90-1910.1043	Amended	14:15 VA.R. 2250	6/1/98
16 VAC 25-90-1910.1044	Amended	14:15 VA.R. 2250	6/1/98
16 VAC 25-90-1910.1045	Amended	14:15 VA.R. 2250	6/1/98
16 VAC 25-90-1910.1045	Amended	14:22 VA.R. 3222	9/1/98
16 VAC 25-90-1910.1047	Amended	14:15 VA.R. 2250	6/1/98
16 VAC 25-90-1910.1048	Amended	14:15 VA.R. 2250	6/1/98
16 VAC 25-90-1910.1048	Amended	14:22 VA.R. 3222	9/1/98
16 VAC 25-90-1910.1050	Amended	14:15 VA.R. 2250	6/1/98
16 VAC 25-90-1910.1050	Amended	14:22 VA.R. 3222	9/1/98
16 VAC 25-90-1910.1051	Amended	14:15 VA.R. 2250	6/1/98
16 VAC 25-90-1910.1052	Amended	14:14 VA.R. 2151	5/1/98
16 VAC 25-90-1910.1052	Amended	14:15 VA.R. 2250	6/1/98
16 VAC 25-90-1910.1052	Amended	14:22 VA.R. 3222	9/1/98
16 VAC 25-175-1926.1101	Amended	14:22 VA.R. 3222	9/1/98
<b>Title 18. Professional and Occupational Licensing</b>			
18 VAC 25-21-70	Amended	14:11 VA.R. 1845	4/1/98
18 VAC 30-20-10	Amended	14:14 VA.R. 2155	4/29/98
18 VAC 30-20-20	Repealed	14:14 VA.R. 2156	4/29/98
18 VAC 30-20-30	Repealed	14:14 VA.R. 2156	4/29/98
18 VAC 30-20-40	Repealed	14:14 VA.R. 2156	4/29/98
18 VAC 30-20-45	Added	14:14 VA.R. 2156	4/29/98
18 VAC 30-20-50	Amended	14:14 VA.R. 2156	4/29/98
18 VAC 30-20-60	Repealed	14:14 VA.R. 2156	4/29/98
18 VAC 30-20-70	Amended	14:14 VA.R. 2156	4/29/98
18 VAC 30-20-80	Amended	14:14 VA.R. 2157	4/29/98
18 VAC 30-20-90	Repealed	14:14 VA.R. 2157	4/29/98
18 VAC 30-20-100	Repealed	14:14 VA.R. 2157	4/29/98
18 VAC 30-20-110	Repealed	14:14 VA.R. 2157	4/29/98
18 VAC 30-20-120	Repealed	14:14 VA.R. 2157	4/29/98
18 VAC 30-20-130	Repealed	14:14 VA.R. 2157	4/29/98
18 VAC 30-20-140	Repealed	14:14 VA.R. 2157	4/29/98
18 VAC 30-20-150	Amended	14:14 VA.R. 2157	4/29/98
18 VAC 30-20-160	Amended	14:14 VA.R. 2157	4/29/98
18 VAC 30-20-170	Amended	14:14 VA.R. 2157	4/29/98
18 VAC 30-20-180	Amended	14:14 VA.R. 2159	4/29/98
18 VAC 30-20-190	Repealed	14:14 VA.R. 2159	4/29/98
18 VAC 30-20-200	Repealed	14:14 VA.R. 2159	4/29/98
18 VAC 30-20-210	Repealed	14:14 VA.R. 2159	4/29/98
18 VAC 30-20-220	Repealed	14:14 VA.R. 2159	4/29/98
18 VAC 30-20-240	Amended	14:14 VA.R. 2159	4/29/98
18 VAC 30-20-250	Repealed	14:14 VA.R. 2160	4/29/98
18 VAC 30-20-260	Repealed	14:14 VA.R. 2160	4/29/98
18 VAC 30-20-270	Repealed	14:14 VA.R. 2160	4/29/98
18 VAC 30-20-280	Amended	14:14 VA.R. 2160	4/29/98
18 VAC 60-20-105	Added	14:18 VA.R. 2602	6/24/98
18 VAC 76-10-10	Amended	14:11 VA.R. 1845	1/22/98
18 VAC 85-20-10	Amended	14:21 VA.R. 2904	8/5/98

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SECTION NUMBER	ACTION	CITE	EFFECTIVE DATE
18 VAC 85-20-20	Amended	14:21 VA.R. 2904	8/5/98
18 VAC 85-20-21	Added	14:21 VA.R. 2904	8/5/98
18 VAC 85-20-22	Added	14:21 VA.R. 2904	8/5/98
18 VAC 85-20-30	Amended	14:21 VA.R. 2905	8/5/98
18 VAC 85-20-60	Repealed	14:21 VA.R. 2905	8/5/98
18 VAC 85-20-70	Repealed	14:21 VA.R. 2905	8/5/98
18 VAC 85-20-105	Added	14:21 VA.R. 2905	8/5/98
18 VAC 85-20-110	Repealed	14:21 VA.R. 2905	8/5/98
18 VAC 85-20-120	Amended	14:21 VA.R. 2905	8/5/98
18 VAC 85-20-121	Added	14:21 VA.R. 2906	8/5/98
18 VAC 85-20-122	Added	14:21 VA.R. 2906	8/5/98
18 VAC 85-20-131	Added	14:21 VA.R. 2908	8/5/98
18 VAC 85-20-140	Amended	14:21 VA.R. 2908	8/5/98
18 VAC 85-20-150	Amended	14:21 VA.R. 2909	8/5/98
18 VAC 85-20-160	Repealed	14:21 VA.R. 2909	8/5/98
18 VAC 85-20-170	Repealed	14:21 VA.R. 2910	8/5/98
18 VAC 85-20-180	Repealed	14:21 VA.R. 2910	8/5/98
18 VAC 85-20-190	Repealed	14:21 VA.R. 2911	8/5/98
18 VAC 85-20-200	Repealed	14:21 VA.R. 2911	8/5/98
18 VAC 85-20-210	Amended	14:21 VA.R. 2912	8/5/98
18 VAC 85-20-230	Amended	14:21 VA.R. 2912	8/5/98
18 VAC 85-20-240	Amended	14:21 VA.R. 2912	8/5/98
18 VAC 85-20-250	Repealed	14:21 VA.R. 2912	8/5/98
18 VAC 85-20-260	Repealed	14:21 VA.R. 2913	8/5/98
18 VAC 85-20-270	Repealed	14:21 VA.R. 2913	8/5/98
18 VAC 85-40-10	Amended	14:21 VA.R. 2915	8/5/98
18 VAC 85-40-20	Amended	14:21 VA.R. 2915	8/5/98
18 VAC 85-40-40	Amended	14:21 VA.R. 2915	8/5/98
18 VAC 85-40-50	Amended	14:21 VA.R. 2916	8/5/98
18 VAC 85-40-60	Amended	14:21 VA.R. 2916	8/5/98
18 VAC 85-40-70	Amended	14:21 VA.R. 2916	8/5/98
18 VAC 85-40-80	Amended	14:21 VA.R. 2916	8/5/98
18 VAC 85-50-10	Amended	14:21 VA.R. 2923	8/5/98
18 VAC 85-50-50	Amended	14:21 VA.R. 2924	8/5/98
18 VAC 85-50-55	Amended	14:21 VA.R. 2924	8/5/98
18 VAC 85-50-57	Amended	14:21 VA.R. 2924	8/5/98
18 VAC 85-50-101	Added	14:21 VA.R. 2924	8/5/98
18 VAC 85-50-115	Amended	14:21 VA.R. 2925	8/5/98
18 VAC 85-50-116	Added	14:21 VA.R. 2925	8/5/98
18 VAC 85-50-170	Amended	14:21 VA.R. 2925	8/5/98
18 VAC 85-80-10	Amended	14:21 VA.R. 2934	8/5/98
18 VAC 85-80-40	Amended	14:21 VA.R. 2934	8/5/98
18 VAC 85-80-50	Amended	14:21 VA.R. 2934	8/5/98
18 VAC 85-80-60	Amended	14:21 VA.R. 2935	8/5/98
18 VAC 85-80-70	Amended	14:21 VA.R. 2935	8/5/98
18 VAC 85-80-80	Amended	14:21 VA.R. 2935	8/5/98
18 VAC 85-80-120	Amended	14:21 VA.R. 2935	8/5/98
18 VAC 110-20-210	Amended	14:15 VA.R. 2253	5/13/98
18 VAC 115-40-10	Amended	14:25 VA.R. 4076	9/30/98
18 VAC 115-40-20	Amended	14:25 VA.R. 4077	9/30/98
18 VAC 115-40-22	Amended	14:25 VA.R. 4077	9/30/98
18 VAC 115-40-25	Amended	14:25 VA.R. 4077	9/30/98
18 VAC 115-40-26	Added	14:25 VA.R. 4078	9/30/98
18 VAC 115-40-27	Added	14:25 VA.R. 4078	9/30/98
18 VAC 115-40-40	Amended	14:25 VA.R. 4078	9/30/98

# Cumulative Table of VAC Sections Adopted, Amended, or Repealed

SECTION NUMBER	ACTION	CITE	EFFECTIVE DATE
18 VAC 115-40-50	Amended	14:25 VA.R. 4079	9/30/98
18 VAC 120-30-100	Amended	14:11 VA.R. 1846	4/1/98
18 VAC 120-40-10 through 18 VAC 120-40-430 emer	Added	14:25 VA.R. 4088	8/11/98 - 8/10/99
18 VAC 125-20-30	Amended	14:11 VA.R. 1851	4/1/98
18 VAC 135-20-10*	Amended	14:20 VA.R. 2771	*
18 VAC 135-20-20*	Amended	14:20 VA.R. 2771	*
18 VAC 135-20-30*	Amended	14:20 VA.R. 2772	*
18 VAC 135-20-40*	Amended	14:20 VA.R. 2773	*
18 VAC 135-20-45*	Added	14:20 VA.R. 2773	*
18 VAC 135-20-50*	Amended	14:20 VA.R. 2773	*
18 VAC 135-20-60*	Amended	14:20 VA.R. 2774	*
18 VAC 135-20-80*	Amended	14:20 VA.R. 2774	*
18 VAC 135-20-90*	Amended	14:20 VA.R. 2775	*
18 VAC 135-20-100*	Amended	14:20 VA.R. 2775	*
18 VAC 135-20-110*	Amended	14:20 VA.R. 2776	*
18 VAC 135-20-120*	Amended	14:20 VA.R. 2776	*
18 VAC 135-20-150*	Amended	14:20 VA.R. 2776	*
18 VAC 135-20-160*	Amended	14:20 VA.R. 2776	*
18 VAC 135-20-170*	Amended	14:20 VA.R. 2777	*
18 VAC 135-20-180*	Amended	14:20 VA.R. 2777	*
18 VAC 135-20-190*	Amended	14:20 VA.R. 2778	*
18 VAC 135-20-200*	Amended	14:20 VA.R. 2779	*
18 VAC 135-20-210*	Amended	14:20 VA.R. 2779	*
18 VAC 135-20-220*	Amended	14:20 VA.R. 2780	*
18 VAC 135-20-240*	Amended	14:20 VA.R. 2780	*
18 VAC 135-20-250*	Amended	14:20 VA.R. 2780	*
18 VAC 135-20-260*	Amended	14:20 VA.R. 2780	*
18 VAC 135-20-270*	Amended	14:20 VA.R. 2781	*
18 VAC 135-20-280*	Amended	14:20 VA.R. 2781	*
18 VAC 135-20-290*	Amended	14:20 VA.R. 2781	*
18 VAC 135-20-300*	Amended	14:20 VA.R. 2782	*
18 VAC 135-20-310*	Amended	14:20 VA.R. 2782	*
18 VAC 135-20-320*	Amended	14:20 VA.R. 2783	*
18 VAC 135-20-350*	Amended	14:20 VA.R. 2783	*
18 VAC 135-20-360*	Amended	14:20 VA.R. 2783	*
18 VAC 135-20-370*	Amended	14:20 VA.R. 2784	*
18 VAC 135-20-380*	Amended	14:20 VA.R. 2784	*
18 VAC 135-20-390*	Amended	14:20 VA.R. 2784	*
18 VAC 135-20-400*	Amended	14:20 VA.R. 2785	*
18 VAC 135-20-410*	Amended	14:20 VA.R. 2785	*
18 VAC 135-20-420*	Repealed	14:20 VA.R. 2785	*
18 VAC 135-20-430*	Repealed	14:20 VA.R. 2785	*
18 VAC 135-20-440*	Repealed	14:20 VA.R. 2785	*

\*The regulatory process was suspended on this section in 14:24 VA.R. 3949, and the final effective date will be delayed.

## Title 19. Public Safety

19 VAC 30-20-10	Amended	14:11 VA.R. 1853	3/18/98
19 VAC 30-20-70	Amended	14:11 VA.R. 1853	3/18/98
19 VAC 30-20-80	Amended	14:11 VA.R. 1854	3/18/98
19 VAC 30-20-140	Amended	14:11 VA.R. 1854	3/18/98
19 VAC 30-20-150	Amended	14:11 VA.R. 1854	3/18/98
19 VAC 30-20-160	Amended	14:11 VA.R. 1854	3/18/98
19 VAC 30-170-05	Added	14:22 VA.R. 3225	7/1/98
19 VAC 30-170-10	Amended	14:22 VA.R. 3225	7/1/98

# Cumulative Table of VAC Sections Adopted, Amended, or Repealed

SECTION NUMBER	ACTION	CITE	EFFECTIVE DATE
19 VAC 30-170-20	Amended	14:22 VA.R. 3225	7/1/98
19 VAC 30-170-30	Amended	14:22 VA.R. 3226	7/1/98
19 VAC 30-170-40	Amended	14:22 VA.R. 3227	7/1/98
19 VAC 30-170-50	Amended	14:22 VA.R. 3228	7/1/98
19 VAC 30-170-60	Added	14:22 VA.R. 3228	7/1/98
<b>Title 20. Public Utilities and Telecommunications</b>			
20 VAC 5-310-10	Amended	14:15 VA.R. 2253	3/24/98
<b>Title 21. Securities and Retail Franchising</b>			
21 VAC 5-10-40	Amended	14:22 VA.R. 3240	7/1/98
21 VAC 5-20-10	Amended	14:22 VA.R. 3240	7/1/98
21 VAC 5-20-70	Amended	14:22 VA.R. 3241	7/1/98
21 VAC 5-20-80	Amended	14:22 VA.R. 3241	7/1/98
21 VAC 5-20-230	Amended	14:22 VA.R. 3243	7/1/98
21 VAC 5-20-290	Amended	14:22 VA.R. 3243	7/1/98
21 VAC 5-20-300	Amended	14:22 VA.R. 3243	7/1/98
21 VAC 5-30-20	Amended	14:22 VA.R. 3244	7/1/98
21 VAC 5-30-50	Amended	14:22 VA.R. 3244	7/1/98
21 VAC 5-30-60	Amended	14:22 VA.R. 3244	7/1/98
21 VAC 5-30-70	Amended	14:22 VA.R. 3244	7/1/98
21 VAC 5-30-80	Amended	14:22 VA.R. 3245	7/1/98
21 VAC 5-40-20	Amended	14:22 VA.R. 3245	7/1/98
21 VAC 5-40-30	Amended	14:22 VA.R. 3246	7/1/98
21 VAC 5-40-100	Amended	14:22 VA.R. 3247	7/1/98
21 VAC 5-40-120	Amended	14:22 VA.R. 3249	7/1/98
21 VAC 5-80-10	Amended	14:22 VA.R. 3249	7/1/98
21 VAC 5-80-40	Amended	14:22 VA.R. 3250	7/1/98
21 VAC 5-80-140	Amended	14:22 VA.R. 3250	7/1/98
21 VAC 5-80-160	Amended	14:22 VA.R. 3251	7/1/98
21 VAC 5-80-170	Amended	14:22 VA.R. 3253	7/1/98
21 VAC 5-80-210	Amended	14:22 VA.R. 3253	7/1/98
21 VAC 5-80-220	Amended	14:22 VA.R. 3254	7/1/98
21 VAC 5-80-250	Added	14:22 VA.R. 3255	7/1/98
21 VAC 5-85-10	Amended	14:13 VA.R. 1976	2/17/98
21 VAC 5-85-10	Amended	14:15 VA.R. 2259	3/24/98
21 VAC 5-85-10	Amended	14:22 VA.R. 3256	7/1/98
21 VAC 5-120-10 through 21 VAC 5-120-110	Added	14:22 VA.R. 3261-3264	7/1/98
<b>Title 22. Social Services</b>			
22 VAC 15-30-10	Amended	14:21 VA.R. 2942	9/1/98
22 VAC 15-30-20	Amended	14:21 VA.R. 2946	9/1/98
22 VAC 15-30-30	Amended	14:21 VA.R. 2946	9/1/98
22 VAC 15-30-40	Repealed	14:21 VA.R. 2946	9/1/98
22 VAC 15-30-50	Amended	14:21 VA.R. 2946	9/1/98
22 VAC 15-30-60	Repealed	14:21 VA.R. 2947	9/1/98
22 VAC 15-30-70	Amended	14:21 VA.R. 2948	9/1/98
22 VAC 15-30-80	Amended	14:21 VA.R. 2948	9/1/98
22 VAC 15-30-90	Amended	14:21 VA.R. 2948	9/1/98
22 VAC 15-30-100	Amended	14:21 VA.R. 2949	9/1/98
22 VAC 15-30-110	Amended	14:21 VA.R. 2949	9/1/98
22 VAC 15-30-120	Amended	14:21 VA.R. 2949	9/1/98
22 VAC 15-30-130	Amended	14:21 VA.R. 2950	9/1/98
22 VAC 15-30-140	Amended	14:21 VA.R. 2950	9/1/98
22 VAC 15-30-150	Amended	14:21 VA.R. 2950	9/1/98
22 VAC 15-30-160	Amended	14:21 VA.R. 2950	9/1/98
22 VAC 15-30-170	Amended	14:21 VA.R. 2951	9/1/98

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## Cumulative Table of VAC Sections Adopted, Amended, or Repealed

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SECTION NUMBER	ACTION	CITE	EFFECTIVE DATE
22 VAC 15-30-180	Amended	14:21 VA.R. 2951	9/1/98
22 VAC 15-30-190	Amended	14:21 VA.R. 2952	9/1/98
22 VAC 15-30-200	Amended	14:21 VA.R. 2952	9/1/98
22 VAC 15-30-210	Repealed	14:21 VA.R. 2952	9/1/98
22 VAC 15-30-220	Repealed	14:21 VA.R. 2952	9/1/98
22 VAC 15-30-230	Amended	14:21 VA.R. 2953	9/1/98
22 VAC 15-30-240	Repealed	14:21 VA.R. 2953	9/1/98
22 VAC 15-30-250	Amended	14:21 VA.R. 2954	9/1/98
22 VAC 15-30-260	Amended	14:21 VA.R. 2954	9/1/98
22 VAC 15-30-270	Repealed	14:21 VA.R. 2955	9/1/98
22 VAC 15-30-280	Amended	14:21 VA.R. 2955	9/1/98
22 VAC 15-30-290	Amended	14:21 VA.R. 2955	9/1/98
22 VAC 15-30-300	Repealed	14:21 VA.R. 2955	9/1/98
22 VAC 15-30-310	Amended	14:21 VA.R. 2955	9/1/98
22 VAC 15-30-320	Amended	14:21 VA.R. 2956	9/1/98
22 VAC 15-30-330	Amended	14:21 VA.R. 2957	9/1/98
22 VAC 15-30-340	Amended	14:21 VA.R. 2958	9/1/98
22 VAC 15-30-350	Amended	14:21 VA.R. 2958	9/1/98
22 VAC 15-30-360	Amended	14:21 VA.R. 2959	9/1/98
22 VAC 15-30-370	Amended	14:21 VA.R. 2959	9/1/98
22 VAC 15-30-380	Amended	14:21 VA.R. 2959	9/1/98
22 VAC 15-30-390	Amended	14:21 VA.R. 2960	9/1/98
22 VAC 15-30-400	Repealed	14:21 VA.R. 2960	9/1/98
22 VAC 15-30-410	Amended	14:21 VA.R. 2961	9/1/98
22 VAC 15-30-420	Repealed	14:21 VA.R. 2961	9/1/98
22 VAC 15-30-430	Amended	14:21 VA.R. 2961	9/1/98
22 VAC 15-30-440	Amended	14:21 VA.R. 2962	9/1/98
22 VAC 15-30-450	Repealed	14:21 VA.R. 2963	9/1/98
22 VAC 15-30-451	Added	14:21 VA.R. 2965	9/1/98
22 VAC 15-30-460	Repealed	14:21 VA.R. 2963	9/1/98
22 VAC 15-30-461	Added	14:21 VA.R. 2965	9/1/98
22 VAC 15-30-470	Repealed	14:21 VA.R. 2964	9/1/98
22 VAC 15-30-471	Added	14:21 VA.R. 2966	9/1/98
22 VAC 15-30-480	Repealed	14:21 VA.R. 2964	9/1/98
22 VAC 15-30-481	Added	14:21 VA.R. 2966	9/1/98
22 VAC 15-30-484	Added	14:21 VA.R. 2966	9/1/98
22 VAC 15-30-487	Added	14:21 VA.R. 2966	9/1/98
22 VAC 15-30-490	Amended	14:21 VA.R. 2966	9/1/98
22 VAC 15-30-500	Amended	14:21 VA.R. 2967	9/1/98
22 VAC 15-30-510	Amended	14:21 VA.R. 2968	9/1/98
22 VAC 15-30-520	Amended	14:21 VA.R. 2968	9/1/98
22 VAC 15-30-530	Repealed	14:21 VA.R. 2969	9/1/98
22 VAC 15-30-540	Amended	14:21 VA.R. 2969	9/1/98
22 VAC 15-30-550	Amended	14:21 VA.R. 2969	9/1/98
22 VAC 15-30-560	Amended	14:21 VA.R. 2970	9/1/98
22 VAC 15-30-570	Amended	14:21 VA.R. 2970	9/1/98
22 VAC 15-30-575	Added	14:21 VA.R. 2970	9/1/98
22 VAC 15-30-580	Amended	14:21 VA.R. 2971	9/1/98
22 VAC 15-30-590	Amended	14:21 VA.R. 2971	9/1/98
22 VAC 15-30-600	Amended	14:21 VA.R. 2972	9/1/98
22 VAC 15-30-610	Amended	14:21 VA.R. 2972	9/1/98
22 VAC 15-30-620	Amended	14:21 VA.R. 2973	9/1/98
22 VAC 15-30-630	Amended	14:21 VA.R. 2973	9/1/98
22 VAC 15-30-640	Amended	14:21 VA.R. 2974	9/1/98
22 VAC 15-30-650	Amended	14:21 VA.R. 2975	9/1/98

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## Cumulative Table of VAC Sections Adopted, Amended, or Repealed

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SECTION NUMBER	ACTION	CITE	EFFECTIVE DATE
22 VAC 15-30-660	Amended	14:21 VA.R. 2975	9/1/98
22 VAC 15-30-670	Amended	14:21 VA.R. 2975	9/1/98
22 VAC 15-30-680	Repealed	14:21 VA.R. 2976	9/1/98
22 VAC 15-30-690	Repealed	14:21 VA.R. 2976	9/1/98
22 VAC 15-30-700	Repealed	14:21 VA.R. 2977	9/1/98
22 VAC 15-30-710	Repealed	14:21 VA.R. 2977	9/1/98
22 VAC 15-30-720	Repealed	14:21 VA.R. 2978	9/1/98
22 VAC 15-30-730	Repealed	14:21 VA.R. 2978	9/1/98
22 VAC 15-40-10 through 22 VAC 15-40-730	Repealed	14:21 VA.R. 2990	9/1/98
<b>Title 24. Transportation and Motor Vehicles</b>			
24 VAC 22-30-20	Amended	14:24 VA.R. 3949	10/1/98
24 VAC 22-30-30	Amended	14:24 VA.R. 3950	10/1/98
24 VAC 30-71-10	Amended	14:23 VA.R. 3633	9/3/98
24 VAC 30-71-80	Amended	14:23 VA.R. 3634	9/3/98
24 VAC 30-71-130	Amended	14:23 VA.R. 3634	9/3/98
24 VAC 30-71-160	Erratum	14:13 VA.R. 2011	--
24 VAC 30-71-170	Erratum	14:13 VA.R. 2028	--
24 VAC 30-170-10	Amended	14:13 VA.R. 1992	4/15/98
24 VAC 30-350-10	Amended	14:23 VA.R. 3635	7/14/98
24 VAC 30-380-10	Amended	14:13 VA.R. 1992	2/24/98
24 VAC 30-390-10	Amended	14:13 VA.R. 1992	2/24/98
24 VAC 30-620-30	Amended	14:25 VA.R. 4086	9/30/98

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# NOTICES OF INTENDED REGULATORY ACTION

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## Symbol Key

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

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## TITLE 1. ADMINISTRATION

### DEPARTMENT OF GENERAL SERVICES

#### Division of Consolidated Laboratory Services

#### Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Department of General Services intends to consider promulgating regulations entitled: **1 VAC 30-45-10 et seq. Environmental Laboratory Certification Program.** The purpose of the proposed action is to establish procedures, standards and requirements for the certification of laboratories performing tests and analyses required by the Virginia Waste Management Act and the State Water Control Law. The program established by the regulation will ensure that these laboratories provide accurate and consistent tests, analyses, measurements and monitoring.

Public Meeting: A public meeting will be held by the Division of Consolidated Laboratory Services in House Room 1, State Capitol Building, Capitol Square, Richmond, Virginia 23219, at 10:30 a.m. on Wednesday, September 30, 1998, to discuss the intended action. Unlike a public hearing, which is intended only to receive testimony, this meeting is being held to discuss and exchange ideas and information relative to regulation development.

Ad Hoc Advisory Group: The department will form an ad hoc advisory group to assist in the development of the regulation. If you desire to be in the group, notify the agency contact in writing by 4:30 p.m. on October 1, 1998, and provide your name, address, phone number and the organization you represent (if any). Notification of the composition of the ad hoc advisory group will be sent to all applicants. If you wish to be in the group, you are encouraged to attend the public meeting mentioned above. The primary function of the group is to develop recommended regulation amendments for department consideration through the collaborative approach of regulatory negotiation and consensus.

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

Need: The contemplated regulation is essential (i) to protect the health, safety or welfare of citizens and (ii) for the efficient and economical performance of an important governmental function. The reasoning for this conclusion is set forth below.

Compliance with the State Water Control Law and the Virginia Waste Management Act is determined, to a great extent, by the analysis of samples and other measurements taken of Virginia's water and terrain. Accurate and consistent analysis of these samples ensures that the determination of compliance with Virginia's water quality and waste management laws is also accurate and consistent. In turn, the health and welfare of the people of the Commonwealth are protected. In addition, samples from those parties whose compliance is being determined are analyzed in an equally consistent and accurate fashion.

Certifying laboratories that do consistent and accurate analyses ensures efficient and economical implementation of the state's water and waste laws. The state agency responsible for carrying out the laws will be assured that they can rely upon the analytical results of certified laboratories in determining compliance with these laws.

In addition, the state law requires the use of nationally accepted accreditation standards. Virginia's water quality and waste management laws and regulations are mandated in part by federal statute and regulation. Because the federal government funds the implementation of these laws in the state to some extent, it also determines whether the state agency carrying out these federal mandates is doing an acceptable job. An accurate, consistent and verifiable analysis in certified laboratories of samples taken to determine compliance provides assurance of the state's competency in implementing federal mandates on water quality and waste management.

Alternatives: Alternatives to the proposed regulation amendments being considered by the department are:

1. Develop the regulation to satisfy the provisions of the law and federal standards and policies. This option is being selected because it meets the stated purpose of the regulatory action: to ensure that laboratories perform accurate and consistent tests, analyses, measurements and monitoring required by the Virginia Waste Management Act and the State Water Control Law.
2. Make alternative regulatory changes to those required by the provisions of the law and federal standards and policies. This option is not being selected because it does not meet the stated purpose of the regulation and may not be consistent with state law and federal standards and policies.
3. Take no action to develop the regulation. This option is not being selected because state law requires that a regulation be developed.

Applicable Statutory Requirements: The contemplated regulation is mandated by state law. A succinct statement of



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# Notices of Intended Regulatory Action

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mandate may be found below.

Section 2.1-429.01 of the Code of Virginia (Title 2.1, Chapter

Services establish a program by regulation that will certify laboratories conducting tests, analyses, measurements, or

(§ 10.1-1400 et seq.) or the State Water Control Law (§ 62.1-44.2 et seq.). The program is to be based on standards

Accreditation Conference sponsored by the U.S. Environmental Protection Agency to ensure accurate and

The state law requires that the program include minimum criteria for the following: (i) laboratory procedures; (ii)

requirements; (iv) facilities and equipment; (v) analytical quality control and quality assurance; (vi) certificate issuance

(viii) granting full and partial exemptions from the program based on compliance and performance. The law also

of certifying laboratories under this program. Procedures for determining the qualifications of laboratories outside of

Virginia must also be developed under § 2.1-429.01 of the Code of Virginia. In addition, the law allows other

Statutory Authority: § 2.1-429.01 of the Code of Virginia.

Public comments may be submitted until 4:30 p.m., October

Division of Consolidated Laboratory Services, 1 North 14th Street, Richmond, Virginia 23219.

Nancy S. Saylor, Division of Consolidated Laboratory Services, Department of General Services, 1 N.

FAX (804) 231-7980.

VA.R. Doc. No. R98-312; Filed August 12, 1998, 11:19 a.m.

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## TITLE 9. ENVIRONMENT

### STATE AIR POLLUTION CONTROL BOARD

#### Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the State Air Pollution Control Board intends to consider amending regulations entitled: **9 VAC 5-91-10 et seq. Regulation for the Control of Motor Vehicle Emissions in Northern Virginia.** The purpose of the proposed action is to develop a regulation revision which conforms to state law and federal Clean Air Act requirements

for the testing of emissions from motor vehicles located or primarily operated in Northern Virginia.

Public Meeting: A public meeting will be held by the department in the regional headquarters in Woodbridge, 13901 Crown Court, Woodbridge, Virginia, at 10 a.m. on Tuesday, September 29, 1998, to discuss the intended action. Unlike a public hearing, which is intended only to receive testimony, this meeting is being held to discuss and exchange ideas and information relative to regulation development.

Accessibility to Persons with Disabilities: The meeting is being held at a public facility accessible to persons with disabilities. Any person with questions on the accessibility of the facility should contact Ms. Faye Arrington at the Office of Air Quality Programs, Department of Environmental Quality, P.O. Box 10009, Richmond, Virginia 23240, or by telephone at (804) 698-4031 or TTY (804) 698-4021. Persons needing interpreter services for the deaf must notify Ms. Arrington no later than September 15, 1998.

Ad Hoc Advisory Group: The department is soliciting comments on the advisability of forming an ad hoc advisory group, utilizing a standing advisory committee or consulting with groups or individuals registering interest in working with the department to assist in the drafting and formation of any proposal. The primary function of any group, committee or individuals that may be utilized is to develop recommended regulation amendments for department consideration through the collaborative approach of regulatory negotiation and consensus. Any comments relative to this issue may be submitted until 4:30 p.m. September 30, 1998, to David J. Kinsey, Office of Air Quality Programs, Department of Environmental Quality, P.O. Box 10009, Richmond, Virginia 23240.

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

Need: One of the primary goals of the federal Clean Air Act (Act) is the attainment and maintenance of the National Ambient Air Quality Standards (NAAQS). These standards, designed to protect public health and welfare, apply to six pollutants, of which ozone is the primary focus of this proposed action. Ozone is formed when volatile organic compounds (VOCs) and nitrogen oxides (NO<sub>x</sub>) in the air react together in the presence of sunlight. VOCs are chemicals contained in gasoline, polishes, paints, varnishes, cleaning fluids, inks, and other household and industrial products. NO<sub>x</sub> emissions are a byproduct from the combustion of fuels and industrial processes.

The National Ambient Air Quality Standard for ozone is currently 0.12 parts per million (ppm) and was established by the U.S. Environmental Protection Agency (EPA) to protect the health of the general public with an adequate margin of safety. When concentrations of ozone in the ambient air exceed the federal standard the area is considered to be out of compliance and is classified as "nonattainment." Several counties and cities within the

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# Notices of Intended Regulatory Action

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Northern Virginia area have been identified as ozone nonattainment areas according to provisions of the Act.

States are required to develop plans to ensure that areas will come into compliance with the federal health standard. Failure to develop adequate programs to meet the ozone air quality standard (i) may result in the continued violations of the standard and subsequent negative affects on human health, (ii) may result in assumption of the program by EPA at which time the Commonwealth would lose authority over matters affecting its citizens, and (iii) may result in the implementation of sanctions by EPA, such as more restrictive requirements on new major industrial facilities and loss of federal funds for highway construction. Furthermore, if a particular area fails to attain the federal standard by the legislatively mandated attainment date, EPA is required to reassign it to the next higher classification level (denoting a worse air quality problem), thus subjecting the area to more stringent control requirements.

Motor vehicle emissions inspection programs, known as inspection and maintenance (I/M) programs, are an integral part of the effort to reduce mobile source air pollution. Cars and trucks create about half of the ozone air pollution. Of all highway vehicles, passenger cars and light trucks emit most of the vehicle-related carbon monoxide and ozone-forming hydrocarbons. Tremendous progress has been made in reducing these pollutants; however, total vehicle emissions remain high. This is because the number of vehicle miles traveled on our highways has doubled in the last 20 years, offsetting much of the technological progress in vehicle emission control over the same two decades. Ongoing efforts to reduce emissions from individual vehicles will be necessary to achieve the agency's air quality goals.

I/M programs achieve their objective by identifying vehicles that have high emissions as a result of one or more malfunctions and requiring them to be repaired. Minor malfunctions in the emissions control system can increase emissions significantly. The average car on the road can emit three to four times the carbon monoxide and hydrocarbons allowed by new car standards if emission control systems are malfunctioning. Unfortunately, rarely is it obvious which cars have malfunctions as the emissions themselves may not be noticeable and emission control malfunctions do not necessarily affect vehicle driveability.

I/M programs provide a way to check whether the emission control systems on a vehicle are working correctly. All new passenger cars and trucks sold in the United States today must meet stringent air pollution standards and those standards became more stringent in model year 1994, but they can only retain this low-polluting profile if the emission controls and engine are functioning properly. An I/M program is designed to ensure that vehicles stay clean in actual use. This, in turn, can substantially reduce the amount of volatile organic compounds, carbon monoxide, and nitrogen oxides emitted to the ambient air, thereby reducing the formation of ozone, lowering ozone concentrations, and contributing toward attainment of the NAAQS.

## Alternatives:

1. Draft new regulation revisions which will provide for implementation of a motor vehicle emissions testing program that meets the provisions of the state code, federal Clean Air Act and associated EPA regulations and policies.

2. Draft new regulation revisions which will provide for implementation of a motor vehicle emissions testing program that does not meet the provisions, or meets alternative provisions, of the state code, federal Clean Air Act and associated EPA regulations and policies. No regulatory alternatives to an enhanced I/M program have been promulgated by EPA as meeting the requirements of the Act. Adopting an unapprovable program will result in sanctions being imposed by EPA.

3. Take no action to develop the regulation revisions and risk sanctions by EPA.

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

Applicable Statutory Requirements: The 1990 amendments to the Clean Air Act established a process for evaluating the air quality in each region and identifying and classifying each nonattainment area according to the severity of its air pollution problem. Nonattainment areas are classified as marginal, moderate, serious, severe and extreme. Marginal areas are subject to the least stringent requirements and each subsequent classification (or class) is subject to successively more stringent control measures. Areas in a higher classification of nonattainment must meet the mandates of the lower classifications plus the more stringent requirements of its own class.

The Northern Virginia area has an ozone air pollution problem classified by the EPA as "serious." The problem is a result of emissions from both industrial sources and motor vehicles. The Act requires that all areas classified as serious must implement an enhanced vehicle emissions inspection and maintenance program, commonly referred to as I/M.

Section 182(c)(3) of the federal Clean Air Act requires that the state submit revisions to the state implementation plan to "provide for an enhanced program to reduce hydrocarbon emissions and NO<sub>x</sub> emissions from in-use motor vehicles...." The program "shall comply in all respects with guidance...by the Administrator..." The Act requires that enhanced I/M programs be implemented within two years of enactment (11/16/90) of the Clean Air Act Amendments of 1990. The program implemented by the state must achieve a performance standard equal to:

(i) "...a program combining emission testing, including on-road emission testing, with inspection to detect tampering with emission control devices and misfueling for all light-duty vehicles and all light-duty trucks subject to standards under § 202; and

(ii) program administration features necessary to reasonably assure that adequate management resources, tools, and practices are in place to attain and maintain the performance standard."

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## Notices of Intended Regulatory Action

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The compliance method is to be established, per the Act, by EPA. The state program, per the Act, must include, at a minimum:

1. Computerized emission analyzers, including on-road testing devices.
2. No waivers for vehicles and parts covered by an emission control performance warranty.
3. For nonwarranty situations, waivers only after \$450 (in 1990 dollars) has been spent for emissions-related repairs.
4. Enforcement through registration denial.
5. Annual testing unless biennial testing, in combination with other features, will equal or exceed emissions reductions obtainable through annual inspections.
6. Operation on a centralized basis unless the state demonstrates to the satisfaction of the administrator that a decentralized program will be equally effective.

This law is implemented by EPA through 40 CFR Part 51, subpart S. The performance standard for the program is contained in § 51.351, "Enhanced I/M Performance Standard." It includes:

1. Centralized testing.
2. Annual testing.
3. Testing of 1968 and later model year vehicles.
4. Transient, mass emissions testing on 1986 and later model year vehicles, two-speed idle testing of 1981-1985 vehicles, and single-speed idle testing of pre-1981 vehicles.
5. Testing of light duty vehicles and trucks.
6. Emissions standards according to model year and weight class as enumerated in § 51.351(a)(7).
7. Visual inspection of the catalyst and fuel inlet restrictor on all 1984 and later model year vehicles.
8. Evaporative system integrity (pressure) test on 1983 and later vehicles and an evaporative system transient purge test on 1986 and later vehicles.
9. Twenty percent emission test failure rate among pre-1981 model year vehicles
10. Three percent (3%) waiver rate
11. Ninety-six percent (96%) compliance rate
12. On-road testing of at least 0.5% of the subject vehicle population.

Under the current rule, the state has considerable flexibility to design its own program and demonstrate that it is as effective as the EPA model program in reducing emissions.

Sections 46.2-1176 through 46.2-1187.3 of the Virginia Motor Vehicle Emissions Control Law (Title 46.2, Chapter 10, Article 22 of the Code of Virginia) requires a "test and

repair enhanced emissions inspection program" for vehicles that have actual gross weights of 10,000 pounds or less and are registered in the Counties of Arlington, Fairfax, Loudoun, Prince William, and Stafford, and the and the Cities of Alexandria, Fairfax, Falls Church, Manassas, and Manassas Park. Key provisions of the legislation include:

1. A biennial inspection;
2. An inspection fee cap of \$20;
3. A minimum repair cost of \$450 (in 1990 dollars) in order to qualify for a waiver, and requirement that repairs to qualify for a waiver be done by a certified repair technician;
4. Motor vehicles being titled for the first time may be registered for up to two ears without being subject to an emissions inspection;
5. An exemption for any of the following vehicles, (i) vehicles powered by a clean special fuel as defined in § 58.1-2101, (ii) motorcycles, (iii) vehicles which, at the time of manufacture were not designed to meet emission standards set or approved by the federal government, (iv) any antique motor vehicle as defined in § 46.2-100 and licensed pursuant to § 46.2-730, or (v) vehicles for which no testing standards have been adopted by the board;
6. The requirement for the inspection to apply to all vehicles registered and/or operated in the affected area including (i) vehicles owned by government entities, (ii) vehicles owned by military personnel residing in the affected areas, and (iii) vehicles owned by leasing or rental companies;
7. The certification of motor vehicle emissions repair technicians and emissions repair facilities, including the suspension or revocation of such certification;
8. In addition to biennial testing of all subject vehicles, on-road testing of motor vehicles in use and requirement for follow-up testing of those vehicles which exceed emissions standards; and

The Code of Virginia directs the State Air Pollution Control Board to adopt regulations to implement the program.

Statutory Authority: §§ 46.2-1178.1, 46.2-1179, 46.2-1180, and 46.2-1187.2 of the Code of Virginia.

Public comments may be submitted until close of business Tuesday, September 29, 1998.

**Contact:** David J. Kinsey, Office of Air Quality Programs, Department of Environmental Quality, P.O. Box 10009, Richmond, VA 23240.

VA.R. Doc. No. R98-302; Filed July 24, 1998, 4:17 p.m.

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# Notices of Intended Regulatory Action

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## STATE WATER CONTROL BOARD

VA.R. Doc. No. R98-322; Filed August 26, 1998, 7:45 a.m.

### † Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the State Water Control Board intends to consider amending regulations entitled: **9 VAC 25-260-10 et seq. Water Quality Standards.** The purpose of the proposed action is to consider whether the board should amend the Upper James River Basin section tables to correct the stream classification of a small section of the Jackson River in Alleghany County. The rulemaking, if adopted, will correctly classify the section from a Class V, stockable trout water, to a Class IV, mountainous zone water. The Department of Game and Inland Fisheries (DGIF) has informed the department that the amendment classifying the section as a stockable trout water which became effective in December 1997 is incorrect.

Intent: The intent of the amendment is to protect the aquatic life expected to inhabit the Jackson River.

Need: The amendment is necessary in order to correctly classify the stream to protect the aquatic life which is expected to inhabit the stream and ensure that Westvaco's point source discharges to the stream are not required to install additional treatment capability.

Alternatives Available to Meet the Need: Water quality standards are regulations; therefore, a regulatory action is necessary to meet the need of the intended regulatory action based on DGIF advising the department that the current regulatory classification is incorrect. There may be options as to the specific designation of stockable trout water, if any, within this stretch of the Jackson River. These will be developed in conjunction with the DGIF based on their technical data on the designation and public comment received in response to this notice.

Comments: Comments are requested on the intended regulatory action, including any ideas to assist the department in the development of the proposal. Comments are also requested on the costs and benefits of the stated alternatives or other alternatives.

Participatory Approach and Public Meeting: The State Water Control Board has authorized the department to develop the proposed regulation without using the participatory approach and without holding a public meeting.

Public Hearing: The State Water Control Board will convene a public hearing on the proposed regulation after publication of the proposal. This has not been scheduled yet.

Statutory Authority: § 62.1-44.15 (3a) of the Code of Virginia.

Public comments may be submitted until October 14, 1998, to Dr. Alan J. Anthony, Department of Environmental Quality, P.O. Box 10009, Richmond, VA 23240.

Contact: Eleanore Daub, Department of Environmental Quality, P.O. Box 10009, Richmond, VA 23240, telephone (804) 698-4111.

### Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the State Water Control Board intends to consider amending regulations entitled: **9 VAC 25-260-10 et seq. Water Quality Standards.** The purpose of the proposed action is to receive comments from the public on whether the board should (i) propose amendments to the numerical criteria for metals to include the Environmental Protection Agency's dissolved conversion factors for metals (9 VAC 25-260-140 B); (ii) propose amendments to the mixing zone section (9 VAC 25-260-20 B) of the regulation to provide specific protection to endangered and threatened species; (iii) propose updates to the listing of endangered species (9 VAC 25-260-110); and (iv) consider whether the requirements of the antidegradation policy (9 VAC 25-260-30) should apply to all state activities, including nonpoint source activities.

Intent: These issues may have a significant impact on activities in the Commonwealth and DEQ intends to provide the public every avenue of public participation, beginning with this Notice of Intended Regulatory Action, in order to ensure the amendments are necessary to protect aquatic life and provide for the maintenance of water quality in the Commonwealth of Virginia.

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

Need: The Environmental Protection Agency submitted comments to the Department of Environmental Quality stating that recent amendments to the Water Quality Standards would not meet federal approval unless the subject matters listed above were addressed. At its meeting on September 25, 1997, the State Water Control Board directed the staff to publish this Notice of Intended Regulatory Action so that the issues could be presented to the public.

Alternatives: DEQ could allow the Environmental Protection Agency to promulgate amendments to Virginia's water quality standards to address the four issues. This is the least favorable alternative since it is preferable to promulgate regulations that are tailored to meet Virginia's needs. EPA has never had to promulgate water quality regulations for Virginia in the past.

There may be various alternatives to address the Environmental Protection Agency's concerns regarding endangered species. For example, smaller mixing zones (rather than no mixing zones) could be specified for endangered and threatened species waters or the regulation could "grandfather" existing mixing zones and only apply the new protection requirements for endangered species to new discharges. Regarding the listing of endangered and threatened species, the list could contain only federal species or both federal and state listed species. DEQ has

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# Notices of Intended Regulatory Action

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technical concerns regarding the dissolved metals conversion factors. Therefore, one alternative to address this need would be for DEQ to do the necessary research to resolve these concerns before adopting the conversion factors.

**Request for Comments:** Comments are requested on the intended regulatory action, to include any ideas to assist the agency in the development of the proposal. Comments are requested on the costs and benefits of the stated alternatives or other alternatives. DEQ also requests comments as to whether the agency should use the participatory approach to assist the agency in the development of the proposal. The participatory approach is defined as a method for the use of (i) standing advisory committees, (ii) ad hoc advisory groups or panels, (iii) consultation with groups or individuals registering interest in working with the agency, or (iv) any combination thereof.

**Public Meetings:** Public meetings will be held on Wednesday, September 9, 1998, at 7 p.m. and Thursday, September 10, 1998, at 2 p.m. at the Virginia War Memorial, 621 South Belvidere Street, Richmond, Virginia 23220.

Statutory Authority: § 62.1-44.15 (3a) of the Code of Virginia.

Public comments may be submitted until September 18, 1998, to Dr. Alan J. Anthony, Department of Environmental Quality, P.O. Box 10009, Richmond, VA 23240.

**Contact:** Eleanore Daub, Department of Environmental Quality, P.O. Box 10009, Richmond, VA 23240, telephone (804) 698-4111.

VA.R. Doc. No. R98-266; Filed June 30, 1998, 9:27 a.m.

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## TITLE 12. HEALTH

### STATE BOARD OF HEALTH

#### † Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the State Board of Health intends to consider amending regulations entitled: **12 VAC 5-520-10 et seq. Regulations Governing the State Dental Scholarship Program.** The purpose of the proposed action is to review the regulations and amend them so as to ensure the sound and orderly administration of the related program that awards conditional educational grants to dental students based on their agreement to practice dentistry in an area of the Commonwealth that is recognized by the board as being underserved by dentists. Resulting amendments may include provisions that (i) refine the criteria employed in awarding scholarships; (ii) require that the commencement of recipients' dental practice will occur within two years following the completion of their dental residency; and (iii) include an alternative method of reimbursing the

Commonwealth for students who either fail to complete dental school or fail to satisfy their obligation to practice in an underserved area. Resulting amendments may also address other issues relating to these regulations that the public, regulants, and health planning community deem appropriate to raise. The agency does not intend to hold a public hearing on the proposed regulation after publication.

Statutory Authority: § 32.1-122.9 of the Code of Virginia.

Public comments may be submitted until October 16, 1998.

**Contact:** Dr. Karen Day, Director, Division of Dental Health, Department of Health, 1500 E. Main St., Room 136, Richmond, VA 23219, telephone (804) 786-3556, FAX (804) 371-4004 or toll-free 1-800-828-1120.

VA.R. Doc. No. R98-323; Filed August 26, 1998, 11:20 a.m.

### DEPARTMENT OF MEDICAL ASSISTANCE SERVICES

#### † Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Department of Medical Assistance Services intends to consider repealing regulations entitled: **12 VAC 30-80-10 et seq. Methods and Standards for Establishing Payment Rates; Other Types of Care: Repeal of Supplement Containing Pediatric/Obstetric Fees.** The purpose of the proposed action is to repeal a supplement from the State Plan for Medical Assistance because its presence in the state plan is no longer federally required pursuant to § 4713 of the Balanced Budget Act of 1997. The agency does not intend to hold a public hearing on the proposed repeal after publication.

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

Public comments may be submitted until October 14, 1998.

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

VA.R. Doc. No. R98-319; Filed August 19, 1998, 3:23 p.m.

#### Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Department of Medical Assistance Services intends to consider amending regulations entitled: **12 VAC 30-80-10 et seq. Methods and Standards for Establishing Payment Rates; Other Types of Care: Payment of Medicare Part A and Part B Deductible Coinsurance.** The purpose of the proposed action is to modify the State Plan for Medical Assistance to pay for Medicare coinsurance and deductibles at the Medicaid rate, as permitted by § 4714 of the Balanced Budget Act of 1997. The agency does not intend to hold a public hearing on the proposed regulation after publication.

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# Notices of Intended Regulatory Action

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

Public comments may be submitted until September 30, 1998, to Jim Cohen, Manager, Department of Medical Assistance Services, 600 East Broad Street, Suite 1300, Richmond, VA 23219.

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

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## TITLE 22. SOCIAL SERVICES

### STATE BOARD OF SOCIAL SERVICES

#### † Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the State Board of Social Services intends to consider repealing regulations entitled: **VR 615-52-11. Rules of the Interdepartmental Committee on Rate Setting.** This regulation establishes uniform policies and procedures for reviewing the costs for children's facilities that accept publicly funded children. Section 2.1-759.1 of the Code of Virginia nullified this regulation. The agency does not intend to hold a public hearing on the proposed repeal after publication.

Statutory Authority: § 2.1-759.1 of the Code of Virginia.

Public comments may be submitted until October 14, 1998.

**Contact:** Marjorie M. Jernigan, Adult Services Program Consultant, Department of Social Services, 730 E. Broad St., Richmond, VA 23219, telephone (804) 692-1262 or FAX (804) 692-2215.

VA.R. Doc. No. R98-317; Filed August 18, 1998, 2:15 p.m.

#### † Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the State Board of Social Services intends to consider repealing regulations entitled: **22 VAC 40-50-10 et seq. Allowable Variance.** The allowable variance policy is no longer essential because it is a duplicative regulation. The policy has been incorporated into the regulation entitled General Procedures and Information for Licensure, 22 VAC 40-80-10 et seq. The agency does not intend to hold a public hearing on the proposed repeal after publication.

Statutory Authority: §§ 63.1-174 and 63.1-202 of the Code of Virginia.

Public comments may be submitted until October 14, 1998.

**Contact:** Kathryn Thomas, Program Development Supervisor, Division of Licensing Programs, Department of

Social Services, 730 E. Broad St., Richmond, VA 23219, telephone (804) 692-1793 or FAX (804) 692-2370.

VA.R. Doc. No. R98-315; Filed August 19, 1998, 9:21 a.m.

#### † Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the State Board of Social Services intends to consider amending regulations entitled: **22 VAC 40-670-10 et seq. Degree Requirement for Social Work/Social Work Supervision.** The purpose of the proposed action is to modify the regulation to provide local agency flexibility for hiring and promotions. The agency does not intend to hold a public hearing on the proposed regulation after publication.

Statutory Authority: §§ 63.1-25 and 63.1-26 of the Code of Virginia.

Public comments may be submitted until October 14, 1998.

**Contact:** Vivian Flythe Cook, Personnel Practices Manager, Department of Social Services, 730 E. Broad St., Richmond, VA 23219, telephone (804) 692-1561 or FAX (804) 692-1599.

VA.R. Doc. No. R98-316; Filed August 18, 1998, 2:15 p.m.

#### † Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the State Board of Social Services intends to consider amending regulations entitled: **22 VAC 40-690-10 et seq. Child Day Care Scholarship Program.** The purpose of the proposed action is to amend the regulation to accurately reflect the administration of the child day care scholarship program. The agency does not intend to hold a public hearing on the proposed regulation after publication.

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

Public comments may be submitted until October 14, 1998.

**Contact:** Rhonda M. Harrell, Program Development Coordinator, Department of Social Services, 730 E. Broad St., Richmond, VA 23219, telephone (804) 692-1775 or FAX (804) 692-2370.

VA.R. Doc. No. R98-314; Filed August 20, 1998, 2:20 p.m.

#### † Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the State Board of Social Services intends to consider amending regulations entitled: **22 VAC 40-705-10 et seq. Child Protective Services.** The purpose of the proposed action is to be consistent with and fully implement legislation enacted by the General Assembly. The agency intends to hold a public hearing on the proposed regulation after publication.

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

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## Notices of Intended Regulatory Action

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Public comments may be submitted until October 14, 1998.

**Contact:** Deron M. Phipps, Policy Consultant, Department of Social Services, 730 E. Broad St., Richmond, VA 23219, telephone (804) 692-1220 or FAX (804) 692-2215.

VA.R. Doc. No. R98-318; Filed August 20, 1998, 2:19 p.m.

### † Withdrawal of Notice of Intended Regulatory Action

Notice is hereby given that the State Board of Social Services has **WITHDRAWN** the Notice of Intended Regulatory Action for VR 615-01-56, Public Assistance Programs - Meal and Snack Deductions for Self-Employed Day Care Providers, which was published in 11:20 VA.R. 3184 June 26, 1995. This action was taken at the board's August 19, 1998, meeting.

**Contact:** L. Richard Martin, Jr, Regulatory Coordinator, Department of Social Services, 730 East Broad Street, Richmond, Virginia 23219-1849, telephone (804) 692-1825.

VA.R. Doc. No. R95-543; Filed August 24, 1998, 9:58 a.m.

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# PUBLIC COMMENT PERIODS - PROPOSED REGULATIONS

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## PUBLIC COMMENT PERIODS REGARDING STATE AGENCY REGULATIONS

This section gives notice of public comment periods and public hearings to be held on proposed regulations. The notice will be published once at the same time the proposed regulation is published in the Proposed Regulations section of the *Virginia Register*. The notice will continue to be carried in the Calendar of Events section of the *Virginia Register* until the public comment period and public hearing date have passed.

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

## TITLE 9. ENVIRONMENT

### STATE AIR POLLUTION CONTROL BOARD

**October 28, 1998 - 9 a.m.** – Public Hearing  
Department of Environmental Quality, 629 East Main Street,  
Training Room, Richmond, Virginia.

**November 13, 1998** - Public comments may be submitted  
until this date.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the State Air Pollution Control Board intends to amend regulations entitled: **Regulations for the Control and Abatement of Air Pollution (Rev. GG): 9 VAC 5-20-10 et seq. General Provisions and 9 VAC 5-40-10 et seq. Existing Sources.** The regulation amendments concern provisions covering municipal waste combustors (MWCs). The affected facility to which the provisions of the regulation apply is each MWC unit with a combustion capacity greater than 250 tons per day of municipal solid waste (MSW) for which construction was commenced on or before September 20, 1994.

Emissions limitations are established for particulate matter, carbon monoxide, cadmium, lead, sulfur dioxide, hydrogen chloride, dioxin/furan, nitrogen oxides (No<sub>x</sub>), opacity, and fugitive dust. Compliance provisions cover startup, shutdown, and malfunction; procedures for calculating unit capacity are specified. Nitrogen oxides emissions averaging, which may be used at the sources' discretion, is described in detail.

Compliance schedules are specified, Operating practices are delineated and include the regulation of particulate matter control device inlet temperature. An important component of the regulation is the operator training and certification provisions, which describe procedures and programs for assuring operator qualifications. Test methods and procedures describe which reference methods are to be used for determining compliance with each emission standard. Monitoring systems are specified, including specific performance specifications and averaging methods. Finally, reporting and recordkeeping requirements describe how all of the

above information is to be gathered, stored, and reported.

Request for Comments: The purpose of this notice is to provide the public with the opportunity to comment on the proposed regulation and the costs and benefits of the proposal.

Localities Affected: There is no locality which will bear any identified disproportionate material air quality impact due to the proposed regulation which would not be experienced by other localities.

Location of Proposal: The proposal, an analysis conducted by the department (including: a statement of purpose, a statement of estimated impact and benefits of the proposed regulation, an explanation of need for the proposed regulation, an estimate of the impact of the proposed regulation upon small businesses, identification of and comparison with federal requirements, and a discussion of alternative approaches) and any other supporting documents may be examined by the public at the department's Office of Air Regulatory Development (Eighth Floor), 629 East Main Street, Richmond, Virginia and the department's regional offices (listed below) between 8:30 a.m. and 4:30 p.m. of each business day until the close of the public comment period.

Southwest Regional Office  
Department of Environmental Quality  
355 Deadmore Street  
Abingdon, Virginia  
Ph: (540) 676-4800

West Central Regional Office  
Department of Environmental Quality  
3019 Peters Creek Road  
Roanoke, Virginia  
Ph: (540) 562-6700

Lynchburg Satellite Office  
Department of Environmental Quality  
7705 Timberlake Road  
Lynchburg, Virginia  
Ph: (804) 582-5120

Valley Regional Office  
Department of Environmental Quality  
4411 Early Road



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# Public Comment Periods - Proposed Regulations

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Harrisonburg, Virginia 22801  
Ph: (540) 574-7800

Fredericksburg Satellite Office  
Department of Environmental Quality  
300 Central Road, Suite B  
Fredericksburg, Virginia  
Ph: (540) 899-4600

Northern Regional Office  
Department of Environmental Quality  
13901 Crown Court  
Woodbridge, Virginia  
Ph: (703) 583-3800

Piedmont Regional Office  
Department of Environmental Quality  
4949-A Cox Road  
Glen Allen, Virginia  
Ph: (804) 527-5020

Tidewater Regional Office  
Department of Environmental Quality  
5636 Southern Boulevard  
Virginia Beach, Virginia  
Ph: (757) 518-2000

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

Public comments may be submitted until 4:30 p.m., November 13, 1998, to the Director, Office of Air Regulatory Development, Department of Environmental Quality, P.O. Box 10009, Richmond, Virginia 23240.

**Contact:** Karen G. Sabasteanski, Policy Analyst, Office of Program Development, Department of Environmental Quality, P.O. Box 10009, Richmond, VA 23240, telephone (804) 698-4426, FAX (804) 698-4510, toll-free 1-800-592-5482 or (804) 698-4021/TTY ☎



## TITLE 12. HEALTH

### STATE MENTAL HEALTH, MENTAL RETARDATION AND SUBSTANCE ABUSE SERVICES BOARD

**October 27, 1998 - 2 p.m.** – Public Hearing  
George Mason University, 4400 University Drive, Fairfax, Virginia.

**October 28, 1998 - 6 p.m.** – Public Hearing  
Richard Bland College, Ernst Hall, 11301 Johnson Road, Petersburg, Virginia.

**October 29, 1998 - 1 p.m.** – Public Hearing  
Augusta County Government Center, 4801 Lee Highway, Verona, Virginia.

**October 29, 1998 - 6 p.m.** – Public Hearing  
Hampton City Hall, North King and Lincoln Streets, Hampton, Virginia.

**October 30, 1998 - 1 p.m.** -- Public Hearing  
Wytheville Community College, 1000 East Main Street, Wytheville, Virginia.

**November 13, 1998** - Public comments may be submitted until this date.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the State Mental Health, Mental Retardation and Substance Abuse Services Board intends to repeal regulations entitled: **12 VAC 35-110-10 et seq. Rules and Regulations to Assure the Rights of Residents of Facilities Operated by the Department of Mental Health, Mental Retardation and Substance Abuse Services.** The proposed regulation protects the legal and human rights of all clients who receive treatment in state operated mental health and mental retardation facilities. This regulation is being repealed and will be superseded by a new human rights regulation, which establishes a single standard for community and facility, public and private human rights programs; addresses consumer and family concerns; and reflects current practices and terminology.

Statutory Authority: § 37.1-84.1 of the Code of Virginia.

Public comments may be submitted until 5 p.m., November 13, 1998, to Marlene Butler, State Board Secretary, Department of Mental Health, Mental Retardation and Substance Abuse Services, P.O. Box 1797, Richmond, VA 23218-1797.

**Contact:** Kli Kinzie, Secretary, Office of Human Rights, Department of Mental Health, Mental Retardation and Substance Abuse Services, P.O. Box 1797, Richmond, VA 23218-1797, telephone (804) 786-3988 or FAX (804) 371-0092.

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**October 27, 1998 - 2 p.m.** – Public Hearing  
George Mason University, 4400 University Drive, Fairfax, Virginia.

**October 28, 1998 - 6 p.m.** – Public Hearing  
Richard Bland College, Ernst Hall, 11301 Johnson Road, Petersburg, Virginia.

**October 29, 1998 - 1 p.m.** – Public Hearing  
Augusta County Government Center, 4801 Lee Highway, Verona, Virginia.

**October 29, 1998 - 6 p.m.** – Public Hearing  
Hampton City Hall, North King and Lincoln Streets, Hampton, Virginia.

**October 30, 1998 - 1 p.m.** -- Public Hearing  
Wytheville Community College, 1000 East Main Street, Wytheville, Virginia.

**November 13, 1998** - Public comments may be submitted until this date.

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## Public Comment Periods - Proposed Regulations

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Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the State Mental Health, Mental Retardation and Substance Abuse Services Board intends to adopt regulations entitled: **12 VAC 35-115-10 et seq. Rules and Regulations to Assure the Rights of Clients in Facilities and Programs Operated, Funded or Licensed by the Department of Mental Health, Mental Retardation and Substance Abuse Services.** The proposed regulation protects the legal and human rights of all clients who receive treatment in state operated mental health and mental retardation facilities and other agencies, public or private that receive or benefit from state funding under the provisions of Chapter 10, Title 37.1 of the Code of Virginia, and all other providers that are required to be licensed by the Department of Mental Health, Mental Retardation and Substance Abuse Services.

Statutory Authority: § 37.1-84.1 of the Code of Virginia.

Public comments may be submitted until 5 p.m., November 13, 1998, to Marlene Butler, State Board Secretary, Department of Mental Health, Mental Retardation and Substance Abuse Services, P.O. Box 1797, Richmond, VA 23218-1797.

**Contact:** Kli Kinzie, Secretary, Office of Human Rights, Department of Mental Health, Mental Retardation and Substance Abuse Services, P.O. Box 1797, Richmond, VA 23218-1797, telephone (804) 786-3988 or FAX (804) 371-0092.

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**October 27, 1998 - 2 p.m.** – Public Hearing  
George Mason University, 4400 University Drive, Fairfax, Virginia.

**October 28, 1998 - 6 p.m.** – Public Hearing  
Richard Bland College, Ernst Hall, 11301 Johnson Road, Petersburg, Virginia.

**October 29, 1998 - 1 p.m.** – Public Hearing  
Augusta County Government Center, 4801 Lee Highway, Verona, Virginia.

**October 29, 1998 - 6 p.m.** – Public Hearing  
Hampton City Hall, North King and Lincoln Streets, Hampton, Virginia.

**October 30, 1998 - 1 p.m.** -- Public Hearing  
Wytheville Community College, 1000 East Main Street, Wytheville, Virginia.

**November 13, 1998** - Public comments may be submitted until this date.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the State Mental Health, Mental Retardation and Substance Abuse Services Board intends to repeal regulations entitled: **12 VAC 35-120-10 et seq. Rules and Regulations to Assure the Rights of Patients of Psychiatric Hospitals and**

**Other Psychiatric Facilities Licensed by the Department of Mental Health, Mental Retardation and Substance Abuse Services.** The proposed regulation protects the legal and human rights of all clients who receive treatment in psychiatric hospitals and other psychiatric facilities licensed by the Department of Mental Health, Mental Retardation and Substance Abuse Services. This regulation is being repealed and will be superseded by a new human rights regulation, which establishes a single standard for community and facility, public and private human rights programs; addresses consumer and family concerns; and reflects current practices and terminology.

Statutory Authority: § 37.1-84.1 of the Code of Virginia.

Public comments may be submitted until 5 p.m., November 13, 1998, to Marlene Butler, State Board Secretary, Department of Mental Health, Mental Retardation and Substance Abuse Services, P.O. Box 1797, Richmond, VA 23218-1797.

**Contact:** Kli Kinzie, Secretary, Office of Human Rights, Department of Mental Health, Mental Retardation and Substance Abuse Services, P.O. Box 1797, Richmond, VA 23218-1797, telephone (804) 786-3988 or FAX (804) 371-0092.

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**October 29, 1998 - 6 p.m.** – Public Hearing  
Hampton City Hall, North King and Lincoln Streets, Hampton, Virginia.

**October 30, 1998 - 1 p.m.** -- Public Hearing  
Wytheville Community College, 1000 East Main Street, Wytheville, Virginia.

**November 13, 1998** - Public comments may be submitted until this date.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the State Mental Health, Mental Retardation and Substance Abuse Services Board intends to repeal regulations entitled: **12 VAC 35-130-10 et seq. Rules and Regulations to Assure the Rights of Clients in Community Programs.** The proposed regulation protects the legal and human rights of all clients who receive treatment in community programs funding or licensed by the Department of Mental Health, Mental Retardation and Substance Abuse

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## Public Comment Periods - Proposed Regulations

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Services. This regulation is being repealed and will be superseded by a new human rights regulation, which establishes a single standard for community and facility, public and private human rights programs; addresses consumer and family concerns; and reflects current practices and terminology.

Statutory Authority: § 37.1-84.1 of the Code of Virginia.

Public comments may be submitted until 5 p.m., November 13, 1998, to Marlene Butler, State Board Secretary, Department of Mental Health, Mental Retardation and Substance Abuse Services, P.O. Box 1797, Richmond, VA 23218-1797.

**Contact:** Kli Kinzie, Secretary, Office of Human Rights, Department of Mental Health, Mental Retardation and Substance Abuse Services, P.O. Box 1797, Richmond, VA 23218-1797, telephone (804) 786-3988 or FAX (804) 371-0092.

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# PROPOSED REGULATIONS

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For information concerning Proposed Regulations, see Information Page.

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## Symbol Key

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

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## TITLE 4. CONSERVATION AND NATURAL RESOURCES

### DEPARTMENT OF GAME AND INLAND FISHERIES

**REGISTRAR'S NOTICE:** The Department of Game and Inland Fisheries is exempt from the Administrative Process Act pursuant to subdivision A 3 of § 9-6.14:4.1 of the Code of Virginia when promulgating regulations regarding the management of wildlife.

**Title of Regulation:** 4 VAC 15-320-10 et seq. **Fish: Fishing Generally (amending 4 VAC 15-320-20, 4 VAC 15-320-30, 4 VAC 15-320-100 and 4 VAC 15-320-120; adding 4 VAC 15-320-160).**

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

#### Notice to the Public:

The Board of Game and Inland Fisheries has ordered to be published, pursuant to §§ 29.1-501 and 29.1-502 of the Code of Virginia, the following proposed amendments to board regulations. A public comment period on the proposed regulations opened August 20, 1998, and remains open until October 22, 1998. Comments submitted must be in writing; must be accompanied by the name, address and telephone number of the party offering the comments; should state the regulatory action desired; and should state the justification for the desired action. Send comments no later than October 15, 1998, to Phil Smith, Policy Analyst and Regulatory Coordinator, Department of Game and Inland Fisheries, 4010 West Broad Street, Richmond, Virginia 23230, in order to be assured that the board will have opportunity to review them before taking final action.

A public hearing on the advisability of adopting, or amending and adopting, the proposed regulations, or any parts thereof, will be held during a meeting of the board to take place at the Department of Game and Inland Fisheries, 4000 West Broad Street, Richmond, Virginia, beginning at 9 a.m. on Thursday, October 22, 1998, at which time any interested citizen present shall be heard.

If the board is satisfied that the proposed regulations, or any parts thereof, are advisable, in the form in which published or as amended after receipt of the public's comments, the board may adopt regulation amendments as final at the October meeting. The regulations or regulation amendments adopted may be either more liberal or more restrictive than those proposed and being advertised under this notice.

#### Summary:

*The proposed amendments (i) establish a creel limit of one smallmouth bass per day on the North Fork Holston River from Saltville, Virginia to the Virginia-Tennessee state line; (ii) remove the North Fork Pound Reservoir from the list of waters with size limits on the taking of black bass species, establish a 10-inch minimum size limit for crappie taken from Flannagan Reservoir, and establish a 20-inch minimum size limit for smallmouth bass taken on the North Fork Holston River from Saltville, Virginia to the Virginia-Tennessee state line; (iii) allow nets to be used for collecting nongame species of fish at department-owned and controlled lakes; (iv) remove Laurel Bed Lake from the list of waters that require a daily fishing permit (the "fee fishing program") and establish a start time for fishing on the opening day at all fee areas; and (v) prohibit altering the physical appearance of game fish or possession of such altered game fish (except bluegill and bream) while fishing or transporting fish on the waters of the Commonwealth.*

#### 4 VAC 15-320-20. Creel limits.

The creel limits (including live possession) for the various species of fish shall be as follows:

1. Largemouth, smallmouth and spotted bass, five a day in the aggregate *except that in the mainstem of the North Fork Holston River, from the Route 634 bridge near Saltville downstream to the Virginia-Tennessee state line, the limit for smallmouth bass shall be one a day.*
2. Landlocked striped bass and landlocked striped bass X white bass hybrids, in the aggregate, four a day; except, that in Smith Mountain Reservoir and its tributaries, including the Roanoke River upstream to Niagara Dam, the limit shall be two a day in the aggregate. For anadromous (coastal) striped bass above the fall line in all coastal rivers of the Chesapeake Bay, the limit (noncommercial) shall be the possession limit set by the Virginia Marine Resources Commission for recreational fishing in tidal waters. The creel limit on striped bass in the Meherrin, Nottoway, Blackwater (Chowan Drainage), North Landing and Northwest Rivers and their tributaries plus Back Bay shall be four per day.
3. White bass, 25 per day, except that in New River and Claytor Lake from the Buck Dam on New River in Carroll County downstream to the Claytor Lake Dam, the limit shall be five per day.
4. Walleye or yellow pike perch and chain pickerel or jackfish, eight a day of each; except, that in Gaston

Reservoir and Buggs Island (Kerr) Reservoir there shall be no daily limit for chain pickerel or jackfish.

5. Northern pike and muskellunge, two a day.

6. Sauger, eight per day.

7. Bluegill (bream) and other sunfish, excluding crappie (silver perch), rock bass (redeye) and Roanoke bass, 50 a day in the aggregate; crappie (silver perch) and rock bass (redeye), 25 a day of each species; rock bass (redeye) and Roanoke bass, 5 a day in the aggregate, on the Nottoway and Meherrin rivers and their tributaries. There shall be no limit on any of the species included in this subdivision 7 in Gaston and Buggs Island (Kerr) Reservoirs and that portion of the New River from the Virginia-North Carolina state line downstream to the confluence of the New and Little Rivers in Grayson County.

8. American shad and hickory shad, in the James River above the fall line (14th Street Bridge), in the Meherrin River above Emporia Dam, in the Chickahominy River above Walkers Dam, in the Appomattox River above Harvell Dam, in the Mattaponi River and Pamunkey River above the Route 360 bridge, and in the Rappahannock River above the Route 1 bridge, zero (catch and release only). Alewife and blueback herring in the James River above Boshers Dam, in the Meherrin River above Emporia Dam, in the Chickahominy River above Walkers Dam, in the Appomattox River above Harvell Dam, in the South Anna River above the U.S. Route 1 bridge, and in the Rappahannock River above Embrey Dam, zero (catch and release only).

#### 4 VAC 15-320-30. Size limit.

Except as provided in this chapter, 4 VAC 15-330-50, and 4 VAC 15-330-110 through 4 VAC 15-330-140, there shall be no size limit on any species of fish.

1. There shall be a 30-inch minimum size limit on muskellunge, and a 20-inch minimum size limit on northern pike, landlocked striped bass (rockfish) and landlocked striped bass X white bass hybrids. For anadromous (coastal) striped bass above the fall line in coastal rivers of the Chesapeake Bay, the size limit shall be that set by the Virginia Marine Resources Commission for tidal waters.

2. There shall be a 14-inch minimum size limit on largemouth, smallmouth and spotted bass in Occoquan Reservoir from the reservoir dam upstream to the Lake Jackson Dam on Occoquan Creek and upstream to the Yates Ford Bridge (Route 612) on Bull Run Creek. It shall be unlawful to have any such bass less than 14 inches in length in one's possession on the above described waters of this reservoir.

3. There shall be a 12-inch minimum size limit on largemouth, smallmouth and spotted bass in the Claytor, Philpott and Flannagan Reservoirs, and in Lake Moomaw (Gathright Project). It shall be unlawful to have any largemouth, smallmouth or spotted bass less

than 12 inches in length in one's possession while on any of the waters mentioned in the preceding sentence.

4. There shall be a 14-inch minimum size limit on largemouth, smallmouth and spotted bass on the Roanoke (Staunton) and Dan Rivers and their tributaries and impoundments (Gaston, John Kerr, Leesville and Smith Mountain Reservoirs) downstream from Niagara Dam on the Roanoke River and the Brantly Steam Plant Dam on the Dan River; except, that as many as two of such bass of a lesser size caught in such waters may be retained in the creel, but no more than two such bass may be in possession on such waters that are less than 14 inches in length.

5. It shall be unlawful to have any largemouth, smallmouth or spotted bass from 12 to 15 inches in length, both inclusive, in one's possession on North Anna Reservoir and its tributaries, on Briery Creek Lake (Prince Edward County), on Chesdin Reservoir or the Appomattox River from the Brasfield (Chesdin) Dam to Bevel's Bridge on Chesterfield County Route 602, on Beaverdam Reservoir (Loudoun County) and on the waters of Quantico Marine Reservation.

6. It shall be unlawful to have any smallmouth, largemouth or spotted bass from 11 to 14 inches in length, both inclusive, in one's possession on the Shenandoah River, including the North and South Forks downstream from the Route 42 bridge on the North Fork and from the confluence of the North and South Rivers on the South Fork below Port Republic; on the New River from Claytor Dam to the West Virginia boundary line; on the James River from the confluence of the Jackson and Cowpasture rivers downstream to the Interstate 95 bridge at Richmond; ~~on North Fork Pound Reservoir~~; or on the Clinch River within the boundaries of Scott, Wise, Russell or Tazewell Counties.

7. It shall be unlawful to have any largemouth, smallmouth or spotted bass less than 15 inches in length from March 1 through June 15, both inclusive, in the Virginia tidal tributaries of the Potomac River upstream of the Route 301 Bridge. There shall be no size limit for largemouth, smallmouth or spotted bass from June 16 through the last day of February in those tributaries.

8. It shall be unlawful to have any rock bass (redeye) or Roanoke bass less than eight inches in length in one's possession on the Nottoway and Meherrin rivers and their tributaries.

9. *It shall be unlawful to possess any crappie (black or white) less than 10 inches in length in possession on Flannagan Reservoir.*

10. *It shall be unlawful to possess any smallmouth bass less than 20 inches in length in possession on the mainstem of the North Fork Holston River from the Route 634 bridge near Saltville downstream to the Virginia-Tennessee state line.*

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# Proposed Regulations

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## **4 VAC 15-320-100. Department-owned or controlled lakes, ponds or streams; general regulations.**

A. Motors and boats. Unless otherwise posted at each recognized entrance to any department-owned or controlled lake or pond or stream, the use of boats propelled by gasoline motors, sail or mechanically operated recreational paddle wheel is prohibited. Department employees and other government agency officials may use gasoline motors in the performance of official duties.

B. Method of fishing. Taking any fish at any department-owned or controlled lake or pond by any means other than by use of one or more attended poles with hook and line attached is prohibited *unless otherwise posted in which case cast nets (subject to 4 VAC 15-360-10 B) may be used for collecting nongame fish for use as bait.*

C. Hours for fishing. Unless otherwise posted at each recognized entrance to any department-owned or controlled lake, pond or stream, the hours of use shall be from one hour before sunrise to one hour after sunset.

D. Seasons; hours and methods of fishing; size and creel limits; hunting. The open seasons for fishing, as well as fishing hours, methods of taking fish and the size, possession and creel limits, and hunting, for department-owned or department-controlled lakes, ponds or streams shall conform to the general regulations of the board unless otherwise excepted by posted notice displayed at each recognized entrance to the lake, pond or stream, in which case the posted regulations shall be in effect.

E. Other uses. Camping overnight or building fires, except in developed and designated areas, swimming, wading in public fishing lakes, except by fishermen actively engaged in fishing and trapping for furbearers, is prohibited. Trapping may be authorized by special permit from the warden when requested to issue such permit or permits by the fish division.

F. Fishing tournaments, etc. It shall be unlawful to organize, conduct, supervise or solicit entries for fishing tournaments, rodeos or other fishing events on waters owned by the department, for which prizes are offered, awarded or accepted, either in money or other valuable considerations.

## **4 VAC 15-320-120. Department-owned or controlled lakes, ponds or streams; special daily permit for fishing in Clinch Mountain Wildlife Management Area, Douthat State Park Lake and Crooked and Wilson creeks.**

It shall be unlawful to fish in the Clinch Mountain Wildlife Management Area (except in Little Tumbling Creek and Laurel Bed Lake), in Douthat State Park Lake and in Wilson Creek both above the lake to the park boundary and downstream to the lower USFS boundary, and in the Crooked Creek fee fishing area in Carroll County without having first paid to the department for such privilege a daily use fee. Such daily use fee shall be in addition to all other license fees provided by law. Upon payment of the daily use fee the department shall issue a special permit which shall be signed and carried by the person fishing. This fee will be

required from the first Saturday in April through September 30 at Clinch Mountain Wildlife Management Area (except Little Tumbling Creek and Laurel Bed Lake) and at Crooked Creek fee fishing area in Carroll County, and from the first Saturday in April through October 31 at Douthat State Park Lake and Wilson Creek, except that the director may temporarily suspend fee requirements if conditions cause suspension of trout stocking. During the remainder of the year, these waters will revert to designated stocked trout waters and a trout license will be required except as provided in 4 VAC 15-20-190. No fishing is permitted in these waters for five days preceding the opening day. *Fishing shall begin at 9 a.m. on opening day at all fee areas. After opening day, fishing times will be as posted at each fee area.* The department may recognize clearly marked "children only" fishing areas within any department fee fishing area. Within these "children only" areas, children 12 years old or less may fish without the daily use fee if accompanied by a fully licensed adult who has purchased a valid daily permit. No person over 12 years of age may fish in these children-only areas. Also, children 12 years and under can fish without a permit in the entire Douthat Fee Fishing Area if under the direct supervision of a permitted adult. However, the combined daily creel limit for both adult and child/children in such a party shall not exceed six trout. During the fee fishing season these waters will be subject to 4 VAC 15-330-60, 4 VAC 15-330-80, and 4 VAC 15-330-90, as it relates to designated stocked trout waters.

## **4 VAC 15-320-160. Altering of game fish in possession prohibited.**

*It shall be unlawful for any person while fishing to remove the head or tail or otherwise change the appearance of any game fish (except bluegill sunfish and bream of the sunfish family) having a daily creel or size limit so as to obscure its species or render it impracticable to measure its total original length or count the number of such fish in possession. In addition, it shall be unlawful for any person to possess or transport such altered game fish while on the water. However, the prohibition against possession and transportation in the previous sentence shall not apply to the preparations of lawfully obtained fish for immediate use as food or any lawful commercial use of such fish.*

VA.R. Doc. No. R98-324; Filed August 26, 1998, 11:12 a.m.

\* \* \* \* \*

Title of Regulation: **4 VAC 15-330-10 et seq. Fish: Trout Fishing (amending 4 VAC 15-330-110, 4 VAC 15-330-120, 4 VAC 15-330-140 and 4 VAC 15-330-160).**

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

### Notice to the Public:

The Board of Game and Inland Fisheries has ordered to be published, pursuant to §§ 29.1-501 and 29.1-502 of the Code of Virginia, the following proposed amendments to board regulations. A public comment period on the proposed

regulations opened August 20, 1998, and remains open until October 22, 1998. Comments submitted must be in writing; must be accompanied by the name, address and telephone number of the party offering the comments; should state the regulatory action desired; and should state the justification for the desired action. Send comments no later than October 15, 1998, to Phil Smith, Policy Analyst and Regulatory Coordinator, Department of Game and Inland Fisheries, 4010 West Broad Street, Richmond, Virginia 23230, in order to be assured that the board will have opportunity to review them before taking final action.

A public hearing on the advisability of adopting, or amending and adopting, the proposed regulations, or any parts thereof, will be held during a meeting of the board to take place at the Department of Game and Inland Fisheries, 4000 West Broad Street, Richmond, Virginia, beginning at 9 a.m. on Thursday, October 22, 1998, at which time any interested citizen present shall be heard.

If the board is satisfied that the proposed regulations, or any parts thereof, are advisable, in the form in which published or as amended after receipt of the public's comments, the board may adopt regulation amendments as final at the October meeting. The regulations or regulation amendments adopted may be either more liberal or more restrictive than those proposed and being advertised under this notice.

### Summary:

*The proposed amendments (i) expand the special regulation (12-inch minimum size, single hook artificial lures-only) trout stream section on Whitetop Laurel Creek in Washington County to include a portion downstream of Taylor Valley; (ii) expand the special regulation (two fish per day creel limit; 16-inch minimum size limit) trout stream section on the South Fork Holston River downstream to the Buller Fish Culture Station; (iii) establish special regulation trout stream sections on the Pound River from Flannagan Dam downstream to the confluence with the Russell Fork River and on Roaring Run in Botetourt County from the third foot bridge above the Roaring Run Furnace Day Use Area upstream to the Botetourt/Alleghany County line; (iv) remove a section of Sinking Creek in Craig County from the list of waters subject to special regulations; (v) remove North Creek and its tributaries in Botetourt County from the list of waters on which single-hook, artificial-lure only trout fishing is permitted and the minimum length for trout possessed is nine inches; and (vi) add sections of the Pedlar River (Amherst County) and Holliday Creek (Appomattox and Buckingham counties) to the list of delayed harvest trout streams, on which all trout caught must be immediately returned to the water ("catch-and-release") October 1 through May 31, and trout may be creeled June 1 through September 30.*

### **4 VAC 15-330-110. Special provisions applicable to certain portions of Green Cove Creek, Smith Creek, Snake Creek and Whitetop Laurel Creek.**

It shall be lawful to fish using only artificial lures with single hooks in that portion of Green Cove Creek in Washington County from Route 859 downstream to its mouth, in that portion of Smith Creek in Alleghany County from the Clifton Forge Reservoir Dam downstream to a sign at the Forest Service boundary above the C & O Dam, on Snake Creek in Carroll County upstream from its mouth to Hall's Fork on Big Snake Fork and to the junction of Routes 922 and 674 on Little Snake Fork, *in Whitetop Laurel Creek in Washington County upstream from the mouth of Straight Branch to a sign at the Forest Service boundary just downstream of Taylor Valley*, and in Whitetop Laurel Creek in Washington County upstream from the first railroad trestle above Taylor Valley to the mouth of Green Cove Creek at Creek Junction. All trout caught in these waters under 12 inches in length shall be immediately returned to the water unharmed. It shall be unlawful for any person to have in his possession any bait or any trout under 12 inches in length in these areas.

### **4 VAC 15-330-120. Special provisions applicable to certain portions of Buffalo Creek, Dan River, Jackson River, Pound River, Roaring Run, Sinking Creek, Smith Creek, Smith River, and South Fork Holston River.**

A. It shall be lawful year around to fish using only artificial lures with single hooks in that portion of Buffalo Creek in Rockbridge County from the confluence of Colliers Creek upstream 2.9 miles to the confluence of North and South Buffalo Creeks, in that portion of Smith River in Henry County from signs below the east bank of Towne Creek for a distance of approximately three miles downstream, in that portion of the Dan River in Patrick County from Talbott Dam approximately six miles downstream to a sign posted just upstream from the confluence of Dan River and Townes Reservoir, *in that portion of the Pound River from a sign posted 0.4 miles below the Flannagan Dam, downstream 1.2 miles to a sign posted just upstream of the confluence of the Pound River and the Russell Fork River*, in that portion of the South Fork Holston River in Smyth County from a sign posted at the upper Jefferson National Forest boundary downstream ~~from the confluence of the South Fork and Comers Creek upstream for approximately two miles to a sign posted at the upper Jefferson National Forest boundary,~~ *approximately four miles to a sign posted 500 feet upstream of the concrete dam at Buller Fish Culture Station*, in that portion of Roaring Run in Botetourt County from a sign posted at the third footbridge above the Roaring Run Furnace Day Use Area, *upstream approximately one mile to a sign posted at the Botetourt/Alleghany County line*, and in that portion of Jackson River in Bath County from the swinging bridge located just upstream from the mouth of Muddy Run, upstream three miles to the last ford on FS 481D.

B. It shall be lawful year around to fish using only artificial flies with single hooks in that portion of Sinking Creek in

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## Proposed Regulations

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Giles County from a cable and department sign 0.4 miles below the State Route 703 low-water bridge upstream 1.8 miles to a cable and department sign 0.1 miles above the Reynolds Farm covered bridge, ~~in that portion of Sinking Creek in Craig County from a cable and department sign 1.0 mile below the State Route 642 Bridge upstream to a cable and department sign 0.5 miles above the State Route 642 Bridge,~~ and in that portion of Smith Creek in Rockingham County from a sign posted 1.0 miles below the confluence of Lacy Spring to a sign posted 0.4 miles above Lacy Spring.

C. The daily creel limit in these waters shall be two trout a day year around and the size limit shall be 16 inches or more in length. All trout caught in these waters under 16 inches in length shall be immediately returned to the water unharmed. It shall be unlawful for any person to have in his possession any bait or any trout under 16 inches in length in these areas.

#### **4 VAC 15-330-140. Special provision applicable to certain portions of Big Wilson Creek, Conway River, Little Stony Creek, Little Wilson Creek, ~~North Creek,~~ North Fork Buffalo River, St. Mary's River and Ramsey's Draft.**

It shall be lawful to fish using only artificial lures with single hooks in that portion of the Conway River and its tributaries in Greene and Madison counties within the Rapidan Wildlife Management Area, in that portion of Big and Little Wilson Creeks and their tributaries in Grayson County within the Grayson Highland State Park and the Jefferson National Forest Mount Rogers National Recreation Area, in that portion of Little Stony Creek in Giles County within the Jefferson National Forest, in that portion of Little Stony Creek in Shenandoah County within the George Washington National Forest, ~~in that portion of North Creek in Botetourt County and its tributaries upstream from the first bridge above North Creek Campground,~~ in the North Fork Buffalo River and its tributaries in Amherst County within the George Washington National Forest, in that portion of St. Mary's River in Augusta County and its tributaries upstream from the gate at the George Washington National Forest property line, and in that portion of Ramsey's Draft and its tributaries in Augusta County within the George Washington National Forest. All trout caught in these waters under nine inches in length shall be immediately returned to the water unharmed. It shall be unlawful for any person to have in his possession any bait or any trout under nine inches in length while in these areas.

#### **4 VAC 15-330-160. Special provisions applicable to certain portions of Accotink Creek, Back Creek, *Holliday Creek*, North River, Passage Creek, *Pedlar River*, North Fork of Pound and Pound rivers, and South River.**

It shall be lawful to fish from October 1 through May 31, both dates inclusive, using only artificial lures with single hooks in Accotink Creek (Fairfax County) from Route 236 (Little River Turnpike) downstream 1.9 miles to Route 620 (Braddock Road), in Back Creek (Bath County) from the Route 600 bridge just below the Virginia Power Back Creek Dam downstream 1.5 miles to the Route 600 bridge at the

lower boundary of the Virginia Power Recreational Area, *in Holliday Creek (Appomattox/Buckingham Counties) from the Route 640 crossing downstream 2.8 miles to a sign posted at the headwaters of Holliday Lake*, in the North River (Augusta County) from the base of Elkhorn Dam downstream 1.5 miles to a sign posted at the head of Staunton City Reservoir, in Passage Creek (Warren County) from the lower boundary of the Front Royal State Hatchery upstream 0.9 miles to the Shenandoah/Warren County line, *in the Pedlar River (Amherst County) from the City of Lynchburg/George Washington National Forest boundary line (below Lynchburg Reservoir) downstream 2.7 miles to the boundary line of the George Washington National Forest*, in North Fork of Pound and Pound rivers from the base of North Fork of Pound Dam downstream to the confluence with Indian Creek, and in the South River from the Second Street Bridge upstream 2.4 miles to the base of Rife Loth Dam in the city of Waynesboro. From October 1 through May 31, all trout caught in these waters must be immediately returned to the water unharmed, and it shall be unlawful for any person to have in possession any bait or trout. During the period of June 1 through September 30, the above restrictions will not apply.

VA.R. Doc. No. R98-326; Filed August 26, 1998, 11:11 a.m.

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**Title of Regulation:** 4 VAC 15-330-10 et seq. **Fish:** Trout **Fishing (amending 4 VAC 15-330-150).**

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

**Notice to the Public:**

The Board of Game and Inland Fisheries has ordered to be published, pursuant to §§ 29.1-501 and 29.1-502 of the Code of Virginia, the following proposed amendments to board regulations. A public comment period on the proposed regulations opened August 20, 1998, and remains open until October 22, 1998. Comments submitted must be in writing; must be accompanied by the name, address and telephone number of the party offering the comments; should state the regulatory action desired; and should state the justification for the desired action. Send comments no later than October 15, 1998, to Phil Smith, Policy Analyst and Regulatory Coordinator, Department of Game and Inland Fisheries, 4010 West Broad Street, Richmond, Virginia 23230, in order to be assured that the board will have opportunity to review them before taking final action.

A public hearing on the advisability of adopting, or amending and adopting, the proposed regulations, or any parts thereof, will be held during a meeting of the board to take place at the Department of Game and Inland Fisheries, 4000 West Broad Street, Richmond, Virginia, beginning at 9 a.m. on Thursday, October 22, 1998, at which time any interested citizen present shall be heard.

If the board is satisfied that the proposed regulations, or any parts thereof, are advisable, in the form in which published or as amended after receipt of the public's comments, the



board may adopt regulation amendments as final at the October meeting. The regulations or regulation amendments adopted may be either more liberal or more restrictive than those proposed and being advertised under this notice.

Summary:

*The proposed amendment adds the upper reaches of North Creek and its tributaries (Botetourt County) to the list of waters on which single-hook, artificial-lure only trout fishing is permitted, all trout caught must be immediately returned to the water ("catch-and-release"), and no trout or bait may be possessed at any time.*

**4 VAC 15-330-150. Special provision applicable to Stewarts Creek Trout Management Area; certain portions of Dan, Rapidan, South Fork Holston and Staunton rivers, the East Fork of Chestnut Creek, Roaring Fork, North Creek, and their tributaries.**

It shall be lawful year around to fish for trout using only artificial lures with single hooks within the Stewarts Creek Trout Management Area in Carroll County, in the Rapidan and Staunton rivers and their tributaries upstream from a sign at the Lower Shenandoah National Park boundary in Madison County, in the Dan River and its tributaries between the Townes Dam and the Pinnacles Hydroelectric Project powerhouse in Patrick County, in the East Fork of Chestnut Creek (Farmer's Creek) and its tributaries upstream from the Blue Ridge Parkway in Grayson and Carroll counties, and in Roaring Fork and its tributaries upstream from the southwest boundary of Beartown Wilderness Area in Tazewell County and in that section of the South Fork Holston River and its tributaries from the concrete dam at Buller Fish Culture Station downstream to the lower boundary of the Buller Fish Culture Station in Smyth County, and in North Creek and its tributaries upstream from a sign at the George Washington National Forest North Creek Campground in Botetourt County. All trout caught in these waters must be immediately returned to the water. No trout or bait may be in possession at any time in these areas.

VA.R. Doc. No. R98-327; Filed August 26, 1998, 11:11 a.m.

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Title of Regulation: **4 VAC 15-340-10 et seq. Fish: Seines and Nets (amending 4 VAC 15-340-60).**

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

Notice to the Public:

The Board of Game and Inland Fisheries has ordered to be published, pursuant to §§ 29.1-501 and 29.1-502 of the Code of Virginia, the following proposed amendments to board regulations. A public comment period on the proposed regulations opened August 20, 1998, and remains open until October 22, 1998. Comments submitted must be in writing; must be accompanied by the name, address and telephone number of the party offering the comments; should state the regulatory action desired; and should state the justification

for the desired action. Send comments no later than October 15, 1998, to Phil Smith, Policy Analyst and Regulatory Coordinator, Department of Game and Inland Fisheries, 4010 West Broad Street, Richmond, Virginia 23230, in order to be assured that the board will have opportunity to review them before taking final action.

A public hearing on the advisability of adopting, or amending and adopting, the proposed regulations, or any parts thereof, will be held during a meeting of the board to take place at the Department of Game and Inland Fisheries, 4000 West Broad Street, Richmond, Virginia, beginning at 9 a.m. on Thursday, October 22, 1998, at which time any interested citizen present shall be heard.

If the board is satisfied that the proposed regulations, or any parts thereof, are advisable, in the form in which published or as amended after receipt of the public's comments, the board may adopt regulation amendments as final at the October meeting. The regulations or regulation amendments adopted may be either more liberal or more restrictive than those proposed and being advertised under this notice.

Summary:

*The proposed amendment allows for the taking of certain fish species with hand-landing nets from the Staunton and Dan Rivers.*

**4 VAC 15-340-60. Seines, traps and nets prohibited in certain areas.**

A. It shall be unlawful to use seines and nets of any kind for the taking of fish from the public waters of the Roanoke (Staunton) and Dan Rivers in Campbell, Charlotte, Halifax and Pittsylvania counties, and in the City of Danville; provided, however, this section shall not be construed to prohibit the use of hand-landing nets for the landing of fish legally hooked or the taking of fish bait from these waters pursuant to the provisions of 4 VAC 15-360-10 et seq.

B. In Lick Creek in Smyth and Bland counties, and in Bear Creek and Hungry Mother Creek above Hungry Mother Lake in Smyth County, it shall be unlawful to use seines, nets or traps; provided, however, this section shall not be construed to prohibit the use of hand-landing nets for the landing of fish legally hooked.

VA.R. Doc. No. R98-325; Filed August 26, 1998, 11:12 a.m.

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Title of Regulation: **4 VAC 15-360-10 et seq. Fish: Aquatic Invertebrates, Amphibians, Reptiles, and Nongame Fish (amending 4 VAC 15-360-10).**

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

Notice to the Public:

The Board of Game and Inland Fisheries has ordered to be published, pursuant to §§ 29.1-501 and 29.1-502 of the Code of Virginia, the following proposed amendments to board regulations. A public comment period on the proposed

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# Proposed Regulations

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regulations opened August 20, 1998, and remains open until October 22, 1998. Comments submitted must be in writing; must be accompanied by the name, address and telephone number of the party offering the comments; should state the regulatory action desired; and should state the justification for the desired action. Send comments no later than October 15, 1998, to Phil Smith, Policy Analyst and Regulatory Coordinator, Department of Game and Inland Fisheries, 4010 West Broad Street, Richmond, Virginia 23230, in order to be assured that the board will have opportunity to review them before taking final action.

A public hearing on the advisability of adopting, or amending and adopting, the proposed regulations, or any parts thereof, will be held during a meeting of the board to take place at the Department of Game and Inland Fisheries, 4000 West Broad Street, Richmond, Virginia, beginning at 9 a.m. on Thursday, October 22, 1998, at which time any interested citizen present shall be heard.

If the board is satisfied that the proposed regulations, or any parts thereof, are advisable, in the form in which published or as amended after receipt of the public's comments, the board may adopt regulation amendments as final at the October meeting. The regulations or regulation amendments adopted may be either more liberal or more restrictive than those proposed and being advertised under this notice.

## Summary:

*The proposed amendment adds threadfin shad to the list of fish species that can be taken in unlimited numbers from inland waters.*

### **4 VAC 15-360-10. Taking aquatic invertebrates, amphibians, reptiles, and nongame fish for private use.**

A. Possession limits. Except as otherwise provided for in § 29.1-418 of the Code of Virginia, 4 VAC 15-20-130, subdivision 8 of 4 VAC 15-320-40 and the sections of this chapter, it shall be lawful to capture and possess live for private use and not for sale no more than five individuals of any single native or naturalized (as defined in 4 VAC 15-20-50) species of amphibian and reptile and 20 individuals of any single native or naturalized (as defined in 4 VAC 15-20-50) species of aquatic invertebrate and nongame fish unless specifically listed below:

1. The following species may be taken in unlimited numbers from inland waters statewide: carp, bowfin, longnose gar, mullet, bullhead catfish, suckers, gizzard shad, *threadfin shad*, blueback herring, white perch, yellow perch, alewife, stoneroller (hornyhead), fathead minnow, golden shiner, and goldfish.

2. The following species may be taken in unlimited numbers from inland waters below the fall line: channel catfish, white catfish and blue catfish.

3. For the purpose of this chapter, "fish bait" shall be defined as native or naturalized species of minnows and chubs (Cyprinidae), salamanders, crayfish, and hellgrammites. The possession limit for taking "fish bait" shall be 50 individuals in aggregate, unless said

person has purchased "fish bait" and has a receipt specifying the number of individuals purchased by species, except salamanders which cannot be sold pursuant to the provisions of 4 VAC 15-360-60. However, stonerollers (hornyheads), fathead minnows, golden shiners, and goldfish may be taken and possessed in unlimited numbers as provided for in subdivision 1 of this subsection.

4. The daily limit for bullfrogs and snapping turtles shall be 15 and bullfrogs and snapping turtles may not be taken from the banks or waters of designated stocked trout waters.

B. Methods of taking species in subsection A. Except as otherwise provided for in the Code of Virginia, 4 VAC 15-20-130, other regulations of the board, and except in any waters where the use of nets is prohibited, the species listed in subsection A may only be taken by hand, hook and line, with a seine not exceeding four feet in depth by 10 feet in length, an umbrella type net not exceeding five by five feet square, small minnow traps with throat openings no larger than one inch in diameter, cast nets not to exceed six feet in radius and hand-held bow nets with diameter not to exceed 20 inches and handle length not to exceed eight feet (such cast net and hand-held bow nets when so used shall not be deemed dip nets under the provisions of § 29.1-416 of the Code of Virginia). Bullfrogs may also be taken by gigging or bow and arrow and, from private waters, by firearms no larger than .22 caliber rimfire.

C. Areas restricted from taking mollusks. Except as provided for in §§ 29.1-418 and 29.1-568 of the Code of Virginia, it shall be unlawful to take mussels and the spiny riversnail (*Io fluviialis*) in the Tennessee drainage in Virginia (Clinch, Powell and the North, South and Middle Forks of the Holston Rivers and tributaries), and it shall be unlawful to take mussels in the James River and tributaries west of U.S. Route 29 and in the entire North Fork of the Shenandoah River.

D. Areas restricted from taking salamanders. Except as provided for in §§ 29.1-418 and 29.1-568 of the Code of Virginia, it shall be unlawful to take salamanders in Grayson Highlands State Park and on National Forest lands in the Jefferson National Forest in those portions of Grayson, Smyth and Washington counties bounded on the east by State Route 16, on the north by State Route 603 and on the south and west by U.S. Route 58.

VA.R. Doc. No. R98-328; Filed August 26, 1998, 11:11 a.m.



## TITLE 9. ENVIRONMENT

### STATE AIR POLLUTION CONTROL BOARD

Title of Regulation: **Regulations for the Control and Abatement of Air Pollution (Rev. GG).**

**9 VAC 5-20-10 et seq. General Provisions (amending 9 VAC 5-20-21).**

**9 VAC 5-40-10 et seq. General Provisions (adding 9 VAC 5-40-7950 through 9 VAC 5-40-8190).**

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

Public Hearing Date: October 28, 1998 - 9 a.m.

Public comments may be submitted until November 13, 1998.

(See Calendar of Events section for additional information)

Basis: Section 10.1-1308 of the Virginia Air Pollution Control Law authorizes the State Air Pollution Control Board to promulgate regulations abating, controlling and prohibiting air pollution in order to protect public health and welfare. Written assurance from the Office of the Attorney General that the State Air Pollution Control Board possesses, and has not exceeded, its statutory authority to promulgate the proposed regulation amendments is attached.

Purpose: The purpose of the regulation is to establish emission standards that will require the owners of MWC facilities to limit emissions of organics (such as dioxins/furans), metals (such as particulate matter), and acid gases (such as sulfur dioxide and hydrogen chloride) to a specified level necessary to protect public health and welfare. The regulation is being proposed to meet the requirements of § 112(d) and § 129 of the federal Clean Air Act, and 40 CFR Part 60 Subpart Cb of federal regulations.

Substance: The major provisions of the proposal are summarized below:

1. The affected facility to which the revision applies is each MWC unit with a combustion capacity greater than 250 tons per day of MSW for which construction was commenced on or before September 20, 1994. Specific exemptions are allowed for facilities that:
  - a. Can limit the amount of MSW combusted to less than 11 tons per day,
  - b. Are small power production or cogeneration facilities that burn homogeneous waste such as automotive tires or used oil for the production of electric energy,
  - c. Combust a single-item waste stream of tires,
  - d. Are cofired combustors,
  - e. Are air curtain incinerators combusting a fuel stream composed of 100% yard waste, or
  - f. Are pyrolysis/combustion units that are an integrated part of a plastics/rubber recycling unit.

The regulation does not apply to units required to have a permit under the Solid Waste Disposal Act, materials recovery facilities that combust waste for the purpose of recovering metals, or cement kilns firing MSW.

2. Standards for particulate matter, carbon monoxide, cadmium, lead, mercury, sulfur dioxide, hydrogen chloride, dioxin/furan, NO<sub>x</sub>, opacity, and fugitive dust are specified.

3. Provisions for startup, shutdown, and malfunction are provided in the compliance section. Procedures for calculating unit capacity are specified, and depend on whether waste is fed continuously or on a batch basis.

4. The owner of a municipal waste combustor plant may elect to implement a NO<sub>x</sub> emissions averaging plan. To implement such a plan, the average daily (24-hour) NO<sub>x</sub> emission concentration level must be no greater than the emissions limits specified in the rule. The NO<sub>x</sub> emissions on a daily average basis are calculated and must be equal to or less than the maximum daily NO<sub>x</sub> emission level achieved by the affected facility on any of the days during which the emissions averaging plan was achieved with all affected facilities online during the most recent calendar quarter.

5. Compliance schedules are specified. Affected facilities are generally allowed between one year and three years to achieve compliance. Their permits must include measurable and enforceable incremental steps of progress toward compliance as specified in this section. Compliance dates for various provisions are also specified depending on the submittal of state plans to EPA.

6. Operating practices include load level limits, and the regulation of particulate matter control device inlet temperature.

7. Operator training and certification provisions are delineated. Each chief facility operator and shift supervisor must obtain and maintain a current provisional operator certification from either the American Society of Mechanical Engineers or a board-approved certification program. The facility may be operated only with a certified chief facility operator or shift supervisor present, and all chief facility operators, shift supervisors, and control room operators must complete the EPA or board-approved municipal waste combustor operator training course.

The facility owner must develop and update on a yearly basis a site-specific operating manual that addresses specific elements of municipal waste combustor unit operation. They must establish a training program to review the operating manual with each person who has responsibilities affecting the facility's operation, including control room operators, ash handlers, maintenance personnel, and crane/load handlers.

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8. Test methods and procedures describe which reference methods are to be used for determining compliance with each emission standard.

9. Monitoring systems are specified, including performance specifications and averaging methods. The relationship between oxygen and carbon dioxide at a sampling location must be determined in a particular manner.

10. Reporting and recordkeeping provisions describe how all of the above information is to be gathered, stored, and reported, and include basic plant information, measurements of pollutant concentrations, feed rates, pollution control device use, test reports and accuracy determinations, and records related to operator training and certification.

**Issues:** The primary advantages and disadvantages of implementation and compliance with the regulation by the public and the department are discussed below.

1. Public: A limited segment of the general public may experience an economic disadvantage in increased fees where affected MWCs must install pollution control systems. However, the general public will experience a number of health and welfare advantages. MWC emissions cause a number of serious health effects, including cancer. Therefore, reduction of these emissions will reduce disease and its related costs. Reduction of MWC emissions will also reduce the risk of damage to vegetation and property, which will in turn enhance property values, tax revenues, payroll, and other socioeconomic components.

A limited number of MWCs may experience an economic disadvantage if they must install pollution control systems. MWCs as well as industry in general will also benefit from the rule. Overall ozone reductions may lessen the risk of current attainment areas being designated nonattainment, and current nonattainment areas being reclassified to a more serious classification.

2. Department: The department may need to perform additional inspection, monitoring and recordkeeping to ensure that the emissions limitations are being met, which will require increased expenditure in personnel and equipment. However, the increase in data to be gathered and analyzed will benefit the department by enhancing its ability to make both short- and long-term planning decisions. Furthermore, these sources have been, for the most part, permitted, inspected, and monitored for many years, therefore, little new additional effort will be expended.

**Department of Planning and Budget's Economic Impact Analysis:** The Department of Planning and Budget (DPB) has analyzed the economic impact of this proposed regulation in accordance with § 9-6.14:7.1 G of the Administrative Process Act and Executive Order Number 13 (94). Section 9-6.14:7.1 G requires that such economic impact analyses include, but need not be limited to, the projected number of businesses or other entities to whom the

regulation would apply, the identity of any localities and types of businesses or other entities particularly affected, the projected number of persons and employment positions to be affected, the projected costs to affected businesses or entities to implement or comply with the regulation, and the impact on the use and value of private property. The analysis presented below represents DPB's best estimate of these economic impacts.

Summary of the proposed regulation. The proposed regulation implements in Virginia the Federal guidelines for emissions from municipal waste combustors (MWCs) with combustion capacity greater than 250 tons per day. (The U.S. Environmental Protection Agency (EPA) is currently developing regulations that will cover smaller incinerators.) Emission limits are established for particulate matter (PM), cadmium, lead, mercury, sulfur dioxide (SO<sub>2</sub>), hydrogen chloride, dioxin/furan, nitrogen oxides (NO<sub>x</sub>), opacity, and fugitive dust. Only three facilities comprising 11 combustion units are large enough to qualify for coverage under this rule: Ogden Martin Fairfax in Lorton, Ogden Martin Alexandria in Alexandria, and the U.S. Navy Norfolk Shipyard in Portsmouth.

Estimated economic impact. EPA has estimated that the cost of compliance with these rules will be approximately \$16 per ton of waste burned. This cost estimate is based on the cost of retrofitting a facility and is an average over a substantial range of costs. Costs at a particular plant will depend on age, size and technology, among other things.

As indicated by Table 1, under the assumption that no new plants begin operation in Virginia, the annual compliance costs expected to result from this rule are around \$5 million. Of this, 33% is paid by the U.S. Navy. These Navy expenditures come from federal tax dollars and, hence, may be considered a gain to Virginia rather than a net cost, and the benefits of reduced emissions accrue primarily to Virginians. The expenditures by the Navy on emission reductions represent an unambiguous net economic gain to Virginia.

Estimated private compliance costs amount to approximately \$3.4 million per year, according to EPA. Since the Virginia facilities are quite large, the actual costs could be somewhat lower than this estimate. For private firms, EPA estimates an increase in tipping fees of around 41% on the assumption that all of the increased costs can be passed through to the customer. Given the availability of landfill space for this waste, it may not be true that all of the costs will fall on consumers. Some may fall on owners of the incinerators as a lower rate of return on their capital investment in the facilities.

The benefits of this regulation cannot be as readily quantified as the costs. Benefits estimates only exist for two of the regulated pollutants, SO<sub>2</sub> and PM. EPA estimates that the benefits of reducing just these two emissions to the level required by this rule equal approximately one quarter of the compliance costs. However, it is well known that the other regulated emissions have very significant health consequences. (The particulate-associated heavy metals in

the effluent are very toxic.) Also, NO<sub>x</sub> is known to contribute to the formation of ozone in urban air. Reducing NO<sub>x</sub> emissions will help Virginia meet its targets for reducing ozone concentrations in Northern Virginia and should help maintain compliance in the Hampton Roads area.

Since the scientific data on exposure and dose response do not exist, it is impossible to estimate in a meaningful way the reduction in morbidity and mortality from the reduction in these emissions. Without such an estimate, it is not possible to determine whether reducing these emissions is cost effective relative to other things that might be done to save lives and improve health.

**Businesses and entities affected.** There are three Virginia facilities affected by this regulation.

**Localities particularly affected.** The only areas affected by this regulation will be those where the affected facilities are located: Lorton, Alexandria, and Portsmouth.

**Projected impact on employment.** This rule will cause a significant increase in the cost of incinerating municipal solid wastes. This could cause some shift of demand away from

incineration toward land disposal relative to what would have occurred in the absence of this regulation. It is not expected that this change will have a significant net increase on the level of employment. The portion of the compliance costs paid by the U.S. Navy will cause some increase in employment.

**Effects on the use and value of private property.** This regulation increases compliance costs at two facilities owned by the Ogden Martin Corporation. If the increased compliance costs cause any significant shift of demand for waste incineration, then the owners of the firm could see the value of their ownership shares fall. The size of such an effect is not known at this time.

Owners of property in the vicinity of the incinerators may see an increase in property values due to the reduced impact of air emissions from the incinerators. Air emissions are well known to have a negative affect on neighboring properties, especially when those emissions contain toxic or hazardous substances. The reduction in toxic emissions should have some positive effect on neighboring property values.

Table 1: Compliance Costs for Virginia MWCs

Facility	Units	Capacity per Unit in tons per day	Aggregate Capacity (tpd)	Compliance costs per day @ \$16/t	Aggregate annual compliance costs	Percent share
Ogden Martin Fairfax	4	825.6	3,302	52,838	2,641,920	0.52
Ogden Martin Alexandria	3	325.0	975	15,600	780,000	0.15
U.S. Navy	4	532.8	2,131	34,099	1,704,960	0.33
				102,538	5,126,880	

Agency's Response to the Department of Planning and Budget's Economic Impact Analysis: The Department of Planning and Budget prepared an economic impact analysis for the proposal as required by § 9-6.14:7.1 G of the Administrative Process Act. The Department of Environmental Quality takes no issue with the economic impact analysis prepared by the Department of Planning and Budget.

Summary:

*The proposed regulations concern municipal waste combustors.*

*The regulation applies to each MWC unit with a combustion capacity greater than 250 tons per day of municipal solid waste for which construction was commenced on or before September 20, 1994.*

*Emissions limitations are established for particulate matter, carbon monoxide, cadmium, lead, mercury, sulfur dioxide, hydrogen chloride, dioxin/furan, nitrogen*

*oxides, opacity, and fugitive dust. Compliance provisions cover startup, shutdown, and malfunction; procedures for calculating unit capacity are specified. Nitrogen oxides emissions averaging, which may be used at the source's discretion, is described in detail.*

*Compliance schedules are specified. Operating practices are delineated and include the regulation of particulate matter control device inlet temperature. An important component of the regulation is the operator training and certification provisions, which describe procedures and programs for assuring operator qualifications. Test methods and procedures to be used for determining compliance with each emission standard are described. Monitoring systems are specified, including specific performance specifications and averaging methods. Also included are reporting and recordkeeping requirements regarding how all of the above information is to be gathered, stored, and reported.*

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## 9 VAC 5-20-21. Documents incorporated by reference.

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

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

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

B. Any reference in these regulations to any provision of the Code of Federal Regulations (CFR) shall be considered as the adoption by reference of that provision. The specific version of the provision adopted by reference shall be that contained in the CFR (~~1995~~) (1997) in effect July 1, ~~1995~~ 1997. In making reference to the Code of Federal Regulations, 40 CFR Part 35 means Part 35 of Title 40 of the Code of Federal Regulations; 40 CFR 35.20 means § 35.20 in Part 35 of Title 40 of the Code of Federal Regulations.

C. Failure to include in this section any document referenced in the regulations shall not invalidate the applicability of the referenced document.

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

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

1. Code of Federal Regulations.
  - a. The provisions specified below from the Code of Federal Regulations (CFR) in effect as of July 1, ~~1994~~ 1997, are incorporated herein by reference.

(1) 40 CFR Part 50 - National Primary and Secondary Ambient Air Quality Standards.

(a) Appendix A - Reference Method for the Determination of Sulfur Dioxide in the Atmosphere (Pararosaniline Method).

(b) Appendix B - Reference Method for the Determination of Suspended Particulate Matter in the Atmosphere (High-Volume Method).

(c) Appendix C - Measurement Principle and Calibration Procedure for the Continuous Measurement of Carbon Monoxide in the Atmosphere (Non-Dispersive Infrared Photometry).

(d) Appendix D - Measurement Principle and Calibration Procedure for the Measurement of Ozone in the Atmosphere.

(e) Appendix E - Reference Method for Determination of Hydrocarbons Corrected for Methane.

(f) Appendix F - Measurement Principle and Calibration Procedure for the Measurement of Nitrogen Dioxide in the Atmosphere (Gas Phase Chemiluminescence).

(g) Appendix G - Reference Method for the Determination of Lead in Suspended Particulate Matter Collected from Ambient Air.

(h) Appendix H - Interpretation of the National Ambient Air Quality Standards for Ozone.

(i) Appendix I - Reserved.

(j) Appendix J - Reference Method for the Determination of Particulate Matter as PM<sub>10</sub> in the Atmosphere.

(k) Appendix K - Interpretation of the National Ambient Air Quality Standards for Particulate Matter.

(2) 40 CFR Part 51 - Requirements for Preparation, Adoption, and Submittal of Implementation Plans.

*Appendix M - Recommended Test Methods for State Implementation Plans.*

*Appendix S - Emission Offset Interpretive Ruling.*

Appendix W - Guideline on Air Quality Models (Revised).

(3) 40 CFR Part 58 - Ambient Air Quality Surveillance.

Appendix B - Quality Assurance Requirements for Prevention of Significant Deterioration (PSD) Air Monitoring.

(4) 40 CFR Part 60 - Standards of Performance for New Stationary Sources.

The specific provisions of 40 CFR Part 60 incorporated by reference are found in Article 5 (9 VAC 5-50-400 et seq.) of Part II of Chapter 50, Rule 5-5, Environmental Protection Agency Standards of Performance for New Stationary Sources.

(5) 40 CFR Part 61 - National Emission Standards for Hazardous Air Pollutants.

The specific provisions of 40 CFR Part 61 incorporated by reference are found in Article 1 (9 VAC 5-60-60 et seq.) of Part II of Chapter 60, Rule 6-1, Environmental Protection Agency National Emission Standards for Hazardous Air Pollutants.

(6) 40 CFR Part 63 - National Emission Standards for Hazardous Air Pollutants for Source Categories.

The specific provisions of 40 CFR Part 63 incorporated by reference are found in Article 2 (9 VAC 5-60-90 et seq.) of Part II of Chapter 60, Rule 6-2, Environmental Protection Agency National Emission Standards for Hazardous Air Pollutants for Source Categories.

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

### 2. U.S. Environmental Protection Agency.

a. The following document from the U.S. Environmental Protection Agency is incorporated herein by reference.

Reich Test, Atmospheric Emissions from Sulfuric Acid Manufacturing Processes, Public Health Service Publication No. PB82250721, 1980.

b. Copies may be obtained from: U.S. Department of Commerce, National Technical Information Service, 5285 Port Royal Road, Springfield, Virginia 22161; phone (703) 487-4650.

### 3. U.S. government.

a. The following document from the U.S. government is incorporated herein by reference: Standard Industrial Classification Manual, 1987 (U.S. Government Printing Office stock number 041-001-00-314-2).

b. Copies may be obtained from: Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402; phone (202) 512-1800.

### 4. American Society for Testing and Materials (ASTM).

a. The documents specified below from the American Society for Testing and Materials are incorporated herein by reference.

(1) D323-94, "Standard Test Method for Vapor Pressure of Petroleum Products (Reid Method)" from Section 5, Volume 05.01 of the 1985 Annual Book of ASTM Standards.

(2) D97-93, "Standard Test Method for Pour Point of Petroleum Oils" from Section 5, Volume 05.01 of the 1989 Annual Book of ASTM Standards.

(3) D129-91, "Standard Test Method for Sulfur in Petroleum Products (General Bomb Method)," 1991.

(4) D388-95, "Standard Classification of Coals by Rank," 1995.

(5) D396-92, "Standard Specification for Fuel Oils," 1992.

(6) D975-94, "Standard Specification for Diesel Fuel Oils," 1994.

(7) D1072-90, "Standard Test Method for Total Sulfur in Fuel Gases," 1990, reapproved 1994.

(8) D1265-92, "Standard Practice for Sampling Liquefied Petroleum (LP) Gases (Manual Method)," 1992.

(9) D2622-94, "Standard Test Method for Sulfur in Petroleum Products by X-Ray Spectrometry," 1994.

(10) D4057-88, "Standard Practice for Manual Sampling of Petroleum and Petroleum Products," 1988.

(11) D4294-90, "Standard Test Method for Sulfur in Petroleum Products by Energy-Dispersive X-Ray Fluorescence Spectroscopy," 1990.

b. Copies may be obtained from: American Society for Testing Materials, 1916 Race Street, Philadelphia, Pennsylvania 19103; phone (610) 832-9585.

### 5. American Petroleum Institute (API).

a. The following document from the American Petroleum Institute is incorporated herein by reference: API Publication 2517, Evaporation Loss from External Floating Roof Tanks, Third Edition, 1989.

b. Copies may be obtained from: American Petroleum Institute, 2101 L Street, Northwest, Washington, D.C. 20037; phone (202) 682-8000.

### 6. American Conference of Governmental Industrial Hygienists (ACGIH).

a. The following document from the ACGIH is incorporated herein by reference: Threshold Limit Values for Chemical Substances 1991-1992 and Physical Agents and Biological Exposure Indices (ACGIH Handbook).

b. Copies may be obtained from: ACGIH, 6500 Glenway Avenue, Building D-7, Cincinnati, Ohio 45211-4438; phone (513) 742-2020.

### 7. National Fire Prevention Association (NFPA).

a. The documents specified below from the National Fire Prevention Association are incorporated herein by reference.

(1) NFPA 385, Standard for Tank Vehicles for Flammable and Combustible Liquids, 1990 Edition.

(2) NFPA 30, Flammable and Combustible Liquids Code, 1993 Edition.

(3) NFPA 30A, Automotive and Marine Service Station Code, 1993 Edition.

b. Copies may be obtained from the National Fire Prevention Association, Batterymarch Park, Quincy, Massachusetts 02269; phone (617) 770-3000.

### 8. American Society of Mechanical Engineers (ASME).

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a. The documents specified below from the American Society of Mechanical Engineers are incorporated herein by reference.

(1) ASME Power Test Codes: Test Code for Steam Generating Units, Power Test Code 4.1--1964 (R1991).

(2) ASME Interim Supplement 19.5 on Instruments and Apparatus: Application, Part II of Fluid Meters, 6th edition (1971).

b. Copies may be obtained from the American Society of Mechanical Engineers, 22 Law Drive, Fairfield, New Jersey, 07004.

## PART II. EMISSION STANDARDS.

### Article 46.

Standards of Performance for Municipal Waste Combustors  
(Rule 4-46).

#### **9 VAC 5-40-7950. Applicability and designation of affected facility.**

A. Except as provided in subsections D and E of this section, the affected facility to which the provisions of this article apply is each municipal waste combustor unit with a combustion capacity greater than 250 tons per day of municipal solid waste for which construction was commenced on or before September 20, 1994.

B. The provisions of this article apply throughout the Commonwealth of Virginia.

C. Air curtain incinerators that meet the capacity specifications in subsection A of this section and that combust municipal solid waste other than yard waste are subject to all provisions of this article.

D. Exempted from the provisions of this article are the following:

1. Any waste combustion unit that is capable of combusting more than 250 tons per day of municipal solid waste and is subject to a federally enforceable permit limiting the maximum amount of municipal solid waste that may be combusted in the unit to less than or equal to 11 tons per day is not subject to this article if the owner:

- a. Notifies the board of an exemption claim,
- b. Provides a copy of the federally enforceable permit that limits the firing of municipal solid waste to less than 11 tons per day, and
- c. Keeps records of the amount of municipal solid waste fired on a daily basis.

2. Physical or operational changes made to an existing municipal waste combustor unit primarily for the purpose of complying with this article are not considered in determining whether the unit is a modified or

reconstructed facility under subpart Ea or subpart Eb of 40 CFR Part 60.

3. A qualifying small power production facility, as defined in § 3(17)(C) of the Federal Power Act (16 USC § 796(17)(C)), that burns homogeneous waste (such as automotive tires or used oil, but not including refuse-derived fuel) for the production of electric energy is not subject to this article if the owner of the facility notifies the board of this exemption and provides data documenting that the facility qualifies for this exemption.

4. A qualifying cogeneration facility, as defined in § 3(18)(B) of the Federal Power Act (16 USC § 796(18)(B)), that burns homogeneous waste (such as automotive tires or used oil, but not including refuse-derived fuel) for the production of electric energy and steam or forms of useful energy (such as heat) that are used for industrial, commercial, heating, or cooling purposes, is not subject to this article if the owner of the facility notifies the board of this exemption and provides data documenting that the facility qualifies for this exemption.

5. Any unit combusting a single-item waste stream of tires is not subject to this article if the owner of the unit notifies the board of an exemption claim, and provides data documenting that the unit qualifies for this exemption.

6. Any cofired combustor located at a plant that meets the capacity specifications in subsection A of this section is not subject to this article if the owner of the cofired combustor:

- a. Notifies the board of an exemption claim,
- b. Provides a copy of the federally enforceable permit (specified in the definition of cofired combustor in 9 VAC 5-40-7960), and
- c. Keeps a record on a calendar quarter basis of the weight of municipal solid waste combusted at the cofired combustor and the weight of all other fuels combusted at the cofired combustor.

7. Air curtain incinerators that meet the capacity specifications in subsection A of this section and that combust a fuel stream composed of 100% yard waste are exempt from all provisions of this article except the opacity limit under 9 VAC 5-40-8060 C, the testing procedures under 9 VAC 5-40-8140, and the reporting and recordkeeping provisions under 9 VAC 5-40-8160.

8. Pyrolysis/combustion units that are an integrated part of a plastics/rubber recycling unit are not subject to this article if the owner of the plastics/rubber recycling unit keeps records of:

- a. The weight of plastics, rubber, and rubber tires, or a combination thereof, processed on a calendar quarter basis,



b. The weight of chemical plant feedstocks and petroleum refinery feedstocks produced and marketed on a calendar quarter basis, and

c. The name and address of the purchaser of the feedstocks. The combustion of gasoline, diesel fuel, jet fuel, fuel oils, residual oil, refinery gas, petroleum coke, liquefied petroleum gas, propane, or butane produced by chemical plants or petroleum refineries that use feedstocks produced by plastics/rubber recycling units are not subject to this article.

E. The provisions of this article do not apply to the following:

1. Any unit required to have a permit under § 3005 of the Solid Waste Disposal Act.
2. Any materials recovery facility (including primary or secondary smelters) that combusts waste for the primary purpose of recovering metals.
3. Any cement kiln firing municipal solid waste.

## 9 VAC 5-40-7960. Definitions.

A. For the purpose of the Regulations for the Control and Abatement of Air Pollution and subsequent amendments or any orders issued by the board, the words or terms shall have the meaning given them in subsection C of this section.

B. As used in this article, all terms not defined herein shall have the meaning given them in 9 VAC 5 Chapter 10 (9 VAC 5-10-10 et seq.), unless otherwise required by context.

C. Terms defined.

"Air curtain incinerator" means an incinerator that operates by forcefully projecting a curtain of air across an open chamber or pit in which burning occurs. Incinerators of this type can be constructed above or below ground and with or without refractory walls and floor.

"Batch municipal waste combustor" means a municipal waste combustor unit designed so that it cannot combust municipal solid waste continuously 24 hours per day because the design does not allow waste to be fed to the unit or ash to be removed while combustion is occurring.

"Bubbling fluidized bed combustor" means a fluidized bed combustor in which the majority of the bed material remains in a fluidized state in the primary combustion zone.

"Calendar quarter" means a consecutive 3-month period (nonoverlapping) beginning on January 1, April 1, July 1, and October 1.

"Calendar year" means the period including 365 days starting January 1 and ending on December 31.

"Chief facility operator" means the person in direct charge and control of the operation of a municipal waste combustor and who is responsible for daily onsite supervision, technical direction, management, and overall performance of the facility.

"Circulating fluidized bed combustor" means a fluidized bed combustor in which the majority of the fluidized bed material is carried out of the primary combustion zone and is transported back to the primary zone through a recirculation loop.

"Clean wood" means untreated wood or untreated wood products including clean untreated lumber, tree stumps (whole or chipped), and tree limbs (whole or chipped). Clean wood does not include yard waste, which is defined elsewhere in this section, or construction, renovation, and demolition wastes (including but not limited to railroad ties and telephone poles), which are exempt from the definition of municipal solid waste in this section.

"Cofired combustor" means a unit combusting municipal solid waste with nonmunicipal solid waste fuel (e.g., coal, industrial process waste) and subject to a federally enforceable permit limiting the unit to combusting a fuel feed stream, 30% or less of the weight of which is comprised, in aggregate, of municipal solid waste as measured on a calendar quarter basis.

"Continuous emission monitoring system" means a monitoring system for continuously measuring the emissions of a pollutant from an affected facility.

"Dioxin/furan" means tetra- through octa- chlorinated dibenzo-p-dioxins and dibenzofurans.

"Federally enforceable" means all limitations and conditions that are enforceable by the administrator including the requirements of 40 CFR Parts 60, 61, and 63, requirements within any applicable state implementation plan, and any permit requirements established under 40 CFR Part 52.21 or under 40 CFR Part 51.18 and 40 CFR Part 51.24.

"First calendar half" means the period starting on January 1 and ending on June 30 in any year.

"Four-hour block average" means the average of all hourly emission concentrations when the affected facility is operating and combusting municipal solid waste measured over 4-hour periods of time from midnight to 4 a.m., 4 a.m. to 8 a.m., 8 a.m. to noon, noon to 4 p.m., 4 p.m. to 8 p.m., and 8 p.m. to midnight.

"Mass burn refractory municipal waste combustor" means a field-erected combustor that combusts municipal solid waste in a refractory wall furnace. Unless otherwise specified, this includes combustors with a cylindrical rotary refractory wall furnace.

"Mass burn rotary waterwall municipal waste combustor" means a field-erected combustor that combusts municipal solid waste in a cylindrical rotary waterwall furnace.

"Mass burn waterwall municipal waste combustor" means a field-erected combustor that combusts municipal solid waste in a waterwall furnace.

"Materials separation plan" means a plan that identifies both a goal and an approach to separate certain components of municipal solid waste for a given service area in order to

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make the separated materials available for recycling. A materials separation plan may include elements such as dropoff facilities, buy-back or deposit-return incentives, curbside pickup programs, or centralized mechanical separation systems. A materials separation plan may include different goals or approaches for different subareas in the service area, and may include no materials separation activities for certain subareas or, if warranted, an entire service area.

"Maximum demonstrated municipal waste combustor unit load" means the highest 4-hour arithmetic average municipal waste combustor unit load achieved during four consecutive hours during the most recent dioxin/furan performance test demonstrating compliance with the applicable limit for municipal waste combustor organics specified under 9 VAC 5-40-8040.

"Maximum demonstrated particulate matter control device temperature" means the highest 4-hour arithmetic average flue gas temperature measured at the particulate matter control device inlet during four consecutive hours during the most recent dioxin/furan performance test demonstrating compliance with the applicable limit for municipal waste combustor organics specified under 9 VAC 5-40-8040.

"Modification" or "modified municipal waste combustor unit" means a municipal waste combustor unit to which changes have been made after June 19, 1996 if (i) the cumulative cost of the changes, over the life of the unit, exceed 50% of the original cost of construction and installation of the unit (not including the cost of any land purchased in connection with such construction or installation) updated to current costs or (ii) any physical change in the municipal waste combustor unit or change in the method of operation of the municipal waste combustor unit increases the amount of any air pollutant emitted by the unit for which standards have been established under § 129 or § 111 of the federal Clean Air Act. Increases in the amount of any air pollutant emitted by the municipal waste combustor unit are determined at 100% physical load capability and downstream of all air pollution control devices, with no consideration given for load restrictions based on permits or other nonphysical operational restrictions.

"Modular excess-air municipal waste combustor" means a combustor that combusts municipal solid waste and that is not field-erected and has multiple combustion chambers, all of which are designed to operate at conditions with combustion air amounts in excess of theoretical air requirements.

"Modular starved-air municipal waste combustor" means a combustor that combusts municipal solid waste and that is not field-erected and has multiple combustion chambers in which the primary combustion chamber is designed to operate at substoichiometric conditions.

"Municipal solid waste" or "municipal-type solid waste" means household, commercial/retail, and institutional waste, or a combination thereof. Household waste includes material discarded by single and multiple residential dwellings, hotels,

motels, and other similar permanent or temporary housing establishments or facilities. Commercial/retail waste includes material discarded by stores, offices, restaurants, warehouses, nonmanufacturing activities at industrial facilities, and other similar establishments or facilities. Institutional waste includes material discarded by schools, nonmedical waste discarded by hospitals, material discarded by nonmanufacturing activities at prisons and government facilities, and material discarded by other similar establishments or facilities. Household, commercial/retail, and institutional waste does not include used oil; sewage sludge; wood pallets; construction, renovation, and demolition wastes (which includes but is not limited to railroad ties and telephone poles); clean wood; industrial process or manufacturing wastes; medical waste; or motor vehicles (including motor vehicle parts or vehicle fluff). Household, commercial/retail, and institutional wastes include (i) yard waste, (ii) refuse-derived fuel, and (iii) motor vehicle maintenance materials limited to vehicle batteries and tires except as specified in 9 VAC 5-40-7950 D 5.

"Municipal waste combustor" or "municipal waste combustor unit" means any setting or equipment that combusts solid, liquid, or gasified municipal solid waste including, but not limited to, field-erected incinerators (with or without heat recovery), modular incinerators (starved-air or excess-air), boilers (i.e., steam generating units), furnaces (whether suspension-fired, grate-fired, mass-fired, air curtain incinerators, or fluidized bed-fired), and pyrolysis/combustion units. Municipal waste combustors do not include pyrolysis/combustion units located at a plastics/rubber recycling unit (as specified in 9 VAC 5-40-7950 D 8). Municipal waste combustors do not include cement kilns firing municipal solid waste (as specified in 9 VAC 5-40-7950 E 3). Municipal waste combustors do not include internal combustion engines, gas turbines, or other combustion devices that combust landfill gases collected by landfill gas collection systems.

The boundaries of a municipal solid waste combustor are defined as follows. The municipal waste combustor unit includes, but is not limited to, the municipal solid waste feed system, grate system, flue gas system, bottom ash system, and the combustor water system. The municipal waste combustor boundary starts at the municipal solid waste pit or hopper and extends through:

1. The combustor flue gas system, which ends immediately following the heat recovery equipment or, if there is no heat recovery equipment, immediately following the combustion chamber,
2. The combustor bottom ash system, which ends at the truck loading station or similar ash handling equipment that transfer the ash to final disposal, including all ash handling systems that are connected to the bottom ash handling system; and
3. The combustor water system, which starts at the feed water pump and ends at the piping exiting the steam drum or superheater.

The municipal waste combustor unit does not include air pollution control equipment, the stack, water treatment equipment, or the turbine-generator set.

"Municipal waste combustor acid gases" means all acid gases emitted in the exhaust gases from municipal waste combustor units including, but not limited to, sulfur dioxide and hydrogen chloride gases.

"Municipal waste combustor metals" means metals and metal compounds emitted in the exhaust gases from municipal waste combustor units.

"Municipal waste combustor organics" means organic compounds emitted in the exhaust gases from municipal waste combustor units and includes tetra- through octa-chlorinated dibenzo-p-dioxins and dibenzofurans.

"Municipal waste combustor plant" means one or more affected facilities (as specified in 9 VAC 5-40-7950) at the same location.

"Municipal waste combustor unit capacity" means the maximum charging rate of a municipal waste combustor unit expressed in tons per day of municipal solid waste combusted, calculated according to the procedures under 9 VAC 5-40-8100 C. Subsection 9 VAC 5-40-8100 C includes procedures for determining municipal waste combustor unit capacity for continuous and batch feed municipal waste combustors.

"Municipal waste combustor unit load" means the steam load of the municipal waste combustor unit measured as specified in 9 VAC 5-40-8150 C.

"Particulate matter" means total particulate matter emitted from municipal waste combustor units as measured by Reference Method 5 (see 9 VAC 5-40-8140 B).

"Plastics/rubber recycling unit" means an integrated processing unit where plastics, rubber, and rubber tires, or a combination thereof, are the only feed materials (incidental contaminants may be included in the feed materials) and they are processed into a chemical plant feedstock or petroleum refinery feedstock, where the feedstock is marketed to and used by a chemical plant or petroleum refinery as input feedstock. The combined weight of the chemical plant feedstock and petroleum refinery feedstock produced by the plastics/rubber recycling unit on a calendar quarter basis shall be more than 70% of the combined weight of the plastics, rubber, and rubber tires processed by the plastics/rubber recycling unit on a calendar quarter basis. The plastics, rubber, or rubber tire feed materials to the plastics/rubber recycling unit may originate from the separation or diversion of plastics, rubber, or rubber tires from MSW or industrial solid waste, and may include manufacturing scraps, trimmings, and off-specification plastics, rubber, and rubber tire discards. The plastics, rubber, and rubber tire feed materials to the plastics/rubber recycling unit may contain incidental contaminants (e.g., paper labels on plastic bottles, metal rings on plastic bottle caps, etc.).

"Potential hydrogen chloride emission concentration" means the hydrogen chloride emission concentration that would occur from combustion of municipal solid waste in the absence of any emission controls for municipal waste combustor acid gases.

"Potential mercury emission concentration" means the mercury emission concentration that would occur from combustion of municipal solid waste in the absence of any mercury emissions control.

"Potential sulfur dioxide emissions" means the sulfur dioxide emission concentration that would occur from combustion of municipal solid waste in the absence of any emission controls for municipal waste combustor acid gases.

"Pulverized coal/refuse-derived fuel mixed fuel-fired combustor" means a combustor that fires coal and refuse-derived fuel simultaneously, in which pulverized coal is introduced into an air stream that carries the coal to the combustion chamber of the unit where it is fired in suspension. This includes both conventional pulverized coal and micropulverized coal.

"Pyrolysis/combustion unit" means a unit that produces gases, liquids, or solids through the heating of municipal solid waste, and the gases, liquids, or solids produced are combusted and emissions vented to the atmosphere.

"Reconstruction" means rebuilding a municipal waste combustor unit for which the reconstruction commenced after June 19, 1996, and the cumulative costs of the construction over the life of the unit exceed 50% of the original cost of construction and installation of the unit (not including any cost of land purchased in connection with such construction or installation) updated to current costs (current dollars).

"Refractory unit" or "refractory wall furnace" means a combustion unit having no energy recovery (e.g., via a waterwall) in the furnace (i.e., radiant heat transfer section) of the combustor.

"Refuse-derived fuel" means a type of municipal solid waste produced by processing municipal solid waste through shredding and size classification. This includes all classes of refuse-derived fuel including low-density fluff refuse-derived fuel through densified refuse-derived fuel and pelletized refuse-derived fuel.

"Refuse-derived fuel stoker" means a steam generating unit that combusts refuse-derived fuel in a semisuspension firing mode using air-fed distributors.

"Same location" means the same or contiguous property that is under common ownership or control including properties that are separated only by a street, road, highway, or other public right-of-way. Common ownership or control includes properties that are owned, leased, or operated by the same entity, parent entity, subsidiary, subdivision, or any combination thereof including any municipality or other governmental unit, or any quasi-governmental authority (e.g., a public utility district or regional waste disposal authority).

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"Second calendar half" means the period starting July 1 and ending on December 31 in any year.

"Shift supervisor" means the person who is in direct charge and control of the operation of a municipal waste combustor and who is responsible for onsite supervision, technical direction, management, and overall performance of the facility during an assigned shift.

"Spreader stoker coal/refuse-derived fuel mixed fuel-fired combustor" means a combustor that fires coal and refuse-derived fuel simultaneously, in which coal is introduced to the combustion zone by a mechanism that throws the fuel onto a grate from above. Combustion takes place both in suspension and on the grate.

"Standard conditions" means a temperature of 20°C and a pressure of 101.3 kilopascals.

"Total mass dioxin/furan" or "total mass" means the total mass of tetra- through octa- chlorinated dibenzo-p-dioxins and dibenzofurans, as determined using Reference Method 23 and the procedures specified under 9 VAC 5-40-8140 F.

"Twenty-four hour daily average" means either the arithmetic mean or geometric mean (as specified) of all hourly emission concentrations when the affected facility is operating and combusting municipal solid waste measured over a 24-hour period between midnight and the following midnight.

"Untreated lumber" means wood or wood products that have been cut or shaped and include wet, air-dried, and kiln-dried wood products. Untreated lumber does not include wood products that have been painted, pigment-stained, or "pressure-treated." Pressure-treating compounds include, but are not limited to, chromate copper arsenate, pentachlorophenol, and creosote.

"Waterwall furnace" means a combustion unit having energy (heat) recovery in the furnace (i.e., radiant heat transfer section) of the combustor.

"Yard waste" means grass, grass clippings, bushes, shrubs, and clippings from bushes and shrubs that are generated by residential, commercial/retail, institutional, and industrial sources, or combination thereof, as part of maintenance activities associated with yards or other private or public lands. Yard waste does not include construction, renovation, and demolition wastes, which are exempt from the definition of municipal solid waste in this section. Yard waste does not include clean wood, which is exempt from the definition of municipal solid waste in this section.

## **9 VAC 5-40-7970. Standard for particulate matter.**

No owner or other person shall cause or permit to be discharged into the atmosphere from any affected facility any gases that contain particulate matter in excess of 27 milligrams per dry standard cubic meter, corrected to 7.0% oxygen.

## **9 VAC 5-40-7980. Standard for carbon monoxide.**

No owner or other person shall cause or permit to be discharged into the atmosphere from any affected facility any gases that contain carbon monoxide in excess of the following limits:

1. For mass burn waterwall units: 100 parts per million by volume, corrected to 7.0% oxygen, dry basis, calculated as an arithmetic average (4-hour average).
2. For mass burn refractory units: 100 parts per million by volume, corrected to 7.0% oxygen, dry basis, calculated as an arithmetic average (4-hour average).
3. For mass burn rotary refractory units: 100 parts per million by volume, corrected to 7.0% oxygen, dry basis, calculated as an arithmetic average (24-hour average).
4. For mass burn rotary waterwall units: 250 parts per million by volume, corrected to 7.0% oxygen, dry basis, calculated as an arithmetic average (24-hour average).
5. For modular starved air units: 50 parts per million by volume, corrected to 7.0% oxygen, dry basis, calculated as an arithmetic average (4-hour average).
6. For modular excess air units: 50 parts per million by volume, corrected to 7.0% oxygen, dry basis, calculated as an arithmetic average (4-hour average).
7. For refuse-derived fuel stokers: 200 parts per million by volume, corrected to 7.0% oxygen, dry basis, calculated as an arithmetic average (24-hour average).
8. For bubbling fluidized bed combustors: 100 parts per million by volume, corrected to 7.0% oxygen, dry basis, calculated as an arithmetic average (4-hour average).
9. For circulating fluidized bed combustors: 100 parts per million by volume, corrected to 7.0% oxygen, dry basis, calculated as an arithmetic average (4-hour average).
10. For pulverized coal/refuse-derived fuel mixed fuel-fired combustors: 150 parts per million by volume, corrected to 7.0% oxygen, dry basis, calculated as an arithmetic average (4-hour average).
11. For spreader stoker coal/refuse-derived fuel mixed fuel-fired combustors: 200 parts per million by volume, corrected to 7.0% oxygen, dry basis, calculated as an arithmetic average (24-hour average).

## **9 VAC 5-40-7990. Standard for cadmium.**

No owner or other person shall cause or permit to be discharged into the atmosphere from any affected facility any gases that contain cadmium in excess of 0.040 milligrams per dry standard cubic meter, corrected to 7.0% oxygen.

## **9 VAC 5-40-8000. Standard for lead.**

No owner or other person shall cause or permit to be discharged into the atmosphere from any affected facility any

gases that contain lead in excess of 0.44 milligrams per dry standard cubic meter, corrected to 7.0% oxygen.

## **9 VAC 5-40-8010. Standard for mercury.**

No owner or other person shall cause or permit to be discharged into the atmosphere from any affected facility any gases that contain mercury in excess of 0.080 milligrams per dry standard cubic meter or 15% of the potential mercury emission concentration (85% reduction by weight), corrected to 7.0% oxygen, whichever is less stringent.

## **9 VAC 5-40-8020. Standard for sulfur dioxide.**

No owner or other person shall cause or permit to be discharged into the atmosphere from any affected facility any gases that contain sulfur dioxide in excess of 29 parts per million by volume or 25% of the potential sulfur dioxide emission concentration (75% reduction by weight or volume), corrected to 7.0% oxygen (dry basis), whichever is less stringent. Compliance with this emission limit is based on a 24-hour daily geometric mean.

## **9 VAC 5-40-8030. Standard for hydrogen chloride.**

No owner or other person shall cause or permit to be discharged into the atmosphere from any affected facility any gases that contain hydrogen chloride in excess of 29 parts per million by volume or 5.0% of the potential hydrogen chloride emission concentration (95% reduction by weight or volume), corrected to 7.0% oxygen (dry basis), whichever is less stringent.

## **9 VAC 5-40-8040. Standard for dioxin/furan.**

No owner or other person shall cause or permit to be discharged into the atmosphere from any affected facility any gases that contain municipal waste combustor organics, expressed as total mass dioxins/furans, in excess of the following limits:

1. For facilities that employ an electrostatic precipitator-based emission control system, 60 nanograms per dry standard cubic meter (total mass), corrected to 7.0% oxygen.
2. For facilities that do not employ an electrostatic precipitator-based emission control system, 30 nanograms per dry standard cubic meter (total mass), corrected to 7.0% oxygen.

## **9 VAC 5-40-8050. Standard for nitrogen oxides.**

No owner or other person shall cause or permit to be discharged into the atmosphere from any affected facility any gases that contain nitrogen oxides in excess of the following limits:

1. For facilities not engaged in an emissions averaging plan as described in 9 VAC 5-40-8100 D:
  - a. For mass burn waterwall units: 205 parts per million by volume corrected to 7.0% oxygen, dry basis.

- b. For mass burn rotary waterwall units: 250 parts per million by volume corrected to 7.0% oxygen, dry basis.

- c. For refuse-derived fuel combustors: 250 parts per million by volume corrected to 7.0% oxygen, dry basis.

- d. For fluidized bed combustors: 180 parts per million by volume corrected to 7.0% oxygen, dry basis.

- e. For mass burn refractory combustors: no limit.

2. For facilities engaged in an emissions averaging plan as described in 9 VAC 5-40-8100 D:

- a. For mass burn waterwall units: 185 parts per million by volume, corrected to 7.0% oxygen, dry basis.

- b. For mass burn rotary waterwall units: 220 parts per million by volume, corrected to 7.0% oxygen, dry basis.

- c. For refuse-derived fuel combustors: 230 parts per million by volume, corrected to 7.0% oxygen, dry basis.

- d. For fluidized bed combustors: 165 parts per million by volume, corrected to 7.0% oxygen, dry basis.

## **9 VAC 5-40-8060. Standard for visible emissions.**

A. The provisions of Article 1 (9 VAC 5-40-60 et seq.) of 9 VAC 5 Chapter 40 (Emission Standards for Visible Emissions and Fugitive Dust/Emissions, Rule 4-1) apply except that the provisions in subsections B and C of this section apply instead of 9 VAC 5-40-80.

B. No owner or other person shall cause or permit to be discharged into the atmosphere from any affected facility any gases that exhibit greater than 10% opacity (6-minute average).

C. The owner of an air curtain incinerator with the capacity to combust greater than 250 tons per day of municipal solid waste and that combusts a fuel feed stream composed of 100% yard waste and no other municipal solid waste materials shall at no time cause to be discharged into the atmosphere from that incinerator any gases that exhibit greater than 10% opacity (6-minute average), except that an opacity level of up to 35% (6-minute average) is permitted during startup periods during the first 30 minutes of operation of the unit.

## **9 VAC 5-40-8070. Standard for fugitive dust/emissions.**

A. The provisions of Article 1 (9 VAC 5-40-60 et seq.) of 9 VAC 5 Chapter 40 (Emission Standards for Visible Emissions and Fugitive Dust/Emissions, Rule 4-1) apply except as provided in subsections B through D of this section.

B. No owner or other person shall cause to be discharged to the atmosphere visible emissions of combustion ash from an ash conveying system (including conveyor transfer points) in excess of 5.0% of the observation period (i.e., 9 minutes

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per 3-hour period), as determined by Reference Method 22 observations as specified in 9 VAC 5-40-8140 H, except as provided in subsections C and D of this section.

C. The emission limit specified in subsection B of this section shall not cover visible emissions discharged inside buildings or enclosures of ash conveying systems; however, the emission limit specified in subsection B of this section shall cover visible emissions discharged to the atmosphere from buildings or enclosures of ash conveying systems.

D. The provisions specified in subsection B of this section shall not apply during maintenance and repair of ash conveying systems.

## **9 VAC 5-40-8080. Standard for odor.**

The provisions of Article 2 (9 VAC 5-40-130 et seq.) of 9 VAC 5 Chapter 40 (Emission Standards for Odor, Rule 4-2) apply.

## **9 VAC 5-40-8090. Standard for toxic pollutants.**

The provisions of Article 3 (9 VAC 5-40-160 et seq.) of 9 VAC 5 Chapter 40 (Emission Standards for Toxic Pollutants, Rule 4-3) apply.

## **9 VAC 5-40-8100. Compliance.**

A. The provisions of 9 VAC 5-40-20 (Compliance) apply except as provided in this section.

B. The provisions for startup, shutdown, and malfunction in subdivisions 1 and 2 of this subsection apply. Test methods and procedures for determining compliance shall be performed as specified in 9 VAC 5-40-8140.

1. Except as provided by 9 VAC 5-40-8060 C, the standards under this article apply at all times except during periods of startup, shutdown, or malfunction. Duration of startup, shutdown, or malfunction periods are limited to 3 hours per occurrence.

a. The startup period commences when the affected facility begins the continuous burning of municipal solid waste and does not include any warmup period when the affected facility is combusting fossil fuel or other nonmunicipal solid waste fuel, and no municipal solid waste is being fed to the combustor.

b. Continuous burning is the continuous, semicontinuous, or batch feeding of municipal solid waste for purposes of waste disposal, energy production, or providing heat to the combustion system in preparation for waste disposal or energy production. The use of municipal solid waste solely to provide thermal protection of the grate or hearth during the startup period when municipal solid waste is not being fed to the grate is not considered to be continuous burning.

2. The opacity limits for air curtain incinerators specified in 9 VAC 5-40-8060 apply at all times as specified under 9 VAC 5-40-8060 except during periods of malfunction.

Duration of malfunction periods are limited to 3 hours per occurrence.

C. The procedures specified in subdivisions 1 and 2 of this subsection shall be used for calculating municipal waste combustor unit capacity.

1. For municipal waste combustor units capable of combusting municipal solid waste continuously for a 24-hour period, municipal waste combustor unit capacity shall be calculated based on 24 hours of operation at the maximum charging rate. The maximum charging rate shall be determined as specified in subdivisions 1 a and 1 b of this subsection as applicable.

a. For combustors that are designed based on heat capacity, the maximum charging rate shall be calculated based on the maximum design heat input capacity of the unit and a heating value of 12,800 kilojoules per kilogram for combustors firing refuse-derived fuel and a heating value of 10,500 kilojoules per kilogram for combustors firing municipal solid waste that is not refuse-derived fuel.

b. For combustors that are not designed based on heat capacity, the maximum charging rate shall be the maximum design charging rate.

2. For batch feed municipal waste combustor units, municipal waste combustor unit capacity shall be calculated as the maximum design amount of municipal solid waste that can be charged per batch multiplied by the maximum number of batches that could be processed in a 24-hour period. The maximum number of batches that could be processed in a 24-hour period is calculated as 24 hours divided by the design number of hours required to process one batch of municipal solid waste, and may include fractional batches (e.g., if one batch requires 16 hours, then 24/16, or 1.5 batches, could be combusted in a 24-hour period). For batch combustors that are designed based on heat capacity, the design heating value of 12,800 kilojoules per kilogram for combustors firing refuse-derived fuel and a heating value of 10,500 kilojoules per kilogram for combustors firing municipal solid waste that is not refuse-derived fuel.

D. Nitrogen oxides emissions averaging is allowed as specified in this subsection.

1. The owner of a municipal waste combustor plant may elect to implement a nitrogen oxides emissions averaging plan for the affected facilities that are located at that plant and that are subject to this article, except as specified in subdivisions 1 a and 1 b of this subsection.

a. Municipal waste combustor units subject to subpart Ea or subpart Eb of 40 CFR Part 60 and other municipal waste combustion technologies not listed in 9 VAC 5-40-8050 B cannot be included in the emissions averaging plan.

b. Mass burn refractory municipal waste combustor units cannot be included in the emissions averaging plan.

2. The affected facilities included in the nitrogen oxides emissions averaging plan must be identified in the initial compliance report specified in this subdivision 2 prior to implementing the averaging plan. The affected facilities being included in the averaging plan may be redesignated each calendar year. Partial year redesignation is allowable with board approval.

3. To implement the emissions averaging plan, the average daily (24-hour) nitrogen oxides emission concentration level for gases discharged from the affected facilities being included in the emissions averaging plan must be no greater than the levels specified in 9 VAC 5-40-8050.

4. Under the emissions averaging plan, the average daily nitrogen oxides emissions specified in 9 VAC 5-40-8050 shall be calculated using equation 3. Affected facilities that are offline shall not be included in calculating the average daily nitrogen oxides emission level.

$$NO_{x24-hr} = \frac{\sum_{i=1}^h (NO_{x_i}) (S_i)}{\sum_{i=1}^h (S_i)} \quad (3)$$

where:

$NO_{x24-hr}$  = 24-hr daily average nitrogen oxides emission concentration level for the emissions averaging plan (parts per million by volume corrected to 7.0% oxygen).

$NO_{x_i}$  = 24-hr daily average nitrogen oxides emission concentration level for affected facility  $i$  (parts per million by volume, corrected to 7.0% oxygen), calculated according to the procedures in subsection 1 of this section.

$S_i$  = maximum demonstrated municipal waste combustor unit load for affected facility  $i$  (pounds per hour steam or feedwater flow as determined in the most recent dioxin/furan performance test).

$h$  = total number of affected facilities being included in the daily emissions average.

5. For any day in which any affected facility included in the emissions averaging plan is offline, the owner of the municipal waste combustor plant must demonstrate compliance according to either subdivision 5 a of this subsection or both subdivisions 5 b and 5 c of this subsection.

a. Compliance with the applicable limits specified in 9 VAC 5-40-8050 shall be demonstrated using the averaging procedure specified in subsection D 4 of this section for the affected facilities that are online.

b. For each of the affected facilities included in the emissions averaging plan, the nitrogen oxides emissions on a daily average basis shall be calculated and shall be equal to or less than the maximum daily nitrogen oxides emission level achieved by that affected facility on any of the days during which the emissions averaging plan was achieved with all affected facilities online during the most recent calendar quarter. The requirements of this subsection do not apply during the first quarter of operation under the emissions averaging plan.

c. The average nitrogen oxides emissions (kilograms per day) calculated according to subdivision 5 c (2) of this subsection shall not exceed the average nitrogen oxides emissions (kilograms per day) calculated according to subdivision 5 c (1) of this subsection.

(1) For all days during which the emissions averaging plan was implemented and achieved and during which all affected facilities were online, the average nitrogen oxides emissions shall be calculated. The average nitrogen oxides emissions (kilograms per day) shall be calculated on a calendar year basis according to subdivisions 5 c (1) (a) through 5 c (1) (c) of this subsection.

(a) For each affected facility included in the emissions averaging plan, the daily amount of nitrogen oxides emitted (kilograms per day) shall be calculated based on the hourly nitrogen oxides data specified under subdivision 5 c (1) (a) of this subsection, the flue gas flow rate determined using Table 19-1 of Reference Method 19 or a board-approved method, and the hourly average steam or feedwater flow rate.

(b) The daily total nitrogen oxides emissions shall be calculated as the sum of the daily nitrogen oxides emissions from each affected facility calculated under subdivision 5 c (1) (a) of this subsection.

(c) The average nitrogen oxides emissions (kilograms per day) on a calendar year basis shall be calculated as the sum of all daily total nitrogen oxides emissions calculated under subdivision 5 c (1) (b) of this subsection divided by the number of calendar days for which a daily total was calculated.

(2) For all days during which one or more of the affected facilities under the emissions averaging plan was offline, the average nitrogen oxides emissions shall be calculated. The average nitrogen oxides emissions (kilograms per day) shall be calculated on a calendar year basis according to

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subdivision 5 c (2) (a) through D 5 c (2) (c) of this subsection.

(a) For each affected facility included in the emissions averaging plan, the daily amount of nitrogen oxides emitted (kilograms per day) shall be calculated based on the hourly nitrogen oxides data specified under subdivision 5 c (1) (a) of this subsection, the flue gas flow rate determined using Table 19-1 of Reference Method 19, and the hourly average steam or feedwater flow rate.

(b) The daily total nitrogen oxides emissions shall be calculated as the sum of the daily nitrogen oxides emissions from each affected facility calculated under subdivision 5 c (2) (a) of this subsection.

(c) The average nitrogen oxides emissions (kilograms per day) on a calendar year basis shall be calculated as the sum of all daily total nitrogen oxides emissions calculated under subdivision 5 c (2) (b) of this subsection divided by the number of calendar days for which a daily total was calculated.

E. Owners of municipal waste combustor plants may engage in trading of nitrogen oxides emission credits. A trading program must be approved by the board before implementation.

F. The provisions of 40 CFR 62.14109 (63 FR 3509, January 23, 1998) apply to the extent they do not conflict with this article.

## **9 VAC 5-40-8110. Compliance schedules.**

A. The provisions of 40 CFR 62.14108 (63 FR 3509, January 23, 1998) apply to the extent they do not conflict with this article.

B. All affected sources shall comply with the municipal waste combustor operator training and certification requirements under 9 VAC 5-40-8130 according to the schedule specified in subdivisions 1 and 2 of this subsection.

1. Affected facilities shall comply with the municipal waste combustor operator training and certification requirements specified in 9 VAC 5-40-8130 A through C by [12 months after the effective date of this article].

2. Affected facilities shall comply with the requirements specified in 9 VAC 5-40-8130 D through G no later than [12 months after the effective date of this article].

a. The requirement specified in 9 VAC 5-40-8130 D does not apply to chief facility operators, shift supervisors, and control room operators who have obtained full certification from the American Society of Mechanical Engineers on or before the effective date of this article.

b. The owner of an affected facility may request that the board waive the requirement specified in 9 VAC 5-

40-8130 D for chief facility operators, shift supervisors, and control room operators who have obtained provisional certification from the American Society of Mechanical Engineers on or before the effective date of this article.

c. The initial training requirements specified in 9 VAC 5-40-8130 F 1 shall be completed no later than the date specified in subsection B 2 c (1) or B 2 c (2) of this section whichever is later.

(1) Twelve months after the effective date of this article; or

(2) The date prior to the day when the person assumes responsibilities affecting municipal waste combustor unit operation.

## **9 VAC 5-40-8120. Operating practices.**

A. No owner of an affected facility shall cause such facility to operate at a load level greater than 110% of the maximum demonstrated municipal waste combustor unit load, except as specified in subdivisions 1 and 2 of this subsection. The averaging time is specified under 9 VAC 5-40-8150 C.

1. During the annual dioxin/furan performance test and the 2 weeks preceding the annual dioxin/furan performance test, no municipal waste combustor unit load limit is applicable.

2. The municipal waste combustor unit load limit may be waived in accordance with permission granted by the board for the purpose of evaluating system performance, testing new technology or control technologies, diagnostic testing, or related activities for the purpose of improving facility performance or advancing the state-of-the-art for controlling facility emissions.

B. No owner of an affected facility shall cause such facility to operate at a temperature, measured at the particulate matter control device inlet, exceeding 17C above the maximum demonstrated particulate matter control device temperature as defined in 9 VAC 5-40-7960, except as specified in subdivisions 1 and 2 of this subsection. The averaging time is specified under 9 VAC 5-40-8150 C. The requirements specified in this subsection apply to each particulate matter control device utilized at the affected facility.

1. During the annual dioxin/furan performance test and the two weeks preceding the annual dioxin/furan performance test, no particulate matter control device temperature limitations are applicable.

2. The particulate matter control device temperature limits may be waived in accordance with permission granted by the board for the purpose of evaluating system performance, testing new technology or control technologies, diagnostic testing, or related activities for the purpose of improving facility performance or advancing the state-of-the-art for controlling facility emissions.



## **9 VAC 5-40-8130. Operator training and certification.**

A. Each chief facility operator and shift supervisor of an affected facility shall obtain and maintain a current provisional operator certification from either the American Society of Mechanical Engineers (QRO-1-1994) or a board-approved certification program.

B. Each chief facility operator and shift supervisor of an affected facility shall have completed full certification or shall have scheduled a full certification exam with either the American Society of Mechanical Engineers (QRO-1-1994) or a board-approved certification program.

C. No owner of an affected facility shall allow the facility to be operated at any time unless one of the following persons is on duty and at the affected facility: A fully certified chief facility operator, a provisionally certified chief facility operator who is scheduled to take the full certification exam according to the schedule specified in subsection B of this section, a fully certified shift supervisor, or a provisionally certified shift supervisor who is scheduled to take the full certification exam according to the schedule specified in subsection B of this section.

1. The requirement specified in subsection C of this section shall take effect six months after the date of startup of the affected facility or on December 19, 1996, whichever is later.

2. If one of the persons listed in subsection C of this section must leave the affected facility during their operating shift, a provisionally certified control room operator who is onsite at the affected facility may fulfill the requirement in subsection C of this section.

D. All chief facility operators, shift supervisors, and control room operators at affected facilities must complete the board-approved municipal waste combustor operator training course.

E. The owner of an affected facility shall develop and update on a yearly basis a site-specific operating manual that shall, at a minimum, address the elements of municipal waste combustor unit operation specified in this subsection.

1. A summary of the applicable standards under this article;

2. A description of basic combustion theory applicable to a municipal waste combustor unit;

3. Procedures for receiving, handling, and feeding municipal solid waste;

4. Municipal waste combustor unit startup, shutdown, and malfunction procedures;

5. Procedures for maintaining proper combustion air supply levels;

6. Procedures for operating the municipal waste combustor unit within the standards established under this article;

7. Procedures for responding to periodic upset or off-specification conditions;

8. Procedures for minimizing particulate matter carryover;

9. Procedures for handling ash;

10. Procedures for monitoring municipal waste combustor unit emissions; and

11. Reporting and recordkeeping procedures.

F. The owner of an affected facility shall establish a training program to review the operating manual according to the schedule specified in this subsection with each person who has responsibilities affecting the operation of an affected facility including, but not limited to, chief facility operators, shift supervisors, control room operators, ash handlers, maintenance personnel, and crane/load handlers.

1. Each person specified in this subsection shall undergo initial training no later than the date specified in subdivision 1 a or 1 b of this subsection, whichever is later.

- a. The date prior to the day the person assumes responsibilities affecting municipal waste combustor unit operation; or

- b. The date specified in 9 VAC 5-40-8110 B 2.

2. Each person specified in subsection F of this section shall undergo initial training annually, following the initial review required by subdivision 1 of this subsection.

G. The operating manual required by subsection E of this section shall be kept in a readily accessible location for all persons required to undergo training under subsection F of this section. The operating manual and records of training shall be available for inspection by the board upon request.

## **9 VAC 5-40-8140. Test methods and procedures.**

A. The provisions of 9 VAC 5-40-30 (Emission testing) apply except as provided in this subsection.

B. The procedures and test methods specified in subsections B 1 through B 10 of this section shall be used to determine compliance with the emission limits for particulate matter and opacity under 9 VAC 5-40-7970 and 9 VAC 5-40-8060.

1. Reference Method 1 shall be used to select sampling site and number of traverse points.

2. Reference Method 3, 3A, or 3B, as applicable, shall be used for gas analysis.

3. Reference Method 5 shall be used for determining compliance with the particulate matter emission limit. The minimum sample volume shall be 1.7 cubic meters. The probe and filter holder heating systems in the sample train shall be set to provide a gas temperature no greater than 160 + 14°C. An oxygen or carbon dioxide

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measurement shall be obtained simultaneously with each Reference Method 5 run.

4. The owner of an affected facility may request that compliance with the particulate matter emission limit be determined using carbon dioxide measurements corrected to an equivalent of 7.0% oxygen. The relationship between oxygen and carbon dioxide levels for the affected facility shall be established as specified in 9 VAC 5-40-8150 B 6.

5. As specified in 9 VAC 5-40-30, all performance tests shall consist of three test runs. The average of the particulate matter emission concentrations from the three test runs is used to determine compliance.

6. In accordance with subdivisions 7 and 10 of this subsection, Reference Method 9 shall be used for determining compliance with the opacity limit except as provided in 9 VAC 5-40-20.

7. The owner of an affected facility shall conduct an initial performance test for particulate matter emissions and opacity as required in 9 VAC 5-40-8100.

8. The owner of an affected facility shall install, calibrate, maintain, and operate a continuous opacity monitoring system for measuring opacity and shall follow the methods and procedures specified in subdivisions 8 a through 8 d of this subsection.

a. The output of the continuous opacity monitoring system shall be recorded on a 6-minute average basis.

b. The continuous opacity monitoring system shall be installed, evaluated, and operated in accordance with 9 VAC 5-40-40 and 9 VAC 5-40-41.

c. The continuous opacity monitoring system shall conform to Performance Specification 1 in appendix B of 40 CFR Part 60.

d. The initial performance evaluation shall be completed as specified in 9 VAC 5-40-8100.

9. Following the date that the initial performance test for particulate matter is completed or is required to be completed in 9 VAC 5-40-8100 for an affected facility, the owner shall conduct a performance test for particulate matter on an annual basis (no more than 12 calendar months following the previous performance test).

10. Following the date that the initial performance test for opacity is completed or is required to be completed in 9 VAC 5-40-8100 for an affected facility, the owner shall conduct a performance test for opacity on an annual basis (no more than 12 calendar months following the previous performance test) using the test method specified in subsection B 6 of this section.

C. The procedures and test methods specified in this subsection shall be used to determine compliance with the

emission limits for cadmium, lead, and mercury under 9 VAC 5-40-7990, 9 VAC 5-40-8000, and 9 VAC 5-40-8010.

1. The procedures and test methods specified in subdivisions 1 a through 1 g of this subsection shall be used to determine compliance with the emission limits for cadmium and lead under 9 VAC 5-40-7990 and 9 VAC 5-40-8000.

a. Reference Method 1 shall be used for determining the location and number of sampling points.

b. Reference Method 3, 3A, or 3B, as applicable, shall be used for flue gas analysis.

c. Reference Method 29 shall be used for determining compliance with the cadmium and lead emission limits.

d. An oxygen or carbon dioxide measurement shall be obtained simultaneously with each Reference Method 29 test run for cadmium and lead required under subdivision 1 c of this subsection.

e. The owner of an affected facility may request that compliance with the cadmium or lead emission limit be determined using carbon dioxide measurements corrected to an equivalent of 7.0% oxygen. The relationship between oxygen and carbon dioxide levels for the affected facility shall be established as specified in 9 VAC 5-40-8150 B 6.

f. All performance tests shall consist of a minimum of three test runs conducted under representative full load operating conditions. The average of the cadmium or lead emission concentrations from three test runs or more shall be used to determine compliance.

g. Following the date of the initial performance test or the date on which the initial performance test is required to be completed in 9 VAC 5-40-8100, the owner of an affected facility shall conduct a performance test for compliance with the emission limits for cadmium and lead on an annual basis (no more than 12 calendar months following the previous performance test).

2. The procedures and test methods specified in subdivisions 2 a through 2 j of this subsection shall be used to determine compliance with the mercury emission limit under 9 VAC 5-40-8010.

a. Reference Method 1 shall be used for determining the location and number of sampling points.

b. Reference Method 3, 3A, or 3B, as applicable, shall be used for flue gas analysis.

c. Reference Method 29 shall be used to determine the mercury emission concentration. The minimum sample volume when using Reference Method 29 for mercury shall be 1.7 cubic meters.

d. An oxygen (or carbon dioxide) measurement shall be obtained simultaneously with each Reference

Method 29 test run for mercury required under subdivision 2 c of this subsection.

e. The percent reduction in the potential mercury emissions (%P<sub>Hg</sub>) is computed using equation 1:

$$(\%P_{Hg}) = \frac{E_i - E_o}{E_i} \times 100 \quad (1)$$

where:

%P<sub>Hg</sub> = percent reduction of the potential mercury emissions achieved.

E<sub>i</sub> = potential mercury emission concentration measured at the control device inlet, corrected to 7.0% oxygen (dry basis).

E<sub>o</sub> = controlled mercury emission concentration measured at the mercury control device outlet, corrected to 7.0% oxygen (dry basis).

f. All performance tests shall consist of a minimum of three test runs conducted under representative full load operating conditions. The average of the mercury emission concentrations or percent reductions from three test runs or more is used to determine compliance.

g. The owner of an affected facility may request that compliance with the mercury emission limit be determined using carbon dioxide measurements corrected to an equivalent of 7.0% oxygen. The relationship between oxygen and carbon dioxide levels for the affected facility shall be established as specified in 9 VAC 5-40-8150 B 6.

h. The owner of an affected facility shall conduct an initial performance test for mercury emissions as required in 9 VAC 5-40-8100.

i. Following the date that the initial performance test for mercury is completed or is required to be completed in 9 VAC 5-40-8100, the owner of an affected facility shall conduct a performance test for mercury emissions on an annual basis (no more than 12 calendar months from the previous performance test).

j. The owner of an affected facility where activated carbon injection is used to comply with the mercury emission limit shall follow the procedures specified in 9 VAC 5-40-8140 J for measuring and calculating carbon usage.

D. The procedures and test methods specified in this subsection shall be used for determining compliance with the sulfur dioxide emission limit under 9 VAC 5-40-8020.

1. Reference Method 19, section 4.3, shall be used to calculate the daily geometric average sulfur dioxide emission concentration.

2. Reference Method 19, section 5.4, shall be used to determine the daily geometric average percent reduction in the potential sulfur dioxide emission concentration.

3. The owner of an affected facility may request that compliance with the sulfur dioxide emission limit be determined using carbon dioxide measurements corrected to an equivalent of 7.0% oxygen. The relationship between oxygen and carbon dioxide levels for the affected facility shall be established as specified in 9 VAC 5-40-8150 B 6.

4. The owner of an affected facility shall conduct an initial performance test for sulfur dioxide emissions as required in 9 VAC 5-40-8100. Compliance with the sulfur dioxide emission limit (concentration or percent reduction) shall be determined by using the continuous emission monitoring system specified in subdivision 5 of this subsection to measure sulfur dioxide and calculating a 24-hour daily geometric average emission concentration or a 24-hour daily geometric average percent reduction using Reference Method 19, sections 4.3 and 5.4, as applicable.

5. The owner of an affected facility shall install, calibrate, maintain, and operate a continuous emission monitoring system for measuring sulfur dioxide emissions discharged to the atmosphere and record the output of the system.

6. Following the date that the initial performance test for sulfur dioxide is completed or is required to be completed in 9 VAC 5-40-8100, compliance with the sulfur dioxide emission limit shall be determined based on the 24-hour daily geometric average of the hourly arithmetic average emission concentrations using continuous emission monitoring system outlet data if compliance is based on an emission concentration, or continuous emission monitoring system inlet and outlet data if compliance is based on a percent reduction.

7. At a minimum, valid continuous monitoring system hourly averages shall be obtained as specified in subdivisions 7 a and 7 b of this subsection for 75% of the operating hours per day for 90% of the operating days per calendar quarter that the affected facility is combusting municipal solid waste.

a. At least two data points per hour shall be used to calculate each 1-hour arithmetic average.

b. Each sulfur dioxide 1-hour arithmetic average shall be corrected to 7.0% oxygen on an hourly basis using the 1-hour arithmetic average of the oxygen (or carbon dioxide) continuous emission monitoring system data.

8. The 1-hour arithmetic averages required under subdivision 6 of this subsection shall be expressed in parts per million corrected to 7.0% oxygen (dry basis) and used to calculate the 24-hour daily geometric average emission concentrations and daily geometric average emission percent reductions. The 1-hour

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arithmetic averages shall be calculated using the data points required in 9 VAC 5-40-41 B 3.

9. All valid continuous emission monitoring system data shall be used in calculating average emission concentrations and percent reductions even if the minimum continuous emission monitoring system data requirements of subsection D 7 of this section are not met.

10. The procedures in 9 VAC 5-40-40 and 9 VAC 5-40-41 shall be followed for installation, evaluation, and operation of the continuous emission monitoring system.

11. The initial performance evaluation shall be completed as specified in 9 VAC 5-40-8100.

12. The continuous emission monitoring system shall be operated according to Performance Specification 2 in Appendix B of 40 CFR Part 60.

a. During each relative accuracy test run of the continuous emission monitoring system required by Performance Specification 2 in Appendix B of 40 CFR Part 60, sulfur dioxide and oxygen (or carbon dioxide) data shall be collected concurrently (or within a 30- to 60-minute period) by both the continuous emission monitors and the test methods specified in subdivisions 12 a (1) and 12 a (2) of this subsection.

(1) For sulfur dioxide, Reference Method 6, 6A, or 6C shall be used.

(2) For oxygen (or carbon dioxide), Reference Method 3, 3A, or 3B, as applicable, shall be used.

b. The span value of the continuous emissions monitoring system at the inlet to the sulfur dioxide control device shall be 125% of the maximum estimated hourly potential sulfur dioxide emissions of the municipal waste combustor unit. The span value of the continuous emission monitoring system at the outlet of the sulfur dioxide control device shall be 50% of the maximum estimated hourly potential sulfur dioxide emissions of the municipal waste combustor unit.

13. Quarterly accuracy determinations and daily calibration drift tests shall be performed in accordance with procedure 1 in appendix F of 40 CFR Part 60.

14. When sulfur dioxide emissions data are not obtained because of continuous emission monitoring system breakdowns, repairs, calibration checks, and zero and span adjustments, emissions data shall be obtained by using other monitoring systems as approved by the board or Reference Method 19 to provide, as necessary, valid emissions data for a minimum of 75% of the hours per day that the affected facility is operated and combusting municipal solid waste for 90% of the days per calendar quarter that the affected facility is operated and combusting municipal solid waste.

E. The procedures and test methods specified in this subsection shall be used for determining compliance with the hydrogen chloride emission limit under 9 VAC 5-40-8030.

1. Reference Method 26 or 26A, as applicable, shall be used to determine the hydrogen chloride emission concentration. The minimum sampling time for Reference Method 26 shall be one hour.

2. An oxygen (or carbon dioxide) measurement shall be obtained simultaneously with each Reference Method 26 test run for hydrogen chloride required by subdivision 1 of this subsection.

3. The percent reduction in potential hydrogen chloride emissions (%P<sub>HCl</sub>) is computed using equation 2:

$$(\%P_{HCl}) = \frac{E_i - E_o}{E_i} \times 100 \quad (2)$$

where:

%P<sub>HCl</sub> = percent reduction of the potential hydrogen chloride emissions achieved.

E<sub>i</sub> = potential hydrogen chloride emission concentration measured at the control device inlet, corrected to 7.0% oxygen (dry basis).

E<sub>o</sub> = controlled hydrogen chloride emission concentration measured at the control device outlet, corrected to 7.0% oxygen (dry basis).

4. The owner of an affected facility may request that compliance with the hydrogen chloride emission limit be determined using carbon dioxide measurements corrected to an equivalent of 7.0% oxygen. The relationship between oxygen and carbon dioxide levels for the affected facility shall be established as specified in 9 VAC 5-40-8150 B 6.

5. As specified in 9 VAC 5-40-30, all performance tests shall consist of three test runs. The average of the hydrogen chloride emission concentrations or percent reductions from the three test runs is used to determine compliance.

6. The owner of an affected facility shall conduct an initial performance test for hydrogen chloride as required in 9 VAC 5-40-8100.

7. Following the date that the initial performance test for hydrogen chloride is completed or is required to be completed in 9 VAC 5-40-8100, the owner of an affected facility shall conduct a performance test for hydrogen chloride emissions on an annual basis (no more than 12 calendar months following the previous performance test).

F. The procedures and test methods specified in this subsection shall be used to determine compliance with the limits for dioxin/furan emissions under 9 VAC 5-40-8040.

1. Reference Method 1 shall be used for determining the location and number of sampling points.

2. Reference Method 3, 3A, or 3B, as applicable, shall be used for flue gas analysis.

3. Reference Method 23 shall be used for determining the dioxin/furan emission concentration.

a. The minimum sample time shall be four hours per test run.

b. An oxygen (or carbon dioxide) measurement shall be obtained simultaneously with each Reference Method 23 test run for dioxins/furans.

4. The owner of an affected facility shall conduct an initial performance test for dioxin/furan emissions in accordance with subdivision 3 of this subsection, as required in 9 VAC 5-40-8100.

5. Following the date that the initial performance test for dioxins/furans is completed or is required to be completed in 9 VAC 5-40-8100, the owner of an affected facility shall conduct performance tests for dioxin/furan emissions in accordance with subdivision 3 of this subsection, according to one of the schedules specified in subdivision 5 a or 5 b of this subsection.

a. For affected facilities, performance tests shall be conducted on an annual basis (no more than 12 calendar months following the previous performance test).

b. Where all performance tests over a two-year period indicate that dioxin/furan emissions are less than or equal to 15 nanograms per dry standard cubic meter (total mass) for all affected facilities located within a municipal waste combustor plant, the owner of the municipal waste combustor plant may elect to conduct annual performance tests for one affected facility (i.e., unit) per year at the municipal waste combustor plant. At a minimum, a performance test for dioxin/furan emissions shall be conducted annually (no more than 12 months following the previous performance test) for one affected facility at the municipal waste combustor plant. Each year a different affected facility at the municipal waste combustor plant shall be tested, and the affected facilities at the plant shall be tested in sequence (e.g., unit 1, unit 2, unit 3, as applicable). If each annual performance test continues to indicate a dioxin/furan emission level less than or equal to 15 nanograms per dry standard cubic meter (total mass), the owner may continue conducting a performance test on only one affected facility per year. If any annual performance test indicates a dioxin/furan emission level greater than 15 nanograms per dry standard cubic meter (total mass), performance tests thereafter shall be conducted annually on all affected facilities at the plant until and unless all annual performance tests for all affected facilities at the plant over a two-year period indicate a dioxin/furan emission level less than or

equal to 15 nanograms per dry standard cubic meter (total mass).

6. The owner of an affected facility that selects to follow the performance testing schedule specified in subdivision 5 a or F 5 b of this subsection shall follow the procedures specified in 9 VAC 5-40-8160 D 4 for reporting the selection of this schedule.

7. The owner of an affected facility where activated carbon is used to comply with the dioxin/furan emission limits specified in 9 VAC 5-40-8040 or the dioxin/furan emission level specified in subdivision 5 a or F 5 b of this subsection shall follow the procedures specified in 9 VAC 5-40-8140 J for measuring and calculating the carbon usage rate.

8. The owner may request that compliance with the dioxin/furan emission limit be determined using carbon dioxide measurements corrected to an equivalent of 7.0% oxygen. The relationship between oxygen and carbon dioxide levels for the affected facility shall be established as specified in 9 VAC 5-40-8150 B 6.

9. As specified in 9 VAC 5-40-30, all performance tests shall consist of three test runs. The average of the dioxin/furan emission concentrations from the three test runs is used to determine compliance.

G. The procedures and test methods specified in this subsection shall be used to determine compliance with the nitrogen oxides emission limit for affected facilities under 9 VAC 5-40-8050.

1. Reference Method 19, section 4.1, shall be used for determining the daily arithmetic average nitrogen oxides emission concentration.

2. The owner of an affected facility may request that compliance with the nitrogen oxides emission limit be determined using carbon dioxide measurements corrected to an equivalent of 7.0% oxygen. The relationship between oxygen and carbon dioxide levels for the affected facility shall be established as specified in 9 VAC 5-40-8150 B 6.

3. The owner of an affected facility subject to the nitrogen oxides limit under 9 VAC 5-40-8050 shall conduct an initial performance test for nitrogen oxides as required in 9 VAC 5-40-8100. Compliance with the nitrogen oxides emission limit shall be determined by using the continuous emission monitoring system specified in subdivision 4 of this subsection for measuring nitrogen oxides and calculating a 24-hour daily arithmetic average emission concentration using Reference Method 19, section 4.1.

4. The owner of an affected facility subject to the nitrogen oxides emission limit under 9 VAC 5-40-8050 shall install, calibrate, maintain, and operate a continuous emission monitoring system for measuring nitrogen oxides discharged to the atmosphere, and record the output of the system.

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5. Following the date that the initial performance test for nitrogen oxides is completed or is required to be completed in 9 VAC 5-40-8100, compliance with the emission limit for nitrogen oxides required under 9 VAC 5-40-8050 shall be determined based on the 24-hour daily arithmetic average of the hourly emission concentrations using continuous emission monitoring system outlet data.

6. At a minimum, valid continuous emission monitoring system hourly averages shall be obtained as specified in subdivisions 6 a and 6 b of this subsection for 75% of the operating hours per day for 90% of the operating days per calendar quarter that the affected facility is combusting municipal solid waste.

a. At least two data points per hour shall be used to calculate each 1-hour arithmetic average.

b. Each nitrogen oxides 1-hour arithmetic average shall be corrected to 7.0% oxygen on an hourly basis using the 1-hour arithmetic average of the oxygen (or carbon dioxide) continuous emission monitoring system data.

7. The 1-hour arithmetic averages required by subdivision 5 of this subsection shall be expressed in parts per million by volume (dry basis) and used to calculate the 24-hour daily arithmetic average concentrations. The 1-hour arithmetic averages shall be calculated using the data points required in 9 VAC 5-40-41 B 3.

8. All valid continuous emission monitoring system data must be used in calculating emission averages even if the minimum continuous emission monitoring system data requirements of subdivision 6 of this subsection are not met.

9. The procedures in 9 VAC 5-40-40 and 9 VAC 5-40-41 shall be followed for installation, evaluation, and operation of the continuous emission monitoring system. The initial performance evaluation shall be completed as specified in 9 VAC 5-40-8100.

10. The owner of an affected facility shall operate the continuous emission monitoring system according to Performance Specification 2 in Appendix B of 40 CFR Part 60 and shall follow the procedures and methods specified in subdivisions 10 a and 10 b of this subsection.

a. During each relative accuracy test run of the continuous emission monitoring system required by Performance Specification 2 of appendix B of 40 CFR Part 60, nitrogen oxides and oxygen (or carbon dioxide) data shall be collected concurrently (or within a 30- to 60-minute period) by both the continuous emission monitors and the test methods specified in subdivision 10 a (1) and 10 a (2) of this subsection.

(1) For nitrogen oxides, Reference Method 7, 7A, 7C, 7D, or 7E shall be used.

(2) For oxygen (or carbon dioxide), Reference Method 3, 3A, or 3B, as applicable, shall be used.

b. The span value of the continuous emission monitoring system shall be 125% of the maximum estimated hourly potential nitrogen oxide emissions of the municipal waste combustor unit.

11. Quarterly accuracy determinations and daily calibration drift tests shall be performed in accordance with procedure 1 in Appendix F of 40 CFR Part 60.

12. When nitrogen oxides continuous emissions data are not obtained because of continuous emission monitoring system breakdowns, repairs, calibration checks, and zero and span adjustments, emissions data shall be obtained using other monitoring systems as approved by the board or Reference Method 19 to provide, as necessary, valid emissions data for a minimum of 75% of the hours per day for 90% of the days per calendar quarter the unit is operated and combusting municipal solid waste.

H. The procedures specified in this subsection shall be used for determining compliance with the fugitive ash emission limit under 9 VAC 5-40-8070.

1. Reference Method 22 shall be used for determining compliance with the fugitive ash emission limit under 9 VAC 5-40-8070. The minimum observation time shall be a series of three 1-hour observations. The observation period shall include times when the facility is transferring ash from the municipal waste combustor unit to the area where ash is stored or loaded into containers or trucks.

2. The average duration of visible emissions per hour shall be calculated from the three 1-hour observations. The average shall be used to determine compliance with 9 VAC 5-40-8070.

3. The owner of an affected facility shall conduct an initial performance test for fugitive ash emissions as required in 9 VAC 5-40-8100.

4. Following the date that the initial performance test for fugitive ash emissions is completed or is required to be completed in 9 VAC 5-40-8100 for an affected facility, the owner shall conduct a performance test for fugitive ash emissions on an annual basis (no more than 12 calendar months following the previous performance test).

I. The procedures specified in this subsection shall be used to determine compliance with the opacity limit for air curtain incinerators under 9 VAC 5-40-8060 C.

1. Reference Method 9 shall be used for determining compliance with the opacity limit.

2. The owner of the air curtain incinerator shall conduct an initial performance test for opacity as required in 9 VAC 5-40-8100.

3. Following the date that the initial performance test is completed or is required to be completed in 9 VAC 5-40-8100, the owner of the air curtain incinerator shall conduct a performance test for opacity on an annual basis (no more than 12 calendar months following the previous performance test).

J. The owner of an affected facility where activated carbon injection is used to comply with the mercury emission limit under 9 VAC 5-40-8010, or the dioxin/furan emission limits under 9 VAC 5-40-8040, or the dioxin/furan emission level specified in 9 VAC 5-40-8140 F 5 b shall follow the procedures specified in this subsection.

1. During the performance tests for dioxins/furans and mercury, as applicable, the owner shall estimate an average carbon mass feed rate based on carbon injection system operating parameters such as the screw feeder speed, hopper volume, hopper refill frequency, or other parameters appropriate to the feed system being employed, as specified in subdivisions 1 a and 1 b of this subsection.

a. An average carbon mass feed rate in kilograms per hour or pounds per hour shall be estimated during the initial performance test for mercury emissions and each subsequent performance test for mercury emissions.

b. An average carbon mass feed rate in kilograms per hour or pounds per hour shall be estimated during the initial performance test for dioxin/furan emissions and each subsequent performance test for dioxin/furan emissions.

2. During operation of the affected facility, the carbon injection system operating parameter(s) that are the primary indicator(s) of the carbon mass feed rate (e.g., screw feeder setting) must equal or exceed the level(s) documented during the performance tests specified under subdivisions 1 a and 1 b of this subsection.

3. The owner of an affected facility shall estimate the total carbon usage of the plant (kilograms or pounds) for each calendar quarter by two independent methods, according to the procedures in subdivisions 3 a and 3 b of this subsection.

a. The weight of carbon delivered to the plant.

b. Estimate the average carbon mass feed rate in kilograms per hour or pounds per hour for each hour of operation for each affected facility based on the parameters specified under subdivision 1 of this subsection, and sum the results for all affected facilities at the plant for the total number of hours of operation during the calendar quarter.

## **9 VAC 5-40-8150. Monitoring.**

A. The provisions of 9 VAC 5-40-40 (Monitoring) apply except as provided in this section.

B. The owner of an affected facility shall install, calibrate, maintain, and operate a continuous emission monitoring system and record the output of the system for measuring the oxygen or carbon dioxide content of the flue gas at each location where carbon monoxide, sulfur dioxide, or nitrogen oxides emissions are monitored and shall comply with the test procedures and test methods specified in this subsection.

1. The span value of the oxygen (or carbon dioxide) monitor shall be 25% oxygen (or carbon dioxide).

2. The monitor shall be installed, evaluated, and operated in accordance with 9 VAC 5-40-40 and 9 VAC 5-40-41.

3. The initial performance evaluation shall be completed as specified in 9 VAC 5-40-8100.

4. The monitor shall conform to Performance Specification 3 in Appendix B of 40 CFR Part 60 except for section 2.3 (relative accuracy requirement).

5. The quality assurance procedures of Appendix F of 40 CFR Part 60 except for section 5.1.1 (relative accuracy test audit) shall apply to the monitor.

6. If carbon dioxide is selected for use in diluent corrections, the relationship between oxygen and carbon dioxide levels shall be established during the initial performance test according to the procedures and methods specified in subdivisions 6 a through 6 d of this subsection. This relationship may be reestablished during performance compliance tests.

a. The fuel factor equation in Reference Method 3B shall be used to determine the relationship between oxygen and carbon dioxide at a sampling location. Reference method 3, 3A, or 3B, as applicable, shall be used to determine the oxygen concentration at the same location as the carbon dioxide monitor.

b. Samples shall be taken for at least 30 minutes in each hour.

c. Each sample shall represent a 1-hour average.

d. A minimum of three runs shall be performed.

7. The relationship between carbon dioxide and oxygen concentrations that is established in accordance with subsection B 6 of this section shall be submitted to the board as part of the initial performance test report and, if applicable, as part of the annual test report if the relationship is reestablished during the annual performance test.

C. The procedures specified in this subsection shall be used for determining compliance with the operating requirements under 9 VAC 5-40-8120.

1. Compliance with the carbon monoxide emission limits in 9 VAC 5-40-7980 shall be determined using a 4-hour block arithmetic average for all types of affected facilities

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except mass burn rotary waterwall municipal waste combustors and refuse-derived fuel stokers.

2. For affected mass burn rotary waterwall municipal waste combustors and refuse-derived fuel stokers, compliance with the carbon monoxide emission limits in 9 VAC 5-40-7980 shall be determined using a 24-hour daily arithmetic average.

3. The owner of an affected facility shall install, calibrate, maintain, and operate a continuous emission monitoring system for measuring carbon monoxide at the combustor outlet and record the output of the system and shall follow the procedures and methods specified in subdivisions 3 a through 3 c of this subsection.

a. The continuous emission monitoring system shall be operated according to Performance Specification 4A in appendix B of 40 CFR Part 60.

b. During each relative accuracy test run of the continuous emission monitoring system required by Performance Specification 4A in appendix B of 40 CFR Part 60, carbon monoxide and oxygen (or carbon dioxide) data shall be collected concurrently (or within a 30- to 60-minute period) by both the continuous emission monitors and the test methods specified in subdivisions 3 b (1) and 3 b (2) of this subsection.

(1) For carbon monoxide, Reference Method 10, 10A, or 10B shall be used.

(2) For oxygen (or carbon dioxide), Reference Method 3, 3A, or 3B, as applicable, shall be used.

c. The span value of the continuous emission monitoring system shall be 125% of the maximum estimated hourly potential carbon monoxide emissions of the municipal waste combustor unit.

4. The 4-hour block and 24-hour daily arithmetic averages specified in subdivisions 1 and 2 of this subsection shall be calculated from 1-hour arithmetic averages expressed in parts per million by volume corrected to 7.0% oxygen (dry basis). The 1-hour arithmetic averages shall be calculated using the data points generated by the continuous emission monitoring system. At least two data points shall be used to calculate each 1-hour arithmetic average.

5. The owner of an affected facility may request that compliance with the carbon monoxide emission limit be determined using carbon dioxide measurements corrected to an equivalent of 7.0% oxygen. The relationship between oxygen and carbon dioxide levels for the affected facility shall be established as specified in subsection B 6 of this section.

6. The procedures specified in subdivisions 6 a through 6 d of this subsection shall be used to determine compliance with load level requirements under 9 VAC 5-40-8120 A.

a. The owner of an affected facility with steam generation capability shall install, calibrate, maintain, and operate a steam flow meter or a feedwater flow meter; measure steam (or feedwater) flow in kilograms per hour (or pounds per hour) on a continuous basis; and record the output of the monitor. Steam (or feedwater) flow shall be calculated in 4-hour block arithmetic averages.

b. The method included in the "American Society of Mechanical Engineers Power Test Codes: Test Code for Steam Generating Units, Power Test Code 4.1 -- 1964 (R1991)," section 4, shall be used for calculating the steam (or feedwater) flow required under subdivision 6 a of this subsection. The recommendations in "American Society of Mechanical Engineers Interim Supplement 19.5 on Instruments and Apparatus: Application, Part II of Fluid Meters, 6th edition (1971)," Chapter 4, shall be followed for design, construction, installation, calibration, and use of nozzles and orifices except as specified in subdivision 6 c of this subsection.

c. Measurement devices such as flow nozzles and orifices are not required to be recalibrated after they are installed.

d. All signal conversion elements associated with steam (or feedwater flow) measurements must be calibrated according to the manufacturer's instructions before each dioxin/furan performance test, and at least once per year.

7. To determine compliance with the maximum particulate matter control device temperature requirements under 9 VAC 5-40-8120 B, the owner of an affected facility shall install, calibrate, maintain, and operate a device for measuring on a continuous basis the temperature of the flue gas stream at the inlet to each particulate matter control device utilized by the affected facility. Temperature shall be calculated in 4-hour block arithmetic averages.

8. The maximum demonstrated municipal waste combustor unit load shall be determined during the initial performance test for dioxins/furans and each subsequent performance test during which compliance with the dioxin/furan emission limit specified in 9 VAC 5-40-8040 is achieved. The maximum demonstrated municipal waste combustor unit load shall be the highest 4-hour arithmetic average load achieved during four consecutive hours during the most recent test during which compliance with the dioxin/furan emission limit was achieved.

9. For each particulate matter control device employed at the affected facility, the maximum demonstrated particulate matter control device temperature shall be determined during the initial performance test for dioxins/furans and each subsequent performance test during which compliance with the dioxin/furan emission limit specified in 9 VAC 5-40-8040 is achieved. The



maximum demonstrated particulate matter control device temperature shall be the highest 4-hour arithmetic average temperature achieved at the particulate matter control device inlet during four consecutive hours during the most recent test during which compliance with the dioxin/furan limit was achieved.

10. At a minimum, valid continuous emission monitoring system hourly averages shall be obtained as specified in subdivisions 10 a and 10 b of this subsection for 75% of the operating hours per day for 90% of the operating days per calendar quarter that the affected facility is combusting municipal solid waste.

a. At least two data points per hour shall be used to calculate each 1-hour arithmetic average.

b. At a minimum, each carbon monoxide 1-hour arithmetic average shall be corrected to 7.0% oxygen on an hourly basis using the 1-hour arithmetic average of the oxygen (or carbon dioxide) continuous emission monitoring system data.

11. All valid continuous emission monitoring system data must be used in calculating the parameters specified under this section even if the minimum data requirements of subdivision 10 of this subsection are not met. When carbon monoxide continuous emission data are not obtained because of continuous emission monitoring system breakdowns, repairs, calibration checks, and zero and span adjustments, emissions data shall be obtained using other monitoring systems as approved by the board or Reference Method 10 to provide, as necessary, the minimum valid emission data.

12. Quarterly accuracy determinations and daily calibration drift tests for the carbon monoxide continuous emission monitoring system shall be performed in accordance with procedure 1 in Appendix F of 40 CFR Part 60.

### **9 VAC 5-40-8160. Notification, records and reporting.**

A. The provisions of 9 VAC 5-40-50 (Notification, records and reporting) apply except as provided in this subsection.

B. The owner of an affected facility shall maintain records of the information specified in this subsection, as applicable, for each affected facility for a period of at least five years.

1. The calendar date of each record.

2. The emission concentrations and parameters measured using continuous monitoring systems as specified under subdivisions 2 a and 2 b of this subsection.

a. The measurements specified in subdivisions 2 a (1) through 2 a (4) of this subsection shall be recorded and be available for submittal to the board or review onsite by an inspector.

(1) All 6-minute average opacity levels as specified under 9 VAC 5-40-8140 B.

(2) All 1-hour average sulfur dioxide emission concentrations as specified under 9 VAC 5-40-8140 D.

(3) All 1-hour average nitrogen oxides emission concentrations as specified under 9 VAC 5-40-8140 G.

(4) All 1-hour average carbon monoxide emission concentrations, municipal waste combustor unit load measurements, and particulate matter control device inlet temperatures as specified under 9 VAC 5-40-8150 C.

b. The average concentrations and percent reductions, as applicable, specified in subdivisions 2 b (1) through 2 b (4) of this subsection shall be computed and recorded, and shall be available for submittal to the board or review on-site by an inspector.

(1) All 24-hour daily geometric average sulfur dioxide emission concentrations and all 24-hour daily geometric average percent reductions in sulfur dioxide emissions as specified under 9 VAC 5-40-8140 D.

(2) All 24-hour daily arithmetic average nitrogen oxides emission concentrations as specified under 9 VAC 5-40-8140 G.

(3) All 4-hour block or 24-hour daily arithmetic average carbon monoxide emission concentrations, as applicable, as specified under 9 VAC 5-40-8150 C.

(4) All 4-hour block arithmetic average municipal waste combustor unit load levels and particulate matter control device inlet temperatures as specified under 9 VAC 5-40-8150 C.

3. Identification of the calendar dates when any of the average emission concentrations, percent reductions, or operating parameters recorded under subdivisions 2 b (1) through 2 b (4) of this subsection, or the opacity levels recorded under subdivision 2 a (1) of this subsection are above the applicable limits, with reasons for such exceedances and a description of corrective actions taken.

4. For affected facilities that apply activated carbon for mercury or dioxin/furan control, the records specified in subdivisions 4 a through 4 e of this subsection.

a. The average carbon mass feed rate (in kilograms per hour or pounds per hour) estimated as required under 9 VAC 5-40-8140 J 1 a during all annual performance tests for mercury emissions, with supporting calculations.

b. The average carbon mass feed rate (in kilograms per hour or pounds per hour) estimated as required under 9 VAC 5-40-8140 J 1 b during all annual

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- performance tests for dioxin/furan, with supporting calculations.*
- c. The average carbon mass feed rate (in kilograms per hour or pounds per hour) estimated for each hour of operation as required under 9 VAC 5-40-8140 J 3 b, with supporting calculations.*
  - d. The total carbon usage for each calendar quarter estimated as specified by 9 VAC 5-40-8140 J 3, with supporting calculations.*
  - e. Carbon injection system operating parameter data for the parameter(s) that are the primary indicator(s) of carbon feed rate (e.g., screw feeder speed).*
- 5. Identification of the calendar dates for which the minimum number of hours of any of the data specified in subdivisions 5 a through 5 e of this subsection have not been obtained including reasons for not obtaining sufficient data and a description of corrective actions taken.*
- a. Sulfur dioxide emissions data;*
  - b. Nitrogen oxides emissions data;*
  - c. Carbon monoxide emissions data;*
  - d. Municipal waste combustor unit load data; and*
  - e. Particulate matter control device temperature data.*
- 6. Identification of each occurrence that sulfur dioxide emissions data, nitrogen oxides emissions data, or operational data (i.e., carbon monoxide emissions, unit load, and particulate matter control device temperature) have been excluded from the calculation of average emission concentrations or parameters, and the reasons for excluding the data.*
- 7. The results of daily drift tests and quarterly accuracy determinations for sulfur dioxide, nitrogen oxides (large municipal waste combustors only), and carbon monoxide continuous emission monitoring systems, as required under Appendix F of 40 CFR Part 60, procedure 1.*
- 8. The test reports documenting the results of all annual performance tests listed in subdivisions 8 a and 8 b of this subsection shall be recorded along with supporting calculations.*
- a. The results of all annual performance tests conducted to determine compliance with the particulate matter, opacity, cadmium, lead, mercury, dioxins/furans, hydrogen chloride, and fugitive ash emission limits.*
  - b. For all dioxin/furan performance tests recorded under subdivision 8 a of this subsection, the maximum demonstrated municipal waste combustor unit load and maximum demonstrated particulate matter control device temperature (for each particulate matter control device).*
- 9. The records specified in subdivisions 9 a through 9 c of this subsection.*
- a. Records showing the names of the municipal waste combustor chief facility operator, shift supervisors, and control room operators who have been provisionally certified by the American Society of Mechanical Engineers or an equivalent board-approved certification program as required by 9 VAC 5-40-8130 A including the dates of initial and renewal certifications and documentation of current certification.*
  - b. Records showing the names of the municipal waste combustor chief facility operator, shift supervisors, and control room operators who have been fully certified by the American Society of Mechanical Engineers or an equivalent board-approved certification program as required by 9 VAC 5-40-8130 B including the dates of initial and renewal certifications and documentation of current certification.*
  - c. Records showing the names of the municipal waste combustor chief facility operator, shift supervisors, and control room operators who have completed the EPA municipal waste combustor operator training course or a board-approved equivalent course as required by 9 VAC 5-40-8130 D including documentation of training completion.*
- 10. Records showing the names of persons who have completed a review of the operating manual as required by 9 VAC 5-40-8130 F including the date of the initial review and subsequent annual reviews.*
- 11. For affected facilities that apply activated carbon for mercury or dioxin/furan control, identification of the calendar dates when the average carbon mass feed rates recorded under subdivision 4 c of this subsection were less than either of the hourly carbon feed rates estimated during performance tests for mercury or dioxin/furan emissions and recorded under subdivisions 4 a and 4 b of this subsection, respectively, with reasons for such feed rates and a description of corrective actions taken.*
- 12. For affected facilities that apply activated carbon for mercury or dioxin/furan control, identification of the calendar dates when the carbon injection system operating parameter(s) that are the primary indicator(s) of carbon mass feed rate (e.g., screw feeder speed) recorded under subdivision 4 d of this subsection are below the level(s) estimated during the performance tests as specified in 9 VAC 5-40-8140 J 1 a and 9 VAC 5-40-8140 J 1 b of this section, with reasons for such occurrences and a description of corrective actions taken.*
- C. The owner of an air curtain incinerator subject to the opacity limit under 9 VAC 5-40-8060 shall maintain records of results of the opacity performance tests required by 9 VAC 5-40-8140 I for a period of at least five years.*

D. The owner of an affected facility shall submit an annual report including the information specified in this subsection, as applicable, no later than February 1 of each year following the calendar year in which the data were collected (once the unit is subject to permitting requirements in a federal operating permit, the owner of an affected facility must submit these reports semiannually).

1. A summary of data collected for all pollutants and parameters regulated under this article, which includes the information specified in subdivisions 1 a through 1 e of this subsection.

a. A list of the particulate matter, opacity, cadmium, lead, mercury, dioxins/furans, hydrogen chloride, and fugitive ash emission levels achieved during the performance tests recorded under subdivision B 9 of this section.

b. A list of the highest emission level recorded for sulfur dioxide, nitrogen oxides, carbon monoxide, municipal waste combustor unit load level, and particulate matter control device inlet temperature based on the data recorded under subdivisions B 2 b (1) through B 2 b (5) of this section.

c. List the highest opacity level measured, based on the data recorded under subdivision B 2 a (1) of this section.

d. The total number of days that the minimum number of hours of data for sulfur dioxide, nitrogen oxides, carbon monoxide, municipal waste combustor unit load, and particulate matter control device temperature data were not obtained based on the data recorded under subdivision B 6 of this section.

e. The total number of hours that data for sulfur dioxide, nitrogen oxides, carbon monoxide, municipal waste combustor unit load, and particulate matter control device temperature were excluded from the calculation of average emission concentrations or parameters based on the data recorded under subdivision B 7 of this section.

2. The summary of data reported under subdivision B 3 of this section shall also provide the types of data specified in subdivision E 1 of this section for the calendar year preceding the year being reported, in order to provide the board with a summary of the performance of the affected facility over a two-year period.

3. The summary of data including the information specified in subdivisions 1 and 2 of this subsection shall highlight any emission or parameter levels that did not achieve the emission or parameter limits specified under this article.

4. A notification of intent to begin the reduced dioxin/furan performance testing schedule specified in 9 VAC 5-40-8140 F 5 c during the following calendar year.

E. The owner of an affected facility shall submit a semiannual report that includes the information specified in subdivisions 1 through 5 of this subsection for any recorded pollutant or parameter that does not comply with the pollutant or parameter limit specified under this article, according to the schedule specified under subdivision 6 of this subsection.

1. The semiannual report shall include information recorded under subdivision B 3 of this section for sulfur dioxide, nitrogen oxides, carbon monoxide, municipal waste combustor unit load level, particulate matter control device inlet temperature, and opacity.

2. For each date recorded as required by subdivision B 3 of this section and reported as required by subdivision 1 of this subsection, the semiannual report shall include the sulfur dioxide, nitrogen oxides, carbon monoxide, municipal waste combustor unit load level, particulate matter control device inlet temperature, or opacity data, as applicable, recorded under subdivisions B 2 b (1) through B 2 b (4) and B 2 a (1) of this section, as applicable.

3. If the test reports recorded under subdivision B 9 of this section document any particulate matter, opacity, cadmium, lead, mercury, dioxins/furans, hydrogen chloride, and fugitive ash emission levels that were above the applicable pollutant limits, the semiannual report shall include a copy of the test report documenting the emission levels and the corrective actions taken.

4. The semiannual report shall include the information recorded under subdivision B 13 of this section for the carbon injection system operating parameter(s) that are the primary indicator(s) of carbon mass feed rate.

5. For each operating date reported as required by subdivision 4 of this subsection, the semiannual report shall include the carbon feed rate data recorded under subdivision B 4 c of this section.

6. Semiannual reports required by this subsection shall be submitted according to the schedule specified in subdivisions 6 a and 6 b of this subsection.

a. If the data reported in accordance with subdivisions 1 through 5 of this subsection were collected during the first calendar half, then the report shall be submitted by August 1 following the first calendar half.

b. If the data reported in accordance with subdivisions 1 through 5 of this subsection were collected during the second calendar half, then the report shall be submitted by February 1 following the second calendar half.

F. The owner of an air curtain incinerator subject to the opacity limit under 9 VAC 5-40-8060 shall submit the results of all annual performance tests for opacity recorded under subsection C of this section. Annual performance tests shall be submitted by February 1 of the year following the year of the performance test.

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G. All reports specified under subsections D, E, and F of this section shall be submitted as a paper copy, postmarked on or before the submittal dates specified under these subsections, and maintained onsite as a paper copy for a period of five years.

H. All records specified under subsections B and C of this section shall be maintained onsite in either paper copy or computer-readable format, unless an alternative format is approved by the board.

I. If the owner of an affected facility would prefer to select a different annual or semiannual date for submitting the periodic reports required by subsections D, E, and F of this section, then the dates may be changed by mutual agreement between the owner and the board.

## **9 VAC 5-40-8170. Registration.**

The provisions of 9 VAC 5-20-160 (Registration) apply.

## **9 VAC 5-40-8180. Facility and control equipment maintenance or malfunction.**

The provisions of 9 VAC 5-20-180 (Facility and control equipment maintenance or malfunction) apply.

## **9 VAC 5-40-8190. Permits.**

A permit may be required prior to beginning any of the activities specified below if the provisions of 9 VAC 5 Chapter 50 (9 VAC 5-50-10 et seq.) and 9 VAC 5 Chapter 80 (9 VAC 5-80-10 et seq.) apply. Owners contemplating such action should review those provisions and contact the appropriate regional office for guidance on whether those provisions apply.

1. Construction of a facility.
2. Reconstruction (replacement of more than half) of a facility.
3. Modification (any physical change to equipment) of a facility.
4. Relocation of a facility.
5. Reactivation (restart-up) of a facility.
6. Operation of a facility.

### DOCUMENTS INCORPORATED BY REFERENCE

ASME Power Test Codes: Test Code for Steam Generating Units, Power Test Code 4.1, 1964 (Reaffirmed 1991).

ASME Interim Supplement 19.5 on Instruments and Apparatus: Application Part II of Fluid Meters, 6th Edition, 1971.

VA.R. Doc. No. R98-189; Filed August 26, 1998, 7:45 a.m.

## **TITLE 12. HEALTH**

### **STATE MENTAL HEALTH, MENTAL RETARDATION AND SUBSTANCE ABUSE SERVICES BOARD**

Title of Regulation: **12 VAC 35-110-10 et seq. Rules and Regulations to Assure the Rights of Residents in Facilities Operated by the Department of Mental Health, Mental Retardation and Substance Abuse Services (REPEALING).**

Statutory Authority: § 37.1-84.1 of the Code of Virginia.

Public Hearing Dates:

- October 27, 1998 - 2 p.m. (Fairfax)
- October 28, 1998 - 6 p.m. (Petersburg)
- October 29, 1998 - 1 p.m. (Verona)
- October 29, 1998 - 6 p.m. (Hampton)
- October 30, 1998 - 1 p.m. (Wytheville)

Public comments may be submitted until November 13, 1998.

(See Calendar of Events section for additional information)

Basis: The regulation was promulgated pursuant to § 37.1-84.1 of the Code of Virginia. This regulation is necessary to fulfill the department's legislative mandate to assure and protect the rights of individuals receiving services in programs operated by the department with respect to the assurance of an individual's legal rights and care, consistent with basic human dignity and sound therapeutic treatment.

Purpose: This regulation protects the legal and human rights of all residents who receive treatment in facilities operated by the Department of Mental Health, Mental Retardation and Substance Abuse Services. To the extent that it is within the reasonable capabilities of the department, each resident is assured adequate care consistent with sound therapeutic treatment.

Substance: This regulation serves three major functions:

1. To monitor facility program compliance with the rules and regulations and other applicable laws relative to client rights through a review of program policies, procedures, and practices.
2. To prevent the occurrence of rights violations, provide consultation and technical assistance to providers, and to provide ongoing training relative to client rights.
3. To respond to complaints alleging rights violations, investigate and seek to resolve complaints, and to assist clients with appeals.

The regulation applies to each facility operated by the Department of Mental Health, Mental Retardation and Substance Abuse Services and under the supervision, management, and control of the Commissioner of the Department of Mental Health, Mental Retardation and Substance Abuse Services.

The regulation applies to forensic unit residents; however, those residents who are under commitment to the Department of Corrections or are committed for examination, evaluation, observation, and report pursuant to §§ 19.2-169.1, 19.2-169.2, 19.2-169.5, and 19.2-181 of the Code of Virginia, may be excluded from coverage to the extent the commissioner has determined these regulations are not applicable to them.

Issues: The advantage of repealing this regulation for the public, including consumers, families of consumers, and providers and for the department is that it will be replaced by a new consolidated human rights regulation that establishes a single set of standards to protect the rights of persons who receive treatment in public and private, inpatient and outpatient programs.

The department is not aware of any disadvantages resulting from the repeal of this regulation.

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

Summary of the proposed regulation. DMHMRSAS is proposing to repeal the current Rules and Regulations to Assure the Rights of Residents of Facilities Operated by the Department of Mental Health, Mental Retardation, and Substance Abuse Services. This regulation, along with two other human rights regulations, would be consolidated into a newly proposed regulation (Rules and Regulations to Assure the Rights of Clients in Facilities and Programs Operated, Funded or Licensed by the Department of Mental Health, Mental Retardation, and Substance Abuse Services, 12 VAC 35-115-10 et seq.).

Estimated economic impact. Because the provisions of the current regulation would be incorporated into a new consolidated regulation and remain in force, the proposed repeal is not expected to have any economic consequences.

Businesses and entities particularly affected. There are currently 15 facilities operated by DMHMRSAS. The repeal of this regulation particularly affects residents of those facilities, facilities personnel, and the general public.

Localities particularly affected. No localities are particularly affected by the proposed repeal of this regulation.

Projected impact on employment. The proposed repeal of this regulation is not anticipated to have a significant effect on employment.

Effects on the use and value of private property. The proposed repeal of this regulation is not anticipated to have a significant effect on the use and value of private property.

Summary of analysis. Because the provisions of the current regulation would be incorporated into a new consolidated regulation and remain in force, the proposed repeal is not expected to have any economic consequences.

Agency's Response to the Department of Planning and Budget's Economic Impact Analysis: The agency concurs with the economic impact analysis prepared by the Department of Planning and Budget regarding the regulations concerning the Rules and Regulations to Assure the Rights of Residents in Facilities Operated by the Department of Mental Health, Mental Retardation and Substance Abuse Services.

Summary:

*The board is proposing to repeal the current Rules and Regulations to Assure the Rights of Residents of Facilities Operated by the Department of Mental Health, Mental Retardation, and Substance Abuse Services. This regulation, along with two other human rights regulations, is being consolidated into a newly proposed regulation (Rules and Regulations to Assure the Rights of Clients in Facilities and Programs Operated, Funded or Licensed by the Department of Mental Health, Mental Retardation, and Substance Abuse Services, 12 VAC 35-115-10 et seq.).*

VA.R. Doc. No. R94-291; Filed August 26, 1998, 11:03 a.m.

\* \* \* \* \*

Title of Regulation: **12 VAC 35-115-10 et seq. Rules and Regulations to Assure the Rights of Residents in Facilities and Programs Operated, Funded or Licensed by the Department of Mental Health, Mental Retardation and Substance Abuse Services.**

Statutory Authority: § 37.1-84.1 of the Code of Virginia.

Public Hearing Dates:

October 27, 1998 - 2 p.m. (Fairfax)  
October 28, 1998 - 6 p.m. (Petersburg)  
October 29, 1998 - 1 p.m. (Verona)  
October 29, 1998 - 6 p.m. (Hampton)  
October 30, 1998 - 1 p.m. (Wytheville)

Public comments may be submitted until November 13, 1998.

(See Calendar of Events section for additional information)

Basis: The proposed regulation is promulgated pursuant to § 37.1-84.1 of the Code of Virginia. This regulation is necessary to fulfill the department's legislative mandate to assure and protect the rights of individuals receiving services in programs operated, funded, or licensed by the department

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with respect to the assurance of an individual's legal rights and care, consistent with basic human dignity and sound therapeutic treatment.

Purpose: This regulation protects the legal and human rights of all residents who receive treatment in state operated facilities, community services boards, and other agencies, public or private, that receive or benefit from funding under the provisions of Chapter 10 (§ 37.1-194 et seq.) of Title 37.1 of the Code of Virginia, and all other providers of mental health, mental retardation, or substance abuse services that are required to be licensed by the Department of Mental Health, Mental Retardation and Substance Abuse Services. To the extent that it is within the reasonable capabilities of the department, each resident is assured adequate care consistent with sound therapeutic treatment.

Substance: The proposed regulation will serve three major functions:

1. To monitor facility program compliance with the rules and regulations and other applicable laws relative to client rights through a review of program policies, procedures, and practices.
2. To prevent the occurrence of rights violations, provide consultation and technical assistance to providers, and to provide ongoing training relative to client rights.
3. To respond to complaints alleging rights violations, investigate and seek to resolve complaints, and to assist clients with appeals.

The proposed regulation will consolidate and will supersede the department's three existing human rights regulations 12 VAC 35-110-10 et seq. Rules and Regulations to Assure the Rights of Residents in Facilities Operated by the Department of Mental Health, Mental Retardation and Substance Abuse Services, 12 VAC 35-120-10 et seq. Rules and Regulations to Assure the Rights of Patients of Psychiatric Hospitals and Other Psychiatric Facilities Licensed by the Department of Mental Health, Mental Retardation and Substance Abuse Services, and 12 VAC 35-130-10 et seq. Rules and Regulations to Assure the Rights of Clients in Community Programs.

Issues: The proposed regulation consolidates and will supersede the three regulations that were promulgated by the department to protect the legal and human rights of clients of public and private facilities and programs operated, funded, and licensed by the department. These three human rights regulations have not been revised since 1983.

The advantages to the public, including consumers, families of consumers, and providers of mental health, mental retardation, and substance abuse services are as follows:

1. The regulation establishes a single set of standards that protects the rights of persons with mental disabilities who receive treatment in public and private, inpatient and outpatient programs;

2. The regulation reduces the burden of multiple regulations on public and private providers of inpatient and outpatient services; and

3. The regulation reduces the confusion for consumers and families, which often results when an individual moves from one type of program to another (e.g., inpatient to community) each with a separate set of human rights regulations.

The advantage for the department is that it establishes a single standard for the protection of consumers' human and legal right in public and private, inpatient and outpatient programs.

The department is not aware of any disadvantages to adoption of this regulation.

## Department of Planning and Budget's Economic Impact

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

Summary of the proposed regulation. The proposed regulation consolidates and amends three separate regulations (Rules and Regulations to Assure the Rights of: Residents of Facilities Operated by DMHMRSAS, 12 VAC 35-110-10; Patients of Psychiatric Hospitals and Other Psychiatric Facilities Licensed by DMHMRSAS, 12 VAC 35-120-10; and Clients in Community Programs, 12 VAC 35-130-10) that DMHMRSAS is seeking to repeal. These regulations protect the legal and human rights of residents who receive treatment in facilities operated, funded, or licensed by DMHMRSAS. The proposed regulation would make the following modifications to the existing regulations:

1. The definition of "authorized representative" would be changed to clarify that, in the absence of other qualifying persons listed in the regulation, consent for medical care shall be obtained in accordance with the appropriate sections of the Code of Virginia, to specify that the director of the facility may designate himself as the authorized representative "for decisions other than medical or treatment decisions," and to stipulate that the Local Human Rights Committee (LHRC) "shall regularly review such appointments and program policy and practice related to consent";
2. "Restrictive plans" would no longer include the use of restraints or seclusion;

3. The Commissioner of DMHMRSAS would be permitted, after consultation with the State Human Rights Committee (SHRC), to establish policies regarding "the development, implementation, and enforcement of a system-wide policy governing the use of seclusion and restraint";

4. Facility directors would be enjoined to "publicize, at least annually, information about the existence and purpose of the human rights program and encourage interested citizens to contact the office of human rights regarding appointments to Local Human Rights Committees";

5. Nominations for the LHRCs would be submitted to the SHRC through the office of human rights; and

6. The SHRC would be encouraged to consolidate Community Service Boards (CSBs) and LHRCs and form regional committees where possible.

Estimated economic impact. The majority of the proposed amendments are procedural in nature and are unlikely to have economic consequences. There are three exceptions to this general statement however. First, consolidating the three existing regulations into a single regulation will eliminate duplication, and make it easier and less costly for the regulated community to access the information contained in the regulation. This implies a modest reduction in regulatory compliance costs. Second, the provision enjoining facility directors to "publicize, at least annually, information about the existence and purpose of the human rights program," will slightly increase the regulatory compliance costs borne by facilities and, simultaneously, increase public benefit by disseminating information that could lead to broader citizen participation. Third, the provision encouraging the SHRC to consolidate CSBs and LHRCs and form regional committees where possible, may facilitate local operational efficiencies. On net, however, the overall economic effect of these amendments is likely to be fairly minor.

Businesses and entities particularly affected. The proposed regulation particularly affects residents, patients and personnel of the 15 DMHMRSAS facilities, 40 community services boards, and 360 private organizations licensed by DMHMRSAS.

Localities particularly affected. No localities are particularly affected by the proposed regulation.

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

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

Summary of analysis. The proposed regulation consolidates and amends three separate regulations regarding the legal and human rights of residents of public and private facilities operated, funded, or licensed by DMHMRSAS. The majority of the proposed amendments are procedural in nature and are unlikely to have economic consequences. Although the

remainder of the proposed amendments may have some economic consequences, on net, the overall economic effect is likely to be minor.

Agency's Response to the Department of Planning and Budget's Economic Impact Analysis: The agency concurs with the economic impact analysis prepared by the Department of Planning and Budget regarding the regulations concerning the Rules and Regulations to Assure the Rights of Residents in Facilities and Programs Operated, Funded or Licensed by the Department of Mental Health, Mental Retardation and Substance Abuse Services.

Summary:

*The proposed regulation consolidates and amends three separate regulations (12 VAC 35-110-10 et seq., 12 VAC 35-120-10 et seq., and 12 VAC 35-130-10 et seq.) that the board is seeking to repeal. The proposed regulation differs from the existing regulations as follows:*

1. *The definition of "authorized representative" is changed to clarify that, in the absence of other qualifying persons listed in the regulation, consent for medical care shall be obtained in accordance with the appropriate sections of the Code of Virginia, to specify that the director of the facility may designate himself as the authorized representative "for decisions other than medical or treatment decisions," and to stipulate that the Local Human Rights Committee (LHRC) "shall regularly review such appointments and program policy and practice related to consent";*

2. *"Restrictive plans" no longer include the use of restraints or seclusion;*

3. *The Commissioner of DMHMRSAS is permitted, after consultation with the State Human Rights Committee (SHRC), to establish policies regarding "the development, implementation, and enforcement of a systemwide policy governing the use of seclusion and restraint";*

4. *Facility directors are enjoined to publicize, at least annually, information about the existence and purpose of the human rights program and encourage interested citizens to contact the office of human rights regarding appointments to LHRCs;*

5. *Nominations for the LHRCs are submitted to the SHRC through the office of human rights; and*

6. *The SHRC is encouraged to consolidate community service boards and LHRCs and form regional committees where possible.*

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# Proposed Regulations

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CHAPTER 115.  
RULES AND REGULATIONS TO ASSURE THE RIGHTS OF  
CLIENTS IN FACILITIES AND PROGRAMS OPERATED,  
FUNDED OR LICENSED BY THE DEPARTMENT OF  
MENTAL HEALTH, MENTAL RETARDATION AND  
SUBSTANCE ABUSE SERVICES

PART I.  
GENERAL PROVISIONS.

**12 VAC 35-115-10. Definitions.**

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

"Abuse" means, but is not limited to:

1. Physical acts, such as choking, kicking, scratching, hair pulling, pinching, slapping, hitting, pushing, spitting, or striking of a client;
2. Sexual activity or any type of inappropriate touching such as, but not limited to touching, stroking or fondling of breasts, genitals or buttocks, directly or through clothing of a client;
3. Coercion, threats or intimidation which are statements or actions that would evoke fear in a reasonable person or that could reasonably be expected to evoke fear in a client;
4. Neglect in care which is the failure to provide treatment, care, goods, or services necessary to the health, safety or welfare of a client;
5. Statements or actions which would humiliate, demean or exploit a client; or
6. Condoning or permitting the abuse of a client including client to client conflict, which may result in physical, emotional or psychological harm.

"Advocate" or "regional advocate" means a person or persons, employed by the commissioner after consultation with the State Human Rights Director and the State Human Rights Committee (SHRC), who exercises the duties set forth in 12 VAC 35-115-20.

"Applicant" means a person who has been referred to or applied for treatment or services from a program.

"Authorized representative" means that person best situated, by law or by the person's relationship to the client or the person's understanding of the client's condition, to make a decision on behalf of a client who, because of mental illness or mental retardation, has been determined in accordance with 12 VAC 35-115-50 to be unable to make an informed decision to give or withhold consent to program action. The director shall have the primary responsibility for designating an authorized representative in the following order of priority;

1. An attorney-in-fact currently authorized to give consent under the terms of a durable power of attorney, a health care agent appointed by an adult client under an

advance directive pursuant to § 54.1-2983 of the Code of Virginia, a legal guardian or committee of the client not employed by the program and currently authorized to give consent, or, if the residential client is a minor, a parent having legal custody of the client.

2. In designating the next of kin, the director shall select the best qualified person, if available, according to the following order of priority:

- a. Spouse;
- b. An adult child;
- c. A parent;
- d. Adult brother or sister;
- e. Any other relative of the client.

3. In the absence of any person listed in subdivision 1 or 2 of this definition, consent for medical care shall be obtained in accordance with procedures outlined in Chapter 4 (§ 37.1-427 et seq.) of Title 37.1, Title 54.1, and other provisions of the Code of Virginia. The director may designate himself as authorized representative for the purpose of providing consent for decisions other than medical or treatment decisions after a finding by the Local Human Rights Committee that the director is the best qualified person within the meaning of these regulations to serve in such capacity. The LHRC shall regularly review such appointments and program policy and practice related to consent.

"Behavioral management" means planned therapeutic interventions, expectations, or restrictions implemented in response to specific behavioral criteria to preserve the therapeutic environment, to promote a safe and orderly environment, or to augment treatment and services; e.g., time out, level system, step program, token economy, rules of conduct.

"Board" means the State Mental Health, Mental Retardation and Substance Abuse Services Board.

"Board of directors" means the governing body of any licensed organization or a community services board established pursuant to § 37.1-195 of the Code of Virginia, which provides mental health, mental retardation and substance abuse programs and services within the political subdivision(s) participating on the community services board including its contractual agencies.

"Client" means a person receiving treatment or other services from a program. (May also be referred to as a consumer, patient, resident, student or recipient.)

"Commissioner" means the Commissioner of the Department of Mental Health, Mental Retardation and Substance Abuse Services.

"Consent" means the voluntary and informed agreement of a person to any action of a program for which consent is required under this chapter. The fact that a person is a recipient of services does not alone render that person



incapable of giving consent, but it does call for added diligence by all staff in assuring that consent obtained from a client is truly voluntary and informed. To be voluntary, the consent shall be given by a person so situated as to be able to exercise free power of choice without undue inducement or any element of force, fraud, deceit, duress, or any form of constraint or coercion. To be informed, consent should be based on disclosure and understanding of the following kinds of information:

1. A fair and reasonable explanation of the action proposed to be taken by the program and its purpose, including the identification of any research involved and, if so, how the results of that research will be disseminated and how the identity of the client will be protected from disclosure;
2. An appropriate description of potential adverse consequences or risks and, particularly where research is involved, an indication of the possibility of other significant risks not yet identified;
3. A description of any reasonably expected benefits;
4. A disclosure of any alternative procedures that might be equally advantageous for the client;
5. An offer to answer any inquiries by the client or the client's authorized representative;
6. Notification that the person is free to refuse or to withdraw consent and to discontinue participation in any prospective course of treatment or other program action requiring consent at any time without fear of reprisal against, or prejudice to, the client.
7. A description of the methods the client and the authorized representative can use to raise concerns and ask questions about the program action to which consent is given;
8. Where the program action constitutes human research, an explanation as to whether any compensation or medical care is available if injury occurs and, if so, what compensation might be available; and
9. Where the program action involves the disclosure of records:
  - a. The name of the organization and the name and title of the person to whom disclosure is to be made;
  - b. A description of the nature of the information to be disclosed, the purpose of disclosure, and an indication of whether the consent extends to information placed on the records after the consent was given and before it expires;
  - c. A statement of when the consent will expire, specifying a date, event, or condition upon which it will expire; and
  - d. An indication of the effective date of the consent.

"Convulsive treatment" means any form of psychiatric treatment involving induction of a convulsion in the client by any means including electroconvulsive therapy (ECT).

"Department" means the Department of Mental Health, Mental Retardation and Substance Abuse Services.

"Director" means the chief executive officer, administrator, facility or executive director of a hospital, training center, community services board, agency, or other program operated, funded, or licensed by the department whose responsibility shall be to perform the functions specified in 12 VAC 35-115-50.

"Emergency" means a situation in which a client is likely to cause serious harm to himself or another, or to suffer serious deterioration of his physical or mental condition unless the proposed treatment is provided to the client.

"Exploitation" means the unauthorized or improper use of the client or the client's property for another's profit or advantage.

"Historical research/evaluation" means the review of client records for the purpose of performing evaluation or otherwise collecting data which would not reveal the identity of the subject of the record or any other client identifying information.

"Human research" means any systematic investigation which uses human participants who may be exposed to physical or psychological injury as a consequence of participation and which departs from the application of established and accepted therapeutic methods appropriate to meet participants' needs.

"Individual treatment or service plan" means the written, individually planned treatment or service interventions and identified preferences, intended to improve, maintain or minimize the loss of an individual's functioning in those areas which show impairment as the result of mental illness, mental retardation or substance abuse, whether referred to as rehabilitation, habilitation, training, education plan or another term.

"Internal review panel" means any group (e.g., behavior management committee) with appropriate clinical training and experience designated by the director as having responsibility for review and oversight for assuring that proposed individual restrictive plans and behavior management policies and procedures conform to this chapter and to established and acceptable therapeutic methods of practice.

"Intrusive aversive therapy" means any physically unpleasant or noxious stimulus that is administered to a client for the purpose of reducing the frequency or intensity of behavior, except that intrusive aversive therapy does not refer to verbal therapies, seclusion or restraints used in conformity with this chapter, or to psychotropic medications which are not used for purposes of aversive conditioning.

"Local Human Rights Committee (LHRC)" means a committee of at least seven members broadly representative of professional and consumer groups, appointed by the State

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Human Rights Committee for programs after consultation with the commissioner, whose responsibility shall be to perform the functions specified in 12 VAC 35-115-20 E.

"Mechanical restraint" means the use of any mechanical device (wristlets, muffs, camisoles or other such devices) to restrict the physical movements of a client.

"Physical restraint" means the restricting of the client or any part of the client's body from free movement by direct physical contact applied by one or more care givers.

"Program" means any facility or program, residential, outpatient center, day treatment services, or any other facility, service or setting, public or private, which provides mental health, mental retardation or substance abuse treatment or services which is operated, licensed, or funded by the department.

"Protective device" means a mechanical device used for a specific protective purpose or supportive purpose to maintain body position or balance; to assist the movement of a client whose mobility is impaired by a physical disorder; for medical or surgical purposes to prevent the client's removal of medically indicated devices such as dressings, catheters, intravenous tubes, or nasogastric intubation; or to otherwise prevent the client from interrupting acute medical or post-surgical treatment.

"Psychosurgery" means any procedure which by direct or indirect access to the brain, destroys or interrupts the continuity of brain tissue which is histologically normal (as distinguished from normal in its physiological or psychological functioning) for the primary purpose of altering behavior or treating a mental disease or disorder. Psychosurgery includes the implantation of electrodes for this purpose, with or without subsequent electrocoagulation. Psychosurgery does not include neurosurgical procedures designed to treat reliably diagnosed intractable physical pain or epilepsy.

"Record" means any written, videotape, audiotape, photographic or electronic data processing reference to the treatment or other services requested by an applicant or rendered to a client from which the identity or any other personal information, recorded or unrecorded, of the applicant or client may be ascertained.

"Residential program" means a hospital, training school, or other facility or institution by whatever name or designation that provides 24-hour care in conjunction with treatment or services for persons with mental illness, mental retardation, or substance abuse problems, which is operated, funded or licensed by the department.

"Restraint" means the use on any client of physical force or a mechanical device that involuntarily restricts the physical movements of a client as a means of managing physical activities to prevent harm or injury to the client or others. Restraint does not include protective devices.

"Restriction" means the implementation of a limitation or prohibition of a client's opportunity to exercise rights and

privileges or to engage in prescribed program or personal activities.

"Restrictive plan" means an individualized course of treatment and interventions involving the systematic application of time out, aversive stimuli, restrictions, or any combination of these used in response to specific maladaptive behavior(s) for the purpose of reducing the frequency or intensity of the behavior(s) and increasing the frequency of desired adaptive behavior.

"Seclusion" means the placing of a client in a room with the door secured or locked in a manner which will not permit the client to leave.

"Significant risk" means that the risks of harm anticipated in the proposed research, treatment or other services are greater than normal risks encountered in daily life or during the performance of routine physical or psychological examinations, tests, or treatment. Procedures that present a significant risk include, but are not limited to, psychotropic medication, intrusive aversive therapy, and surgical procedures.

"State Human Rights Committee (SHRC)" means a committee of nine members appointed by the board whose responsibility it shall be to perform the functions specified 12 VAC 35-115-20 G.

"State Human Rights Director" means a person employed by and reporting to the commissioner, whose responsibility shall be to perform the functions specified in 12 VAC 35-115-20 H to supervise the advocates or regional advocates and to take other necessary and appropriate actions to assist the commissioner and the SHRC to perform their responsibilities under this chapter and to assure the free exercise or legal and human rights by clients.

"Time out" means the practice of removing the client from a source of positive reinforcement to an unlocked room or setting in accordance with an approved policy and procedure or an individual restrictive plan.

"Therapeutic work" means those activities which are required as part of the treatment of the client, which may involve personal maintenance activities such as usual cleaning, maintenance, and upkeep performed by members in a family household. Therapeutic work shall not involve activities primarily intended to produce products of direct economic benefit to the program, staff or client, or other activities for which a person normally would receive compensation.

## **12 VAC 35-115-20. Offices, composition, and duties.**

### **A. The advocate or regional advocate shall:**

1. Act as the representative of (or consult with and reasonably assist any other representative chosen by) any client whose rights are alleged to have been violated unless the client or the client's chosen representative elects otherwise;

2. Monitor the implementation of an advocacy system for clients of the assigned program or region;

3. Promote and monitor the program's or region's compliance with these and other applicable client rights regulations and policies and shall conduct or participate in training for staff and clients regarding rights and advocacy functions;

4. Investigate and seek to prevent or to remedy, informally or formally, any alleged rights violations by interviewing, mediating, negotiating, advising and consulting with the staff, including the directors and their respective boards and, if necessary, by filing a complaint with the LHRC either on behalf of a particular client or, where general conditions or practices are deemed to interfere with clients' rights, by filing a complaint on behalf of the class of affected clients;

5. Investigate and examine all conditions or practices which may interfere with the free exercise of clients' rights;

6. Assist the client or the client's chosen representative during any conference, hearing or other procedure held in accordance with this chapter unless the client, if capable of understanding, or chosen representative elects otherwise;

7. Inform the LHRC of any recommendations to the director, the boards of directors, the state human rights director, or the department for changes in program policies, procedures, or practices that have the potential to adversely affect the rights of clients;

8. Make recommendations to the state human rights director concerning the employment of assistant advocates and supervise assistant advocates or other staff to the extent that they have been designated to serve as advocates;

9. Submit monthly reports to the state human rights director and the LHRC on the implementation of and compliance with this chapter and make other reports as the state human rights committee may require; and

10. Perform other duties as required under this chapter.

**B. The commissioner shall:**

1. Employ the state human rights director after advice and consultation with the SHRC;

2. Employ advocates following consultation with the state human rights director;

3. Provide or arrange for provision of technical and professional assistance and training necessary to implement and enforce this chapter;

4. Cooperate with the SHRC and state human rights director in investigating and remedying conditions or practices interfering with the free exercise of clients' rights;

5. Advise and consult with the SHRC and the state human rights director in determining the number and geographical boundaries of LHRCs and the appointment of members of LHRCs; and

6. Perform other duties as required under this chapter.

The commissioner also may, after consultation with the SHRC, establish any policies and procedures designed to implement this chapter, including the development, implementation and enforcement of a system-wide policy governing the use of seclusion and restraint.

**C. The director shall:**

1. Take necessary and appropriate steps to assure compliance with all provisions of this chapter throughout the directly operated or contractual program(s) under his supervision;

2. Cooperate with the advocate and regional advocate and the LHRC in investigating and remedying conditions or practices interfering with the free exercise of clients' rights, and assure that all employees of the program cooperate with the advocate and the LHRC in execution of their duties under this chapter;

3. Provide the advocate or regional advocate unrestricted access to clients and client records whenever the advocate deems access to be necessary to carry out rights protection and advocacy;

4. Assure that clients and their authorized representatives are notified of rights protected by this chapter in accordance with § 37.1-84.1 of the Code of Virginia;

5. Submit to the advocate or regional advocate for review and comment any proposed policies, procedures, or practices which may affect client rights;

6. Comply with requests by the SHRC, LHRC, advocate or regional advocate to provide information and written reports regarding compliance with this chapter;

7. Designate the representative to the LHRC, who shall provide the LHRC with suitable accommodations, clerical support, and equipment, and who shall assure the availability of records and the presence of employee witnesses upon the request of the LHRC;

8. Submit applications for variances to the requirements of this chapter in accordance with provisions set forth in 12 VAC 35-115-110;

9. Perform other duties as required under this chapter; and

10. Publicize, at least annually, information about the existence and purpose of the human rights program and encourage interested citizens to contact the office of human rights regarding appointments to local human rights committees.

**D. Program employees shall:**

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1. Cooperate with any investigation, conference or hearing conducted pursuant to this chapter by the director, advocate, regional advocate, LHRC, or SHRC. Such cooperation shall include, but is not limited to, statements or testimony under oath or affirmation; and

2. Become familiar with this chapter, comply with its provisions in all respects and assist all clients with whom they have contact in understanding and asserting the rights provided by this chapter.

**E. The Local Human Rights Committee shall:**

1. Consist of no fewer than seven members, appointed by the SHRC, who are broadly representative of professional and consumer interests.

a. No member shall be an employee of the department or an employee of the contractual services provider to the program for which the LHRC provides oversight.

b. Initial appointments to create an LHRC shall be staggered, with approximately one third of the members to be appointed for a term of three years, approximately one third for a term of two years, and the remainder for a term of one year. Thereafter, all appointments shall be for a term of three years.

c. A person may be appointed for no more than two consecutive terms; however, a person appointed to fill a vacancy may serve out that term, then be eligible for two additional consecutive terms.

d. Nominations for membership to LHRCs shall be submitted to the SHRC through the office of human rights;

2. Receive complaints filed by or on behalf of clients in the assigned programs or regions regarding alleged violations of clients' rights and shall hold fact-finding conferences and hearings concerning complaints according to the procedures in Part III (12 VAC 35-115-130 et seq.) of this chapter;

3. Conduct investigations as requested by the SHRC;

4. Receive, review, and make recommendations concerning applications for variances to this chapter filed in accordance with Part III (12 VAC 35-115-130 et seq.) of this chapter;

5. Have written bylaws which cover matters such as procedures for making recommendations to the SHRC concerning the membership, procedures for electing the chairman and other officers, designation of standing committees, the frequency of meetings, and the parliamentary procedures under which business shall be conducted;

6. Elect from its own members a chairman who shall coordinate the activities of the LHRC and preside at regular committee meetings and any conferences or

hearings held under Part III (12 VAC 35-115-130 et seq.) of this chapter;

7. Conduct regular meetings and shall hold at least four meetings per year; and

8. Perform other duties as required under this chapter.

The LHRC may, upon request of the advocate, director, a client, or on its own initiative, review any existing or proposed policies, procedures, and practices at the assigned program or region which could jeopardize the rights of one or more of the clients. The LHRC shall make appropriate recommendations to the director concerning modification of these policies, procedures, and practices. In conducting a review, the LHRC may consult with any advocate or employee of the program about policies, procedures, practices and any actual or potential rights violations which they may produce.

**F. The State Mental Health, Mental Retardation and Substance Abuse Services Board shall:**

1. Promulgate rules and regulations delineating the rights of clients in programs operated, licensed, or funded by the department;

2. Appoint members of the SHRC;

3. Review and approve the bylaws of the SHRC; and

4. Perform other duties as are required under this chapter.

**G. The State Human Rights Committee (SHRC) shall:**

1. Consist of nine members, appointed by the board, who are broadly representative of professional and consumer groups and of geographic areas in the state.

a. All appointments after [the effective date of this chapter] shall be for a term of three years.

b. In the event of a vacancy, interim appointments may be made for the remainder of the unexpired term.

c. Members may be appointed for no more than two consecutive terms, regardless of the length of the term, and

d. No member shall be an employee of the department.

2. Elect a chairman from its own members who shall:

a. Coordinate the activities of the SHRC;

b. Preside at regular meetings and any conferences or hearings; and

c. Have direct access to the commissioner and the board in carrying out these duties;

3. Determine the number and geographical boundaries of LHRCs and appoint members of LHRCs with the advice of and consultation with the commissioner and the state human rights director. CSB, licensed program,

and facility LHRCs will be consolidated and regional committees formed where feasible and appropriate;

4. Advise and consult with the commissioner in the employment of the state human rights director and advocates;

5. Conduct regular meetings and hold at least one meeting quarterly;

6. Review decisions of LHRCs and, if appropriate, hold hearings and make recommendations to the commissioner and the board regarding alleged violations of clients' rights in accordance with the procedures specified in Part III (12 VAC 35-115-130 et seq.) of this chapter;

7. Grant or deny variances in accordance with the procedures specified in 12 VAC 35-115-110;

8. Receive, coordinate and evaluate any suggested revisions of this chapter and make recommendations to the board concerning proposed revisions;

9. Make recommendations to the commissioner concerning the revision of any pertinent existing or proposed departmental instructions, regulations and standards to ensure the protection of clients' rights;

10. Review the scope and content of training programs designed to promote responsible performance of the duties assigned under this chapter to employees, advocates and LHRC members, and, where appropriate, the SHRC may make recommendations to the commissioner;

11. Monitor and evaluate the implementation and enforcement of this chapter and make any necessary and appropriate recommendations to the board, the commissioner and the state human rights director;

12. Submit a report on its activities to the board each year;

13. Have written bylaws which cover matters such as procedures for making recommendations to the board for membership, procedures for election of the chairman and other officers, procedures for appointing members of LHRCs, designations of standing committees and their responsibilities, procedures for establishing ad hoc committees, the frequency of meetings, and the parliamentary procedures under which business will be conducted;

14. Review and approve the bylaws of LHRCs; and

15. Perform other duties as required under this chapter.

The SHRC may also recommend to the commissioner guidelines or opinions concerning the interpretations of this chapter upon the request of the LHRCs, the commissioner, or upon its own initiative.

H. The State Human Rights Director shall:

1. Provide leadership in the implementation of the statewide human rights program and make recommendations to the commissioner, the SHRC, and the LHRCs concerning improvements in the program;

2. Advise the commissioner concerning the employment and retention of the advocates;

3. Consult with and advise directors and LHRCs concerning their responsibilities under this chapter and other applicable laws, regulations and departmental instructions concerning the protection of clients' rights;

4. Organize and coordinate training programs designed to promote responsible performance of the duties assigned under this chapter to employees, advocates and members of the SHRC and LHRCs;

5. Periodically visit programs to assure free exercise of those rights enumerated in this chapter;

6. Supervise advocates in the performance of their duties under this chapter;

7. Provide any necessary support to the SHRC and LHRCs in carrying out their duties under this chapter; and

8. Perform other duties as are required under this chapter.

## PART II. PROGRAM PROCEDURES.

### **12 VAC 35-115-30. Notification.**

A. Upon admission to a program, each client shall be given a copy or other appropriately accessible format of the Client Rights and Responsibilities Notice including the name, address, and telephone number of the advocate and a brief description of the advocate's role. Upon request, a copy of this chapter shall be made available to the client.

1. For the purpose of this part, admission shall refer to contacts which result in the provision of treatment or services.

2. When a program contact with an individual does not result in admission, but a record is created for that individual, the applicant shall be informed verbally that: (i) a record is being created; (ii) the general standards of confidentiality are applicable to the record; and (iii) the individual has a right of access to the record.

B. When a person is denied available services for any reason, that person shall be: (i) notified in writing of the reason; (ii) notified of the right to file a written complaint regarding the denial; and (iii) given the name, telephone number, and address of the advocate.

C. At the time of admission, the Client Rights and Responsibilities Notice and the appeal process shall be explained verbally to the client in terms appropriate to the client's level of understanding. When a client is unable to understand English, is hearing impaired, or possesses a

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disability limiting the client's capacity to understand the notice, it shall be provided in a format that accommodates the client's abilities.

D. The notification process described in subsection C of this section shall be repeated annually until the client's participation in the program ends.

E. When an authorized representative has been designated for a client because of the client's inability to render an informed decision regarding treatment, notice as described in subsection C of this section shall be given to the authorized representative, and reasonable efforts shall be made to explain rights and the appeal process to the client.

F. Written records of receipt of each notice shall be signed by the client and the authorized representative and made a part of the permanent client record. If the client or the authorized representative is unable or refuses to acknowledge this receipt, documentation of the nature of the notice shall be placed in the client's record.

G. Programs shall prominently place or post in areas to which clients have regular access an abbreviated notice of rights. The notice will include the advocate's name, telephone number, and address.

## **12 VAC 35-115-40. Treatment.**

A. Within reasonable capabilities and limitations, programs shall make treatment and services available to clients according to their needs and preferences, and consistent with standard clinical practice. If treatment or services require, a program may restrict part of a program to persons of the same gender or similar age or mental disability.

B. Programs shall make accommodations to serve people with physical disabilities who meet program admission criteria.

C. Services shall not be denied to an applicant or client solely because he asserts rights protected by this chapter or by any law, nor shall the provision of services be conditioned on the waiver by an applicant or client of rights.

1. These provisions shall not prevent a program from denying or limiting an applicant's or client's participation in, or access to, certain services when the assertion of rights involves:

- a. Refusals to follow recommended treatment, which is consistent with standard clinical practice;
- b. Failure to provide information necessary for an appropriate diagnosis; or
- c. Other similar action which significantly affects the ability of the program to implement an appropriate treatment or service plan or will significantly compromise the safety of clients or staff.

2. Any decision to deny or limit services shall be made by the director or his designee and shall be documented in the client's or applicant's record.

3. If a client is not admitted for treatment, the client shall be advised of treatment alternatives and, with approval of the client or the authorized representative, referrals shall be made.

4. Programs shall be responsible for ensuring that approved written fee schedules and reimbursement policies are available upon request.

a. Fee schedules and reimbursement policies shall consider the client's or applicant's need for services and ability to pay. Inquiries and complaints regarding fee schedules and reimbursement policies shall be referred to the appropriate program director or designee.

b. The ability of a minor to pay for services to which the client's parents need not consent shall be considered independently of the parent's income unless the minor authorizes the program to notify and seek reimbursement from the client's parents.

c. Private organizations that are not directly operated by the department or do not receive direct funding from the department in order to operate may establish set fee schedules for their treatment or service programs. Fee schedules should indicate the program's flexibility in negotiating incremental payments based upon mutually agreeable installments taking into account the financial status of the client or the client's family.

D. Programs shall assure that each client is given the opportunity and encouraged to participate meaningfully in the preparation of his treatment or service plan before or promptly after admission. Programs shall comply with the following requirements in the development of individual treatment or service plans;

1. Programs shall assign to each client a primary staff position or a team of staff that has responsibility for the client's individual treatment or service and discharge plan.

2. The program shall document and include in the client's record the client's and authorized representative's participation in the development, review, or modifications of the treatment or service and discharge plan, and the client's agreement with the services to be provided. With the client's concurrence, the family of the client shall be involved with treatment or service and discharge planning.

3. The written treatment or service plan shall include the goals, the methods to be used, the expected length of participation, and a discharge plan.

4. The treatment or service plan shall be integrated with all services received by the client.

5. The program shall periodically review the treatment or service plan with the client and the authorized representative and modify it to assure responsiveness to

the client's changing needs and preferences. Reviews shall occur at least every six months.

6. Subject to appropriate periodic revisions, programs shall implement and adhere to the individual treatment or service plan of every client.

7. Additional requirements for residential programs.

a. Within three days following admission to a residential program, an initial written treatment plan shall be developed to address the client's immediate needs, physical and emotional condition, and behavioral status.

b. Where the client's residential stay exceeds 10 days, a comprehensive, individual treatment, service, education, training, or habilitation and discharge plan shall be formulated in accordance with program policy but no later than 30 days after admission.

c. Review and documentation of the client's progress shall occur at intervals of no more than 30, 60, and 90 days after admission to a residential program and at least every six months thereafter or at any time of significant change in the client's condition.

d. This review shall document the individual treatment or service goals being met; whether the client continues to meet any other statutory criteria upon which the client's admission was originally based; justification of the client's continued retention in the program; and modifications, where appropriate, to the plan for discharge.

8. Discharge planning for residential programs.

a. Subject to the requirements for disclosure, program staff shall consult the community services board or other appropriate community service providers for the area in which the client resided before admission, or in which the client chooses to reside after discharge, for the purpose of treatment or service and discharge planning.

b. Once the client or the authorized representative has identified the area in which the client plans to reside and authorizes disclosure where necessary, program staff shall coordinate the discharge plan with and give notice of the client's progress to the community service provider to assure that services and placement will be available upon discharge.

c. The discharge plan shall include, at a minimum, (i) treatment and behavioral goals necessary for discharge; (ii) services, including but not limited to housing, nutritional, and other human services necessary for discharge, (iii) the type of placement, if necessary; and (iv) alternatives that should be explored and a list of appropriate service providers who will be responsible for the implementation of the plan upon discharge.

E. Written program policies and procedures pertaining to the development of individual restrictive plans shall incorporate the following:

1. Program policy shall identify the behavioral criteria necessitating the development of individual restrictive plans.

2. Individual treatment or service plans incorporating restrictions shall not limit the client's physical or social liberties more than is necessary to achieve a substantial therapeutic benefit or to significantly reduce a foreseeable risk of harm to the client or others.

3. Programs shall not impose restrictions on any client solely because criminal charges are pending against that client, unless the program has been ordered by the court to impose specific restrictions.

4. Individual restrictive plans shall not be implemented before the staff responsible for the client's plan have taken the following steps:

a. Assessed all possible alternatives to the proposed restriction or intervention, taking into account the client's condition, behavior, preferences, nursing and medication needs, and adaptive level of functioning;

b. Determined that the proposed restriction or intervention is necessary for effective treatment of the client or is necessary to protect the client or others from personal injury; and

c. Documented in the client's record the lack of success of other less restrictive alternatives.

Seclusion and restraint shall not be used as part of any restrictive plan.

5. An individual restrictive plan at a minimum shall include:

a. A description of the client's behavior(s) and an objective data base of the behavior for which the plan is being developed;

b. A description of the specific restriction or intervention to be applied;

c. The objective and the frequency of application;

d. The duration of each application and the criteria for release from physically restrictive applications;

e. A procedure for charting the behavior, the intervention, and the client's response; and

f. A specified time limit for the duration of the plan.

6. The use of time out as part of any individual restrictive plan shall comply with the requirements below, and with all other requirements set out in this chapter, unless otherwise specified in the plan and approved as specified below:

a. Proposed plans shall be submitted and reviewed for revisions or modifications and approval of the

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program's internal review panel prior to implementation. The program director shall notify the advocate of the development of proposed plans.

b. Plans shall be submitted to the LHRC for review and approval prior to implementation.

c. No plan for time out shall exceed 30 consecutive minutes, unless following LHRC review, such plan is submitted to the SHRC for review and approval.

7. Programs shall assure and encourage the participation of the client and the authorized representative in the development of an individual restrictive plan. The criteria for removal of the plan and the rights to an impartial review of its necessity by the LHRC shall be explained to the client and the authorized representative.

8. Program staff responsible for the individual restrictive plan shall review it at least every 30 days, or more frequently if necessary, based on the client's behavior, or at the request of the LHRC or the advocate. As soon as it is determined that the restrictive component is no longer necessary, the LHRC shall be notified and its use shall be discontinued. The client's treatment or service plan shall be amended to reflect this change.

F. No program may implement an intrusive aversive therapy until the proposed individual plan has been approved by the director and submitted to the LHRC for review for compliance with this chapter.

1. The plan shall not be implemented until the LHRC has determined the following:

a. The client or the authorized representative has made an informed decision to undertake therapy, or a court order pursuant to § 37.1-134.5 of the Code of Virginia, or as repealed and reenacted at § 37.1-134.21, effective January 1, 1998, is obtained, and in the case of a minor who is capable of making an informed decision, that the concurrent consent of the parent has been obtained;

b. There is documentation that all less intrusive procedures have been tried without success or that the behavior or condition is so serious as to preclude the prior use of other forms of therapy;

c. The aversive therapy plan includes teaching or positive reinforcement or both of appropriate behaviors;

d. The plan specifies the behavioral objective, the frequency of application of the technique, the time limit for both the application of the technique and the overall duration of the plan, a procedure for charting the behavior, and the application of the technique to evaluate its effectiveness;

e. The plan identifies the professionally trained staff who are responsible for the development of the plan

and who will be responsible for its implementation and monitoring; and

f. Either a psychiatrist or, if a psychiatrist is unavailable, a psychologist and a physician has certified that in his professional opinion, the aversive procedure will not endanger the health or safety of the client.

2. The plan shall specify the manner in which regular reports will be submitted to the advocate and the proposed time period for further review by the LHRC, not to exceed 90 days.

G. No program shall administer or cause to be administered, convulsive therapy without the informed consent of the client or the authorized representative or a court order pursuant to § 37.1-134.5 of the Code of Virginia, or as repealed and reenacted at § 37.1-134.21, effective January 1, 1998.

1. Where an adult client has the ability to render an informed decision whether to accept or refuse to accept convulsive therapy, the program may proceed with treatment based on the client's informed consent.

2. Where substitute consent has been given by an authorized representative, the treatment may be administered only after the LHRC has determined that: (i) informed consent has been obtained in accordance with 12 VAC 35-115-50 and (ii) a qualified psychiatrist not involved in the client's treatment has concurred with the judgment of the treating psychiatrist that the treatment is indicated.

H. Psychosurgery, as defined herein, shall not be performed on any client.

I. No program shall use a procedure involving significant risk, which is not an established and accepted method of treatment of the person's condition, without complying with applicable laws, regulations, or policies governing experimental treatment or human research.

J. Programs shall respond to a client request for discharge from a program in a timely manner and shall assure that a client will not be subjected to punishment, reprisal, or reduction in services because the client has made such a request.

1. Clients admitted under § 37.1-65 of the Code of Virginia who notify the program of their intent to leave shall be released as soon as clinically appropriate, but no longer than eight hours thereafter, unless the program is authorized by law to detain the client for a longer period of time.

2. Minors admitted under § 16.1-338 or § 16.1-339 of the Code of Virginia shall be released to the parent/legal guardian's custody within 48 hours of the consenting parent/legal guardian's notification of withdrawal of consent, unless the program petitions for continued hospitalization pursuant to § 16.1-340 or § 16.1-345 of the Code of Virginia.



3. If a client admitted under § 37.1-65.1 or § 37.1-65.3 of the Code of Virginia, or the client's authorized representative requests discharge, the program will review and determine whether the client continues to meet the criteria for certification. If the director denies the request for discharge, the client shall be notified in writing of the reasons for denial and of the client's right to seek relief in the courts. The request and reasons for denial shall be included in the client's record.

4. When a client admitted under § 37.1-67.3 of the Code of Virginia, meets any of the criteria for discharge set out in § 37.1-98 A of the Code of Virginia, the program shall take appropriate steps to arrange the client's discharge.

5. When a minor client admitted under § 16.1-345 of the Code of Virginia no longer meets the commitment criteria as determined by appropriate program medical staff review, the client shall be discharged from the program.

6. When an adult client who was involuntarily admitted has been in the program for more than 30 days and makes a written request for discharge, the program shall review and determine whether the client continues to meet the criteria for involuntary commitment. If the director denies the request for discharge, he shall notify the client, in writing, of the reasons for denial and of the client's right to seek relief in the courts. The request and reasons for denial shall be included in the client's record.

7. If at any time the program determines that a client involuntarily admitted pursuant to Chapter 11 (§ 19.2-167 et seq.) or Chapter 11.1 (§ 19.2-182.2 et seq.) of Title 19.2 of the Code of Virginia no longer meets the criteria upon which the client was admitted and retained, the program or, where appropriate, the commissioner shall immediately inform the client, the advocate, and the appropriate court of its determination and shall seek judicial authorization to discharge or transfer the client.

## **12 VAC 35-115-50. Consent.**

A. In obtaining informed consent for any purpose required under this chapter, the responsible staff person shall review with the client or the authorized representative the information required in the definition of "consent." To the extent permitted by the client's capacity, the client will be involved in decision-making regarding treatment.

B. Except in emergency situations, documentation of consent of the client or the authorized representative shall be obtained for treatment or services, including medications, that present a significant risk before such treatment is initiated, administered, or undertaken. When treatment involves the administration of psychotropic medication(s), the risk(s), including tardive dyskinesia, if applicable, shall be explained to the client and to the authorized representative. Within 72 hours of the onset of an emergency, the program shall make every effort to seek consent from the client or an authorized representative.

C. In residential programs whenever the client is under the age of 18 and in the legal custody of a natural or adoptive parent, consent shall also be sought from at least one parent, unless the program determines that a delay in treatment necessitated by seeking consent will adversely affect the recovery of the client.

1. A competent minor may consent to treatment, independent of the client's parents or legal custodian for the treatment of sexually transmitted diseases, family planning, or outpatient services or treatment for mental illness, emotional disturbance, or substance abuse pursuant to § 54.1-2969 D of the Code of Virginia.

2. Where a court of competent jurisdiction has ordered or consented to treatment or services pursuant to §§ 16.1-241 D, 16.1-275, or § 54.1-2969 B of the Code of Virginia, the concurrent consent of the parent shall be unnecessary. Reasonable efforts must be made, however, to notify the parent or legal custodian promptly following medical or surgical treatment.

D. If the capacity of the client to make an informed decision is in doubt, the director shall be notified. The director shall designate a physician, licensed psychologist, licensed clinical social worker, or licensed professional counselor who currently is not otherwise engaged in providing or offering treatment to the client, to make a clinical review and determination of the client's capacity to make an informed decision. If a client, family member, or other personal representative objects to the results of this determination, the client, family member, or other representative shall be informed of the right to contact the advocate for assistance.

E. Where it is determined that the client lacks the capacity to make an informed decision regarding treatment or services, the director shall explore the availability of an individual to serve as authorized representative for the purpose of providing consent for treatment or services. The director shall have the primary responsibility for designating an authorized representative in the order of priority as listed in 12 VAC 35-115-10.

F. When it is clinically indicated that the nature and extent of the client's incapacity to make an informed decision is perpetual and where there is no individual not employed by the program to act as authorized representative, the director shall make appropriate efforts to seek a judicial determination of the client's capacity to make informed decisions and court appointment of an appropriate person as guardian for purposes of providing consent under § 37.1-128.1 of the Code of Virginia, or seek a court order authorizing treatment under § 37.1-134.5 of the Code of Virginia.

G. When the client for whom an authorized representative has been designated objects to a proposed treatment or service or to the designation of an authorized representative, the director and the advocate shall be notified in writing.

1. When the client objects to a proposed treatment or service for which consent has been given by other than

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a legal guardian, the client may petition the LHRC for a review of the determination that the client's personal consent is not required.

2. If the client is a minor and 14 years of age or older and concurrent consent cannot be obtained because of a conflict between the minor and the parent or legal guardian, the director shall be notified in writing. The minor or parent/legal guardian may petition the LHRC for a determination that concurrent consent is not required.

3. Such petition shall be handled as an appeal to the LHRC as required by this chapter.

4. In conducting a review, the director or the LHRC may obtain an examination of the client and a determination of the client's capacity to consent to treatment, at the program's expense, by a physician or licensed clinical psychologist not employed by the program.

5. When, after reviewing the proposed treatment or service and the lack for capacity determination(s) and having heard the client's reasons for objecting to the proposed treatment, the LHRC concurs with the determination(s) that the personal consent of the client is not required, treatment may be initiated or continued with the consent of the authorized representative. The client shall be advised of the right to appeal to the SHRC.

6. When, after the review, the LHRC does not concur with the determination(s) that the client lacks the capacity to consent, treatment shall not be initiated or shall be suspended pending appeal by the director to the SHRC.

H. A review of the client's capacity shall be conducted periodically or as the client's condition warrants.

I. When an emergency is deemed to exist, interventions that present significant risk will be used only when less restrictive measures have been exhausted or when the emergency is so sudden that no less restrictive intervention is feasible.

1. Program policy shall specifically identify what treatment or interventions may be employed to respond to a client's condition or behavior in an emergency.

2. Program policy shall identify qualified clinical staff responsible for assessing emergency conditions and determining the appropriate clinical intervention.

3. Whenever qualified clinical staff determine that an emergency exists, treatment or other approved interventions may be initiated, administered or undertaken without the informed consent of the client or the authorized representative. When an emergency results in harm or injury to any client, the program shall notify the authorized representative.

4. All instances of emergency treatment shall be documented in the client's record.

J. Except in a medical emergency, programs shall not perform nor cause to be performed, whether in the program or elsewhere, a surgical procedure on any adult client without prior determination by an independent reviewer, designated by the director, that informed consent has been obtained in accordance with this chapter, unless a court has authorized such surgical procedure pursuant to § 37.1-134.5 of the Code of Virginia, or as repealed and reenacted at § 37.1-134.21, effective January 1, 1998, or pursuant to § 54.1-2970 of the Code of Virginia.

### **12 VAC 35-115-60. Confidentiality.**

A. Programs shall maintain all records of treatment or services and requests for treatment and services with confidentiality. Programs shall comply with all applicable state and federal statutes and regulations including the Virginia Privacy Protection Act (§ 21.-377 et seq. of the Code of Virginia), the Virginia Patient Health Records Act (§ 32.1-127.1:03 of the Code of Virginia), and the Virginia Freedom of Information Act (§ 2.1-340 et seq. of the Code of Virginia).

B. Programs shall maintain a permanent record on each client in accordance with program policy unless the record is purged or destroyed in compliance with statute, court order, or applicable regulations. The record shall include all documentation required by this chapter.

C. Programs shall inform the client and the authorized representative of client rights concerning disclosure and correction of records, of the right to give or withhold consent to disclosure to others, and of the limitations of those rights and conditions under which disclosure may be granted to others without consent.

D. Disclosure of a client's record or information that it contains shall be made only with the documented consent of the client or the consent of the authorized representative.

1. Disclosure of a minor's record requires the concurrent consent of the parent or legal guardian unless concurrent consent is unnecessary under this chapter for the specific treatment which is the subject of the record or object of disclosure (e.g., treatment of venereal diseases, under § 54.1-2969 D of the Code of Virginia).

2. When a written disclosure is made to any person, the program shall attach a statement that the recipient shall refrain from and protect against any disclosure not authorized by further consent or this chapter, or as otherwise allowed by law.

E. Clients in residential programs may designate family members, friends, and others who may be informed of the presence of and general condition or well-being of the client by telephone.

F. Where client records pertain in whole or in part to diagnosis or treatment of substance abuse, programs shall not release information beyond that which is specifically authorized in a valid consent form or court order, or that which is necessary to respond to a medical emergency, or as

otherwise authorized by federal regulations appearing at 42 CFR Part 2, Confidentiality of Alcohol and Drug Abuse Patient Records.

*G. Disclosure to and correction by client.*

1. Each adult client is entitled to inspect and obtain copies of the record, except where a physician or licensed psychologist responsible for the provision or supervision of treatment to the client:

a. Personally interviews the client and reviews the record as a result of the request for access;

b. Makes a permanent part of the record a signed, written statement that in such professional's opinion the personal review of the records by the client presently would be injurious to the client's physical or mental health or well-being; and

c. Explains or discloses to the client as much of the record as is presently possible without risk of injury to the client.

2. Where disclosure to the client is limited or denied, disclosure shall be made, upon request of the client, to a lawyer, physician, or psychologist designated by the client, or to the authorized representative.

3. Programs shall make available, without charge to any client who is visually or hearing impaired or whose native language is not English, assistance in reading and understanding the records.

4. Upon request, programs shall inform the client or the authorized representative of the sources of information contained in the records and the names of all recipients of information in the records (excluding program or department employees) for the preceding three years to the extent that they are available.

5. The client or the authorized representative may challenge, correct, or explain information about the client in the records in accordance with the following minimum procedures:

a. The program shall investigate and file in the record a written report concerning the client's request;

b. Where, after investigation, those records are found to be incomplete, inaccurate, not pertinent, not timely, or not necessary to be retained, that part shall be marked clearly to indicate correction, or purged from the regular records of the client and maintained separately; thereafter the original record shall not be disclosed without separate specific consent or as compelled by an order by the court having jurisdiction over the subject matter;

c. Following any correction of the record, the program promptly shall notify in writing all past recipients of the incorrect records that those records have been corrected, requesting that recipients acknowledge the correction;

d. If the investigation and report do not result in correction to the satisfaction of the client, the client may file in the record a statement setting forth the client's position, and shall receive assistance, if necessary, in preparing this statement;

e. Whenever a statement of dispute is filed, the program shall furnish to all past recipients of the disposed records a copy of the statement, and any subsequent disclosure of the disputed records shall clearly note that they are disputed and supply the statement together with the disputed records, provided that proper consent is given or that disclosure is permitted in accordance with 12 VAC 35-115-60 I; and

f. The advocate shall be notified when disclosure to a client is limited or denied or when a correction requested by the client is denied, and shall provide assistance if the client requests further review pursuant to Part III (12 VAC 35-115-130 et seq.) of this chapter.

*H. Notwithstanding the general prohibition against disclosure of client records without consent, the program may disclose records or information concerning the client without consent only to the extent provided below:*

1. Disclosure may be made to any person necessary where an emergency exists in which it is reasonable to believe that a delay in disclosure in information will result in serious bodily injury or death or deterioration of the physical or mental condition of the client or of another person threatened by the client, within the next 72 hours. Information released without client consent under emergency conditions shall be limited to information necessary to accomplish the purpose for which the release is made.

2. Disclosure may be made to any full-time or part-time employee, consultant, agent, or contractor of the program to the extent required for the provision of treatment or services to the client or to obtain reimbursement for the costs of treatment.

3. Disclosure may be made to third party payor(s) in accordance with Chapter 12 (§ 37.1-225 et seq.) of Title 37.1 of the Code of Virginia.

4. Disclosure may be made where the client, or someone acting on the client's behalf, introduces the client's mental condition of treatment as an element of a claim before a court, administrative agency, or medical malpractice review panel, or where compelled by a subpoena issued in compliance with the Patient Health Records Privacy Act (§ 32.1-127.1:03 of the Code of Virginia) or court order upon good cause, or where commitment or certification is being proposed.

5. Disclosure may be made to any full-time or part-time employee, consultant, or agent of the Office of the Attorney General or the program's official legal counsel

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in providing representation to the Commonwealth of Virginia or the program, respectively.

6. The disclosure of the records of complainants may be made to the LHRC, the SHRC, the advocate, and the State Human Rights Director. Records containing information relevant to any duly authorized investigation may be released for the purposes of the investigation.

7. Disclosure may be made to other persons authorized by the commissioner or director, as appropriate, if the disclosure is necessary to enable the authorized person(s) to conduct any of the following activities: (i) licensure/accreditation reviews; (ii) hearings/investigations as required by this chapter; (iii) program evaluations; (iv) statistical reporting; (v) historical research; (vi) entering data into or accessing from the Patient Resident Automated Information System; or (vii) similar activities authorized by the commissioner or director.

8. When the client or authorized representative has refused consent, disclosure may be made to the extent necessary to prepare and implement a comprehensive individual treatment or service plan including a discharge plan as specified in § 37.1-98.2 A of the Code of Virginia.

9. Disclosure may be to the extent required by any state or federal statute and regulations. (See 12 VAC 35-115-180.)

10. Disclosure may be made to the Department for the Rights of Virginians with Disabilities (DRVD) as authorized under the Protection and Advocacy for Mentally Ill Individuals Act (PAMII) (42 USC § 10801 et seq.) and the Developmental Disabilities Assistance and Bill of Rights Act (DD Act) (42 USC § 6000 et seq.) and implementing regulations. The commissioner may also provide information to DRVD concerning the death of any resident in a DMHMRSAS operated facility, without the further consent of the deceased's authorized representative, as authorized under the PAMII and DD Acts.

11. Upon application to the commissioner, disclosure may be made to persons determined by the commissioner to be engaged in bona fide historical research, provided that: (i) the resident who is the subject of such disclosure is deceased; (ii) there is no known living person authorized by law to consent to such disclosure; and (iii) such disclosure would in no way reveal the identity of any person who is not the subject of the historical research. Application for such disclosure shall include, at a minimum, (i) a summary of the scope and purpose of the research, (ii) a description of the product to result from the research and its anticipated date of completion, (iii) a rationale explaining the necessity of access to resident records; and (iv) a specific identification of the type and location of the records sought.

1. Whenever disclosure of a client's records is made to others without consent except program or department employees, the following steps shall be taken prior to that disclosure or, in the case of emergencies, promptly afterward:

1. A written summary of the information subject to disclosure, the name of each recipient of that information, the purpose of disclosure and the date of disclosure shall be prepared and made a permanent part of the client's record;

2. Written notice of the disclosure, including the name of each recipient of the information and the nature of the information, shall be given to the client whose records are involved in the disclosure, and to the authorized representative; and

3. Absent an emergency, any objections of the client or the authorized representative shall be given strong consideration, consistent with the client's need for treatment, the need for the disclosure, and the requirements of the law.

## **12 VAC 35-115-70. Dignity.**

A. The rights described in this subsection are considered essential to the preservation of the client's dignity as a human being. Programs shall not restrict the following rights unless the program submits and receives approval for a variance from this chapter. Programs shall assure that clients receive treatment and services with dignity, which includes:

1. Being called by the client's preferred or legal name;

2. Being protected from harm, abuse, neglect, and exploitation;

3. Assistance in applying for and making full use of any public service or benefit to which the client may be entitled, including but not limited to educational or vocational services, housing assistance, welfare benefits, services or benefits under Titles II, XVI, XVIII, and XIX of the Social Security Act, and services from legal and advocacy service agencies;

4. A written copy and explanation of the rules of conduct applicable to the services in which the client is participating;

5. Provision of a safe, sanitary, and humane physical environment, including but not limited to a physical environment that affords: (i) reasonable privacy and private storage space; (ii) operating toilets, lavatories, showers, and tubs that are adequate in number and design, and that afford privacy; (iii) direct outside ventilation provided by an operable window or air conditioner; (iv) windows or skylights in all major areas used by clients; (v) clean air, free of noxious odors; and (vi) room temperatures that are comfortable in all seasons;

6. Receipt of a nutritionally adequate, varied, and appetizing diet prepared and served under sanitary conditions and served at an appropriate temperature;

7. Receipt of suitable clothing (cost of obtaining and cleaning may be subject to client reimbursement);

8. Opportunity to consult in private with a lawyer, judge, legislator, ordained clergy, licensed health care practitioner, authorized representative, and advocate;

9. Option to attend or not attend religious services held on the premises and to engage or not engage in any recognized religious practices, provided that such services or practices neither present a danger of bodily injury nor interfere with another client's religious beliefs or practices;

10. Assistance in writing or reading mail; and

11. Opportunity to communicate in confidence with any person by mail or telephone and to be assisted in exercising this right subject to the following conditions and limitations:

a. Where there is probable cause to believe that mail contains contraband or anything that would create a danger to the client or others, the mail may be opened, but not read, by a staff member in the presence of the client;

b. Provision of material and postage for one letter per day upon the request of an indigent client; and

c. Use of the telephone may be limited to the extent necessary to assure equal access, to dine or sleep without disturbance, or to participate in a program activity.

B. The provisions of this chapter do not obligate any program to assist in the perpetration of or to refrain from reporting or otherwise intervening to prevent any criminal act.

C. The program shall designate the staff position(s) responsible for providing assistance to clients upon request in exercising their rights and in facilitating the review of complaints regarding services or treatment.

D. Programs shall comply with all state laws governing the reporting of abuse. Staff shall report all allegations involving a client having been subjected to harm, abuse, neglect, or exploitation within a program setting or program activity, as set forth in 12 VAC 35-115-130 C. Staff shall be subject to the program's personnel policies for any act which renders a client abused or exploited and for failure to report or otherwise take action on behalf of a client when the staff has knowledge of an allegation that a client is being subjected to harm, abuse, neglect, or exploitation.

## **12 VAC 35-115-80. Least restrictive alternative.**

A. Programs shall provide treatment settings that encourage and support the client's opportunities to exercise normal activities and conditions of living. Programs shall not limit or restrict opportunities more than is necessary to

achieve a substantial therapeutic benefit, maintain a safe and orderly environment, or significantly reduce a foreseeable risk of harm to the client or others.

B. In general, programs should employ alternatives to implementing restrictions of normal activities and conditions of living. Certain restrictions may be imposed when justified and implemented in accordance with this chapter.

C. Those activities and conditions of living which may be restricted only in accordance with the following sections include but are not limited to:

1. Physical, personal, or social liberties;

2. Private visitation with anyone the client chooses;

3. Use of personal funds, including purchases in canteens, vending machines, or stores selling a basic selection of food and clothing;

4. Viewing, hearing, or receiving television, radio, books and newspapers whether privately owned or in a convenient library or congregate area of the program;

5. Access to and use of personal clothing and other personal items; and

6. Use of recreational facilities.

D. Programs shall comply with the following requirements in the development of policies and procedures for the use of protective devices for protective purposes or supportive purposes:

1. Unless other accreditation standards mandate more stringent procedures, policies and procedures shall delineate definitions, purposes, and uses for protective devices.

2. Protective devices may be used only upon order of a physician after the physician's personal observation of the client and determination and documentation that less restrictive means will not effectively protect or support the client. Orders shall be renewed weekly for the first month and thereafter every 30 days.

3. Protective devices for medical or post-surgical purposes may be used only upon order of a physician after the physician's personal observation of the client. Orders shall be renewed weekly after personal observation of the client by the physician.

4. The condition of clients for whom protective devices are ordered shall be monitored by qualified staff designated by the ordering physician, as frequently as the physician may direct but at least every 30 minutes.

a. Appropriate arrangements shall be made and documented to ensure that no circulatory problems develop, appropriate opportunities for motion and exercise are provided, access to the bathroom is according to need, and bathing opportunities are afforded at least every 24 hours.

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b. Staff shall document daily the effectiveness of the device and any problems resulting from its use. If any problems are noted, staff shall report them to the physician immediately.

5. The use of geriatric feeding chairs during mealtimes and routine bedside rails shall be prescribed and monitored in accordance with standard clinical practice. Orders shall be written by a physician after personal observation by the physician or registered nurse, and renewed monthly.

E. Program staff shall be trained to identify potential crisis situations and to employ accepted methods for reducing agitated and aggressive behavior.

1. Each time the client exhibits agitated or aggressive behavior, every effort will be made to manage the behavior through nonphysical interventions.

2. Where the client presents an imminent, serious physical threat to himself or others and every other approved method of nonphysical interventions has been attempted, or when less restrictive interventions are not feasible, staff may employ emergency interventions to prevent harm to the client or others.

3. Staff who are needed to assist in the emergency intervention but who have not been trained in these procedures may assist only as part of a team under the direction of a team leader who has completed the approved training program.

4. All documentation pertaining to emergency intervention shall be routinely reviewed by the program director and shall be filed in the client's record.

F. Programs shall comply with the following requirements in the development of behavior management policies and procedures where therapeutic interventions, conduct expectations, or restrictions are implemented based upon specific behavioral criteria in order to preserve the therapeutic milieu, to promote a safe and orderly environment, or to augment individual treatment or services.

1. Behavior management policies and procedures shall not restrict the rights protected under 12 VAC 35-115-70 unless the program has submitted and received approval for a variance from this chapter.

2. Behavior management policies and procedures shall be reviewed with each client and the client's authorized representative. Reviews shall include an explanation of the consequences for refusal or failure of the client to comply with the rules, expectations, or restrictions; specifically, the circumstances, if any, under which the client may be suspended or terminated from the program. Documentation of this review shall be entered in the client's record.

3. The individual application of behavior management shall be documented in the client's record including: (i) a description; (ii) the justification for the application; (iii) the duration; and (iv) the client's response.

Behavior management policies and procedures shall be submitted initially to the LHRC for review and approval whenever there are proposed changes, and at other times as requested by the LHRC or the advocate.

G. Program policies shall comply with these additional requirements in the development of written rules of conduct designed to maintain a safe and orderly environment.

1. Rules shall be fairly applied to all clients situated in the program and may not conflict with this chapter or any client's individual treatment or service plan.

2. Rules of conduct shall be reviewed with each client including explanations of the consequences for violating the rules and the circumstances in which the client may be further restricted, suspended, or terminated from the program.

3. Consequences for violation of the rules of conduct shall not involve restraint, seclusion, or intrusive aversive therapy. This does not prohibit staff from implementing appropriate interventions in emergency situations in which the client presents an imminent, serious physical threat to self, others, or the environment.

4. An abbreviated statement of the rules of conduct shall be placed or posted prominently in an area to which all clients have regular access.

5. Programs shall involve clients in the development and modification of rules of conduct to the maximum extent feasible. Rules shall be submitted initially to the LHRC for review and approval whenever there are proposed changes, and as requested by the LHRC or advocate.

H. Programs shall comply with these additional requirements in the development of time out policies and procedures where time out is used as a behavior management technique.

1. Written policies and procedures shall include the following elements:

a. The staff positions designated to authorize the use of time out;

b. The client behaviors for which time out may be used;

c. The levels of time out (e.g., placement in a specific unlocked area or room, in time out room, etc.) that will be used and the criteria for decreasing the level of restrictiveness;

d. The procedure for monitoring and documenting the behavior(s) and application of time out;

e. The frequency of application and the criteria for release from time out;

f. Monitoring at appropriate intervals, but at least every 15 minutes, access to the bathroom as needed, and receipt of meals at the conclusion of the period and within serving time;



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*all incidents resulting in orders for restraint and for seclusion.*

*(2) Each order for mechanical restraint or seclusion shall not exceed four hours.*

*(3) The client shall have the opportunity to bathe at least every 24 hours when mechanical restraint or seclusion exceeds that period.*

*(4) When a client has been mechanically restrained or secluded for a period of 24 continuous hours or 24 hours in a 72-hour period, the program shall notify the advocate in writing of the name of the client and the reasons for the length of restriction, unless the advocate directs otherwise.*

*(5) A client, subjected to restraint or seclusion, or the authorized representative and the advocate shall be given an opportunity to obtain an independent clinical review of the necessity and propriety of its use.*

## **12 VAC 35-115-90. Work.**

*A. Programs shall not require, entice, persuade, or permit clients or their family members to perform compensable work unless compensated fairly in accordance with the Fair Labor Standards Act (29 USC § 201 et seq.).*

*1. Programs shall give consideration for employment of qualified clients on an equal basis with other job applicants and employees, after making reasonable accommodations in the nature of the employment for each applicant or employee with a physical or mental disability.*

*2. Programs shall make available information, education, and program policies affecting the employment of persons with disabilities.*

*B. Programs using therapeutic work shall establish policies clearly distinguishing such work from other forms of work. Such policies shall address a client's refusal to perform therapeutic work. Both the type of work and the consequences for refusal shall be explained to the client and documented in the client's current treatment or service plan. General personal maintenance and housekeeping may be required by the program's written rules of conduct.*

*C. Inpatient hospital settings shall not withhold or terminate treatment or services because of the refusal of a client to perform any work, including personal maintenance or personal housekeeping.*

*D. Programs may not require a client to engage in work, other than personal maintenance or personal housekeeping, unless the program enters into a written agreement with the client or authorized representative to do so and there is documentation that the proposed work is consistent with the client's individual treatment or service plan.*

*E. Programs providing prevocational services, vocational training, sheltered work, and supportive employment services*

*shall: (i) establish standards for designating the employment and training category of eligible clients and (ii) identify in writing the manner in which the amount of compensation, if any, is determined for persons in each category. These standards shall be communicated to clients. Clients shall be informed of the consequences for violations of work standards, including suspension and termination from the activity or job. Programs shall make available a copy of the standards of work to all clients and their authorized representatives, as appropriate.*

*F. Programs shall not pay a client less than the state minimum wage for compensable work, or less than is paid to any other employee in the same job classification, whichever is greater, without prior authorization.*

*1. Any interested party may file a complaint regarding a reduced wage in accordance with procedures set forth in this chapter.*

*2. No deduction for the cost of treatment or services or for expenses related to job modification shall be made from the wage of a client, provided that reimbursement for the costs of treatment may be sought by the department or programs in accordance with usual practices.*

## **12 VAC 35-115-100. Research.**

*Programs shall comply with all applicable state and federal laws and regulations regarding human research, including those specified in Chapter 5.1 (§ 32.1-162.16 et seq.) of Title 32.1 of the Code of Virginia, and the rules and regulations pertaining thereto.*

## **12 VAC 35-115-110. Assurance of legal rights.**

*A. Nothing in this chapter shall be interpreted as impairing any other legal right or remedy to which a client may be entitled under the laws of the Commonwealth of Virginia or the United States.*

*B. Except as otherwise provided in state or federal law, no client shall be denied legal rights, privileges or benefits solely by virtue of being voluntarily or involuntarily admitted, certified or committed to a program. These legal rights include, but are not limited to, the following:*

- 1. The right to dispose of property;*
- 2. The right to execute legal instruments;*
- 3. The right to buy or sell;*
- 4. The right to enter into contractual relationships;*
- 5. The right to register and vote;*
- 6. The right to marry and obtain a separation, divorce, or annulment;*
- 7. The right to hold a professional, occupational, or vehicle operator's license;*
- 8. The right to make a will; and*
- 9. The right of access to legal counsel and to the courts.*



## **12 VAC 35-115-120. Variances.**

A. The director, upon the approval of the commissioner or the board of directors, may seek a variance from this chapter by filing a formal application. Written application shall set forth in detail the justification for and substitute rule or procedure which proposes to substantially accomplish the objectives of the regulation to which a variance is sought. The intent of the variance procedure is to recognize those special circumstances that may require exceptions or changes in the requirements established by this chapter. The review process shall be conducted as follows:

1. The director, after obtaining approval from the commissioner or board of directors, shall file a formal application with the LHRC after notifying the advocate and other interested persons. This application shall identify the specific regulation, state the proposed wording of the substitute rule or procedure, and outline the justification for seeking a variance.
2. The LHRC, upon receipt of the application, shall invite oral or written statements by the advocate and other interested persons.
3. At its next meeting, the LHRC shall review the application and prepare a written report of facts and its recommendation for approval, disapproval, or modification. This report and a copy of the original application shall be sent to the State Human Rights Director, SHRC, and the parties making application for variance.
4. The SHRC, upon receipt of the application and the LHRC's report, shall invite oral or written statements by the director, LHRC, advocate, and other interested persons.
5. Following review of the LHRC report, the SHRC shall prepare a written decision deferring, disapproving, modifying, or approving the application. A copy of the decision and the reasons for the decision shall be sent to the director and the commissioner and the board of directors, where appropriate, the State Human Rights Director, advocate, and the LHRC.
6. The variance shall be implemented according to the written applications as amended, modified, or approved by the SHRC.

B. The decision of the SHRC granting variances shall be final. Decisions of the SHRC denying variances shall be final unless the commissioner notifies the SHRC and the state board within 10 days that it has been determined that the variance is necessary to protect the safety or welfare of an individual client or to establish or maintain minimum standards of safe and humane care in the program.

## **PART III.**

### **INFORMAL RESOLUTION, HEARINGS, AND APPEALS.**

## **12 VAC 35-115-130. General provisions.**

A. Programs shall assure that clients receive a timely and impartial review of alleged violations of the rights assured under this chapter. Applicants for treatment or services are entitled to an impartial review solely for the purpose of challenging the denial of admission.

B. Programs shall assure that clients have access to legal counsel of their own choice and at their own expense. Programs shall assure that information regarding the existence and location of a legal aid office or other legal advocacy services is given to clients who cannot afford or are otherwise unable to retain private counsel and shall provide assistance, if needed, in initiating contact with that office.

C. At each step of the resolution process, the client or the client's representative shall be advised of the determination and plan of action. Clients shall be advised that appeals must be filed within five working days after the receipt of the written determination at each step of the informal resolution process.

D. The information gathered or disclosed during any review of an alleged violation shall be confidential and shall not be disclosed to any person except to the extent necessary to conduct the review according to the procedures specified in this part.

E. The parties to a complaint are the client and the director, each of whom may be represented by others.

F. Hearings conducted for the purpose of review shall be closed to the public, unless the complainant requests that the hearing be open, or an open hearing is required by the Virginia Freedom of Information Act (§ 2.1-340 et seq. of the Code of Virginia).

G. No action shall be taken or threatened by anyone for the purpose of punishing or retaliating against any client, advocate, employee, or other interested party for presenting a complaint hereunder or for providing assistance to the complaining party.

H. Failure to make timely appeal under this chapter shall in no way prejudice a client's right to seek other remedies available under applicable law.

## **12 VAC 35-115-140. Initiation, investigation, and informal resolution of complaints.**

### **A. General complaints.**

1. Any client, authorized representative, advocate, or other interested person who believes an applicant for services has been wrongfully denied admission, or a client has been subject to any violation of this chapter may report it to program staff, the advocate, or both. Except for complaints of discrimination or of harm, abuse, neglect, or exploitation (12 VAC 35-115-120 B

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and C), any staff initiating or receiving a report or complaint of a violation shall make a verbal and written report to the director or designee. The director or designee shall attempt to resolve the complaint informally by meeting with the client and any chosen representative and with other persons whom the director or designee may deem appropriate and by conducting other investigations as considered necessary. The director or designee shall present a written determination and a plan of action within 15 working days of receipt of the complaint.

2. If the advocate is not involved in the original filing and processing of the complaint, the advocate shall be notified of the unresolved complaint not later than the date on which the client is informed of the right to appeal.

3. If a complaint resolution satisfactory to the client or applicant for services cannot be reached through the process outlined above, the client or applicant, or their representative, may make a written complaint to the director.

4. The director or designee shall conduct investigations as may be deemed appropriate and shall make a final determination regarding the complaint within 10 working days of receiving the written complaint. A written copy of the determination and a written copy of the director's plan of action shall be forwarded to the client, the advocate, and the program staff involved.

### B. Complaints of discrimination.

1. All complaints that a client or applicant for services has been wrongfully treated by a program on the basis of race, national origin, gender, age, religion, disability, or ability to pay shall be made or forwarded immediately to the director (the designated equal employment office for the agency), or designee. Complaints, whether made by the client or applicant for services on the client's own or through the advocate or other representative, shall be in writing.

2. The director or designee shall conduct investigations as may be deemed appropriate and in accordance with applicable state and federal statutes and regulations. The director shall make a final determination regarding the complaint within 15 working days of receipt of the written complaint. A written copy of the determination and a written copy of the director's plan of action shall be forwarded to the client, the advocate, and all program staff involved.

### C. Complaints of harm, abuse, neglect, or exploitation.

1. Any client, authorized representative, advocate, program staff, or other interested person who believes that a client may have been harmed, abused, neglected, or exploited in a program or program activity shall immediately report it to the director. The director or designee shall review the allegation(s) and determine whether any interim measures are necessary to protect

the client pending completion of an investigation. These measures may include, but are not limited to: (i) directing the employee(s) allegedly involved to have no contact with the client; (ii) temporarily reassigning or transferring the employee(s) to a position involving no direct services; or (iii) temporarily suspending the employee(s) pending completion of investigations, according to departmental or program personnel policies and procedures.

2. When the director or designee has reason to suspect that a client may have been subjected to harm, abuse, neglect, or exploitation, the director shall report this information to the appropriate local Department of Social Services pursuant to §§ 63.1-248.3 and 63.1-55.3 of the Code of Virginia. In cases of suspected criminal activity such as sexual abuse, the director or designee shall contact law enforcement.

3 The director or designee shall notify the advocate of the allegation and shall appoint impartial investigators to conduct an investigation within 24 hours.

4. The program investigator(s) may participate in a joint investigation with the Department of Social Services, the Office of Licensure, and the advocate or may conduct a separate investigation.

5. The program investigator(s) shall make an initial report to the director or designee within 10 working days of appointment. The director or designee shall take appropriate action, within three working days of receiving the report. A final report from the investigator(s) shall be made within 15 working days of appointment. A copy of the final report shall be forwarded to the advocate.

6. The client or authorized representative, the advocate, and the employee(s) alleged to have been involved shall receive written notice of the director's determination.

### **12 VAC 35-115-150. Local Human Rights Committee hearings.**

A. If the client or the client's representative objects to the director's determination or plan of action regarding the resolution of any type of complaint, then either of those persons or the advocate may petition the LHRC for a hearing.

1. The petition for a hearing shall contain all facts and arguments on which the appeal is based.

2. The chairperson of the LHRC shall forward a copy of the petition for a hearing to the director and the advocate. The director or designee shall submit to the LHRC a written statement, which is responsive to the assertions made in the petition, and a copy of the written record regarding the complaint.

B. The LHRC shall hold a hearing within 15 working days of the chairman's receipt of the client's petition. Hearings shall be conducted in accordance with the LHRC bylaws and this chapter.

1. The parties at the hearing shall be the client and the director. Other participants may be the client's advocate or other personal representative and the director's representative or other designee.

2. The parties shall have at least five working days notice of the hearing, shall have the right to present witnesses and other evidence, and shall have the opportunity to be heard.

C. No later than 15 working days after the completion of the hearing, the LHRC shall submit in writing to the parties to the hearing, its findings of fact and its recommendations.

1. Where appropriate, the LHRC shall identify information that it believes should be taken into account in making any decisions which may involve disciplinary action(s) of any program staff.

2. The director shall outline in writing the actions the director plans to take in response to the recommendations of the LHRC, and shall forward this action outline to the LHRC and to all parties to the hearing no later than five working days after the LHRC has submitted its findings and recommendations.

3. The director shall implement this action outline within five working days after submission of the action outline to all parties, unless the client or the LHRC objects to its implementation.

4. In the case of an objection to the LHRC findings of fact and recommendations or to the action outline, the director shall defer action pending appeal to the SHRC and decisions by that body.

5. Where the LHRC acts on its own initiative or at the request of the SHRC without a complaint having been filed, the director with the approval of the commissioner or the board directors, may appeal the LHRC recommendation to the SHRC.

6. Whenever a client who has not previously filed a complaint alleges that implementation of an LHRC recommendation would violate the client's rights, the client shall first file a petition for a hearing with the LHRC in accordance with this chapter, and thereafter pursue appeal to the SHRC.

D. Where the advocate concludes, after initial investigation, that there is substantial risk that serious and irreparable harm will result if the alleged violation of rights is not remedied immediately, the advocate shall so inform both the director and the LHRC.

1. The LHRC shall hold a preliminary hearing within 72 hours of its receipt of this information. The director and the advocate shall be required to attend.

2. At the conclusion of the hearing, the LHRC shall make preliminary findings and, if a violation is found, shall make provisional recommendations to the director.

3. The director shall formulate and implement the director's action outline within 24 hours of receiving the LHRC's recommendations.

4. If the complainant or client objects to the LHRC findings or recommendations or the director's plan of action, the LHRC shall conduct a full fact-finding hearing according to procedures outlined in 12 VAC 35-115-140 B.

E. In no event shall the fact of such appeal preclude or prevent the director from taking remedial action based upon the advice of legal counsel that such action is required by law.

F. The LHRC on the motion of any party or on its own motion may, for good cause, extend any foregoing time periods either before or after the expiration of that time period.

G. In the absence of any extension as provided for in subsection F of this section, the failure of a client or complainant to appeal the determination within the time period provided for in this section shall constitute a waiver of the complaint.

## **12 VAC 35-115-160. State Human Rights Committee hearings.**

A. If the complainant is not satisfied with the findings of fact or recommendations of the LHRC or the director's plan of action, the complainant may file a petition for review by the SHRC. The appeal shall be filed within 15 working days of receipt of the adverse decision or the director's development or implementation of a plan of action and shall detail the complainant's objection and the reasons therefor.

1. The petition for a hearing shall be filed in the same manner as with the LHRC.

2. The director shall have the right to file a written statement with the SHRC within five working days after receiving a copy of the petition for a hearing.

B. If the director is not satisfied with the findings of fact or recommendations of the LHRC, the director shall notify the commissioner or the board of directors, where appropriate, and request the authority to file a petition for a hearing with the SHRC. The appeal shall be filed within 15 working days of the commissioner's or the board's approval. The petition for appeal shall state in detail the director's objection to the LHRC findings or recommendations.

1. The director shall forward a copy of the petition for appeal to the complainant and the advocate.

2. The complainant shall have the right to file a written statement with the SHRC within five working days after receiving a copy of the petition for a hearing.

3. The director shall be responsible for transmitting to the SHRC, at the time the request for review is filed, the complete record of the proceeding before the LHRC. When the SHRC is requested to review action on a

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complaint filed in accordance with this chapter, the record shall, at a minimum, contain the following components:

- a. The original complaint filed with the LHRC;
  - b. Portions of the client's record that were considered by the LHRC, and any portions of the record considered by the party requesting the review to be relevant, but which the LHRC failed to consider;
  - c. All written documents and materials considered by the LHRC, including any independent evaluations that were conducted;
  - d. A tape or verbatim transcript of the proceeding before the LHRC;
  - e. The director's plan of action; and
  - f. The written objections to the action or its implementation.
- C. The SHRC shall hold a hearing within 30 working days after the chairman's receipt of the appeal.
1. The parties shall be given at least 15 days' notice of the date of the hearing.
  2. The hearing may be held at the program at which the violation is alleged to have occurred or at any other convenient site designated by the chairman of the SHRC.
  3. Except as provided below, the SHRC shall not take any new evidence concerning the alleged violation, shall be bound by the LHRC's findings of fact, and shall limit its review to whether the facts, as found by the LHRC, establish a violation of this chapter and whether the LHRC's recommendations or the director's plan of action appropriately address the alleged violation.
  4. All parties shall have the opportunity to appear before the SHRC to present arguments and answer questions by the members of the SHRC.
  5. If the SHRC determines that the LHRC's findings of fact are clearly erroneous or that the fact-finding procedures employed by the LHRC were inadequate, the SHRC, may, in its discretion, remand the case to the LHRC for another hearing to be completed within a time period specified by the SHRC, or may conduct its own fact-finding hearing.
    - a. If the SHRC chooses to conduct its own fact-finding hearing, it may designate a subcommittee of no less than three of its members as fact finders.
    - b. A hearing shall be conducted within 30 working days of the initial review.
    - c. The parties shall be afforded 15 days notice of the date of the hearing and shall be given the opportunity to be heard and to present witnesses and other evidence.

D. No later than 30 working days after the hearing conducted under 12 VAC 35-115-150 C 3, or the fact-finding hearing conducted under 12 VAC 35-115-150 C 5, the full SHRC shall submit its report, its findings of fact, if applicable, and its recommendations to the commissioner, and copies thereof shall be sent to the LHRC and to the parties.

1. Not later than 15 working days after the receipt of the report, the commissioner shall outline in writing the action to be taken in response to the recommendations of the SHRC or shall explain why the commissioner declines to implement the recommended actions and shall forward the commissioner's plan of action to the SHRC, LHRC, the director, and the client or his representative.
2. If the SHRC objects, in writing, to the commissioner's proposed actions, the commissioner shall defer these actions and shall meet with the SHRC at its next regularly scheduled meeting to attempt to arrange a mutually agreeable course of action.
3. In programs directly operated by the department, the commissioner's decision shall be final and binding on all parties; provided, however, that whenever in the SHRC's opinion, the commissioner's decision is incompatible with the purpose of this chapter, it shall notify the board.
4. If the program is funded or licensed by the department but not directly operated, the commissioner's action outline may include information relative to the proposed future funding or licensure of the program.

E. The SHRC on the motion of any party or on its own motion may, for good cause, extend any of the foregoing time periods either before or after the expiration of that time period.

F. Content of recommendations.

1. In making its recommendations, the LHRC and the SHRC shall identify any rights or regulations that were violated and shall identify any policies, practices, or conditions that account for any violations, and shall recommend actions and relief, which may include but are not limited to, changes in policies, practices, or conditions for the purpose of preventing further violations of the rights assured under this chapter.
2. If implementation of the recommendations of the LHRC or the SHRC cannot be achieved within a reasonable period of time, the LHRC or the SHRC, as appropriate, shall also recommend necessary interim action to effect whatever immediate remedies are appropriate and possible.

G. Content of action outlines.

1. Any action outline submitted by the director or commissioner in response to the LHRC or the SHRC, as the case may be, shall address and respond to both the formal recommendations and the interim recommendations made by the LHRC or the SHRC.

2. The action outline shall identify those financial or other constraints, if any, which prevent efforts to remedy the violation.

#### H. Dissemination of the SHRC reports.

1. The SHRC shall notify the commissioner and the State Human Rights Director whenever it determines that its recommendations in a particular case are of general interest and applicability to programs, advocates, or LHRCs. In such cases, the commissioner and the State Human Rights Director shall take necessary and appropriate steps to reproduce and distribute the opinion or report of the SHRC to programs, advocates, or LHRCs as appropriate. To the extent practicable, the documents distributed shall not identify the name of clients or employees in a particular case.

#### PART IV. APPENDICES.

### **12 VAC 35-115-170. Appendix A. Clients Rights and Responsibilities Notice.**

#### *Clients Rights and Responsibilities Notice*

Clients admitted to mental health, mental retardation and substance abuse services programs and facilities have certain rights pursuant to § 37.1-84.1 of the Code of Virginia and the Rules and Regulations to Assure the Rights of Clients in Facilities and Programs Operated, Funded, or Licensed by the Department of Mental Health, Mental Retardation and Substance Abuse Services (12 VAC 35-115-10 et seq.).

#### *Right to Notification*

Clients and their authorized representatives shall personally be given notice of these rights and responsibilities upon admission and every year thereafter as long as the client participates in the program. Clients and their authorized representatives will receive a copy of the rules of conduct specific to the client's participation and, upon request, a copy of the human rights regulations.

#### *Right to a Treatment or Service Plan*

Clients who meet program admission criteria will receive appropriate treatment or services, to the extent the program's mission and resources permit, in a professional and courteous manner without regard to race, national origin, gender, age, religion, disability, or ability to pay.

Clients have the right to participate in the planning of their treatment or services and should be encouraged to ask questions of staff about their treatment and share any concerns about treatment, services, or fees. Clients who believe they have been discriminated against by a program are encouraged to contact the director, the advocate, or any program employee.

A written, individualized treatment or service plan shall be developed with the maximum participation of the client and the client's authorized representative. Plans shall be

designed to meet the client's specific needs, to be responsive to the client's stated preferences, and shall demonstrate the exercise of professional judgment.

#### *Right to Consent*

Clients and their authorized representatives shall be educated and informed about the proposed benefits, as well as risks that might cause harm or a serious side effect that may result from a specific treatment or service, and have an opportunity to ask questions. Except in an emergency, a program shall provide treatment that has a significant risk only with the client's consent, the consent of the authorized representative where the client is incapable of making an informed decision, or judicial authorization.

Clients and their authorized representatives have the responsibility to maintain active communication with the client's treatment or service provider(s) by providing full information about medical and emotional problems being experienced, attending and participating meaningfully in all scheduled therapies and activities or giving reasonable notice to cancellations, following agreed upon recommended treatment or service plans, requesting review of treatment needs where restrictions are thought to be unnecessary, and asking questions about participating in the development or revision of rules of conduct.

Clients shall not be subjected to human subject research without their written informed consent and thorough review and approval of the proposed research project.

Clients and their authorized representatives have the responsibility to provide the financial status information necessary for the program to fairly apply fee schedules and policies and to determine the client's need for assistance or payment plans.

#### *Right to Confidentiality*

Clients have the right to have records and other information about them treated with confidentiality. Programs shall not release information and records unless the program has documented consent from the client or the authorized representative. Programs may release information without consent only in situations required or permitted by law (e.g.: medical emergency, suspected child abuse or neglect, suspected adult abuse, neglect or exploitation, threat to self or others; or through a court order).

Clients and their authorized representatives have the responsibility to respect the privacy of other people with whom they come into contact while participating in treatment and services.

Clients have the right to inspect and to have copies of their records at the client's expense, except where it would be injurious to the client's physical or mental health or well-being. In that situation, a lawyer, doctor, or psychologist whom the client chooses may see the records or receive the copy of a client's records. Where the client believes there are mistakes in the record, the client may ask to have them corrected, and if the program does not find error within the record, the client

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may have a statement about the alleged error placed in such record.

## *Right to Dignity*

Clients have the right to be treated with dignity as human beings at all times, regardless of their need for treatment or other services. Treatment with dignity includes but is not limited to: being called by the client's preferred or legal name; being protected from harm, abuse, and exploitation; and receiving reasonable assistance in applying for services or benefits for which clients may be eligible.

Clients in residential programs have additional rights, including provision of the following: a safe, sanitary, and humane environment; suitable clothing if it is not otherwise available; confidential mail and telephone communications; personal meetings with professionals or counselors assisting the client; and observing religious practices which do not conflict with the law or the rights of others living in the program.

## *Right to Least Restrictive Alternative*

Clients' physical, personal, and social liberties will not be limited in the course of treatment or services except to protect clients' safety, the safety of others, or to honor the program's rules of conduct. The client and the authorized representative will be informed of these situations and included in decisions as much as possible. In emergencies, restrictions could be implemented without notice.

## *Right to be Paid for Compensable Work*

Clients have the right to be paid for work performed for the direct economic benefit of or value to the program or program staff. Personal housekeeping and therapeutic work, which is done as a part of the client's treatment or services and not solely for the purpose of making money or for the program, is not included.

## *Right to Retain Certain Legal Rights*

Clients' basic legal rights are not restricted solely by virtue of admission to a program. These include the right to register and to vote; to communicate in private with a lawyer, judge, legislator, ordained clergyman, health care provider, the client's authorized representative, or advocate; to execute legal instruments; to apply for a marriage license or petition for divorce; to make a will; and to seek redress from the courts for civil matters.

## *Right of Access to the Advocate*

Clients have the right of access to an advocate or regional advocate who has been assigned to help clients and programs recognize client rights. The advocate will assist clients in making, resolving, or appealing complaints where there are alleged violations of client rights and the human rights regulations.

Programs shall make efforts appropriate to the mission of the program to resolve complaints alleging violations of rights assured under these human rights regulations and shall

provide reasonable assistance to clients for the purpose of contacting the advocate.

The advocate for this program is:

Name	Address	Telephone
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## *Right to Hearings and Appeals*

Clients are entitled to a timely and impartial review of alleged violations of the rights assured under this chapter.

Clients have the right of access to legal counsel of their own choice at their own expense. Clients who cannot afford or who are otherwise unable to retain private legal counsel shall be informed of the existence and location of a legal aid office or other legal advocacy services and shall be assisted, if needed, in initiating contact with that office.

Clients may file a complaint regarding alleged violations of rights assured under the human rights regulations and may petition for appeals when dissatisfied with the resolutions proposed as a result of the informal review process. In responding to complaints, the program shall inform the client of the appeal process, which includes the right to petition for a hearing before the local human rights committee (LHRC) and the state human rights committee (SHRC).

Signature of Client	Date
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Signature of Authorized Representative	Date
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## **12 VAC 35-115-180. Appendix B. Reporting statutes.**

Disclosure without consent may be made to the extent required by any state or federal statutes or regulations including, but not limited to, the following reporting statutes:

1. Section 63.1-248.3 of the Code of Virginia (child abuse and neglect);
2. Section 63.1-55.3 of the Code of Virginia (adult abuse, neglect or exploitation);
3. Section 54.1-2906 of the Code of Virginia (misconduct and disorders of health professionals);
4. Section 54.1-2907 of the Code of Virginia (disorders of health professionals);
5. Section 54.1-2967 of the Code of Virginia (weapon wounds);
6. Section 32.1-59 of the Code of Virginia (venereal diseases of patients or residents or prisoners);
7. Section 32.1-40 of the Code of Virginia (by request of Commissioner of Health); and
8. Sections 32.1-36 through 32.1-37 of the Code of Virginia (diseases, including HIV, listed by the Board of Health).

VA.R. Doc. No. R94-293; Filed August 26, 1998, 11:04 a.m.

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**Title of Regulation: 12 VAC 35-120-10 et seq. Rules and Regulations to Assure the Rights of Patients of Psychiatric Hospitals and Other Psychiatric Facilities Licensed by the Department of Mental Health, Mental Retardation and Substance Abuse Services (REPEALING).**

Statutory Authority: § 37.1-84.1 of the Code of Virginia.

Public Hearing Dates:

- October 27, 1998 - 2 p.m. (Fairfax)
- October 28, 1998 - 6 p.m. (Petersburg)
- October 29, 1998 - 1 p.m. (Verona)
- October 29, 1998 - 6 p.m. (Hampton)
- October 30, 1998 - 1 p.m. (Wytheville)

Public comments may be submitted until November 13, 1998.

(See Calendar of Events section for additional information)

Basis: This regulation was promulgated pursuant to § 37.1-84.1 of the Code of Virginia, and is necessary to fulfill the department's legislative mandate to assure and protect the rights of individuals receiving services in psychiatric hospitals and other psychiatric facilities licensed by the department with respect to the assurance of legal rights consistent with basic human dignity and sound therapeutic treatment.

Purpose: This regulation protects the legal and human rights of all residents who receive treatment in psychiatric hospitals and other psychiatric facilities licensed by the Department of Mental Health, Mental Retardation and Substance Abuse Services. To the extent that it is within the reasonable capabilities of the department, each resident is assured adequate care consistent with sound therapeutic treatment.

Substance: This regulation serves three major functions:

1. To monitor facility program compliance with the rules and regulations and other applicable laws relative to client rights through a review of program policies, procedures, and practices.
2. To prevent the occurrence of rights violations, provide consultation and technical assistance to providers, and to provide ongoing training relative to client rights.
3. To respond to complaints alleging rights violations, investigate and seek to resolve complaints, and to assist clients with appeals.

The Rules and Regulations to Assure the Rights of Patients of Psychiatric Hospitals and Other Psychiatric Facilities Licensed by the Department of Mental Health, Mental Retardation and Substance Abuse Services delineates the rights of clients receiving services in private psychiatric hospitals and other psychiatric facilities that are required to be licensed by the Department of Mental Health, Mental Retardation and Substance Abuse Services. The regulation applies to all psychiatric hospitals and other psychiatric

facilities licensed by the Department of Mental Health, Mental Retardation and Substance Abuse Services that are not subject to either the Rules and Regulations to Assure the Rights of Clients in Community Programs or the Rules and Regulations to Assure the Rights of Residents in Facilities Operated by the Department of Mental Health, Mental Retardation and Substance Abuse Services, except correctional facilities licensed by the Department of Mental Health, Mental Retardation and Substance Abuse Services.

Issues: The advantage of repealing this regulation for the public, including consumers, families of consumers, and providers and for the department is that it will be replaced by a new consolidated human rights regulation that establishes a single set of standards to protect the rights of persons who receive treatment in public and private, inpatient and outpatient programs.

The department is not aware of any disadvantages resulting from the repeal of this regulation.

Department of Planning and Budget's Economic Impact Analysis:

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

Summary of the proposed regulation. DMHMRSAS is proposing to repeal the current Rules and Regulations to Assure the Rights of Patients of Psychiatric Hospitals and Other Psychiatric Facilities Licensed by the Department of Mental Health, Mental Retardation, and Substance Abuse Services. This regulation, along with two other human rights regulations, would be consolidated into a newly proposed regulation (Rules and Regulations to Assure the Rights of Clients in Facilities and Programs Operated, Funded or Licensed by the Department of Mental Health, Mental Retardation, and Substance Abuse Services, 12 VAC 35-115-10 et seq.).

Estimated economic impact. Because the provisions of the current regulation would be incorporated into a new consolidated regulation and remain in force, the proposed repeal is not expected to have any economic consequences.

Businesses and entities particularly affected. There are currently approximately 65 private psychiatric hospital programs licensed by DMHMRSAS. The repeal of this regulation particularly affects patients of those programs, program personnel, and the general public.

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Localities particularly affected. No localities are particularly affected by the proposed repeal of this regulation.

Projected impact on employment. The proposed repeal of this regulation is not anticipated to have a significant effect on employment.

Effects on the use and value of private property. The proposed repeal of this regulation is not anticipated to have a significant effect on the use and value of private property.

Summary of analysis. Because the provisions of the current regulation would be incorporated into a new consolidated regulation and remain in force, the proposed repeal of this regulation is not expected to have any economic consequences.

Agency's Response to the Department of Planning and Budget's Economic Impact Analysis: The agency concurs with the economic impact analysis prepared by the Department of Planning and Budget regarding the regulations concerning the Rules and Regulations to Assure the Rights of Patients of Psychiatric Hospitals and Other Psychiatric Facilities Licensed by the Department of Mental Health, Mental Retardation and Substance Abuse Services.

Summary:

*The board is proposing to repeal the current Rules and Regulations to Assure the Rights of Patients of Psychiatric Hospitals and Other Psychiatric Facilities Licensed by the Department of Mental Health, Mental Retardation, and Substance Abuse Services. This regulation, along with two other human rights regulations, is being consolidated into a newly proposed regulation (Rules and Regulations to Assure the Rights of Clients in Facilities and Programs Operated, Funded or Licensed by the Department of Mental Health, Mental Retardation, and Substance Abuse Services, 12 VAC 35-115-10 et seq.).*

VA.R. Doc. No. R98-137; Filed August 26, 1998, 11:03 a.m.

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Title of Regulation: **12 VAC 35-130-10 et seq. Rules and Regulations to Assure the Rights of Clients in Community Programs (REPEALING).**

Statutory Authority: § 37.1-84.1 of the Code of Virginia.

Public Hearing Dates:

- October 27, 1998 - 2 p.m. (Fairfax)
- October 28, 1998 - 6 p.m. (Petersburg)
- October 29, 1998 - 1 p.m. (Verona)
- October 29, 1998 - 6 p.m. (Hampton)
- October 30, 1998 - 1 p.m. (Wytheville)

Public comments may be submitted until November 13, 1998.

(See Calendar of Events section for additional information)

Basis: The regulation was promulgated pursuant to § 37.1-84.1 of the Code of Virginia, and is necessary to fulfill the

department's legislative mandate to assure and protect the rights of individuals receiving services in programs licensed or funded by the department with respect to the assurance of legal rights consistent with basic human dignity and sound therapeutic treatment.

Purpose: This regulation protects the legal and human rights of all residents who receive treatment in community programs funded or licensed by the Department of Mental Health, Mental Retardation and Substance Abuse Services. To the extent that it is within the reasonable capabilities of the department, each resident is assured adequate care consistent with sound therapeutic treatment.

Substance: This regulation serves three major functions:

1. To monitor facility program compliance with the rules and regulations and other applicable laws relative to client rights through a review of program policies, procedures, and practices.
2. To prevent the occurrence of rights violations, provide consultation and technical assistance to providers, and to provide ongoing training relative to client rights.
3. To respond to complaints alleging rights violations, investigate and seek to resolve complaints, and to assist clients with appeals.

The Rules and Regulations to Assure the Rights of Clients in Community Programs delineates the rights of clients receiving services from community services boards or other agencies, public or private, that receive or benefit from funding under the provisions of Chapter 10 (§ 37.1-194 et seq.) of Title 37.1 of the Code of Virginia, and all other providers of mental health, mental retardation, or substance abuse services that are required to be licensed by the Department of Mental Health, Mental Retardation and Substance Abuse Services. This regulation applies to all programs funded or licensed by the Department of Mental Health, Mental Retardation and Substance Abuse Services that are not subject to either the Rules and Regulations to Assure the Rights of Patients of Psychiatric Hospitals and Other Psychiatric Facilities Licensed by the Department of Mental Health, Mental Retardation and Substance Abuse Services or the Rules and Regulations to Assure the Rights of Residents in Facilities Operated by the Department of Mental Health, Mental Retardation and Substance Abuse Services, except correctional facilities licensed by the Department of Mental Health, Mental Retardation and Substance Abuse Services.

Issues: The advantage of repealing this regulation for the public, including consumers, families of consumers, and providers and for the department is that it will be replaced by a new consolidated human rights regulation that establishes a single set of standards to protect the rights of persons who receive treatment in public and private, inpatient and outpatient programs.

The department is not aware of any disadvantages resulting from the repeal of this regulation.



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

Summary of the proposed regulation. DMHMRSAS is proposing to repeal the current Rules and Regulations to Assure the Rights of Clients in Community Programs. This regulation, along with two other human rights regulations, would be consolidated into a newly proposed regulation (Rules and Regulations to Assure the Rights of Clients in Facilities and Programs Operated, Funded or Licensed by the Department of Mental Health, Mental Retardation, and Substance Abuse Services, 12 VAC 35-115-10 et seq.).

Estimated economic impact. Because the provisions of the current regulation would be incorporated into a new consolidated regulation and remain in force, the proposed repeal is not expected to have any economic consequences.

Businesses and entities particularly affected. The DMHMRSAS currently licenses or funds 40 Community Service Boards and 360 private organizations. The repeal of this regulation particularly affects patients of those programs, program personnel, and the general public.

Localities particularly affected. No localities are particularly affected by the proposed repeal of this regulation.

Projected impact on employment. The proposed repeal of this regulation is not anticipated to have a significant effect on employment.

Effects on the use and value of private property. The proposed repeal of this regulation is not anticipated to have a significant effect on the use and value of private property.

Summary of analysis. Because the provisions of the current regulation would be incorporated into a new consolidated regulation and remain in force, the proposed repeal of this regulation is not expected to have any economic consequences.

Agency's Response to the Department of Planning and Budget's Economic Impact Analysis: The agency concurs with the economic impact analysis prepared by the Department of Planning and Budget regarding the regulations concerning the Rules and Regulations to Assure the Rights of Clients in Community Programs.

Summary:

*The board is proposing to repeal the current Rules and Regulations to Assure the Rights of Clients in Community Programs. This regulation, along with two other human rights regulations, is being consolidated into a newly proposed regulation (Rules and Regulations to Assure the Rights of Clients in Facilities and Programs Operated, Funded or Licensed by the Department of Mental Health, Mental Retardation, and Substance Abuse Services, 12 VAC 35-115-10 et seq.).*

VA.R. Doc. No. R94-292; Filed August 26, 1998, 11:03 a.m.



**TITLE 13. HOUSING**

**VIRGINIA HOUSING DEVELOPMENT AUTHORITY**

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

Title of Regulation: **13 VAC 10-40-10 et seq. Rules and Regulations for Single Family Mortgage Loans to Persons and Families of Low and Moderate Income (amending 13 VAC 10-40-230).**

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

Summary:

*The proposed amendments revise the requirements of the authority's flexible alternative mortgage loan program and (i) provide that a flexible alternative mortgage loan may not be used to refinance any authority mortgage loan or any bridge loan which refinanced any authority mortgage loan; (ii) delete reference to a 20-year loan term option which will not continue to be offered; and (iii) clarify in several places what constitutes past due account for underwriting purposes.*

Agency Contact: J. Judson McKellar, Jr., General Counsel, Virginia Housing Development Authority, 601 S. Belvidere St., Richmond, VA 23220, telephone (804) 343-5540.

**13 VAC 10-40-230. Flexible alternative mortgage loan programs.**

A. The executive director may establish flexible alternative mortgage loan programs. 13 VAC 10-40-10 through 13 VAC 10-40-220 shall apply to such flexible alternative mortgage loan programs, with the following modifications:

- 1. The following requirements shall not apply: (i) the new mortgage requirement; (ii) the requirements as to the use of the property in a trade or business; (iii) the requirements as to acquisition cost and sales price of the property to be financed; (iv) the requirement that the applicant shall not have had a present ownership

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## Proposed Regulations

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interest in his principal residence within the preceding three years; (v) the net worth requirement; (vi) the requirements for the payment by the seller of an amount equal to 1.0% of the loan in 13 VAC 10-40-160 D2; and (vii) the lot size restriction in 13 VAC 10-40-50 C3;

2. The gross income of the applicant or applicants shall not exceed 120% of the applicable median family income without regard to household size;

3. A nonpermanent resident alien who signs the note as a cosigner with either a U.S. citizen or a permanent resident alien shall be an eligible borrower under 13 VAC 10-40-30 C, provided that such nonpermanent resident alien meets all other eligibility criteria set forth in this chapter as modified by this section;

4. At the time of closing, the applicant must occupy or intend to occupy within 60 days (90 days in the case of new construction) the property to be financed as his principal residence;

5. The property to be financed must be one of the following types: a single family residence (attached or detached), a unit in a condominium which is approved for financing by FNMA or FHLMC or satisfies the requirements for such financing, or a doublewide manufactured home permanently affixed to the land;

6. The land, residence and all other improvements on the property to be financed must be expected to be used by the borrower primarily for residential purposes;

7. Personal property which is related to the use and occupancy of the property as the principal residence of the borrower and is customarily transferred with single family residences may be included in the real estate contract, transferred with the residence and financed by the loan; however, the value of such personal property shall not be considered in the appraised value;

8. The principal amount of the mortgage loan shall not exceed the limits established by FNMA or FHLMC for single family residences;

9. Loan proceeds may be used to refinance the applicant's existing mortgage loan or loans on the property, ~~provided only if~~ the applicant receives no proceeds of the authority's loan *and only if such loan proceeds are not used to refinance any authority mortgage loan or to refinance any bridge loan which refinanced any authority mortgage loan;*

10. Mortgage insurance shall not be required, except that in the case of manufactured homes mortgage insurance shall be required in accordance with this chapter;

11. The maximum combined loan-to-value ratio (including any other loans to be secured by the property at the time of closing) shall be 97%;

12. The applicant or applicants must have a history of receiving stable income from employment or other sources with a reasonable expectation that the income

will continue in the foreseeable future; typically, verification of two years' stable income will be required; and education or training in a field related to the employment of the applicant or applicants may be considered to meet no more than one year of this requirement;

13. The applicant must establish a credit history satisfactory to the authority and, in particular, must satisfy the following: (i) no bankruptcy or foreclosure within the preceding three years; no housing payment past due *for 30 days* in the preceding 24 months; no more than one payment past due for 30 days or more on any other debt or obligation within the preceding 12 months; no outstanding collection, judgment or *30-day* past due account; and a minimum credit score of 620 if the loan-to-value ratio is 95% or less or 660 if the loan-to-value ratio exceeds 95% or (ii) no previous bankruptcy or foreclosure; no outstanding collection or judgment or more than one 30-day past due account within the past 12 months; no previous ~~delinquent~~ housing payment *past due for 30 days*; minimum of three sources of credit with satisfactory payment histories at least two years old; no more than nine accounts currently open; and no more than three new accounts opened in the past 12 months (in establishing guidelines to implement the flexible alternative mortgage loan programs, the authority may refer to the credit requirements in clause (i) of this subdivision as the "alternative" credit requirements and the requirements in clause (ii) of this subdivision as the "standard" credit requirements);

14. Homeownership education approved by the authority shall be required for any borrower who is a first time homeowner if the loan-to-value ratio exceeds 95%;

15. Seller contributions for closing costs and other amounts payable by the borrower in connection with the purchase or financing of the property shall not exceed 4.0% of the contract price;

16. Sources of funds for the down payment and closing costs payable by the borrower shall be limited to the borrower's funds, gifts or unsecured loans from relatives, grants from employers or nonprofit entities not involved in the transfer or financing of the property, and unsecured loans on terms acceptable to the authority (payments on any unsecured loans permitted under this subdivision 16 shall be included in the calculation of the debt/income ratios described below), and documentation of such sources of funds shall be in form and substance acceptable to the authority;

17. The maximum debt ratios shall be 35% and 43% in lieu of the ratios of 32% and 40%, respectively, set forth in 13 VAC 10-40-130 B4;

18. Cash reserves at least equal to two months' loan payments must be held by the applicant if the loan-to-value ratio exceeds 95%; cash reserves at least equal to one month's loan payment must be held by the applicant if the loan-to-value ratio is greater than 90% and is less

than or equal to 95%; and no cash reserves shall be required if the loan-to-value ratio is 90% or less;

19. The payment of points (a point being equal to 1.0% of the loan amount) in addition to the origination fee shall be charged as follows: if the loan-to-value ratio is 90% or less, one-half of one point shall be charged; if the loan-to-value ratio is greater than 90% and is less than or equal to 95%, one point shall be charged; and if the loan-to-value ratio exceeds 95%, one and one-half point shall be charged.

In addition to the above, a reduction of one-half of one point will be made to applicants meeting the credit requirements in clause 13 (i) above with a credit score of 700 or greater; and

20. The interest rate which would otherwise be applicable to the loan shall be reduced by .25% ~~for each of the following features which are applicable to the loan:~~ *if the loan-to-value ratio is 80% or less.*

~~a. Loan-to-value ratio of 80% or less; and~~

~~b. Loan term of 20 years or less.~~

B. The documents relating to requirements of the federal tax code governing tax-exempt bonds shall not be required.

C. For assumptions of loans, the above requirements for occupancy of the property as the borrower's principal residence, the above income limit, and the underwriting criteria in the regulations as modified by this section must be satisfied.

D. The authority may require that any or all loans financed under such alternative mortgage programs be serviced by the authority.

Except as modified hereby, all of the requirements, terms and conditions set forth in 13 VAC 10-40-10 through 13 VAC 10-10-40-220 shall apply to the flexible alternative mortgage loan programs.

VA.R. Doc. No. R98-313; Filed August 21, 1998, 10:51 a.m.



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# FINAL REGULATIONS

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For information concerning Final Regulations, see Information Page.

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## Symbol Key

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

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## TITLE 12. HEALTH

### STATE BOARD OF HEALTH

Title of Regulation: **12 VAC 5-90-10 et seq. Regulations for Disease Reporting and Control (adding 12 VAC 5-90-230 through 12 VAC 5-90-270).**

Statutory Authority: §§ 32.1-12, 32.1-45.3 and 54.1-2971.1 of the Code of Virginia.

Effective Date: October 14, 1998.

Summary:

*The final amendment to the Regulations for Disease Reporting and Control establishes an HIV testing protocol for gamete donors pursuant to § 32.1-45.3 of the Code of Virginia which requires that donors of gametes used to treat patients for infertility be tested to ascertain their HIV status. Section 54.1-2971.1 of the Code of Virginia requires physicians to disclose to patients information about the testing protocol used to ensure that all gamete donors are free from known infection with the Human Immunodeficiency Virus. This regulation mandates the rejection of donors who test positive. The regulation also addresses the exclusion of high risk donors, the storage of semen pending HIV test, the use of ova after negative HIV test, and the notification of recipients of the option to delay transfer until after the negative HIV test.*

Summary of Public Comments and Agency's Response: No public comment was received by the promulgating agency.

Agency Contact: Casey W. Riley, Department of Health, STD-AIDS, P. O. Box 2448, Room 112, Richmond, VA 23218, telephone (804) 786-6267.

#### PART XI.

#### HUMAN IMMUNODEFICIENCY VIRUS (HIV) TESTING OF GAMETE DONORS.

#### 12 VAC 5-90-230. Definitions.

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

*"Artificial insemination" means instrumental placement of semen into the vagina, cervical canal, or uterus of a recipient.*

*"Donor" means an individual who is unrelated by marriage to the recipient and who contributes sperm or ova used in the following procedures: treatment of infertility by artificial insemination; in vitro fertilization; gamete intrafallopian tube transfer; zygote intrafallopian tube transfer or any other*

*gamete, zygote, or embryo transfer; or other intervening medical technology using sperm or ova.*

*"Embryo" means the product of a fertilized ovum prior to the eighth week of development inside a uterus.*

*"Gamete" means either sperm or ova.*

*"Gamete intrafallopian tube transfer" means placement of harvested ova and sperm into the fallopian tube or tubes of a recipient.*

*"HIV-1" means the retrovirus causing the human immunodeficiency virus infection, type 1.*

*"HIV-2" means the retrovirus causing the human immunodeficiency virus infection, type 2.*

*"In vitro fertilization" means placement of a zygote or embryo that has been fertilized outside the body into the uterus of a recipient.*

*"Zygote" means a fertilized ovum prior to cell cleavage.*

*"Zygote intrafallopian tube transfer" means placement of a zygote or zygotes into the fallopian tube or tubes of a recipient.*

#### 12 VAC 5-90-240. Excluding donors with high risk factors.

*A. Practitioners using gametes for the treatment of infertility by transfer of such gametes to a recipient shall interview all gamete donors at the time of donation in order to screen for high risk behavior indicating potential exposure to HIV-1 and HIV-2.*

*B. Any gamete donor reporting infection with HIV-1 or HIV-2 or any of the following risk factors shall be excluded from donating:*

- 1. Men who have had sex with another man within the preceding five years.*
- 2. Persons who have injected drugs for a nonmedical reason in the preceding five years, including intravenous, intramuscular, and subcutaneous injections of recreational or illegal drugs.*
- 3. Persons with hemophilia or related clotting disorders who have received human derived clotting factor concentrates.*
- 4. Persons who have had sex in exchange for money or drugs in the preceding five years.*
- 5. Persons who have had sex in the preceding 12 months with any person described in subdivisions 1 through 4 of this subsection or with any person suspected of being infected with HIV-1 or HIV-2.*

6. Persons who have been exposed within the last 12 months to known or suspected HIV-1 or HIV-2 infected blood through percutaneous inoculation (e.g., needle stick) or through contact with an open wound, nonintact skin, or mucous membrane.

7. Current inmates of correctional systems, including jails and prisons, and individuals who have been confined in jail or incarcerated in prison for more than 72 consecutive hours during the previous 12 months.

8. Persons who have had or have been treated for syphilis or gonorrhea during the preceding 12 months.

9. Persons who within 12 months of donation have undergone acupuncture, ear or body piercing or tattooing in which sterile procedures were not used or where it is unknown if sterile procedures were used.

10. Persons who choose to defer from donation whether or not they report any of the above potential exposures to HIV-1 or HIV-2.

**12 VAC 5-90-250. Storage of semen pending negative HIV tests.**

Semen specimens from donors shall be stored and withheld from use for at least 180 days following donation and used only if the donor tests negative for serum antibodies for HIV-1 and HIV-2 on enzyme-linked immunoadsorbent assay or blood HIV-1 and HIV-2 by polymerase chain reaction at least 180 days after donation.

**12 VAC 5-90-260. Use of ova after negative HIV tests.**

Ova shall be used only if the donor tests negative for serum antibodies to HIV-1 and HIV-2 on enzyme-linked immunoadsorbent assay or blood HIV-1 and HIV-2 by polymerase chain reaction at the initiation of the cycle during which the ova are harvested.

**12 VAC 5-90-270. Notifying recipients of option to delay transfer.**

Practitioners using ova, embryos, or zygotes for the treatment of infertility or other medical technology involving the transfer of ova, embryos, or zygotes to a recipient shall notify these recipients of the option for having donor ova fertilized and the resultant zygotes frozen and then transferred to the recipient only if the ova donor is negative for serum antibodies for HIV-1 and HIV-2 on enzyme-linked immunoadsorbent assay or blood HIV-1 and HIV-2 by polymerase chain reaction at least 180 days after donation.

VA.R. Doc. No. R97-696; Filed August 26, 1998, 11:20 a.m.

**DEPARTMENT OF MEDICAL ASSISTANCE SERVICES**

Title of Regulation: **Specialized Care Services.**  
**12 VAC 30-20-10 et seq. Administration of Medical Assistance Services (amending 12 VAC 30-20-170).**

[ 12 VAC 30-50-10 et seq. Amount, Duration and Scope of Medical and Remedial Care Services (amending 12 VAC 30-50-160). ]

12 VAC 30-60-10 et seq. Standards Established and Methods Used to Assure High Quality Care (amending 12 VAC 30-60-40, 12 VAC 30-60-320, and 12 VAC 30-60-340).

[ 12 VAC 30-90-10 et seq. Methods and Standards for Establishing Payment Rates for Long-Term Care (amending 12 VAC 30-90-264 and 12 VAC 30-90-290). ]

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

Effective Date: October 15, 1998.

Summary:

*These regulations amend the specialized care program to update the definitions of provider and recipient criteria as required by legislation. The purpose of this republication is to permit an additional comment period on these regulations.*

*On October 1, 1991, the Department of Medical Assistance Services implemented a new reimbursement system for nursing facilities based on patient care intensity and a new level of service called specialized care. Specialized care was described as care required by residents who have long-term health conditions which demand close medical supervision, 24-hour licensed nursing care, and specialized services or equipment. For payment purposes, services for specialized care residents were grouped into four categories: comprehensive rehabilitation, complex care, ventilator dependent, and AIDS.*

*The specialized care program was the Department of Medical Assistance Services' response to the need for access to care and the appropriate provision of services to those Medicaid recipients who required more intensive resources than average nursing facility residents. Expenditures, utilization, and provider participation have increased dramatically since the inception of the specialized care program in 1991. After careful analysis of the specialized care program, the Department of Medical Assistance Services reported that the actual costs to providers of specialized care services appeared to be well below the flat rates that the providers were being reimbursed. Recommendations for reductions in the specialized care rates were submitted to the General Assembly. Hearings and discussions ensued between the legislature, the Department of Medical Assistance Services, and the provider community which resulted in the legislature mandating a formal study of the specialized care program. The report presents the Department of Medical Assistance Services' recommendations for a collection of changes in the specialized care program.*

*These recommendations include changes in specialized care categories and payment methodologies, and clarifications and changes in specialized care resident*

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and provider criteria. In December 1996, the Department of Medical Assistance Services implemented emergency regulations for the payment methodologies based upon two broad recommendations from the report. Those emergency regulations addressed the recommendations in the report for changes in specialized care payment methodologies and an elimination of the existing AIDS category of care due to nonutilization. The remaining recommendations from the report primarily addressed changes in specialized care resident and provider criteria.

Based on public comment from the Virginia Pressure Ulcer Quality Initiative Task Force and further research conducted by DMAS, DMAS has changed the amended regulation with regard to therapeutic sleep surfaces. The changes (i) eliminate wound care as a component of specialized care and (ii) add coverage for special beds for wound care as covered durable medical equipment for residents of all Medicaid participating nursing facilities, not just to those providers involved in specialized care services.

**Summary of Public Comments and Agency's Response:** A summary of comments made by the public and the agency's response may be obtained from the promulgating agency or viewed at the office of the Registrar of Regulations.

**Agency Contact:** Copies of the regulation may be obtained from Victoria P. Simmons, Regulatory Coordinator, Department of Medical Assistance Services, 600 East Broad Street, Suite 1300, Richmond, VA 23219, telephone (804) 371-8850.

## **12 VAC 30-20-170. Basis of payment for reserving beds during a recipient's absence from an inpatient facility.**

4- Payment is made for reserving beds in long-term care facilities for recipients during their temporary absence for ~~[ the following purpose: For ]~~ leaves of absence up to 18 days per year for any reason other than inpatient hospital admissions. *The Department of Medical Assistance Services does not provide payment for reserving beds during inpatient hospital admissions and does not provide payment beyond 18 days per year for leaves of absence for any nursing facility or specialized care resident. For recipients [ ~~that~~ who ] are qualified for specialized care, the facility will receive payment at the nursing facility rate for any leave days taken up to the maximum 18 days.*

## **[ 12 VAC 30-50-160. Home health services.**

A. Service must be ordered or prescribed and directed or performed within the scope of a license of a practitioner of the healing arts. Home health services shall be provided in accordance with guidelines found in the Virginia Medicaid Home Health Manual.

B. Nursing services provided by a home health agency.

1. Intermittent or part-time nursing service provided by a home health agency or by a registered nurse when no home health agency exists in the area.

2. Patients may receive up to 32 visits by a licensed nurse annually. Limits are per recipient, regardless of the number of providers rendering services. Annually shall be defined as July 1 through June 30 for each recipient. If services beyond these limitations are determined by the physician to be required, then the provider shall request prior authorization from DMAS for additional services. Payment shall not be made for additional service unless authorized by DMAS.

C. Home health aide services provided by a home health agency.

1. Home health aides must function under the supervision of a registered nurse.

2. Home health aides must meet the certification requirements specified in 42 CFR 484.36.

3. For home health aide services, patients may receive up to 32 visits annually. Limits shall be per recipient, regardless of the number of providers rendering services. Annually shall be defined as July 1 through June 30 for each recipient.

D. Durable medical equipment (DME) and supplies suitable for use in the home.

1. General requirements and conditions.

a. All medically necessary supplies and equipment shall be covered. Unusual amounts, types, and duration of usage must be authorized by DMAS in accordance with published policies and procedures. When determined to be cost effective by DMAS, payment may be made for rental of the equipment in lieu of purchase.

b. DME providers shall adhere to all applicable DMAS policies, laws, and regulations for durable medical equipment and supplies. DME providers shall also comply with all other applicable Virginia laws and regulations requiring licensing, registration, or permitting. Failure to comply with such laws and regulations shall result in denial of coverage for durable medical equipment or supplies which are regulated by such licensing agency or agencies.

c. DME and supplies must be furnished pursuant to a Certificate of Medical Necessity (CMN) (DMAS-352).

d. A CMN shall contain a physician's diagnosis of a recipient's medical condition and an order for the durable medical equipment and supplies that are medically necessary to treat the diagnosed condition and the recipient's functional limitation. The order for DME or supplies must be justified in the written documentation either on the CMN or attached thereto. The CMN shall be valid for a maximum period of six months for Medicaid recipients 21 years of age and younger. The maximum valid time period for Medicaid recipients older than 21 years of age is 12 months. The validity of the CMN shall terminate when the recipient's medical need for the prescribed DME or supplies ends.

- e. DME must be furnished exactly as ordered by the attending physician on the CMN. The CMN and any supporting verifiable documentation must be complete (signed and dated by the physician) and in the provider's possession within 60 days from the time the ordered DME and supplies are initially furnished by the DME provider. Each component of the DME must be specifically ordered on the CMN by the physician. For example, the order must specify IV pole, pump, and tubing. A general order for IV supplies shall not be acceptable.
- f. The CMN shall not be changed, altered, or amended after the attending physician has signed it. If changes are necessary, as indicated by the recipient's condition, in the ordered DME or supplies, the DME provider must obtain a new CMN. New CMNs must be signed and dated by the attending physician within 60 days from the time the ordered supplies are furnished by the DME provider.
- g. DMAS shall have the authority to determine a different (from those specified above) length of time a CMN may be valid based on medical documentation submitted on the CMN. The CMN may be completed by the DME provider or other health care professionals, but it must be signed and dated by the attending physician. Supporting documentation may be attached to the CMN but the attending physician's entire order must be on the CMN.
- h. The DME provider shall retain a copy of the CMN and all supporting verifiable documentation on file for DMAS' post payment audit review purposes. DME providers shall not create nor revise CMNs or supporting documentation for this service after the initiation of the post payment review audit process. Attending physicians shall not complete, nor sign and date, CMNs once the post payment audit review has begun.
2. Preauthorization is required for incontinence supplies provided in quantities greater than two cases per month.
3. Supplies, equipment, or appliances that are not covered include, but are not limited to, the following:
- a. Space conditioning equipment, such as room humidifiers, air cleaners, and air conditioners;
  - b. Durable medical equipment and supplies for any hospital or nursing facility resident, except ventilators and associated supplies or specialty beds for the treatment of wounds consistent with DME criteria for nursing facility residents that have been approved by DMAS central office;
  - c. Furniture or appliances not defined as medical equipment (such as blenders, bedside tables, mattresses other than for a hospital bed, pillows, blankets or other bedding, special reading lamps, chairs with special lift seats, hand-held shower devices, exercise bicycles, and bathroom scales);
- d. Items that are only for the recipient's comfort and convenience or for the convenience of those caring for the recipient (e.g., a hospital bed or mattress because the recipient does not have a decent bed; wheelchair trays used as a desk surface); mobility items used in addition to primary assistive mobility aide for caregiver's or recipient's convenience (e.g., electric wheelchair plus a manual chair); cleansing wipes;
- e. Prosthesis, except for artificial arms, legs, and their supportive devices which must be preauthorized by the DMAS central office (effective July 1, 1989);
- f. Items and services which are not reasonable and necessary for the diagnosis or treatment of illness or injury or to improve the functioning of a malformed body member (e.g., dentifrices; toilet articles; shampoos which do not require a physician's prescription; dental adhesives; electric toothbrushes; cosmetic items, soaps, and lotions which do not require a physician's prescription; sugar and salt substitutes; and support stockings);
- g. Orthotics, including braces, splints, and supports;
- h. Home or vehicle modifications;
- i. Items not suitable for or not used primarily in the home setting (i.e., car seats, equipment to be used while at school, etc.); and
- j. Equipment [ ~~that~~ for which ] the primary function is vocationally or educationally related (i.e., computers, environmental control devices, speech devices, etc.).
4. For coverage of blood glucose meters for pregnant women, refer to 12 VAC 30-50-500.
5. Reserved.
6. The medical equipment and supply vendor must provide the equipment and supplies as prescribed by the physician on the certificate of medical necessity. Orders shall not be changed unless the vendor obtains a new certificate of medical necessity prior to ordering or providing the equipment or supplies to the patient.
7. Medicaid shall not provide reimbursement to the medical equipment and supply vendor for services provided prior to the date prescribed by the physician or prior to the date of the delivery or when services are not provided in accordance with published policies and procedures. If reimbursement is denied for one of these reasons, the medical equipment and supply vendor may not bill the Medicaid recipient for the service that was provided.
8. The following criteria must be satisfied through the submission of adequate and verifiable documentation satisfactory to the department. Medically necessary DME and supplies shall be:
- a. Ordered by the physician on the CMN;
  - b. A reasonable and necessary part of the recipient's treatment plan;

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c. Consistent with the recipient's diagnosis and medical condition particularly the functional limitations and symptoms exhibited by the recipient;

d. Not furnished solely for the convenience, safety, or restraint of the recipient, the family, attending physician, or other practitioner or supplier;

e. Consistent with generally accepted professional medical standards (i.e., not experimental or investigational); and

f. Furnished at a safe, effective, and cost-effective level suitable for use in the recipient's home environment.

9. Coverage of enteral nutrition (EN) which does not include a legend drug shall be limited to when the nutritional supplement is the sole source form of nutrition, is administered orally or through a nasogastric or gastrostomy tube, and is necessary to treat a medical condition. Coverage of EN shall not include the provision of routine infant [ ~~formulae~~ formula ]. A nutritional assessment shall be required for all recipients receiving nutritional supplements.

E. Physical therapy, occupational therapy, or speech/language pathology services and audiology services provided by a home health agency or physical rehabilitation facility.

1. Service covered only as part of a physician's plan of care.

2. Patients may receive up to 24 visits for each rehabilitative therapy service ordered annually without authorization. Limits shall apply per recipient regardless of the number of providers rendering services. Annually shall be defined as July 1 through June 30 for each recipient. If services beyond these limitations are determined by the physician to be required, then the provider shall request prior authorization from DMAS for additional services.

F. The following services are not covered under the home health services program:

1. Medical social services;

2. Services or items which would not be paid for if provided to an inpatient of a hospital, such as private-duty nursing services, or items of comfort which have no medical necessity, such as television;

3. Community food service delivery arrangements;

4. Domestic or housekeeping services which are unrelated to patient care and which materially increase the time spent on a visit;

5. Custodial care which is patient care that primarily requires protective services rather than definitive medical and skilled nursing care; and

6. Services related to cosmetic surgery. ]

## 12 VAC 30-60-40. Utilization control: Nursing facilities.

A. Long-term care of residents in nursing facilities will be provided in accordance with federal law using practices and procedures that are based on the resident's medical and social needs and requirements. All nursing facility services, including specialized care, shall be provided in accordance with guidelines found in the Virginia Medicaid Nursing Home Manual.

B. Nursing facilities must conduct initially and periodically a comprehensive, accurate, standardized, reproducible assessment of each resident's functional capacity. This assessment must be conducted no later than 14 days after the date of admission and promptly after a significant change in the resident's physical or mental condition. Each resident must be reviewed at least quarterly, and a complete assessment conducted at least annually.

C. The Department of Medical Assistance Services shall periodically conduct a validation survey of the assessments *and medical records* completed by nursing facilities to determine ~~that~~ *whether* services provided to the residents are medically necessary and that needed services are provided. The survey will be composed of a sample of Medicaid residents and will include review of both current and closed medical records. *If provision of or need for services or the appropriate level of care are not demonstrated in the medical record, the Department of Medical Assistance Services shall deny reimbursement, retract reimbursement, or adjust case-mix calculations to accurately reflect the services and level of care provided or that should appropriately have been provided to any Medicaid recipient. [ When a nursing facility completes the required standardized comprehensive assessment (which is the mandated version of the federal Resident Assessment Instrument (RAI)), the nursing facility is responsible for assuring that level of care criteria and all reimbursement criteria are substantiated. If level of care criteria or other reimbursement criteria are not adequately substantiated in the RAI, the facility is responsible for immediately assisting the resident in gaining access to the appropriate level of care. When level of care criteria or reimbursement criteria are not substantiated, DMAS shall deny, retract, or adjust reimbursement as specified in this subsection. ]*

D. Nursing facilities must submit to the Department of Medical Assistance Services resident assessment information at least every six months for utilization review. If an assessment completed by the nursing facility does not reflect accurately a resident's capability to perform activities of daily living and significant impairments in functional capacity, then reimbursement to nursing facilities may be adjusted during the next quarter's reimbursement review. Any individual who willfully and knowingly certifies (or causes another individual to certify) a material and false statement in a resident assessment is subject to civil money penalties.

E. In order for reimbursement to be made to the nursing facility for a recipient's care, the recipient must meet nursing



facility criteria as described in 12 VAC 30-60-300 (Nursing Facility Criteria).

In order for reimbursement to be made to the nursing facility for a recipient requiring specialized care, the recipient must meet specialized care criteria as described in 12 VAC 30-60-320 (Adult specialized care [ *admission and continued stay* ] criteria) or 12 VAC 30-60-340 (Pediatric [ *and* ] adolescent specialized care criteria). [ In addition, reimbursement to nursing facilities for residents requiring specialized care will only be made on a contractual basis. Further specialized care services requirements are set forth as follows. ]

[ In each case for which payment for nursing facility or specialized care services is made under the State Plan, a physician must recommend at the time of admission or, if later, the time at which the individual applies for medical assistance under the State Plan, that the individual requires nursing facility care. ]

[ ~~F. G.~~ ] For nursing facilities, a physician must approve a recommendation that an individual be admitted to a facility. The resident must be seen by a physician at least once every 30 days for the first 90 days after admission, and at least once every 60 days thereafter. At the option of the physician, required visits after the initial visit may alternate between personal visits by the physician and visits by a physician assistant or nurse practitioner.

[ ~~G. H.~~ ] When the resident no longer meets nursing facility criteria or requires services that the nursing facility is unable to provide, then the resident must be discharged. *On the day that the resident no longer meets the specialized care criteria set forth in 12 VAC 30-60-320 or 12 VAC 30-60-340, the resident must be discharged to the nursing facility level of care or other appropriate lower level of care.*

[ ~~H. Reimbursement for specialty beds for wound care treatment is available to residents of Medicaid certified nursing facilities through the Durable Medical Equipment (DME) program under 12 VAC 30-50-160 through a direct payment to approved DME vendors when a nursing facility resident meets all the required DME reimbursement criteria for specialty bed reimbursement. ]~~

~~H. I. Specialized care services: contract and scope of services requirements.~~

1. Providers must be nursing facilities certified by the Division of Licensure and Certification, State Department of Health, and must have a current signed participation agreement with the Department of Medical Assistance Services to provide nursing facility care. *In addition, providers must be certified to provide skilled nursing services by the Medicare program as it applies to Part A skilled (SNF) services.*

2. Providers must agree contract to provide care to at least four residents who meet the specialized care criteria for children/adolescents or adults.

3. Providers must assist Medicaid recipients in applying for third party benefits for which recipients may be

*eligible (including, but not limited to, assisting with the application for Medicare coverage, including assistance with the appropriate disability determination process to secure skilled (SNF) coverage and other applicable Medicare benefits or other third party coverage).*

4. Providers must meet the contract approval standards that are set forth in subsection J of this section to receive a new contract for specialized care services. As part of the review process for providers seeking a contract to provide specialized care services, the Department of Medical Assistance Services shall complete a comprehensive two-year history review of the facility which will include (i) an examination of the licensure and certification survey reports from the Virginia Department of Health; (ii) reviews conducted by the Department of Medical Assistance Services; and (iii) complaints received by the Department of Health, the Department of Medical Assistance Services, and the Department for the Aging (State Long-Term Care Ombudsman Program). If the provider is a new nursing facility provider and does not have a two-year history of providing nursing facility level of care, the Department of Medical Assistance Services shall conduct a comprehensive review of the provider's status as a health care provider and make determinations based on the quality standards that reflect the criteria in this section deemed appropriate for contracting nursing facilities. If the facility has not been providing health care for at least two years, it will not be eligible for a contract for specialized care services.

5. In addition to the review specified in subdivision 4 of this subsection, the provider must document the ability to provide the services in accordance with the program scope of service requirements. Each component of the review will be evaluated according to the provider's ability to successfully meet all component requirements. If a requester does not meet one or more of the requirements, the request for contract will be rejected. A provider will not be awarded a contract if it is demonstrated in the two-year review history that the provider has not been able to provide an adequate quality of nursing facility care as demonstrated according to the requirements set forth in subsection J of this section, or if the provider is unable to document the ability to provide the scope of service requirements as described in subsection K of this section.

J. Contract approval standards. The provider standards that must be met for new specialized care contracts are set forth in this subsection.

1. During the most recent two years, the provider cannot have been found to have "substandard quality of care" (as defined in the Health Care Financing Administration's nursing facility sanctioning guidelines) during the survey process by the Department of Health. The provider will not be allowed to participate in the program until a two-year history is demonstrated without any "substandard quality of care" deficiency ratings.

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2. During the most recent two years, the provider cannot have any more than three justified complaints in any of the following category areas confirmed by the Department of Health, the Department of Medical Assistance Services, or the State Long-Term Care Ombudsman Program and can have no more than eight total justified complaints confirmed among the following categories: residents rights; admission, transfer, and discharge rights; resident behavior and facility practices; quality of life; resident assessment; quality of care; nursing services; dietary services; physician services; specialized rehabilitative services; dental services; pharmacy services; infection control; physical environment; administration.

3. During the most recent two years, the provider cannot have demonstrated a significant lack of compliance as identified in the Department of Medical Assistance Services utilization review findings.

4. The provider must be able to document within the written contract application request the ability to provide all required services as specified in the contractual guidelines as defined in the scope of required services for specialized care in subsection K of this section.

5. If any of the above specified contract approval standards are not met by the requesting provider, the provider will not meet all components of the contract approval process and will not be granted specialized care reimbursement. A provider may reapply for a contract after the deficient area is corrected in accordance with this subsection.

~~2.~~ K. Scope of required services. Providers must ~~be able to~~ provide the following specialized services to Medicaid specialized care recipients:

~~a.~~ 1. Physician visits by the attending physician at least once weekly (after initial physician visit, subsequent visits may alternate between physician and physician assistant or nurse practitioner); every 30 days. The attending physician must make the required 30-day visit. If a resident must be seen more frequently than once every 30 days, visits occurring in between the required 30-day visits may be conducted by a qualified physician assistant or certified nurse practitioner at the attending physician's discretion;

~~b.~~ 2. Skilled nursing services by a registered nurse available 24 hours a day. A registered nurse must function in a "charge nurse" capacity whose sole responsibility is the designated nursing unit on which the specialized care residents reside. If specialized care residents are residing on more than one designated nursing unit within the facility, a registered nurse must fulfill the above specified requirement for each separate nursing unit housing specialized care residents.

For comprehensive rehabilitation residents, nursing staff are responsible for rehabilitative nursing and supporting documentation. Rehabilitative nursing shall include the

practice of skills learned or acquired during therapy sessions and the ongoing clinical assessment and documentation of rehabilitative progress as a component of the required nursing documentation. The documentation must incorporate nursing-related impressions of the outcomes of the overall therapeutic regime, including progress as assessed on the unit. A registered nurse is responsible for the oversight of rehabilitative nursing practice, clinical assessment, and documentation required to meet the rehabilitative nursing requirement;

~~e.~~ 3. Coordinated multidisciplinary team approach to meet the needs of the resident;

~~d.~~ 4. Infection control;

~~e.~~ 5. For residents under age 21 who require two of three rehabilitative services (physical therapy, occupational therapy, or speech-language pathology services), therapy services must be provided at a minimum of ~~90 minutes each day, five days per week~~ 450 therapy minutes per week (every seven days);

~~f.~~ 6. For residents over age 21 who require two of three rehabilitative services (physical therapy, occupational therapy, or speech-language pathology services), therapy services must be provided at a minimum of ~~two hours per day, five days a week~~ 600 therapy minutes per week (every seven days);

~~g.~~ 7. Ancillary services related to a plan of care;

~~h.~~ 8. Respiratory therapy services by a board-certified therapist (for ventilator patients, these services must be available 24 hours per day) related to the plan of care. Providers must assure that all residents who are ventilator dependent or who are receiving respiratory therapy in the complex health care category as defined in 12 VAC 30-60-320 or 12 VAC 30-60-340 are seen by a respiratory therapist at least once every 14 days;

~~i.~~ 9. Psychology services by a licensed clinical psychologist, a licensed clinical social worker, or a licensed professional counselor related to a plan of care;

~~j.~~ 10. Necessary durable medical equipment and supplies as required by the plan of care;

~~k.~~ 11. Nutritional elements as required by the plan of care;

~~l.~~ 12. A plan to assure that specialized care residents have The same opportunity for specialized care residents to participate in integrated nursing facility activities as other residents;

~~m.~~ 13. Nonemergency transportation afforded in a manner consistent with transportation to community activities and events that is provided to all other nursing facility residents;

~~n.~~ 14. Discharge planning and ongoing utilization review. Discharge planning shall begin at admission and be an ongoing process for all residents during a specialized

care stay. Utilization review shall be conducted and documented in the medical record by the interdisciplinary care plan team at least every 30 days to support that the resident continues to meet the specified criteria requirements for specialized care reimbursement. This review shall also be substantiated by the physician's documentation of utilization review of the necessary criteria and written support in the medical record of the resident's continued need for specialized care stay at least every 30 days; and

e- 15. Family or caregiver training.

3- Providers must coordinate with appropriate state and local agencies for educational and habilitative needs for Medicaid specialized care recipients who are under the age of 24 eligible for such services.

L. Contract termination. The specialized care provider contract shall be terminated upon the demonstration of one or more of the following conditions:

1. The provider is no longer certified to participate in the Medicare or Medicaid programs.
2. The provider violates provisions of the written contract for specialized care.
3. The provider gives written notice to the Department of Medical Assistance Services at least 30 days in advance that it wishes to terminate the contract.

**12 VAC 30-60-320. Adult specialized care admission and continued stay criteria.**

~~§ 2-0.~~ A. General description. A resident must meet all aspects of the nursing facility criteria as set forth in 12 VAC 30-60-300 (Nursing facility criteria) before being considered for specialized care reimbursement. A provider must also have a contract to [ ~~provide~~ provide ] specialized care before being eligible to receive specialized care reimbursement. The resident must have demonstrate long-term health conditions requiring close medical supervision in a nursing facility, a need for 24-hour licensed nursing care, and [ ~~require a requirement for~~ ] specialized services or equipment as defined in the categories of specialized care. Residents must be discharged from specialized care services to the nursing facility level or other appropriate level of care when the program criteria are no longer met.

~~§ 2-1.~~ B. Targeted population. Individuals requiring specialized care must meet the specified general program criteria in subsection C of this section and the criteria defined in at least one of the three specified categories of care in subsection D of this section. These categories are: comprehensive rehabilitation, mechanical ventilation, [ and ] complex health care. The general program criteria and specific category criteria are set forth in [ ~~subsection~~ subsections ] C [ and D ] of this section.

~~A. Individuals requiring mechanical ventilation~~

~~B. Individuals with communicable diseases requiring universal or respiratory precautions~~

~~C. Individuals requiring ongoing intravenous medication or nutrition administration~~

~~D. Individuals requiring comprehensive rehabilitative therapy services~~

~~§ 2-2.~~ C. [ ~~Criteria.~~ ] A. The individual must require at a minimum:

1. Nursing facility level of care;

~~4. 2. Physician visits at least once weekly (the initial physician visit must be made by the physician personally. Subsequent required physician visits after the initial visit may alternate between personal visits by the physician and visits by a physician assistant or nurse practitioner.) every 30 days;~~

~~2- 3. Skilled registered nursing services 24 hours a day (a registered nurse must be on supervise the nursing unit on which the resident resides, 24 hours a day in a "charge nurse" capacity, [ whose sole responsibility is the designated and be solely responsible for ] that unit); and~~

~~3- 4. A coordinated multidisciplinary team approach to meet needs.~~

~~B- D.~~ In addition to the general criteria in subsection C of this section, the individual must meet require one of the following requirements three categories of care:

1. Comprehensive rehabilitation category. All of the following category criteria must be met to qualify for the comprehensive rehabilitation category.

~~4- a. Must require two out of three of the following rehabilitative services which are required at an acuity that is not available at the nursing facility level of care: physical therapy, occupational therapy, or speech-pathology services; therapy must be provided at a minimum of 2 hours of therapy per day, 5 days per week; individual must demonstrate progress in overall rehabilitative plan of care on a monthly basis; or.~~

~~b. Must receive a minimum of 600 therapy minutes per week. No more than 180 minutes on any one therapy day shall count toward the 600 weekly minutes. Daily therapy should not exceed a resident's ability to effectively participate in the therapeutic regime.~~

~~c. Must have a stable medical condition which is compatible with an active comprehensive rehabilitation program. In the event the recipient experiences an acute medical instability (one- to two-day illness or less) providers shall adjust the therapy regime to assure the required weekly 600 minute schedule is completed. If the resident's acute medical instability is too severe or too long to permit completion of the required weekly 600 minute schedule, the resident may be placed on a reduced therapy schedule. For the purposes of this subsection, the period during which the recipient is placed on a reduced therapy schedule is called "medical hold." The Department of~~

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Medical Assistance Services shall continue specialized care reimbursement in this category for one medical hold period of no more than three days per rehabilitation stay. To qualify for reimbursement, the medical hold or reduced therapy schedule must be ordered by the physician and the medical record must support that the resident, due to acute illness or acute medical instability, was unable to tolerate or reasonably make up the required therapy time toward the 600 required weekly minutes. If a resident should require more than one medical hold during a rehabilitative stay, the Department of Medical Assistance Services shall determine, at its sole discretion, whether an additional medical hold period is permitted based on the resident's medical status and overall rehabilitative progress. If any period of medical hold is not ordered by the physician and substantiated in the medical record as determined by the Department of Medical Assistance Services, the department shall deny or retract reimbursement for such periods.

If the full 600 minutes of rehabilitation therapies are not provided during any seven-day period without an acceptable, substantiated, and ordered medical hold period, the Department of Medical Assistance Services shall deny or retract specialized care reimbursement. If the resident does not receive the full 600 minutes of required therapy during a seven-day week, the following reimbursement denial or retraction scale shall apply:

480-599 minutes received = 1 day retraction  
360-479 minutes received = 2 days retraction  
240-359 minutes received = 3 days retraction  
120-239 minutes received = 4 days retraction  
0-119 minutes received = 5 days retraction.

In addition to the above scale, if the resident is missing therapy time and is found not to be making significant measurable progress in the rehabilitation program, a full denial of specialized care reimbursement shall occur from the point that the resident is documented, as determined by the Department of Medical Assistance Services, to have ceased making significant rehabilitation progress in the medical record.

d. Must be able to benefit from the services to be provided, based on physician assessment of rehabilitation potential, with the expectation that the condition of the resident will improve significantly in a reasonable and generally predictable period of time in accordance with medical practice standards, or, based on physician assessment, must require rehabilitative services to establish a safe and effective maintenance program provided for a specific medical diagnosis. Once a resident is no longer able to benefit from this level of rehabilitation, has ceased to make significant progress in the rehabilitation program, or once rehabilitation or maintenance programming can be provided at the nursing facility or other lower level of

care, the resident must be discharged from the specialized care program.

e. Must demonstrate significant, measurable progress in the overall rehabilitative plan of care on a monthly (30-day) basis.

2. ~~Must require special equipment such as mechanical ventilators, respiratory therapy equipment (that has to be supervised by licensed nurse or respiratory therapist), monitoring device (respiratory or cardiac) kinetic therapy; or Mechanical ventilation category.~~

a. The recipient must meet both of the following category criteria, and must meet the criteria specified in subdivisions 2 b and c of this subsection if applicable to the patient's treatment status, to qualify for the mechanical ventilation category.

(1) Must require daily mechanical ventilation which may be for all or a specified part of a 24-hour period; and

(2) Must require a visit from a respiratory therapist at least once every 14 days.

b. If a CPAP (assist device with continuous positive airway pressure), BiPAP (intermittent assist device with inspiratory and expiratory positive airway pressure), or other similar mechanical respiratory assist device is used instead of a continuous mechanical ventilator, the resident must require other 24-hour specialized care services, such as frequent monitoring and nursing intervention for desaturation. A resident would not meet this (mechanical respiratory assist device) criteria if such device is only used without significant other medical/nursing needs which require specialized care.

c. If a resident has been successfully weaned from the support of a mechanical ventilator, the Department of Medical Assistance Services will continue specialized care reimbursement for up to five days after the resident has not been ventilator dependent for 24 hours. This five-day period begins after the resident completes a 24-hour period with no ventilatory support and demonstrates respiratory stability. If during the five days, the resident requires ventilatory support or demonstrates marked respiratory instability, the resident may continue in the mechanical ventilation category until five consecutive days of respiratory stability are demonstrated. Continued instability must be documented by the physician in the medical record.

3. ~~Individuals that require~~ Complex health care category. At least one of the following special services must be met to qualify for the complex health care category:

a. ~~Ongoing~~ Must require daily administration of intravenous pain management medications ~~or for terminal illness diagnoses, such as cancer, or must require intravenous nutrition (i.e., TPN, antibiotic therapy, narcotic administration, etc.).~~

b. ~~Must require special infection control precautions (universal or respiratory precaution; this does not include handwashing precautions only) that necessitate isolation with negative pressure ventilation or other specialized infection control interventions that cannot be adequately managed in a medically necessitated private room.~~

c. ~~Must require dialysis treatment that is provided on-unit within the nursing facility (i.e., peritoneal dialysis).~~

d. ~~Must require daily respiratory therapy treatments that must be provided by a skilled nurse or respiratory therapist. The respiratory condition being treated must require chest physiotherapy (PT) followed by a nebulizer treatment four times per day and suctioning at least every two hours, chest PT followed by a nebulizer treatment four times per day for a resident with a tracheostomy, chest PT four times per day for a resident with a tracheostomy requiring suctioning at least every two hours, nebulizer treatments four times per day for a resident with a tracheostomy, or ongoing assessment and monitoring of respiratory/cardiac status for a resident with a chest tube. Residents receiving these services must require a visit from a respiratory therapist at least once every 14 days.~~

~~[ e. Must require extensive wound care ] requiring debridement, irrigation, packing, etc., more than two times a day (i.e., grade IV decubiti [ for at least one stage IV pressure ulcer (decubitus), a large surgical ] wounds [ wound that cannot be closed, or second or third degree burns covering more than 10% of the body). These wounds must require debridement, irrigation, packing, etc., more than two times a day or ongoing consistent utilization of kinetic therapy (low air loss, air fluidized, or rotating or turning specialty beds) as ordered by the physician in combination with other appropriate, aggressive wound care treatment. ]~~

~~[ f. e. ] Must have multiple unstable ostomies (a single ostomy does not constitute a requirement for special specialized care) requiring frequent care (i.e., suctioning every hour, stabilization of feedings, stabilization of elimination). The instability of more than one ostomy must be demonstrated in the medical record such that it can be determined that extensive daily care and intervention at the specialized care level of care is necessitated.~~

**12 VAC 30-60-340. Pediatric and adolescent specialized care admission and continued stay criteria.**

~~§ 3-0 A. [ General description. ] A child or adolescent must meet all aspects of the nursing facility criteria as set forth in 12 VAC 30-60-300 (Nursing facility criteria) before being considered for specialized care reimbursement. A provider must also have a contract to provide pediatric specialized care before being eligible to receive specialized care reimbursement. To receive the pediatric specialized care rate for services to children under the age of 14, the provider must provide care to the child within a distinct part unit (DPU)~~

~~of eight or more dedicated pediatric beds. The child must have demonstrate ongoing health conditions requiring close medical supervision, 24 hours [ a need for ] 24-hour licensed nursing supervision in a nursing facility, and [ require a requirement for ] specialized services or equipment as defined in the categories of specialized care. Residents must be discharged from specialized care services to the nursing facility level or other appropriate level of care when the program criteria are no longer met. The recipient must be age 21 or under.~~

~~§ 3-1 B. [ Targeted population. ] A child or adolescent requiring specialized care must meet the specified general program criteria in subsection C of this section and the criteria defined in at least one of three specified categories of care in subsection D of this section. These categories are: comprehensive rehabilitation, mechanical ventilation, and complex health care. The general program criteria and specific category criteria are set forth in subsections C and D of this section.~~

~~A. Children requiring mechanical ventilation~~

~~B. Children with communicable diseases requiring universal or respiratory precautions (excluding normal childhood diseases such as chicken pox, measles, strep throat, etc.)~~

~~C. Children requiring ongoing intravenous medication or intravenous nutrition administration~~

~~D. Children requiring daily dependence on device based respiratory or nutritional support (tracheostomy, gastrostomy, etc.)~~

~~E. Children requiring comprehensive rehabilitative therapy service~~

~~F. Children with terminal illness~~

~~§ 3-2 C. [ General program ] criteria for children.~~

~~A. 1. The child must require at a minimum:~~

~~a. Nursing facility level of care;~~

~~1. b. Physician visits at least once weekly (the initial physician visit must be made by the physician personally. Subsequent required physician visits after the initial visit may alternate between personal visits by the physician and visits by a physician assistant or nurse practitioner.) every 30 days;~~

~~2. c. Skilled registered nursing services 24 hours a day (a registered nurse must be on supervise the nursing unit on which the resident resides, 24 hours a day in a "charge nurse" capacity, [ whose sole responsibility is the designated and be solely responsible for ] that unit); [ and ]~~

~~3. d. A coordinated multidisciplinary team approach to meet needs [ ; and . ]~~

~~4. 2. The nursing facility must coordinate with appropriate state and local agencies for the educational and habilitative needs of the child. These services must~~

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~~be age appropriate and appropriate to the cognitive level of the child. Services must also be individualized to meet the specific needs of the child and must be provided in an organized and proactive manner. Services may include but are not limited to school, active treatment for mental retardation, habilitative therapies, social skills and leisure activities. The services must be provided for a total of 2 hours per day, minimum.~~

~~B. D. In addition to the general criteria in subsection C of this section, the child must meet require one of the following requirements three categories of care:~~

~~1. Comprehensive rehabilitation category. All of the following category criteria must be met to qualify for the comprehensive rehabilitation category.~~

~~4. a. Must require two out of three of the following rehabilitative services which are required at an acuity that is not available at the nursing facility level of care: physical therapy, occupational therapy, or speech-pathology services; therapy must be provided at a minimum of 6 therapy sessions, (minimum of 15 minutes per session) per day, 5 days per week; child must demonstrate progress in overall rehabilitative plan of care on a monthly basis; or .~~

~~b. Must receive a minimum of 450 therapy minutes per week. No more than 135 minutes on any one therapy day shall count toward the 450 weekly minutes. Daily therapy should not exceed a resident's ability to effectively participate in the therapeutic regime.~~

~~c. Must have a stable medical condition which is compatible with an active comprehensive rehabilitation program. In the event the recipient experiences an acute medical instability (one- to two-day illness or less) providers shall adjust the therapy regime to assure the required weekly 450 minute schedule is completed. If the resident's acute medical instability is too severe or too long to permit completion of the required weekly 450 minute schedule, the resident may be placed on a reduced therapy schedule. For the purposes of this subsection, the period during which the recipient is placed on a reduced therapy schedule is called "medical hold." The Department of Medical Assistance Services shall continue specialized care reimbursement in this category for one medical hold period of no more than three days per rehabilitation stay. To qualify for reimbursement, the medical hold or reduced therapy schedule must be ordered by the physician and the medical record must support that the resident, due to acute illness or acute medical instability, was unable to tolerate or reasonably make up the required therapy time toward the 450 required weekly minutes. If a resident should require more than one medical hold during a rehabilitative stay, the Department of Medical Assistance Services shall determine, at its sole discretion, whether an additional medical hold period is permitted based on the resident's medical status and~~

~~overall rehabilitative progress. If any period of medical hold is not ordered by the physician and substantiated in the medical record as determined by the Department of Medical Assistance Services, the department shall deny or retract reimbursement for such periods.~~

~~If the full 450 minutes of rehabilitation therapies are not provided during any seven-day period without an acceptable, substantiated, and ordered "medical hold" period, the Department of Medical Assistance Services shall deny or retract specialized care reimbursement. If the resident does not receive the full 450 minutes of required therapy during a seven-day week, the following reimbursement denial or retraction scale shall apply:~~

~~360-449 minutes received = 1 day retraction  
270-359 minutes received = 2 days retraction  
180-269 minutes received = 3 days retraction  
90-179 minutes received = 4 days retraction  
0-89 minutes received = 5 days retraction.~~

~~In addition to the above scale, if the resident is missing therapy time and is found not to be making significant measurable progress in the rehabilitation program, a full denial of specialized care reimbursement shall occur from the point that the resident is documented, as determined by the Department of Medical Assistance Services, to have ceased making significant rehabilitation progress in the medical record.~~

~~d. Must be able to benefit from the services to be provided, based on physician assessment of rehabilitation potential, with the expectation that the condition of the resident will improve significantly in a reasonable and generally predictable period of time in accordance with medical practice standards, or, based on physician assessment, must require rehabilitative services to establish a safe and effective maintenance program provided for a specific medical diagnosis. Once a resident is no longer able to benefit from this level of rehabilitation, has ceased to make significant progress in the rehabilitation program, or once rehabilitation or maintenance programming can be provided at the nursing facility or other lower level of care, the resident must be discharged from the specialized care program.~~

~~e. Must demonstrate significant, measurable progress in the overall rehabilitative plan of care on a monthly (30-day) basis.~~

~~2. Must require special equipment such as mechanical ventilators, respiratory therapy equipment (that has to be supervised by licensed nurse or respiratory therapist), monitoring device (respiratory or cardiac) kinetic therapy, etc., or Mechanical ventilation category [ . ]~~

~~a. The recipient must meet both of the following category criteria and must meet the criteria specified in~~

subdivisions 2 b and c of this subsection if applicable to the patient's treatment status, to qualify for the mechanical ventilation category.

(1) Must require daily mechanical ventilation which may be for all or a specified part of a 24-hour period.

(2) Must require a visit from a respiratory therapist at least once every 14 days.

b. If a CPAP (assist device with continuous positive airway pressure), BiPAP (intermittent assist device with inspiratory and expiratory positive airway pressure), or other similar mechanical respiratory assist device is used instead of a continuous mechanical ventilator, the resident must require other 24-hour specialized care services, such as frequent monitoring and nursing intervention for desaturation. A resident would not meet this (mechanical respiratory assist device) criteria if such device is only used without significant other medical/nursing needs which require specialized care.

c. If a resident has been successfully weaned from the support of a mechanical ventilator, the Department of Medical Assistance Services will continue specialized care reimbursement for up to five days after the resident has not been ventilator dependent for 24 hours. This five-day period begins after the resident completes a 24-hour period with no ventilatory support and demonstrates respiratory stability. If during the five days, the resident requires ventilatory support or demonstrates marked respiratory instability, the resident may continue in the mechanical ventilation category until five consecutive days of respiratory stability are demonstrated. Continued instability must be documented by the physician in the medical record.

3. ~~Children that require~~ Complex health care category. At least one of the following special services must be met to qualify for the complex health care category:

a. ~~Ongoing~~ Must require daily administration of intravenous pain management medications for terminal illness diagnoses, such as cancer, or must require intravenous nutrition (i.e., TPN, ~~antibiotic therapy, narcotic administration, etc.~~).

b. Must require special infection control precautions (~~universal or respiratory precaution; this does not include handwashing precautions only or isolation for normal childhood diseases such as measles, chicken pox, strep throat, etc.~~) that necessitate isolation with negative pressure ventilation or other specialized infection control interventions that cannot be adequately managed in a medically necessitated private room.

c. Must require dialysis treatment that is provided on-unit within the nursing facility (i.e., peritoneal dialysis).

d. Must require daily respiratory therapy treatments that must be provided by a skilled nurse or respiratory therapist. The respiratory condition being treated must require chest physiotherapy (PT) followed by a nebulizer treatment four times per day and suctioning at least every two hours, chest PT followed by a nebulizer treatment four times per day for a resident with a tracheostomy, chest PT four times per day for a resident with a tracheostomy requiring suctioning at least every two hours, nebulizer treatments four times per day for a resident with a tracheostomy, or ongoing assessment and monitoring of respiratory/cardiac status for a resident with a chest tube. Residents receiving these services must require a visit from a respiratory therapist at least once every 14 days.

~~[ e. Must require extensive wound care ] requiring debridement, irrigation, packing, etc., more than two times a day (i.e., grade IV decubiti; [ for at least one stage IV pressure ulcer (decubitus), a large surgical ] wounds [ wound that cannot be closed, or second or third degree burns covering more than 10% of the body). These wounds must require debridement, irrigation, packing, etc., more than two times per day or ongoing, consistent utilization of kinetic therapy (low air loss, air fluidized, or rotating or turning specialty beds) as ordered by the physician in combination with other appropriate, aggressive wound care treatment. ]~~

~~[ f. e. ] Must require ostomy care requiring the services of a licensed nurse.~~

~~[ g. f. ] Must require care for terminal illness. The child's condition must be documented by the physician as terminal with life expectancy of less than six months.~~

**[ 12 VAC 30-90-264. Specialized care services.**

Specialized care services provided in conformance with 12 VAC 30-60-40 E and [ H G ], 12 VAC 30-60-320 and 12 VAC 30-60-340 shall be reimbursed under the following methodology. The nursing facilities that provide adult specialized care for the categories of [ ~~Ventilator-Dependent Mechanical Ventilation~~ ] Care, Comprehensive Rehabilitation Care, and Complex Health Care will be placed in one group for rate determination. The nursing facilities that provide pediatric specialized care in a dedicated pediatric unit of eight beds or more will be placed in a second group for rate determination.

1. Routine operating cost. Routine operating cost shall be defined as in 12 VAC 30-90-271 and 12 VAC 30-90-272. To calculate the routine operating cost reimbursement rate, routine operating cost shall be converted to a per diem amount by dividing it by actual patient days.

2. Allowable cost identification and cost reimbursement limitations. The provisions of Article 3 (12 VAC 30-90-50 et seq.) of Part II of this chapter and of Appendix III (12 VAC 30-90-290) of Part III of this chapter shall apply to specialized care cost and reimbursement.

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3. Routine operating cost rates. Each facility shall be reimbursed a prospective rate for routine operating costs. This rate will be the lesser of the facility-specific prospective routine operating ceiling, or the facility-specific prospective routine operating cost per day plus an efficiency incentive. This efficiency incentive shall be calculated by the same method as in 12 VAC 30-90-41.

4. Facility-specific prospective routine operating ceiling. Each nursing facility's prospective routine operating ceiling shall be calculated as:

a. Statewide ceiling. The statewide routine operating ceiling shall be the weighted average (weighted by 1994 days) of specialized care rates in effect on July 1, 1996, reduced by statewide weighted average ancillary and capital cost per day amounts based on audited 1994 cost data from the 12 facilities whose 1994 FY specialized care costs were audited during 1996. This routine operating ceiling amount shall be adjusted for inflation by the percentage of change in the moving average of the Virginia specific Skilled Nursing Facility Market Basket of Routine Service Costs, as developed by DRI/McGraw-Hill, using the second quarter 1996 DRI table. The respective statewide operating ceilings will be adjusted each quarter in which the provider's most recent fiscal year ends, by adjusting the most recent interim ceiling by 100% of historical inflation and 50% of forecasted inflation to the end of the provider's next fiscal year.

b. The portion of the statewide routine operating ceiling relating to nursing salaries (as determined by the 1994 audited cost report data, or 67.22%) will be wage adjusted using a normalized wage index. The normalized wage index shall be the wage index applicable to the individual provider's geographic location under Medicare rules of reimbursement for skilled nursing facilities, divided by the statewide average of such wage indices across the state. This normalization of wage indices shall be updated January 1, after each time the Health Care Financing Administration (HCFA) publishes wage indices for skilled nursing facilities. Updated normalization shall be effective for fiscal years starting on and after the January 1 for which the normalization is calculated.

c. The percentage of the statewide routine operating ceiling relating to the nursing labor and nonlabor costs (as determined by the 1994 audited cost report data or 71.05%) will be adjusted by the nursing facility's specialized care average Resource Utilization Groups, Version III (RUG-III) Nursing-Only Normalized Case Mix Index (NCMI). The NCMI for each nursing facility will be based on all specialized care patient days rendered during the six-month period prior to that in which the ceiling applies (see subdivision 6 [ ~~below~~ of this section ]).

5. Normalized case mix index (NCMI). Case mix shall be measured by RUG-III nursing-only index scores based on Minimum Data Set (MDS) data. The RUG-III nursing-only weights developed at the national level by

the Health Care Financing Administration (HCFA) (see 12 VAC 30-90-320) shall be used to calculate a facility-specific case mix index (CMI). The facility-specific CMI divided by the statewide CMI shall be the facility's NCMI. The steps in the calculation are as follows:

a. The facility-specific CMI for purposes of this rate calculation shall be the average of the national RUG-III Nursing-Only weights calculated across all patient days in the facility during the six months prior to the six-month period to which the NCMI shall be applied to the facility's routine operating cost and ceiling.

b. The statewide CMI for purposes of this rate calculation shall be the average of the national RUG-III Nursing-Only weights calculated across all specialized care patient days in all specialized care nursing facilities in the state during the six months prior to the six-month period to which the NCMI shall be applied. A new statewide CMI shall be calculated for each six-month period for which a provider-specific rate must be set.

c. The facility-specific NCMI for purposes of this rate calculation shall be the facility-specific CMI from [ ~~(a)~~ ~~above~~ subdivision 5 a of this section ] divided by the statewide CMI from [ ~~(b)~~ ~~above~~ subdivision 5 b of this section ].

d. Each facility's NCMI shall be updated semiannually, at the start and the midpoint of the facility's fiscal year.

e. Patient days for which the lowest RUG-III weight is imputed, as provided in subdivision 14 c of this section, shall not be included in the calculation of the NCMI.

6. Facility-specific prospective routine operating base cost per day: The facility-specific routine operating cost per day to be used in the calculation of the routine operating rate and the efficiency incentive shall be the actual routine cost per day from the most recent fiscal year's cost report adjusted (using DRI-Virginia inflation factors) by 50% of historical inflation and 50% of the forecasted inflation and adjusted for case mix as described below:

a. An NCMI rate adjustment shall be applied to each facility's prospective routine nursing labor and nonlabor operating base cost per day for each semiannual period of the facility's fiscal year.

b. The NCMI calculated for the second semiannual period of the previous fiscal year shall be divided by the average of that (previous) fiscal year's two semiannual NCMI's to yield an "NCMI cost rate adjustment" to the prospective nursing labor and nonlabor operating cost base rate in the first semiannual period of the subsequent fiscal year.

c. The NCMI determined in the first semiannual period of the subsequent fiscal year shall be divided by the average of the previous fiscal year's two semiannual



NCMIs to determine the NCMI cost rate adjustment to the prospective nursing labor and nonlabor operating base cost per day in the second semiannual period of the subsequent fiscal year.

See 12 VAC 30-90-310 for an illustration of how the NCMI is used to adjust routine operating cost ceilings and semiannual NCMI adjustments to the prospective routine operating base cost rates.

7. Interim rates. Interim rates, for processing claims during the year, shall be calculated from the most recent settled cost report and Minimum Data Set (MDS) data available at the time the interim rates must be set, except that failure to submit cost and MDS data timely may result in adjustment to interim rates as provided elsewhere.

8. Ancillary costs. Specialized care ancillary costs will be paid on a pass-through basis for those Medicaid specialized care patients who do not have Medicare or any other sufficient third-party insurance coverage. Ancillary costs will be reimbursed as follows:

a. All covered ancillary services, except kinetic therapy devices (see 12 VAC 30-50-160 for discussion of reimbursement for specialty treatment beds), will be reimbursed for reasonable costs as defined in the current NHPS. See 12 VAC 30-90-290 for the cost reimbursement limitations.

~~b. Kinetic therapy devices will have a limit per day (based on 1994 audited cost report data inflated to the rate period). See 12 VAC 30-90-290 for the cost reimbursement limitations.~~

~~c. Kinetic therapy devices will be reimbursed only if a resident is being treated for wounds that meet specialized care Complex Health Care Category wound care criteria. Residents receiving this wound care must require kinetic bed therapy (that is, low air loss mattresses, fluidized beds, and/or rotating/turning beds) and require treatment for a grade (stage) IV decubitus, a large surgical wound that cannot be closed, or second to third degree burns covering more than 10% of the body.~~

9. Covered ancillary services are defined as follows: laboratory, X-ray, medical supplies (e.g., infusion pumps, incontinence supplies), physical therapy, occupational therapy, speech therapy, inhalation therapy, IV therapy, and enteral feedings, ~~and kinetic therapy~~. The following are not specialized care ancillary services and are excluded from specialized care reimbursement: physician services, psychologist services, total parenteral nutrition (TPN), and drugs. These services must be separately billed to DMAS. An interim rate for the covered ancillary services will be determined (using data from the most recent settled cost report) by dividing allowable ancillary costs by the number of patient days for the same cost reporting period. The interim rate will be retroactively cost settled

based on the specialized care nursing facility cost reporting period.

10. Capital costs (excluding pediatric specialized care units). Capital cost reimbursement shall be in accordance with the current NHPS, except that the 95% (85% if applicable) occupancy requirement shall not be separately applied to specialized care. Capital cost related to specialized care patients will be cost settled on the respective nursing facility's cost reporting period. In this cost settlement, the 95% (85% if applicable) occupancy requirement shall be applied to all the nursing facility's licensed nursing facility beds inclusive of specialized care. An occupancy requirement of 70% shall be applied to distinct part pediatric specialized care units.

11. Nurse aide training and competency evaluation programs [ ~~and competency evaluation programs~~ ] (NATCEPs) costs. NATCEP costs will be paid on a pass-through basis in accordance with the current NHPS.

12. Pediatric routine operating cost rate. For pediatric specialized care in a distinct part pediatric specialized care unit, one routine operating cost ceiling will be developed. The routine operating cost ceiling will be computed as follows:

a. The Complex Health Care Payment Rate effective July 1, 1996, and updated for inflation, will be reduced by (i) the weighted average capital cost per day developed from the 1994 audit data and (ii) the weighted average ancillary cost per day from the 1994 audit data updated for inflation in the same manner as described in subdivision 4 a of this [ ~~subsection~~ section ].

b. The statewide operating ceiling shall be adjusted for each nursing facility in the same manner as described in subdivisions 4 and 5 of this section.

c. The final routine operating cost reimbursement rate shall be computed as described for other than pediatric units in subdivision 3 of this section.

13. Pediatric unit capital cost. Pediatric unit capital costs will be reimbursed in accordance with the current NHPS, except that the occupancy requirement shall be 70% rather than 95% or 85%. An interim capital rate will be calculated from the latest cost report and retrospectively cost settled on the respective specialized care provider's cost reporting period.

14. MDS data submission. MDS data relating to specialized care patients must be submitted to the department in a submission separate from that which applies to all nursing facility patients.

a. Within 30 days of the end of each month, each specialized care nursing facility shall submit to the department, separately from its submission of MDS data for all patients, a copy of each MDS Version 2.0 which has been completed in the month for a

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Medicaid specialized care patient in the nursing facility. This shall include (i) the MDS required within 14 days of admission to the nursing facility (if the patient is admitted as a specialized care patient), (ii) the one required by the department upon admission to specialized care, (iii) the one required within 12 months of the most recent full assessment, and (iv) the one required whenever there is a significant change of status.

b. In addition to the monthly data submission required in [ ~~(a) above subdivision 14 a of this section~~ ], the same categories of MDS data required in [ ~~(a) above subdivision 14 a~~ ] shall be submitted for all patients receiving specialized care from January 1, 1996, through December 31, 1996, and shall be due February 28, 1997.

c. If a provider does not submit a complete MDS record for any patient within the required timeframe, the department shall assume that the RUG-III weight for that patient, for any time period for which a complete record is not provided, is the lowest RUG-III weight in use for specialized care patients. A complete MDS record is one that is complete for purposes of transmission and acceptance by the Health Care Financing Administration.

15. Case mix measures in the initial semiannual periods. In any semiannual periods for which calculations in 12 VAC 39-90-310 [ ~~requires require~~ ] an NCMI from a semiannual period beginning before January 1996, the case mix used shall be the case mix applicable to the first semiannual period beginning after January 1, 1996, that is a semiannual period in the respective provider's fiscal period. For example, December year-end providers' rates applicable to the month of December 1996, would normally require (in Appendix I (12 VAC 30-90-270 et seq.) of Part III of this chapter) an NCMI from July to December 1995, and one from January to June 1996, to calculate a rate for July to December 1996. However, because this calculation requires an NCMI from a period before January 1996, the NCMI that shall be used will be those applicable to the next semiannual period. The NCMI from January to June 1996, and from July to December 1996, shall be applied to December 1996, as well as to January to June 1997. Similarly, a provider with a March year end would have its rate in December 1996 through March 1997, calculated based on an NCMI from April through September 1996, and October 1996 through March 1997.

16. Cost reports of specialized care providers are due not later than 150 days after the end of the provider's fiscal year. Except for this provision, the requirements of 12 VAC 30-90-70 and 12 VAC 30-90-80 shall apply. ]

## [ 12 VAC 30-90-290. Cost reimbursement limitations.

A. This appendix outlines operating, NATCEPs and plant cost limitations that are not referenced in previous sections of these regulations.

All of the operating cost limitations are further subject to the applicable operating ceilings.

### B. Directors' fees.

1. Although Medicaid does not require a board of directors (Medicare requires only an annual stockholders' meeting), the Program will recognize reasonable costs for directors' meetings related to patient care.

2. It is not the intent of DMAS to reimburse a facility for the conduct of business related to owners' investments, nor is it the intent of the Program to recognize such costs in a closely held corporation where one person owns all stock, maintains all control, and approves all decisions.

3. To receive reimbursement for directors' meetings, the written minutes must reflect the name of the facility for which the meeting is called, the content and purpose of the meeting, members in attendance, the time the meeting began and ended, and the date. If multiple facilities are discussed during a meeting, total allowable directors' fees, as limited herein, shall be pro-rated between such facilities.

4. Bona fide directors may be paid an hourly rate of \$125 up to a maximum of four hours per month. These fees include reimbursement for time, travel, and services performed.

5. Compensation to owner/administrators who also serve as directors shall include any directors' fees paid, subject to the above referenced limit set forth in these regulations.

### C. Membership fees.

1. These allowable costs will be restricted to membership in health care organizations and appropriate professional societies which promote objectives in the provider's field of health care activities.

2. Membership fees in health care organizations and appropriate professional societies will be allowed for the administrator, owner, and home office personnel.

3. Comparisons will be made with other providers to determine reasonableness of the number of organizations to which the provider will be reimbursed for such membership and the claimed costs, if deemed necessary.

### D. Management fees.

1. External management services shall only be reimbursed if they are necessary, cost effective, and nonduplicative of existing nursing facility internal management services.

2. Costs to the provider, based upon a percentage of net and/or gross revenues or other variations thereof, shall not be an acceptable basis for reimbursement. If allowed, management fees must be reasonable and based upon rates related to services provided.

3. Management fees paid to a related party may be recognized by the Program as the owner's compensation subject to administrator compensation guidelines.

4. A management fees service agreement exists when the contractor provides nonduplicative personnel, equipment, services, and supervision.

5. A consulting service agreement exists when the contractor provides nonduplicative supervisory or management services only.

6. Limits will be based upon comparisons with other similar size facilities and/or other DMAS guidelines and information.

Effective for all providers' cost reporting periods ending on or after October 1, 1990, a per patient day ceiling for all full-service management service costs shall be established. The ceiling limitation for cost reporting periods ending on or after October 1, 1990, through December 31, 1990, shall be the median per patient day cost as determined from information contained in the most recent cost reports for all providers with fiscal years ending through December 31, 1989. These limits will be adjusted annually by a Consumer Price Index effective January 1 of each calendar year to be effective for all providers' cost reporting periods ending on or after that date. The limits will be published and distributed to providers annually.

E. Pharmacy consultants' fees. Costs will be allowed to the extent they are reasonable and necessary.

F. Physical therapy fees (for outside services). Limits are based upon current PRM-15 guidelines.

G. Inhalation therapy fees (for outside services). Limits are based upon current PRM-15 guidelines.

H. Medical directors' fees. Costs will be allowed up to the established limit per year to the extent that such fees are determined to be reasonable and proper. This limit will be escalated annually by the CPI-U January 1 of each calendar year to be effective for all providers' cost reporting periods ending on or after that date. The limits will be published and distributed to providers annually. The following limitations apply to the time periods as indicated:

Jan. 1, 1988--Dec. 31, 1988 \$6,204

Jan. 1, 1989--Dec. 31, 1989 \$6,625

I. Reimbursement for physical therapy, occupational therapy, and speech-language therapy services shall not be provided for any sums that the rehabilitation provider collects, or is entitled to collect, from the nursing facility or any other available source, and provided further, that this amendment shall in no way diminish any obligation of the nursing facility to DMAS to provide its residents such services, as set forth in any applicable provider agreement.

J. Personal automobile.

1. Use of personal automobiles when related to patient care will be reimbursed at the maximum of the allowable IRS mileage rate when travel is documented.

2. Flat rates for use of personal automobiles will not be reimbursed.

K. Seminar expenses. These expenses will be treated as allowable costs, if the following criteria are met:

1. Seminar must be related to patient care activities, rather than promoting the interest of the owner or organization.

2. Expenses must be supported by:

a. Seminar brochure, and

b. Receipts for room, board, travel, registration, and educational material.

3. Only the cost of two persons per facility will be accepted as an allowable cost for seminars which involve room, board, and travel.

L. Legal retainer fees. DMAS will recognize legal retainer fees if such fees do not exceed the following:

BED SIZE	LIMITATIONS
0 - 50	\$100 per month
51 - 100	\$150 per month
101 - 200	\$200 per month
201 - 300	\$300 per month
301 - 400	\$400 per month

The expense to be allowed by DMAS shall be supported by an invoice and evidence of payment.

M. Architect fees. Architect fees will be limited to the amounts and standards as published by the Virginia Department of General Services.

N. Administrator/owner compensation.

### DMAS ADMINISTRATOR/OWNER COMPENSATION SCHEDULE

JANUARY 1, 1989 - DECEMBER 31, 1989

BED SIZE	NORMAL ALLOWABLE FOR ONE ADMINISTRATOR	MAXIMUM FOR 2 OR MORE ADMINISTRATORS
1 - 75	\$32,708	\$49,063
76 - 100	35,470	53,201
101 - 125	40,788	61,181
126 - 150	46,107	69,160
151 - 175	51,623	77,436
176 - 200	56,946	85,415
201 - 225	60,936	91,399
226 - 250	64,924	97,388
251 - 275	68,915	103,370
276 - 300	72,906	108,375
301 - 325	76,894	115,344
326 - 350	80,885	121,330
351 - 375	84,929	127,394
376 & over	89,175	133,763

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These limits will be escalated annually by the CPI-U effective January 1 of each calendar year to be effective for all providers' cost reporting periods ending on or after that date. The limits will be published and distributed to providers annually.

~~O. Kinetic therapy. For specialized care reimbursement effective December 1, 1996, a limitation per patient day on kinetic therapy shall be established based on historical data. This limit shall be reviewed annually by January 1 of each calendar year and compared to actual cost data, then revised if appropriate, to be effective for all providers' cost reporting periods ending on or after that date. The limit will be published and distributed to providers annually. It shall be:~~

~~December 1, 1996–December 31, 1997 \$102 per day~~

~~\*NOTE: DMAS will gather data over time from provider cost reports, supplemented from other industry sources, on prices of kinetic therapy equipment. From this data DMAS will develop a trend factor to be applied to the base amount. ]~~

VA.R. Doc. No. R97-219; Filed August 26, 1998, 11:33 a.m.

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## TITLE 14. INSURANCE

### STATE CORPORATION COMMISSION

#### Bureau of Insurance

**REGISTRAR'S NOTICE:** The State Corporation Commission is exempt from the Administrative Process Act in accordance with § 9-6.14:4.1 A 2 of the Code of Virginia, which exempts courts, any agency of the Supreme Court, and any agency which by the Constitution is expressly granted any of the powers of a court of record.

The distribution list that is referenced as Appendix A in the following order is not being published. However, the list is available for public inspection at the State Corporation Commission, Document Control Center, Tyler Building, 1<sup>st</sup> Floor, 1300 East Main Street, Richmond, Virginia 23219, from 8:15 a.m. to 5 p.m., Monday through Friday; or may be viewed at the Virginia Code Commission, General Assembly Building, 2<sup>nd</sup> Floor, 910 Capitol Street, Richmond, Virginia 23219, during regular office hours.

**Title of Regulation:** 14 VAC 5-395-10 et seq. **Rules Governing Settlement Agents (amending 14 VAC 5-395-10, 14 VAC 5-395-30, and 14 VAC 5-395-50).**

**Statutory Authority:** §§ 6.1-2.25 and 12.1-13 of the Code of Virginia.

**Effective Date:** August 20, 1998.

AT RICHMOND, AUGUST 14, 1998

COMMONWEALTH OF VIRGINIA, ex rel.

### STATE CORPORATION COMMISSION

CASE No: INS980124

Ex Parte, in re: In the matter of adopting an amended regulation applicable to settlement agents

#### AMENDED ORDER ADOPTING REGULATION

WHEREAS, by order entered herein July 6, 1998, all interested persons were ordered to take notice that the Commission would enter an order subsequent to August 6, 1998, adopting a revised regulation proposed by the Bureau of Insurance unless on or before August 6, 1998, any person objecting to the adoption of the revised regulation filed a request for a hearing with the Clerk of the Commission; and

WHEREAS, as of the date of this order, no request for a hearing has been filed with the Clerk of the Commission;

THEREFORE, IT IS ORDERED THAT:

(1) The revised regulation entitled "Rules Governing Settlement Agents" which is attached hereto as Exhibit A, consisting of six (6) pages, and made a part hereof should be, and it is hereby ADOPTED to be effective August 20, 1998.

(2) An attested copy hereof, together with a copy of the revised regulation, be sent by the Clerk of the Commission to the Virginia State Bar, the Virginia Real Estate Board, and the Bureau of Insurance in care of Deputy Commissioner Mary M. Bannister who shall forthwith give further notice of the revised regulation by mailing a copy of this order, together with a complete copy of the revised regulation to all title insurance companies, title insurance agents, and title insurance agencies licensed in the Commonwealth of Virginia;

(3) The Bureau of Insurance shall file with the Clerk of the Commission an affidavit of compliance with the notice requirements of paragraph (2) above.

#### **14 VAC 5-395-10. Purpose.**

A. The purpose of this chapter is to implement the Consumer Real Estate Settlement Protection Act (§ 6.1-2.19 et seq. of the Code of Virginia).

B. This chapter applies to all title insurance agents, title insurance agencies and title insurance companies providing escrow, closing or settlement services involving the purchase of or ~~financing lending on the security~~ of real estate containing not more than four residential dwelling units in the Commonwealth of Virginia.

C. The Bureau of Insurance shall issue the necessary forms to carry out the provisions of the Act and this chapter.

#### **14 VAC 5-395-30. Registration.**

Every title insurance agent, title insurance agency and title insurance company ~~providing that (i) provides~~ escrow, closing or settlement services involving the purchase of or ~~financing lending on the security~~ of real estate containing not more than four residential dwelling units ~~in the~~

Commonwealth of Virginia and (ii) is listed as the settlement agent on the settlement statement for such transaction shall register be required to be registered as a settlement agent with the Virginia State Bar in accordance with the provisions of § 6.1-2.26 of the Code of Virginia.

14 VAC 5-395-50. Audits.

A. Every title insurance agent, title insurance agency, and title insurance company that acts as a settlement agent in the Commonwealth of Virginia shall, at its expense, have an annual audit of its escrow accounts conducted by an independent certified public accountant on a calendar year basis by not later than six months after the close of the previous calendar year at least once each consecutive 12-month period. Such annual audit shall conform with the standards established by the American Institute of Certified Public Accountants, Statement on Auditing Standards, Special Reports, and shall be filed by the settlement agent with the bureau annually on or before July 4 no later than 60 days after the date on which the audit is completed.

B. Every title insurance agent or title insurance agency acting as a settlement agent shall file a copy of its annual audit report with each title insurance company it represents.

C. In lieu of an audit conducted by a certified public accountant, a title insurance agent or title insurance agency acting as a settlement agent shall allow each title insurance company for which it has an appointment to conduct an annual audit analysis of its escrow accounts on a calendar year basis by not later than six months after the close of the previous calendar year at least once each consecutive 12-month period. The form of such annual audit analysis shall be prescribed by the bureau. The title insurance company shall submit a copy of its audit report analysis to the bureau annually on or before July 4 no later than 60 days after the date on which the analysis is completed. With the consent of the title insurance agent, a title insurance company may share the results of its audit analysis with other title insurance companies that will accept the same in lieu of conducting a separate audit analysis.

VA.R. Doc. No. R98-299; Filed August 17, 1998, 11:01 a.m.



TITLE 24. TRANSPORTATION AND MOTOR VEHICLES

COMMONWEALTH TRANSPORTATION BOARD

REGISTRAR'S NOTICE: The Commonwealth Transportation Board has claimed an exemption from the Administrative Process Act in accordance with § 9-6.14:4.1 C 4 (a) of the Code of Virginia, which excludes regulations that are necessary to conform to changes in Virginia statutory law or the appropriation act where no agency discretion is involved. The Commonwealth Transportation Board will receive, consider and respond to petitions by any interested person at any time with respect to reconsideration or revision.

Title of Regulation: 24 VAC 30-200-10 et seq. Vegetation Control Regulations on State Rights-of-Way (amending 24 VAC 30-200-10, 24 VAC 30-200-20, and 24 VAC 30-200-30; adding 24 VAC 30-200-40).

Statutory Authority: §§ 33.1-12(3) and 33.1-351(2) of the Code of Virginia.

Effective Date: October 14, 1998.

Summary:

The Vegetation Control Regulations on State Rights-of-Way establish the policies and procedures to be followed by VDOT in granting permission to permittees who wish to trim vegetation within highway rights-of-way. This activity is performed to remove vegetation that obstructs motorists' view of signs displayed on outdoor advertising structures erected and maintained in accordance with existing state and federal laws and regulations. Through this regulation, VDOT has attempted to balance the legitimate rights of businesses to advertise their goods and services to motorists with the desire to preserve the natural beauty of roadside vegetation.

The Vegetation Control Regulations on State Rights-of-Way refine and extend two related regulations concerning permits: the General Rules and Regulations of the Commonwealth Transportation Board (24 VAC 30-20-10 et seq.) contain the stipulation that a permit be obtained for work performed on real property under CTB jurisdiction; the Land Use Permit Manual (24 VAC 30-150-10 et seq.) also addresses the permit process in general.

The specific revisions to be incorporated into the regulation are the result of legislative action by the 1998 General Assembly (Chapter 525 (SB 686) and Chapter 540 (HB 1228) of the 1998 Acts of Assembly). The changes concern (among other items) administrative issues pertaining to on-site supervision of the permittee, bonding and fees, and technical issues pertaining to how the pruning is to be performed.

Agency Contact: Copies of the regulation may be obtained from James R. Barrett, Environmental Division, Department of Transportation, Memorial Hospital Building, 1221 East Broad Street, Richmond, VA 23219, telephone (804) 371-6826.

CHAPTER 200. VEGETATION CONTROL REGULATIONS ON STATE RIGHTS-OF-WAY.

24 VAC 30-200-10. Definitions.

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

"Agent" means the person, firm, or corporation representing the permittee.

"Board" means the Commonwealth Transportation Board as defined in § 33.1-1 of the Code of Virginia.

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# Final Regulations

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"Boundary of any locality" means the limits of the jurisdiction of any local board of supervisors, town council, or city council.

~~"Conforming outdoor advertising signs" means signs, advertisements, or advertising structures which were lawfully erected, have been lawfully maintained, and which comply with current state law, state regulations, and local ordinances.~~

"Certified arborist" means an individual who has taken and passed the certification examination sponsored by the International Society of Arboriculture and who maintains a valid certification status.

"Cutting" means to completely remove at ground level.

"Daylighting" means to prune or remove vegetation to improve the motorists' view of an outdoor advertising structure or business.

"Department" means the Virginia Department of Transportation (VDOT) and its employees.

~~"District administrator" means the chief executive officer in each transportation construction district.~~

"Desirable vegetation" means vegetation to be preserved at VDOT's discretion.

"Environmental manager-field" means the chief environmental manager in each transportation construction district.

"Federal-aid primary highway" means any highway as defined in § 33.1-351(b)(18) of the Code of Virginia.

~~"Inspector" means any employee designated by the district administrator or environmental manager-field, to inspect the work performed under authority of this chapter.~~

"Interstate system" means any highway as defined in § 33.1-48 of the Code of Virginia.

"Land Use Permit Manual" means the manual (24 VAC 30-150-10 et seq.) maintained by the board for the purpose of authorizing activities within the limits of state rights-of-way.

"Limited access highway" means any highway as defined in § 33.1-57 of the Code of Virginia.

~~"Nonconforming outdoor advertising sign, advertisement or advertising structure" means one as defined in § 33.1-351(b)(29) of the Code of Virginia.~~

"Permittee" means the person, firm, or corporation owning the outdoor advertising sign, advertisement, or advertising structure or the business for whom the vegetation control work is being performed.

"Pruning" means to remove branches from healthy vegetation in a manner that is acceptable under the American National Standards Institute and Tree Pruning Guidelines published by the International Society of Arboriculture using the natural method.

"Resident engineer" means the chief executive officer of any transportation residency within the Commonwealth of Virginia.

"Specifications" means the current Virginia Department of Transportation's Road and Bridge Specifications (effective January 1997).

~~"Unightly" means vegetation to be selectively removed at VDOT's discretion.~~

## 24 VAC 30-200-20. General provisions.

A. Permits will be issued to control vegetation in front of a sign/structure or business provided the vegetation control work meets the criteria set forth in § 33.1-371.1 and this chapter. An application may be filed by an agent, including, but not limited to, companies which trim trees. ~~No permit shall be issued to cut, prune or selectively thin trees for a nonconforming outdoor advertising sign/structure.~~

B. ~~No trees that are more than two inches in diameter will be eliminated. All cutting to make an outdoor advertising structure more visible from the roadway shall be limited to vegetation with trunk base diameters of less than six inches. All cutting to make a business more visible from the roadway shall be limited to vegetation with trunk base diameters of less than two inches. All stumps shall be treated with a cut-stump pesticide applied by a licensed pesticide applicator with a license issued by the Virginia Department of Agriculture and Consumer Services in Category 6. All pesticides shall be approved by the department prior to use. Selective thinning of small trees in accordance with specifications will be allowed on an individual basis to enhance the health and growth of the best trees if recommended by the certified arborist supervising the work and agreed to by the department. Trees that are diseased, damaged by insects, unightly, or that pose a safety hazard may be removed when recommended by the certified arborist supervising the work and approved by the department. When tree removal is recommended by the certified arborist and approved by this permit, the permittee shall provide a list of suitable trees and shrubs and a landscape plan to replace vegetation removed to the environmental manager-field for review and approval prior to issuance of the permit. The certified arborist and the department shall agree on size and species of replacement vegetation. The permittee shall plant, at his expense, all replacement vegetation at the locations shown on the landscape plan in accordance with the specifications. The establishment period for replacement vegetation shall be in accordance with § 605.05 of the specifications. No pruning of vegetation to make an outdoor advertising sign more visible from the roadway will be permitted if the cut at the point of pruning will exceed four inches in diameter. No pruning of vegetation to make a business more visible from the roadway will be permitted if the cut at the point of pruning will exceed two inches in diameter. Brush and limbs up to two inches in diameter may be removed on a site-by-site basis. No leader branches shall be cut off in such a manner as to retard the normal upright growth of the tree unless recommended by the certified arborist and approved by the department. Certain larger trees that are diseased or~~

~~unsightly may be removed when approved by the district administrator.~~

C. When daylighting signs, every effort shall be made to form a picture frame around the sign with remaining vegetation so as to accent the beauty of the surrounding roadside. *A picture frame effect shall be achieved by leaving vegetation in place that will cover the sign structure supports below the face as seen from the main-traveled way.*

D. A permit must be obtained from the Virginia department of ~~Transportation~~ prior to any vegetation control work on the state's rights-of-way. All work shall be performed by the permittee at his expense, including permit and inspection fees.

E. A violation of this chapter ~~may shall, in addition to penalties provided in § 33.1-377 of the Code of Virginia,~~ result in a permittee or its agent or both losing its vegetation control permit privilege for five years. *Additionally, the bond amount used to secure the permit will be used for any reparations to the site.* Inadvertent violations of this permit will require replacement on a four-to-one basis with other suitable small trees approved by the ~~district administrator department~~ to enhance the roadside beauty. The ~~district administrator department~~ shall have full authority to determine specie and size of all replacement vegetation *if inadvertent cutting occurs.*

## 24 VAC 30-200-30. Special provisions.

A. The permittee shall attach two *each* 8" x 10" color glossy photographs (a closeup and a distant view) ~~immediately before the work is performed with the permit application~~ showing the vegetation to be controlled, the highway, and the sign or business.

The permit for selective pruning or tree cutting, or both, will be inspected by the ~~resident engineer and environmental manager-field, then forwarded with their recommendations to the district administrator for department and approval or denial given.~~

A permit may be denied any applicant, and all permits issued by the Commonwealth Transportation Board may be revoked whenever, in the opinion of the Commonwealth Transportation Commissioner or his authorized representative, the safety, use, or maintenance of the highway so requires or the integrity of the permit system so dictates.

If, during or before work begins, it is deemed necessary by the department to assign inspectors to the work, the permittee shall pay the department an additional inspection fee in an amount that will cover the salary, expense and mileage allowance, equipment rental, etc., of the inspector(s) assigned by the department for handling work covered by this chapter. Said inspection fee to be paid promptly each month on bills rendered by the department.

The absence of a state inspector does not in any way relieve the permittee of his responsibility to perform the work in accordance with provisions of § 33.1-371.1 of the Code of Virginia, this chapter, or permit.

B. ~~The resident engineer and the environmental manager-field shall be notified at least three days in advance of the date any work is to be performed and when completed, in order than an inspection may be made.~~

C. No trees, shrubs, vines, or plant material, except as covered by this chapter, shall be cut or disturbed. Stubs and dead wood in trees covered by this chapter must be removed, whether occasioned by present requirements or not.

~~Where permit covers the selective thinning or removal of trees, shrubs, vines, including brush to enhance the healthy growth of the best trees, brush and limbs up to two inches in diameter may be removed. Certain diseased or unsightly trees and shrubs may also be removed when approved as a part of this chapter.~~

Pruning of trees shall only be performed by qualified tree workers who, through related training or experience or both, are familiar with the techniques and hazards of arboricultural work including trimming, maintaining, repairing or removing trees, and the equipment used in such operations. The supervisor, a *certified arborist*, and tree workers shall be approved by the environmental manager-field, prior to issuance of a permit to perform work under this chapter. *The certified arborist supervising the work shall remain on-site whenever work is underway.*

All brush, wood, etc., shall be chipped and beneficially used or removed immediately and disposed of in a ~~landfill which has a permit from accordance with the Solid Waste Management Regulations (9 VAC 20-80-10 et seq.) of the Virginia Department of Environmental Quality Waste Management Board.~~

The use of climbing irons or spurs is positively forbidden in any tree.

D. All access and work shall be accomplished from the abutting property side of rights-of-way on interstate and other limited access highways. *All work performed on VDOT rights-of-way shall comply with the Virginia Work Area Protection Manual (part of 24 VAC 30-310-10 et seq.).* Any damage caused to property owned by the Commonwealth shall be repaired or replaced in kind when work is complete.

All work done under this chapter on the right-of-way shall in all respects be subject to department directions and shall be completed to the satisfaction of the environmental manager-field, or his representative.

E. The department reserves the right to stop the work at any time the terms of this chapter are not satisfactorily complied with, and the department may, at its discretion, complete any of the work covered in the permit at the expense of the permittee. If it is in the best interest of traffic safety, the department may complete or have completed at the expense of the permittee any of the work that must be done to properly protect the traveling public.

F. The permittee shall immediately have corrected any condition which may arise as a result of this work that the ~~inspector or resident engineer deem~~ department deems

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hazardous to the traveling public or state maintenance forces even though such conditions may not be specifically covered in this chapter or in the Land Use Permit Manual (24 VAC 30-150-10 et seq.).

G. ~~Applicants~~ Permittees and their agents to whom permits are issued shall at all times indemnify and save harmless the Commonwealth Transportation Board and the Commonwealth of Virginia and its employees, agents, and officers from responsibility, damage, or liability arising from the exercise of the privilege granted in such permit except if political subdivisions are the applicants. Then special arrangements will be made whereby the agent of the political subdivision performing the work will indemnify and save harmless the board and others. All work shall be performed by the permittee at his expense. All permit and inspection fees shall be paid to the department by the permittee.

All trees and brush removed shall be cut at ground level.

Dogwood or other small flowering trees on the site shall not be removed.

H. The permittee agrees that if the work authorized by this chapter including any work necessary to restore shoulders, ditches, and drainage structures to their original condition, is not completed by the permittee to the satisfaction of the ~~resident engineer~~ department, the department will do whatever is required to restore the area within the right-of-way to department standards, and the permittee will pay to the Commonwealth the actual cost of completing the work. When the permittee is a political subdivision, this requirement will be satisfied by a sum certain which will appear in the permit.

I. Road and street connections and private and commercial entrances are to be kept in a satisfactory condition. Entrances shall not be blocked. Ample provisions must be made for safe ingress and egress to adjacent property at all times. Where entrances are disturbed, they shall be restored to the satisfaction of the department.

J. Road drainage shall not be blocked. The *pavement*, shoulders, ditches, roadside and drainage facilities, ~~as well as the pavement~~, shall be kept in an operable condition satisfactory to the department. Necessary precautions shall be taken by the permittee to ensure against siltation of adjacent properties, streams, etc., in accordance with the Virginia Erosion and Sediment Control ~~Handbook~~ Law (§ 10.1-560 et seq. of the Code of Virginia) and Virginia Erosion and Sediment Regulations (4 VAC 50-30-10 et seq.).

K. Any conflicts with existing utility facilities shall be resolved between the permittee and the utility owners involved. *The permittee shall notify and receive clearance from the utility owner(s) and comply with the Overhead High Voltage Line Safety Act (§ 59.1-406 et seq. of the Code of Virginia) before proceeding with work in the vicinity of utilities.*

Where landscape is disturbed on state rights-of-way, it shall be replaced with a minimum of two inches of topsoil and reseeded according to department specifications.

## **24 VAC 30-200-40. Listing of documents incorporated by reference.**

*Information pertaining to the availability and cost of any of these publications should be directed to the division indicated by writing to the Virginia Department of Transportation, 1401 East Broad Street, Richmond, Virginia 23219, or to the agency address indicated.*

1. 24 VAC 30-150-10 et seq., *Land Use Permit Manual (1983)*, Maintenance Division, VDOT
2. *VDOT Road and Bridge Specifications (effective January 1997)*, Construction Division, VDOT
3. 24 VAC 30-310-10, *Virginia Supplement to the Manual on Uniform Traffic Control Devices (Virginia Work Area Protection Manual)*, Traffic Engineering Division, VDOT
4. 4 VAC 50-30-10 et seq., *Virginia Erosion and Sediment Control Regulations*, Division of Soil and Water Conservation, Department of Conservation and Recreation, 203 Governor St., Richmond, Va. 23219
5. 9 VAC 20-80-10 et seq., *Solid Waste Management Regulations*, Waste Division, Department of Environmental Quality, 629 E. Main St., Richmond, Va. 23240



Form TT8 (page 1 of 2)  
Rev. 8/25/87

COMMONWEALTH OF VIRGINIA  
DEPARTMENT OF TRANSPORTATION  
VEGETATION CONTROL APPLICATION  
24 VAC 30-200-10 et seq.

Transportation District Roadside Manager for  
District Administrator

Form TT8 (page 2 of 2)  
Rev. 8/25/87

COMMONWEALTH OF VIRGINIA  
DEPARTMENT OF TRANSPORTATION  
VEGETATION CONTROL APPLICATION  
24 VAC 30-200-10 et seq.

To \_\_\_\_\_, Resident Engineer at \_\_\_\_\_, 19\_\_\_\_  
Application is hereby made to work on State Highway trees on Route \_\_\_\_\_ in the  
City/County of \_\_\_\_\_ between \_\_\_\_\_ and \_\_\_\_\_  
\_\_\_\_\_ in accordance with description of work, Vegetation Control Regulations 24 VAC  
30-200-10 et seq., and such other rules and regulations of the Commonwealth Transportation Board, as  
may be applicable thereto. All work to be done under the direct supervision of \_\_\_\_\_  
\_\_\_\_\_, Address \_\_\_\_\_, Phone \_\_\_\_\_  
No. (\_\_\_\_\_) All work shall be completed within \_\_\_\_\_ days from issuance of  
this permit.

REASON FOR WORK: Improve motorists' view of \_\_\_\_\_ Permit Number \_\_\_\_\_  
Permit Guaranteed performance of the work is covered by (a) Certified Check in the amount of  
\$2,500.00 enclosed, which may be used in whole or part to complete the work outlined or it will be  
returned when the work has been completed in a satisfactory manner; or (b) Bond No. \_\_\_\_\_  
\_\_\_\_\_ of \_\_\_\_\_ Company. Check, for the non-  
refundable application and permit fee, in the amount of \$400.00 is enclosed.

Applicant: \_\_\_\_\_ Address: \_\_\_\_\_  
Signed by: \_\_\_\_\_ Title: \_\_\_\_\_  
\_\_\_\_\_ Federal Tax I. D. No. \_\_\_\_\_  
\_\_\_\_\_ Telephone No. \_\_\_\_\_ (For Official Use Only)

All trees listed in description of work have been inspected and found to be on State Rights of Way. The  
undersigned recommend that this permit be issued. An inspector will be assigned to supervise this work  
at the permittee's expense \_\_\_\_\_ Yes \_\_\_\_\_ No. Inspector's Name: \_\_\_\_\_, 19\_\_\_\_  
Resident Engineer \_\_\_\_\_  
Environmental Manager-Field \_\_\_\_\_, 19\_\_\_\_

Tree Trimming Permit No. \_\_\_\_\_ issued at \_\_\_\_\_, 19\_\_\_\_  
In so far as the Commonwealth Transportation Board has the right and power to grant same, the above  
applicant is permitted to perform tree work as outlined. The Commonwealth Transportation Board  
reserves full municipal control over the subject matter of this permit.

Description of Work:

Pesticides proposed for use as a cut-stump treatment under this permit are \_\_\_\_\_  
V. D. A. C. S. Pesticide applicator certification no. \_\_\_\_\_ Expiration date: \_\_\_\_\_  
Pesticide applicators must be certified by V. D. A. C. S. in Category 6 prior to applying pesticides on  
public rights-of-way.  
Tree trimming shall be performed in accordance with the applicable classes of pruning standards for  
shade trees provided by the International Society of Arboriculture.

FINAL INSPECTION REPORT

Final inspection made on \_\_\_\_\_, 19\_\_\_\_ by \_\_\_\_\_  
and vegetation control is acceptable with the following exceptions: \_\_\_\_\_

VA.R. Doc. No. R98-320; Filed August 25, 1998, 2:16 p.m.

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# GOVERNOR

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## PROCLAMATION

The successful carrying out of the Virginia traffic safety program is dependent to a large extent upon the proper mechanical maintenance of motor vehicles, trailers or semi-trailers which operate over the streets and highways of Virginia.

Motor vehicles, trailers or semi-trailers inspected under this Proclamation which continue to be registered in and operated upon the highways of this Commonwealth shall be reinspected within twelve months from each month of inspection thereafter. Any motor vehicle, trailer or semi-trailer presently being operated in Virginia which bears a current inspection sticker as of the date of this proclamation shall not be required to be reinspected pursuant to this Proclamation until the current twelve-month period has expired.

The owner or operator of a motor vehicle, trailer, or semi-trailer subject to this Proclamation shall submit the same to an official inspection station for inspection before operating such motor vehicle, trailer or semi-trailer upon the highways of Virginia, except as follows:

1. Four-wheel vehicles weighing less than 500 pounds and having less than 6 horsepower;
2. Trailers not equipped with brakes;
3. Motor vehicles defined under Section 46.2-100 of the Code of Virginia as an antique motor vehicle and licensed as an antique motor vehicle pursuant to the provisions of Section 46.2-730 of the Code;
4. Any motor vehicle, trailer or semi-trailer which is outside of the Commonwealth of Virginia at the time its inspection expires may be returned to the owner's or operator's place of residence or the owner's legal place of business in the State before it will be required to be submitted for a reinspection;

In addition, any truck, tractor truck, trailer or semi-trailer which is outside of the Commonwealth of Virginia at the time its inspection expires may be operated (i) from a point outside the Commonwealth to the place where such vehicle is kept or garaged within the Commonwealth or (ii) to a destination within the Commonwealth where such vehicle will be (a) unloaded within twenty-four hours of entering the Commonwealth, (b) inspected within such twenty-four hour period, and (c) after being unloaded, will be operated only to an inspection station or to the place where it is kept or garaged within the Commonwealth;

5. Motor vehicles owned and operated by persons on active duty with the United States Armed Forces, who are Virginia residents stationed outside of Virginia at the time its inspection expires, may operate such vehicle on the highways of the Commonwealth while on leave, provided such vehicle displays a valid inspection sticker issued by another state and not be in violation of Section 46.2-1157 of the Code of Virginia;

6. New motor vehicles, new trailers or new semi-trailers may be operated upon the highways of Virginia for the purpose of delivery from the place of manufacture to the dealer's or distributor's designated place of business, or between places of business if such manufacturer, dealer or distributor has more than one place of business, without being inspected; dealers or distributors may take delivery and operate upon the highways of Virginia new motor vehicles, new trailers or new semi-trailers from another dealer or distributor provided a motor vehicle, trailer or semi-trailer shall not be considered new if driven upon the highways for any purpose other than the delivery of the vehicle.

7. New motor vehicles, new trailers or new semi-trailers bearing a manufacturer's license may be operated for test purposes by the manufacturer without an inspection;

8. Motor vehicles, trailers or semi-trailers may be operated for test purposes by a certified inspector without an inspection during the performance of an official inspection;

9. New motor vehicles, new trailers or new semi-trailers may be operated upon the highways of Virginia over the most direct route to a location for installation of permanent body without being inspected;

10. Motor vehicles, trailers or semi-trailers purchased outside the Commonwealth of Virginia may be driven to the purchaser's place of residence or the dealer's or distributor's designated place of business without being inspected.

11. Prior to purchase from auto auctions within the Commonwealth, motor vehicles, trailers or semi-trailers may be operated upon the highways not to exceed a five-mile radius of such auction by prospective purchasers for the purpose of road testing only without being inspected;

Motor vehicles, trailers or semi-trailers purchased from auto auctions within the Commonwealth also may be operated upon the highways from such auction to the purchaser's place of residence or business without being inspected;

12. Motor vehicles, trailers or semi-trailers, after the expiration of a period fixed for the inspection thereof, may be operated over the most direct route between the place where such vehicle is kept or garaged and an official inspection station for the purpose of having the same inspected pursuant to a prior appointment with such station for such inspection as provided in Section 46.2-1157 of the Code of Virginia;

13. Vehicles transporting well drilling machinery and mobile equipment as defined in Section 46.2-700 of the Code of Virginia;

14. Motor vehicles being towed in a legal manner as exempted by Section 46.2-1150 of the Code of Virginia;

15. Log trailers as exempted by Section 46.1-1159 of the Code of Virginia;

16. Motor vehicles designed or altered and used exclusively for racing or other exhibition purposes, as exempted by Section 46.2-1160 of the Code of Virginia;

Motor vehicles, trailers or semi-trailers not registered in Virginia are not subject to this Proclamation. Accordingly, mopeds as defined in Section 46.2-100 and vehicles exempted from licensing under Sections 46.2-662 through 46.2-683, are not required to be inspected.

NOW, THEREFORE, I, James S. Gilmore, III, Governor of the Commonwealth of Virginia, do hereby proclaim that, with the exception of those vehicles specifically exempted heretofore in this document, all motor vehicles, trailers or semi-trailers bearing a Virginia registration plate or plates, or registered as a motor vehicle, trailer or semi-trailer under any provision of Virginia law and operated upon the highways of this Commonwealth shall be submitted to inspection at an official inspection station and shall have corrected all defects thus found to exist.

Given under my hand and under the lesser seal of the Commonwealth, at Richmond, this 29th day of May, in the year of Our Lord, one thousand nine hundred and ninety-eight, and in the two hundred twenty-third year of the Commonwealth.

/s/ James S. Gilmore, III  
Governor

VA.R. Doc. No. R98-321; Filed August 25, 1998, 10:48 a.m.

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## THE LEGISLATIVE RECORD

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[The Legislative Record is available on  
the Internet at <http://dls.state.va.us/> ]

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# GENERAL NOTICES/ERRATA

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## DEPARTMENT OF CONSERVATION AND RECREATION

### Virginia Water Quality Improvement Fund Guidelines for Fiscal Years 1999-2000

#### INTRODUCTION

The purpose of the Virginia Water Quality Improvement Act of 1997 (Act) is to restore and improve the quality of state waters and to protect them from impairment and destruction for the benefit of current and future citizens of the Commonwealth (Section 10.1-2118 of the Code of Virginia). Because this is a shared responsibility among state and local governments and individuals, the Act also creates The Water Quality Improvement Fund (Fund). The purpose of the Fund is to provide Water Quality Improvement Grants to local governments, soil and water conservation districts and individuals for point and nonpoint source pollution prevention, reduction and control programs...(Section 10.1-2128.B. of the Code of Virginia). The Fund shall not be used for agency operating expenses or for purposes of replacing or otherwise reducing any general, non-general, or special funds allocated or appropriated to any state agency (Section 10.1-2128.B. of the Code of Virginia). The Department of Environmental Quality has the responsibility to provide technical and financial assistance to local governments and individuals for the control of point source pollution. The Department of Conservation and Recreation has the responsibility to provide technical and financial assistance to local governments, soil and water conservation districts, and individuals for nonpoint source pollution prevention, reduction and control programs. Because of the nature of nonpoint source pollution control, the Department of Conservation and Recreation will seek the assistance and support of other state agencies to provide the necessary expertise and resources to properly implement the nonpoint source elements of the Act.

A primary objective of the Fund is to reduce the flow of excess nutrients (nitrogen and phosphorus) into the Chesapeake Bay through the implementation of the Tributary Strategies prepared in accordance with the multi-state/EPA/D.C. Chesapeake Bay Program and with state law. To date, Virginia has completed one such plan for the Shenandoah-Potomac Basin. Initial strategies for the York and James rivers were completed by July 1, 1998 with approval of the final strategies coming later in the year. Strategies for the Rappahannock River and eastern and western coastal basins are to be completed by January 1, 1999. The 1998 Virginia General Assembly directed that any appropriations made to the Fund in excess of the current biennium funding (\$16.75 million) shall be used by the Department of Conservation and Recreation to implement adopted strategies for nutrient reduction in the Rappahannock, York, and James rivers and the eastern and western coastal basins. In the event that final strategies are not adopted in accordance with statutory deadlines, projects designed to reduce nutrients in these rivers and basins shall be considered for funding.

For point source projects, availability of funds is limited to facilities located in the Shenandoah-Potomac Basin, which is currently the only Chesapeake Bay tributary with an approved nutrient reduction strategy. Point source projects in the other Chesapeake Bay tributaries, according to the 1998 Appropriations Act, can only be considered for cost-share if appropriations are made above the current funding provided (\$37.1 million).

Since this is a nonreverting fund, any money not spent in the fiscal year appropriated will remain in the Fund for use in subsequent years. Note that grants from the Fund will be provided as matching funds, usually on a 50-50 cost share basis (some exceptions are outlined in the guidelines).

#### DEFINITIONS

The following definitions should be used to interpret the terms in these guidelines:

“Agricultural Best Management Practice” as used within these guidelines shall mean those practices outlined within *Virginia Agricultural BMP Manual* published by the Department of Conservation and Recreation.

“Approved Tributary Strategy” means a plan developed according to Section 2.1-51.12 of the Code of Virginia and approved by the Secretary of Natural Resources.

“Fund” means the Virginia Water Quality Improvement Fund established by Section 10.1-2128 of the Code of Virginia of the Virginia Water Quality Improvement Act.

“Impaired water” means water that is not meeting one or more state water quality standards; water with fish or shellfish harvesting prohibition by the Virginia Department of Health; and water where biological monitoring indicates moderate to severe impairment.

“Individual” means any corporation, foundation, association or partnership, or one or more natural persons.

“Local government” means any county, city, town, municipal corporation, authority, district (including soil and water conservation districts), commission or political subdivision of the Commonwealth.

“Nonpoint source pollution” means pollution of state waters washed from the land surface in a diffuse manner and not resulting from a discernible, defined or discrete conveyance.

“Point source pollution” means pollution of state waters resulting from any discernible, defined or discrete conveyance.

“State waters” means all waters on the surface or under the ground, wholly or partially within or bordering the Commonwealth or within its jurisdictions.

“Total Maximum Daily Load” (TMDL) means the maximum amount of a pollutant that a waterbody can receive daily without violating water quality standards. A TMDL includes best estimates of pollution from nonpoint sources, natural background sources, pollution from point sources, and a

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margin of safety. TMDLs can also be defined as the strategy which is implemented to reduce or eliminate the impact of nonpoint source pollution.

“Tributary Strategy” means a plan to meet a pollutant reduction goal (e.g. 40% nutrient reduction for the Shenandoah-Potomac Basin) to achieve the water quality requirements necessary to restore living resources.

“Water Quality Improvement Grants” means grants available from the Fund for projects of local governments and individuals (i) to achieve nutrient reduction goals in tributary plans developed pursuant to Article 2 (Section 2.1-51.12.1 et seq.) of Chapter 5.1 of Title 2.1 of the Code of Virginia or (ii) to achieve other water quality restoration, protection or enhancement benefits.

### DEVELOPMENT OF THESE GUIDELINES

Section 10.1-2129.A. of the Code of Virginia specifies that: the Secretary of Natural Resources, in consultation with the State Forester and Directors of the Departments of Environmental Quality and Conservation and Recreation and of the Chesapeake Bay Local Assistance Department and with the advice and guidance of the Board of Conservation and Recreation, the Virginia Soil and Water Conservation Board, the State Water Control Board, and the Chesapeake Bay Local Assistance Board, shall (i) allocate moneys in the Fund between point and nonpoint source pollution, and (ii) develop written Guidelines for distribution and conditions of Water Quality Improvement Grants and criteria for prioritizing funding requests.

Draft guidelines were made available for public review and comment from June 8, 1998 through July 10, 1998. Many suggestions from the public were incorporated into the final version of these guidelines. A responsiveness summary to the public comments received can be obtained from:

For Nonpoint Source Program Related Issues:

Charles Lunsford  
Department of Conservation and Recreation  
203 Governor Street  
Richmond, Virginia 23219  
(804)371-8984  
cal@dcr.state.va.us

For Point Source Program Related Issues:

John Kennedy  
Department of Environmental Quality  
639 East Main Street  
Richmond, Virginia 23219  
(804) 698-4312  
jmkennedy@deq.state.va.us

The annual Appropriations Act of the General Assembly specifically allocates the monies in the Fund between point and nonpoint sources of pollution. These guidelines address the distribution and conditions of grants and criteria for prioritizing funding requests. Section 10.1-2131.A. of the Code of Virginia specifies the Department of Environmental Quality shall be the lead agency for determining the appropriateness of any grant related to point source

pollution. In Section 10.1-2132.A. of the Code of Virginia, the Department of Conservation and Recreation is designated the lead state agency for determining the appropriateness of any grant related to nonpoint source pollution. The guidelines are divided into two sections because the procedures, conditions, and criteria will be different for nonpoint source (Section A) and point source (Section B) pollution control projects. The emphasis in these guidelines is on the policies and procedures that will govern the Fund during Fiscal Years 1999-2000.

### SECTION A

#### NONPOINT SOURCE PROJECTS

##### GOALS AND OBJECTIVES

The goal of the nonpoint source component of the Virginia Water Quality Improvement Act (WQIA) is to achieve better water quality throughout the Commonwealth of Virginia and in the Chesapeake Bay by reducing nonpoint source pollution. Nonpoint source pollution is a significant cause of degradation of state waters and the Chesapeake Bay. Nonpoint source pollution is addressed in the general Appropriation Act and in these Guidelines in three distinct regions: 1) Shenandoah-Potomac Basin, 2) Lower Bay Tributaries Area (Rappahannock, York, and James rivers and eastern and western coastal basins, and 3) the Southern Rivers Area, including the eastern side of the Eastern Shore. A map delineating the Shenandoah-Potomac Basin, the Lower Bay Tributaries Area and the area of the Commonwealth outside the Chesapeake Bay Basin, termed as the Southern Rivers Area, is attached with these guidelines. Within the Chesapeake Bay watershed the goal is to implement approved Tributary Strategies, which focus on reducing nutrients going into the Chesapeake Bay and its tributary rivers. In the Southern Rivers Area, the goal will be to achieve measurable improvements in water quality, which can include nutrient reduction as well as reduction of other pollutants. These guidelines provide the mechanism by which funds will be made available to help stimulate nonpoint source pollution reduction through the Virginia Agricultural Best Management Practices Cost-Share Program (Cost-Share Program) and water quality improvement projects within these three regions.

As specified in the Act, grant funding may be made available to local governments, soil and water conservation districts and individuals who propose specific initiatives that are clearly demonstrated as likely to achieve reductions in nonpoint source pollution, including excess nutrients, to improve the quality of state waters. Such projects may include, but are in no way limited to, the acquisition of conservation easements related to the protection of water quality and stream buffers; conservation planning and design assistance to develop nutrient management plans for agricultural operations; implementation of cost-effective nutrient reduction practices; and reimbursement to local governments for tax credits and other kinds of authorized local tax relief that provides incentives for water quality improvement. (Section 10.1-2132.C. of the Code of Virginia). The Fund shall not be used for agency operating expenses or

for purposes of replacing or otherwise reducing any general, non-general, or special funds allocated or appropriated to any state agency (Section 10.1-2128.B. of the Code of Virginia).

## GRANT REVIEW COMMITTEE

In order to meet the goals of the Act, these guidelines outline a number of state agencies that will participate in the effort to provide the necessary technical expertise and resources to solicit and review applications and administer grant agreements. Applications will be reviewed by a Grant Review Committee, consisting of a sub-group of the state's Nonpoint Source Advisory Committee, which will be chaired by a staff member from the Department of Conservation and Recreation (DCR), and will consist of staff representatives from the following agencies:

1. The Department of Conservation and Recreation
2. The Department of Environmental Quality
3. The Chesapeake Bay Local Assistance Department
4. The Virginia Department of Agriculture and Consumer Services
5. The Virginia Marine Resources Commission
6. The Virginia Department of Forestry
7. The Virginia Department of Health

The Director of the Department of Environmental Quality (DEQ), in addition to all the duties specified in the Act with regard to point sources, will assign an employee to participate in nonpoint source projects requiring DEQ's expertise. The Grant Review Committee will meet as required to review, score, prioritize, and select grant applications for funding.

## GRANT APPLICATION PROCESS

The Department of Conservation and Recreation will be responsible for soliciting applications for grants from interested parties through the distribution of an application package for nonpoint source Water Quality Improvement Act funds. For this purpose, the department will keep a list of interested parties, including all parties from whom an application has been received and all parties who have requested information. The list of interested parties will include associations, local governments, and individuals.

All eligible parties identified in the Act may apply for nonpoint source grants. The grant application deadline for Fiscal Years 1999-2000 will be October 8, 1998. All nonpoint source grant applications should be sent to the Department of Conservation and Recreation at the following address:

Virginia Department of Conservation and Recreation  
 ATTN: Charles Lunsford  
 203 Governor Street, Suite 206  
 Richmond, Virginia 23219

Further information on the application requirements can be found in the application package.

The Department of Conservation and Recreation will prepare the applications for the Grant Review Committee. A list of all applications received will be prepared, and the applications will be divided into three geographical groups (Shenandoah-Potomac Basin, Lower Bay Tributaries Area, and Southern Rivers Area). The department will provide copies of the grant applications to the Grant Review Committee for review.

## GRANT APPLICATION REVIEW PROCESS

After reviewing and approving the division of the nonpoint source applications into the three geographical groups, the Grant Review Committee will objectively review, grade, and rank the applications within each separate group. The Grant Review Committee will then assign a priority to each application based upon, but not limited to, the following criteria:

- (i) whether the location of the water quality restoration, protection or improvement project or program is within a watershed or subwatershed with documented water nutrient loading problems or adopted nutrient reduction goals;
- (ii) documented water quality impairment;
- (iii) the achievement of greater water quality improvements than that required by state or federal law;
- (iv) the availability of other funding mechanisms (Section 10.1-2129.B. of the Code of Virginia).

To accomplish this task the Grant Review Committee will utilize Grant Proposal Scoring sheets, which will be provided as part of the application package, to objectively score all Water Quality Improvement Grant applications.

Once all Water Quality Improvement Grant applications are scored, they will be ranked in the order of their cumulative scores. Any application ultimately not funded will be returned to the applicant with the cumulative Grant Proposal Scoring sheet attached and a brief note as to why the application failed.

## DIVISION OF FUNDS

Monies have been appropriated by the 1998 Virginia General Assembly to fund specific, nonpoint source components of the Water Quality Improvement Act. The funding for the three regions of the state for the fiscal years 1999-2000 are as follows:

<u>FY 99</u>	<u>FY 00</u>	BIENNium
<b><u>Shenandoah/Potomac Basin</u></b>		<b><u>TOTALS</u></b>
Cost-Share Program	3,950,000	7,900,000
Projects	<u>940,000</u>	<u>1,850,000</u>
	4,890,000	9,750,000

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<u>FY 99</u>		<u>FY 00</u>	BIENNIUM
<b>Lower Bay Tributaries Area</b>			
Cost-Share Program	1,250,000	1,250,000	2,500,000
Projects	<u>500,000</u>	<u>500,000</u>	<u>1,000,000</u>
	1,750,000	1,750,000	3,500,000
<b>Southern Rivers Area</b>			
Cost-Share Program	1,250,000	1,250,000	2,500,000
Projects	<u>500,000</u>	<u>500,000</u>	<u>1,000,000</u>
	1,750,000	1,750,000	3,500,000
Total for all 3 regions	8,390,000	8,360,000	16,750,000

The 1998 General Assembly also directed that monies deposited in the Fund in excess of the \$16.75 million shall be used by the Department of Conservation and Recreation to implement adopted strategies for nutrient reduction in the Rappahannock, York, and James rivers and the eastern and western coastal basins. In the event that final strategies are not adopted in accordance with statutory deadlines, projects designed to reduce nutrients in these rivers and basins shall be considered for funding. Once the amount of excess funds is determined by the Department of Planning and Budget and through the legislative process, a revision to the guidelines may be required, following an appropriate comment period, to include protocols for the allocation of these funds.

### Shenandoah-Potomac Basin

**\* Agricultural BMP Cost-Share Program** - One of the most important nutrient reduction instruments identified in the Shenandoah-Potomac Tributary Strategy is the Virginia Agricultural Best Management Practice Cost-Share Program, which is administered by the Department of Conservation and Recreation through the soil and water conservation districts. The Department of Conservation and Recreation currently distributes approximately \$1.5 million in WQIA funds under this program to soil and water conservation districts in the Shenandoah-Potomac Basin. Based on the experience of the Department of Conservation and Recreation with this program, and upon the Shenandoah-Potomac Tributary Strategy, it is believed that this program is a cost-effective means of reducing nutrient loads. Therefore soil and water conservation districts are eligible to request increased Cost-Share Program funding. A total of \$3.95 million per year in WQIA funds will be available to this basin as well as an additional \$0.50 million in federal funds to be spent on accelerated nutrient management practices within this basin. WQIA funds will be available for all Cost-Share Program Best Management Practices (BMPs) in accordance with the *Virginia Agricultural BMP Manual*.

**\* Other Nonpoint Source Projects** - There will be \$1.85 million for the Shenandoah-Potomac Basin to provide funding for other nonpoint source water quality improvement-related projects, eligible under the Act. The amount of \$1.85 million is the total allocation for the biennium, and all of the

money could be obligated in FY 1999 depending about the merit of proposed projects. Both urban and rural projects will be eligible for funding. Projects will generally require a match of 50%, and the grants will be competitively awarded based on grant applications received as provided under these guidelines. Funding for agricultural BMPs included in the Cost-Share Program must be requested through local soil and water conservation districts and must be included in a district's Cost-Share Program request. Projects that incorporate the following nutrient-reduction strategies/activities will be given a higher priority: turf management; urban nutrient management; stormwater BMP water-quality retrofits; agricultural nutrient management planning; and septic tank pumpouts. Projects that address reducing causes of impaired water as defined by "Virginia's 303(d) Total Maximum Daily Load List" will also be eligible.

### Lower Bay Tributaries Area

**\*Agricultural BMP Cost-Share Program** - The Lower Bay Tributaries Area of the state currently receives \$1.0 million of cost-share through federal funds. It is believed that soil and water conservation districts in this area are capable of implementing a Cost-Share Program of at least \$1.75 million per year. Therefore, soil and water conservation districts are eligible to request increased Cost-Share Program funding. A total of \$1.75 million per year will be available for this area composed of \$1.25 million in WQIA funds and \$0.50 million in federal funds. These new state funds and the federal funds will be distributed through the Cost-Share Program administered by the Department of Conservation and Recreation through local soil and water conservation districts. WQIA and federal funds will be available for all Cost-Share Program Best Management Practices in accordance with the *Virginia Agricultural BMP Manual*.

**\*Other Nonpoint Source Projects** - Assuming the entire \$1.25 million of WQIA funds is utilized for the Cost-Share Program for this area, there will be \$0.50 million available for each year of the biennium to provide funding for other nonpoint source water quality improvement related-projects, eligible under the Act. This includes both urban and rural projects. Projects will generally require a match of 50%, and the grants will be competitively awarded based on grant applications received as provided under these guidelines. Funding for agricultural BMPs included in the Cost-Share Program should be requested through local soil and water conservation districts and should be included in a district's Cost-Share Program request. Nutrient-reduction projects will have priority, as well as those projects that address reducing causes of impaired water as defined by "Virginia's 303(d) Total Maximum Daily Load List."

### Southern Rivers Area

**\*Agricultural BMP Cost-Share Program** - The Southern Rivers Area of the state currently receives \$1.0 million of WQIA funds to be utilized through the Cost-Share Program. It is believed that soil and water conservation districts in this area are capable of implementing a Cost-Share Program of at least \$1.25 million per year. Therefore, soil and water

conservation districts are eligible to submit requests to implement a Cost-Share Program to utilize up to \$1.25 million per year of the Fund. Funding will be distributed through the Virginia Agricultural Best Management Practice Cost-Share Program administered by the Department of Conservation and Recreation through local soil and water conservation districts. WQIA funds will be available for all Cost-Share Program Best Management Practices in accordance with the *Virginia Agricultural BMP Manual*.

**\*Other Nonpoint Source Projects** - Assuming the entire \$1.25 million is utilized for the Cost-Share Program for this area, there will be \$0.50 million available for each year of the biennium to provide funding for other nonpoint source water quality improvement-related projects, eligible under the Act. This includes both urban and rural projects. Projects will generally require a match of 50%, and grants will be competitively awarded based on grant applications received as provided under these guidelines. Funding for agricultural BMPs included in the Cost-Share Program should be requested through local soil and water conservation districts and should be included in a district's Cost-Share Program request. Projects can address all types of nonpoint source pollution and priority will be given to those projects that address reducing causes of impaired water as defined by "Virginia's 303(d) Total Maximum Daily Load List."

If agricultural cost-share funds proposed for allocation within any of the regions outlined above are not utilized by soil and water conservation districts then these funds will become available to fund additional nonpoint source projects within the region. Similarly, if insufficient applications for funding for other nonpoint source projects are received within a region, these funds may be utilized to fund additional agricultural Cost-Share Program requests through soil and water conservation districts.

## MATCHING FUNDS

**Project Grants for Local Governments** - Generally, project grants for local governments will be made from the Fund for 50% of the cost of a project, with the remaining 50% supplied from other sources—federal, state, or private. Some local governments, including some soil and water conservation districts, may be eligible to receive a greater percentage of funding for approved projects. Any requests for greater than 50% funding, but not to exceed 75% funding, will be evaluated by considering the applicant's comparative revenue capacity, revenue efforts and fiscal stress rating, as reported by the Commission on Local Government. The Director of the Department of Conservation and Recreation shall consult with the Secretary of Natural Resources before approving grants above a 50% level.

Soil and water conservation districts do not have such fiscal stress ratings. In the case of districts, the fiscal stress ratings of the member local governments will be considered, since they represent the primary source of alternative funding for such districts. The Department of Conservation and Recreation has also announced that it will accept volunteer hours for match, further reducing fiscal stress.

**Project Grants for Individuals** - Generally project grants for individuals will be made from the Fund for 50% of the cost of the project. Projects demonstrating high cost-effectiveness for nutrient reduction may be considered for grant for up to 75% of the cost of the project. The Director of the Department of Conservation and Recreation shall consult with the Secretary of Natural Resources before approving grants above a 50% level.

**Agricultural BMP Cost Share Program** - Monies from the Fund which are allocated to the Agricultural BMP Cost Share Program will require a 25% match with a restriction on annual total dollars of \$50,000 to a given landowner. Note that because of this cap, and because there are also federal funds that go to agricultural BMPs, the Cost Share Program *on average* will likely be closer to receiving 50 percent of its funds from the Fund on a par with other types of projects.

**Other Considerations** - Under some circumstances, project applicants may wish to apply for less than 50 percent match funding. Applications will be judged on the cost-effectiveness of nutrient removal, and this cost-effectiveness will be calculated using only the costs coming from the Fund. Therefore, an application that might otherwise score poorly can improve its cost-effectiveness by reducing the level of funding requested. This is most likely to be the case for large urban infrastructure projects that produce a wide range of benefits, of which the reduction of nutrient loadings is only a small component. Design and construction of a stormwater management facility or retrofit, for example, would be unlikely to appear cost-effective viewed strictly as a nutrient reduction project, if it applied to the Fund for 50 percent of its total cost. However, it might appear very cost-effective if it applied to the Fund for only 5 percent of its total cost. By adjusting the match in this way, the Fund can be used to finance only the nutrient reduction component of a much larger project, even in cases where the nutrient reduction component cannot be physically distinguished from the rest of the project. Applicants who feel they may be in this category are encouraged to work with the Department of Conservation and Recreation staff to help identify the appropriate level of the match.

## AWARDING GRANTS

The Grant Review Committee, chaired by staff of the Department of Conservation and Recreation, will make recommendations to the Director of the Department of Conservation and Recreation on which grant applications should be funded. The committee recommendations will also recommend assignment of projects to state agencies with the professional expertise and programmatic responsibilities appropriate to administer the particular kinds of projects described in the grant applications. If the committee recommendations for project assignment are not unanimous or if the Director of the Department of Conservation and Recreation disagrees with the recommendations, the Secretary of Natural Resources shall make the final determination of project assignment. The Director shall make final funding determinations. Section 10.1-2132.B. of the Code of Virginia specifies that: *the Director of the Department of Conservation and Recreation shall, subject to*

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available funds and in coordination with the Director of the Department of Environmental Quality, direct the State Treasurer to make Water Quality Improvement Grants in accordance with the Guidelines established pursuant to Section 10.1-2129 of the Code of Virginia. The Director shall manage the allocation of grants from the Fund to ensure the full funding of executed grant agreements.

For FY 1999 it is anticipated that the grant application, grant review and award process, to include grant agreement development, execution and required public review, will be completed by December 31, 1998.

## GRANT AGREEMENTS

Pursuant to Section 10.1-2130 of the Code of Virginia, All Water Quality Improvement Grants shall be governed by a legally binding and enforceable grant agreement between the recipient and the granting agency. In addition to provisions providing for payment of the total amount of the grant, the agreement shall at a minimum also contain provisions that govern design and installation and require proper long-term operation, monitoring and maintenance of funded projects, including design and performance criteria, as well as contractual or stipulated penalties in an amount sufficient to ensure compliance with the agreement, which may include repayment with interest, for any breach of the agreement, including failure to properly operate, monitor or maintain.

Each state agency assigned to administer a grant will work with the applicant to complete the terms of the standard grant agreement. An example grant agreement will be included in the application package.

## PUBLIC REVIEW PROCESS

Prior to executing the grant agreements, the Department of Conservation and Recreation will prepare and make available a list of the proposed grant agreements for public review and comment for a period of at least 30 days but no more than 60 days. This list of proposed grant agreements will be provided to all applicants for Water Quality Improvement Grants whose applications are then pending.

### SECTION B

#### POINT SOURCE PROJECTS

##### CHAPTER I: PROGRAM COMPONENTS

###### A. Goals and Objectives

The main objectives of the Water Quality Improvement Fund (WQIF) point source program are to:

1. Concentrate initial efforts on achieving the nutrient reduction goals adopted (and reaffirmed) by the Chesapeake Bay Program's Executive Council.
2. Make the WQIF compatible and consistent with existing funding programs administered by the Department of Environmental Quality (DEQ) Construction Assistance Program ("CAP"; i.e., State Revolving Loan Fund, hardship grants).

3. Enhance customer service and convenience by merging, to the maximum extent possible, the WQIF procedures with those in use by the CAP. This may include:

- schedules for application, review, and award;
- general notifications, solicitation letters, and public participation methods;
- application information and documentation for reimbursement requests;
- criteria for prioritizing projects; and
- definitions for eligible components of the scope of work.

4. Optimize the cost-effectiveness and usefulness of the WQIF grants.

5. Assist with identification of potential funding sources for the local share of projects.

###### B. Project Prioritization - Funding Distribution

The Virginia Water Quality Improvement Act of 1997 (the "Act") directs the Secretary of Natural Resources to develop written guidelines for distribution and conditions of WQIF awards, and criteria for prioritizing funding requests by evaluating and considering:

- specific practices and programs proposed in any tributary plan and the associated cost per pound of nutrient reduction;
- water quality impairment or degradation caused by different nutrients, at different locations, from different sources;
- environmental benchmarks and indicators for achieving improved water quality;
- documented nutrient loading problems or adopted nutrient reduction goals;
- documented water quality impairment;
- achievement of improvements greater than required by state or federal law; and
- availability of other funding mechanisms.

In addition to these factors, an evaluation will be made of the applicant's readiness-to-proceed, and the magnitude and cost-effectiveness of the proposed reduction actions.

###### C. Project Eligibility

The WQIF is currently a special purpose grant program, and the type and location of a point source project eligible for funding is specified under Section 10.1-2131 of the Code of Virginia. Until all Tributary Strategies required by Article 2, (Section 2.1-51.12:1 et seq.) of Chapter 5.1 of Title 2.1 of the Code of Virginia are developed and implemented, grants shall only be made for the purpose of financing at least 50% of the cost of design and installation of biological nutrient removal facilities or other nutrient removal technology at publicly owned treatment works. A Tributary Strategy is



considered "implemented" regarding point source actions when the initial point source nutrient controls that are recommended have been installed. Funds appropriated to date are for projects located in the Shenandoah-Potomac Basin. In their 1998 session, the General Assembly directed that any funds deposited into the Water Quality Improvement Fund in excess of \$37.1 million shall be used by DEQ to implement adopted strategies for nutrient reduction in the James, York, and Rappahannock rivers and the eastern and western coastal basins. In this circumstance, these guidelines may be amended, following an appropriate public comment period, to include protocols for allocation of these funds.

In the 1998 Appropriation Act, the General Assembly added several elements to the type of project eligible for WQIF cost share, and these are detailed later in Chapter IV. One change worth noting here is that the restriction on making grants to just publicly owned facilities has been altered slightly, giving the DEQ Director authorization to make funds available to privately owned municipal wastewater plants over 0.5 MGD in size. The WQIF remains unavailable for construction projects at private industrial facilities, although Technical Assistance (TA) grants may be considered for these owners. Additional information on TA grants is provided in Section H of this Chapter.

#### D. Allowable Costs

Until all Tributary Strategies have been implemented, WQIF grants under this program will only be provided to pay for a portion of the incremental cost of a nutrient control system that goes above and beyond what the owner would have to install under any DEQ permit requirements. The program will allow for nutrient control systems to be sized to treat the flow in any reasonable and necessary expansion of the wastewater facility. In general, associated pre-design and final design costs will be eligible for cost share. However, grant eligibility, and/or the scope and size of a project may be reduced to ensure the greatest financial and environmental benefit to as many grantees as possible. Joint or regional projects that involve more than one publicly owned facility are eligible, and encouraged where cooperative arrangements exist and economies of scale may be realized.

As provided in Section 10.1-2131.C. of the Code of Virginia, the cost for design and installation of biological nutrient removal or other nutrient control technology at publicly owned treatment works, meeting the nutrient reduction goal in an approved tributary strategy and incurred prior to execution of a grant agreement, is eligible for reimbursement from the WQIF. Such expenses must be necessary and attributable to the project, and the debt incurred or construction begun after December 1987 (when the Chesapeake Bay Agreement established the nutrient reduction goal). Reimbursement shall be made pursuant to an executed agreement consistent with the Act. If the original source of funding for the project was the State Revolving Loan Fund (RLF), the WQIF grant shall be applied to the principal of any outstanding balance of the loan.

Other restrictions will apply if a construction grant (state or federal) paid for all or part of the project cost.

The purchase of land, easements, and/or rights-of-way are not allowable costs, as well as any legal, administrative, and engineering expenses related to these purchases, unless the land is an integral part of the treatment process. Other stipulations on allowability of cost may also apply, and all costs are reviewed and considered on a case-by-case basis.

#### E. Reimbursement

Disbursement of grant funds is made on a reimbursement basis. All requests for disbursement of grant funds must be substantiated by invoices. All payment requests must be reviewed and approved by DEQ staff prior to actual disbursement of funds. Reimbursement requests must be submitted in duplicate, one copy to the appropriate DEQ Regional Office and one copy to the DEQ's Central Office/Chesapeake Bay Program.

#### F. State Cost Share Percentage

Funds can only be used to finance at least 50% of the cost to design and install biological nutrient removal facilities or other nutrient removal technology at publicly owned wastewater treatment works, until all Tributary Strategies are developed and implemented. Thereafter, funds may be provided, with at least a 50% cost share, for other point source projects clearly demonstrated to improve water quality.

If a request is made for more than 50% of a project's cost, the primary factor to be considered in setting the grant percentage fiscal stress rating will be the applicant's fiscal stress rating as reported by the Virginia Commission on Local Government. Under these circumstances, only applicants with a "high" fiscal stress rating will be eligible for cost share greater than 50%.

A grantee may be eligible for greater than 50% cost share under a budget initiative approved by the 1998 General Assembly. The elements of these incentive "bonus" provisions are detailed in Chapter IV of this Section.

#### G. Grant Agreement

All WQIF grants under the cooperative point source program shall be governed by a legally binding and enforceable agreement between the recipient and the Department of Environmental Quality. Grant agreements shall be made available for public review and comment for a period of no less than 30 days but no more than 60 days prior to execution. In addition to the standard terms and conditions of a state contract for financial assistance (including, but not limited to, project scope, schedules, budget and compensation provisions), in accordance with Section 10.1-2130 of the Code of Virginia the agreement shall:

1. provide for payment of the total amount of the grant;
2. govern design and installation;

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# General Notices/Errata

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3. require proper long-term operation, monitoring and maintenance of funded projects, including design and performance criteria; and,

4. include contractual or stipulated penalties in an amount sufficient to ensure compliance with the agreement, which may include repayment with interest, for any breach of the agreement, including failure to properly operate, monitor, or maintain.

## H. Technical Assistance Grants

Under Section 10.1-2131 of the Code of Virginia, the DEQ Director is authorized to make grants for Technical Assistance (TA) related to nutrient reduction. The criteria used in making determinations for award of TA grants are:

- Grants will be considered for work such as pilot demonstration projects and engineering studies.
- The proposal will advance our understanding about, and the capabilities of, nutrient reduction systems.
- The results lead to more cost-effective implementation actions for point sources.
- If the proposal is associated with a retrofit project, and the applicant is not eligible to receive a construction grant, the TA grant will be limited to no more than 10% of the total eligible project cost (or cost for design, whichever is less), and must lead to approvable plans & specifications.

## CHAPTER II: SUMMARY OF PROGRAM REQUIREMENTS

### A. Introduction

This section provides a brief synopsis of the program requirements as they relate to other statutory or regulatory requirements included by reference, such as procurement law, plans and specifications approval, so grantees are fully aware of them and can act accordingly.

### B. Procurement

All procurement made during the course of planning, design, and construction of the grant project must be purchased, acquired, or contracted for in accordance with Chapter 7 (Section 11-35 et seq.) of Title 11 of the Code of Virginia, also known as the Virginia Public Procurement Act. The WQIF point source program requires all participants to follow the provisions of the Procurement Act, with no exceptions recognized for localities with less than 3,500 in population.

### C. Local Share

Prior to grant award, sufficient documentation must be provided by the applicant to demonstrate that the local share of the project is, or will be, available to fulfill the grantee's obligations under the agreement. Examples of acceptable forms of local share include, but are not limited to, general obligation bonds, other state or federal grant funds or loans, and municipal budget items and revenue streams.

### D. Pre-Design Studies/Pilot Testing

Eligible pre-design tasks include any essential studies prior to final design, such as bench or pilot scale testing of conventional or innovative technologies, and cost-effectiveness analysis.

The grantee or its consultant will develop a Preliminary Engineering Report (PER) or planning document, which assesses the current situation, projects future needs, develops alternatives, estimates the monetary costs, and presents a selected plan.

### E. Design/Construction

The design and drafting of plans and specifications must conform with the Virginia Sewerage Regulations (VSR) [9 VAC 25-60-10. et seq.]. Close contact with the DEQ Regional Offices and the Virginia Department of Health is helpful in reducing delays at this stage. Since it is likely that installation of the nutrient reduction system is part of a larger scale or more complex plant upgrade or expansion project, a Preliminary Engineering Conference with both agencies is strongly recommended prior to full scale design. Final plans and specifications must be submitted to both agencies for review, comment, and approval. Processing of the plans and specifications will proceed as outlined in the VSR, ultimately leading to the issuance of a Certificate to Construct.

The grantee may then proceed to advertise for construction bids, and is encouraged to hold a pre-bid conference so that the project can be presented to bidders and resolve any questions they may have. The grantee is responsible for, and must retain records that document, the use of proper bidding and bid selection when securing construction services. During construction the grantee must provide project inspection, documented with reports, to track construction progress, quality, and conformance with plans and specifications.

### F. Post-Construction/Operation and Maintenance

In addition to awarding the grant, the agreement signed by the grantee and the state shall govern the long-term operation and maintenance of the facilities installed with grant funds. Section 10.1-2131.C. of the Code of Virginia specifies that grant agreements related to nutrient control shall include: (i) numerical concentrations on nutrient discharges designed to achieve the nutrient reduction goals of the applicable tributary plan; and (ii) enforceable provisions related to the maintenance of the numerical concentrations that will allow for exceedences of no more than 10%, and for exceedences caused by extraordinary conditions (defined in the agreement).

All grant agreements will contain a provision that requires the owner to monitor their discharge and report the total nitrogen and (if applicable) total phosphorus concentrations so that performance can be tracked. If nutrient monitoring requirements are not already contained in the plant's discharge permit, the agreement will specify the same sampling frequencies and analytical methods used in the permit program.

**CHAPTER III: GRANTEE SELECTION**

**A. Application Solicitation**

The FY 1999 grant cycle begins with the issuance of this revised WQIF Point Source Program Guidance and a solicitation for applications. The deadline for submission of applications is 5:00 PM, October 2, 1998, allowing 45 days for proposal development. Applications must be sent to:

Virginia Department of Environmental Quality  
 P.O. Box 10009  
 Richmond, VA 23240  
 Attn: John Kennedy, Chesapeake Bay Program

In future years the solicitation process for WQIF applications will coincide with the RLF funding cycle procedure. This entails a mutual solicitation letter, similar (but separate) application forms for each program, opportunities for public review and comment on tentative award lists, and informing the State Water Control Board regarding grant award. The basic schedule currently followed by the RLF program is:

<u>Month</u>	<u>Activities</u>
May	Revolving Loan Fund (RLF) solicitation letters sent; applications submitted. within 45 days.
June	Applications received, and staff initiate the process of consulting with other DEQ programs (i.e., Water Quality Assessments for priority water bodies, Enforcement and Compliance Auditing) and develop a ranked list using pre-established priority criteria.
September	Presentation made to the State Water Control Board, seeking their approval to hold a public meeting on this tentative award list. Staff then gather any needed follow-up information from DEQ regional staff, and meet with potential fund recipients to determine readiness-to-proceed.
November	Public meeting on tentative award list. Staff consider any comments received, and, if appropriate, make changes to the list.
December	The final list is presented for Board adoption. Authorization given to execute agreements for funding.

**B. Grant Priority Funding List Requirements**

A nutrient control project at any wastewater plant treating domestic wastewater, located in a river basin covered by an approved tributary strategy, is an eligible project under the cooperative point source program. DEQ staff will prioritize the eligible applications using the criteria in Chapter I (B) of this section, assess the cost-effectiveness of proposed actions, and review the proposals to ensure consistency with tributary strategy goals. DEQ staff will present the prioritized list of qualified proposals to the State Water Control Board for their information and comment, along with the staff's recommendations for funding. Final approval and funding

decisions will be made by the DEQ Director, who has the responsibility and authority to award grants under this program, in accordance with Section 10.1-2131.B. of the Code of Virginia.

The state is committed to manage the allocation of grants to ensure full funding of executed agreements, as well as the process to be followed for the equitable distribution of available funds among all grantees in the event of a shortfall. The allocation process will be addressed in the agreement signed with each grant recipient.

In subsequent years, new projects will be added to the priority list, especially as strategies are finalized for the other Chesapeake Bay tributaries. Once the cost share needs to implement all the strategies are satisfied, grant applications will be considered for any point source project that is clearly demonstrated as likely to achieve measurable and specific water quality improvements. At that stage, the Act requires that potential grant projects be prioritized, in accordance with specified criteria in Section 10.1-2129 of the Code of Virginia, and other factors the Secretary of Natural Resources deems appropriate. No project can receive financial assistance under the WQIF unless it is on the priority funding list. However, it is not a requirement that projects receive cost share assistance in priority order.

The Commonwealth reserves the right to by-pass any project of a higher priority and make grants to those of a lower priority based on considerations similar to those used in the Revolving Loan Fund program. These factors include:

- a. The WQIF was established with an emphasis on implementing tributary nutrient reduction strategies.
- b. It is determined there will be limited benefit to the grant program, state water quality, or the recipient to offer a portion of the funds needed to finance a multi-million dollar project.
- c. There may be a need to obligate funds that have been set aside for special purposes.
- d. Since readiness-to-proceed is a critical factor in maintaining the integrity of the WQIF, projects should be able to move into the construction stage within the current funding cycle.
- e. Consideration will be given to other financing factors such as priority for RLF loan award or local share status.

**CHAPTER IV: ADDITIONS TO PROGRAM FOR FY 1999**

**A. Introduction**

Much has been accomplished during the first year of implementing the Shenandoah-Potomac Basins Tributary Strategy utilizing the WQIF. However, the rate of progress must be accelerated in order to meet the Commonwealth's commitment to achieve a 40% reduction of the nutrient loadings to the main stem of the Chesapeake Bay by the year 2000.

In order to accelerate the nutrient reduction effort, former Governor Allen proposed, and Governor Gilmore endorsed,

# General Notices/Errata

a \$63 million Chesapeake Bay funding initiative. The 1998 Virginia General Assembly approved the initiative, although reducing to \$53.85 million the amount of funds allocated to the WQIF. Of this amount, \$16.75 million is for nonpoint source projects and \$37.1 million is for point source projects during the 1998-2000 biennium.

The approved funding initiative includes the following action items and associated budget amounts for point source projects:

Action Item	Budget	Description
1. Base Budget	\$20,000,000	Continue funding of nutrient reduction projects started in FY 1998
2. N-Reduction @ Blue Plains	\$ 3,350,000	Purchase additional nitrogen reduction achieved by the Blue Plains plant
3. Year 2000 Challenge Grants	\$ 4,510,000	Additional nutrient reduction through accelerated construction schedules and operational enhancements
4. Expanded Eligibility	\$ 6,000,000	Fund private plants treating domestic wastewater over 0.5 MGD
5. Additional Facilities	\$ 3,240,000	Encourage remaining Publicly Owned Treatment Works in Shenandoah-Potomac Basin to install nutrient removal
6. Other Operational Incentives	\$ 0	DEQ to develop guidelines for implementing "market based" incentives, such as trading and banking of nutrient credits (by 9/99)
Total =	\$37,100,000	

The budget amounts for items #2 and #4 above are listed in the Appropriations Act as "not to be exceeded" appropriations. The specific budget amounts for the remaining individual action items are target levels that are not specified by legislation. In addition, items #2 and #6 are not covered in these grant guidelines, and are being implemented through other means. The additional nitrogen reduction at Blue Plains (item#2) to be purchased with monies from the WQIF and credited to Virginia will be managed under a cooperative agreement signed between the District of Columbia Water and Sewer Authority and the Commonwealth. That agreement will be drafted over the next year, with provisions acceptable to both signatories as well as the U.S. EPA and other interests. The development of "market based incentives" guidelines (item#6) will also proceed over the coming year, and that process will include a public participation component.

The General Assembly also directed that any funds deposited into the Water Quality Improvement Fund in excess of the \$37.1 million shall be used by DEQ to implement adopted strategies for nutrient reduction in the James, York, and Rappahannock rivers and the eastern and western coastal basins. In this circumstance, these guidelines will be amended, following an appropriate public

comment period, to include protocols for allocation of these funds. In the event that final strategies have not been adopted in accordance with statutory deadlines, projects to reduce nutrients in these rivers and basins shall be eligible to receive grants from the Fund, also given that funds in excess of \$37.1 million have been appropriated.

The following sections provide guidance for appropriate components of the funding initiative.

## B. Year 2000 Challenge Grants

Under the Virginia Water Quality Improvement Act, grants from the Fund must finance at least 50% of the cost of design and construction of biological nutrient removal (BNR) facilities or other nutrient removal technology. There is no upper limit on the percentage of these grants.

Under the Year 2000 Challenge Grant program treatment plant owners are provided with an incentive "bonus" of a higher grant percentage to accelerate installation by the year 2000 of nutrient reduction facilities and/or enhance operation of nutrient reduction facilities. Various options are available to owners to accomplish these objectives, including:

- Accelerate construction schedules, where possible, for biological nutrient removal (BNR) facilities in order to be operational by 2000;
- Install BNR facilities designed to achieve nutrient reductions greater than the reductions called for by the Shenandoah-Potomac Tributary Strategy;
- Explore low-cost, temporary physical plant or process enhancements to maximize nutrient removal until permanent facilities are operational;
- Operate facilities at optimum efficiencies to achieve significantly greater nutrient reductions than called for by the Shenandoah-Potomac Tributary Strategy; and,
- Explore innovative technologies, such as land application or ultra-filtration, to reduce nutrients cost-effectively and with shorter construction schedules.

Under the Year 2000 Challenge Grant program owners may earn up to a maximum 75% grant. The following list of examples describe possible options that an owner might consider to earn a higher grant percentage for the project:

- *Accelerate installation of BNR facilities so operation begins by January 1, 2000* - This action would earn an owner a higher grant percentage to pay the additional costs of accelerating the construction project. In those cases where construction of a project cannot be accelerated to achieve operation by the year 2000, a case by case eligibility determination will be made to determine if a higher grant percentage is warranted. A key factor in these cases is how much the operational startup date for the facilities is moved forward due to the accelerated construction schedule.
- *Install nutrient removal facilities to achieve nitrogen concentrations lower than the target level of 8 mg/l* - An owner could earn up to a full 75% grant for installation of facilities designed to achieve lower nitrogen

concentrations. This lower concentration would be used as the performance measure to determine compliance with the owner's grant agreement.

- *Operating nutrient reduction facilities at higher efficiencies* - Under this approach, the grant agreement would be structured so that owners would receive the standard 50% grant during the construction of the facilities, but could earn up to a maximum 75% grant through incremental bonus payments over the life of the project for discharging nutrient concentrations below those contained in the grant agreement. An annual grant payment would be made following a year when extraordinary nutrient reductions were achieved. The amount of the payment would be derived using the same monetary assessment formula contained in the grant agreements. As the agreements are currently structured, owners who do not achieve their target nutrient reductions in any given year may have to pay an assessment into the Fund using an agreed upon assessment formula. Under the Year 2000 Challenge Grant program, if a treatment plant performs extremely well and removes a significantly greater amount of nutrients than called for by the grant agreement (more than 10% below the required annual average), the plant owner would be eligible for a bonus grant payment from the Fund. The grant payment would be calculated using the same assessment formula currently contained in the grant agreements. Start-up for this operational enhancement program is January 1, 2000.

As stated above, the maximum grant amount under the Year 2000 Challenge Grant program is set at 75% of the

total eligible project cost. The actual grant percentage for any particular project will be set on a case by case basis depending upon individual factors applicable to each owner, including the amount of additional nutrients removed and the additional costs incurred.

### C. Expanded Eligibility

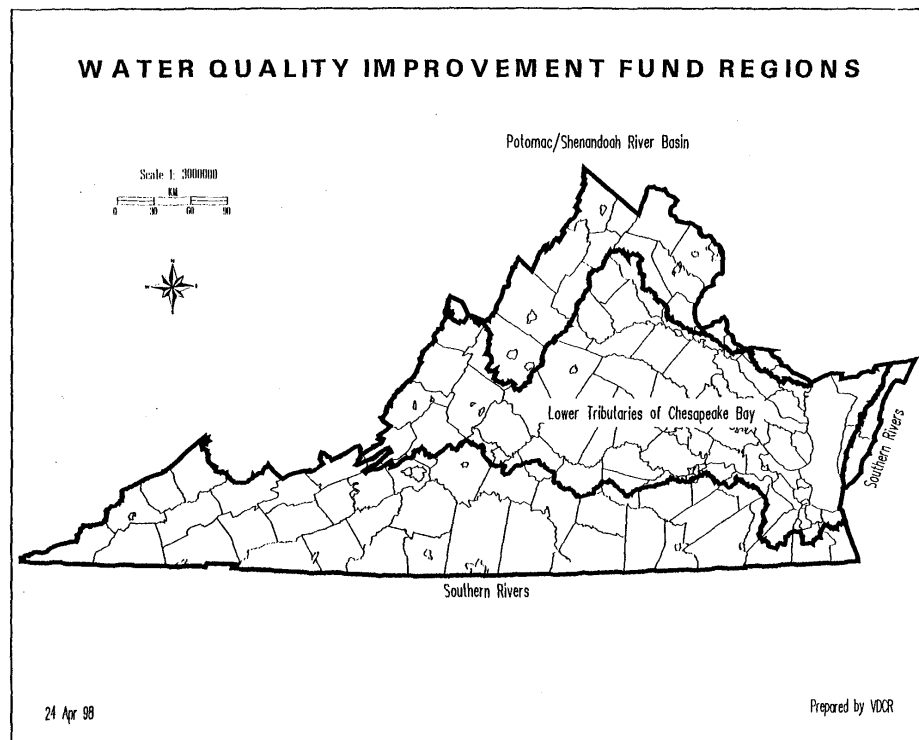
In accordance with the 1998 Appropriations Act, the DEQ Director is authorized to make grants from the Fund, not to exceed \$6 million, for the design and construction of biological nutrient removal or other nutrient removal facilities for private sewage treatment plants serving residential areas in the Shenandoah-Potomac Basin that exceed 0.5 MGD, provided the nutrient reductions achieved contribute to the 40% nutrient reduction goal of the Chesapeake Bay.

Applications submitted by private owners who are now eligible for a full design and construction grant from the Fund will be processed according to these Guidelines.

### D. Additional Facilities

Not all of the facilities currently eligible under the Fund applied for a grant in FY 1998. These owners were not targeted in the Shenandoah-Potomac Tributary Strategy for nutrient reduction during the initial stages of strategy implementation. However, in order to meet the 40% nutrient reduction goal by the year 2000 all point sources listed in the strategy are being asked to reduce their nutrient loadings as soon as reasonably possible.

DEQ staff will work closely with these owners to encourage them to apply for grant funding. Applications submitted by these owners will be processed in accordance with these guidelines.



## DEPARTMENT OF HEALTH

### 1999 Drinking Water Funding

Following enactment of the Safe Drinking Water Act Amendments of 1996, Congress continues to plan for a third year appropriation of capitalization grants to states for 1999. Although exact amounts are yet to be announced, the Virginia Department of Health (VDH) expects to receive a portion of these funds.

These funds can be used for construction improvements, and set-asides for technical assistance and related activities. Set-aside funds help VDH assist waterworks owners to prepare for future drinking water challenges and assure the sustainability of safe drinking water. The VDH's Program Design Manual describes general features of the proposed construction and set-aside portions of the program. When developed in November 1998, the draft Intended Use Plan will describe specific details for use of the 1999 funds.

Private and public owners of community waterworks and nonprofit noncommunity waterworks are eligible to apply for construction funds. VDH makes selections based on criteria described in the Program Design Manual, such as existing public health problems, noncompliance, affordability, regionalization, the availability of matching funds, etc. Readiness to proceed with construction is a key element.

Anyone may suggest uses for various set-aside funds. Set-asides include small system technical assistance, source water protection, viability enhancements, operator programs, and general technical assistance.

The Act also provides for a demonstration project in Southwest Virginia in Planning Districts 1 and 2. This will allow VDH to loan a portion of the construction funds to a regional endowment fund.

Construction loan applications, set-aside suggestions, and comments are to be postmarked by 5 p.m. on October 20, 1998.

After receiving the aforementioned public input, VDH will develop a draft Intended Use Plan for public review and comment. A public meeting is planned from 1:30-3:30 p.m. on December 7, 1998, in Richmond at the Virginia War Memorial; written comments are due by 3 p.m. on December 11, 1998.

You may request a loan application, set-aside suggestion form, Program Design Manual and information from and forward any comments by writing, calling, or faxing: Thomas B. Gray, P.E., Virginia Department of Health, P.O. Box 2448, Room 109, Richmond, VA 23218, Voice: (804) 786-1087, or FAX: (804) 786-5567.

## STATE BOARD OF HEALTH

### Legal Notice of Opportunity to Comment on the Proposed State Plan of Operations and Administration of the Special Supplemental Nutrition Program for Women, Infants, and Children (WIC) for Federal Fiscal Year 1999.

Pursuant to the authority vested in the State Board of Health by § 32.1-12 of the Code of Virginia and in accordance with the provisions of federal law, specifically, Title 9, Chapter 1.1:1 of Public Law 95-627, notice is hereby given of a public comment period to enable the general public to participate in the development of the Special Supplemental Nutrition Program for Women, Infants, and Children (WIC) for Federal Fiscal Year 1999.

Written comments on the proposed plan will be accepted in the office of the Director, Division of Chronic Disease Prevention/Nutrition, Virginia Department of Health, 1500 East Main Street, Room 132, Richmond, Virginia 23219 until 5 p.m. on October 5, 1998.

To receive a copy of the Proposed State Plan for WIC Program Operations and Administration, please contact Jeanie Goldberg, R.D., at the address listed above.

## DEPARTMENT OF SOCIAL SERVICES

### Periodic Review of Regulations

Pursuant to Executive Order Number Twenty-five (98), the Department of Social Services is currently reviewing the below listed regulations to determine if they should be terminated, amended, or retained in their current form. The review will be guided by the principles listed in Executive Order Number Twenty-five (98) and in the department's Plan for Review of Existing Agency Regulations.

The department seeks public comment regarding the regulations' interference in private enterprise and life, essential need of the regulations, less burdensome and intrusive alternatives to the regulations, specific and measurable goals that the regulations are intended to achieve, and whether the regulations are clearly written and easily understandable.

The regulations are:

22 VAC 40-25-10 et seq., *Auxiliary Grant Program: Levels of Care and Rate-setting*. Contact: Marjorie L. Marker, Adult Services Program Consultant, Division of Family Services, telephone: (804)692-1262, fax: (804)692-2215, e-mail: maj2@dss.state.va.us

22 VAC 40-71-10 et seq., *Standards and Regulations for Licensed Adult Care Residences*. Contact: Sandra Mosley, Program Support Tech, Division of Licensing Programs, telephone: (804)692-1786, fax: (804)692-2370, e-mail: sdm7@dss.state.va.us

22 VAC 40-745-10 et seq., *Assessment in Adult Care Residences*. Contact: Marjorie L. Marker, Adult Services Program Consultant, Division of Family Services, telephone: (804)692-1262, fax: (804)692-2215, e-mail: maj2@dss.state.va.us

22 VAC 40-780-10 et seq., *Elimination of Financial Eligibility Criteria for Direct Social Services*. Contact: Marjorie L. Marker, Adult Services Program Consultant, Division of Family Services, telephone: (804)692-1262, fax: (804)692-2215, e-mail: maj2@dss.state.va.us

Written comments may be submitted until October 14, 1998, in care of the above listed contacts at 730 East Broad Street, Richmond, Virginia 23219-1849, by facsimile to the above listed numbers, or by e-mail to the above listed addresses.

## VIRGINIA CODE COMMISSION

### Notice to Subscribers

Beginning with Volume 14, Issue 18 of the Virginia Register (14:18 VA.R. May 25, 1998), a new section was added to the Register. The new section entitled, "Cumulative Table of Virginia Administrative Code Sections Adopted, Amended, or Repealed" lists regulation sections, by Virginia Administrative Code (VAC) title, that have been amended, added or repealed in the *Virginia Register* since the regulations were originally published or last supplemented in VAC (the Spring 1998 VAC Supplement includes final regulations published through *Virginia Register* Volume 14, Issue 10 dated February 2, 1998). Emergency regulations, if any, are listed, followed by the designation "emer," and errata pertaining to final regulations are listed. Proposed regulations are not listed here. The table lists the sections in numerical order and shows action taken, the volume, issue and page number where the section appeared, and the effective date of the section.

### Notice to State Agencies

**Mailing Address:** Virginia Code Commission, 910 Capitol Street, General Assembly Building, 2nd Floor, Richmond, VA 23219. You may FAX in your notice; however, we ask that you FAX two copies and do not follow up with a mailed copy. Our FAX number is: (804) 692-0625.

### Forms for Filing Material for Publication in *The Virginia Register of Regulations*

All agencies are required to use the appropriate forms when furnishing material for publication in *The Virginia Register of Regulations*. The forms may be obtained from: Virginia Code Commission, 910 Capitol Street, General Assembly Building, 2nd Floor, Richmond, VA 23219, telephone (804) 786-3591.

**Internet:** Forms and other *Virginia Register* resources may be printed or downloaded from the *Virginia Register* web

page:  
<http://legis.state.va.us/codecomm/register/regindex.htm>

#### FORMS:

NOTICE of INTENDED REGULATORY ACTION - RR01  
NOTICE of COMMENT PERIOD - RR02  
PROPOSED (Transmittal Sheet) - RR03  
FINAL (Transmittal Sheet) - RR04  
EMERGENCY (Transmittal Sheet) - RR05  
NOTICE of MEETING - RR06  
AGENCY RESPONSE TO LEGISLATIVE OBJECTIONS - RR08

## ERRATA

### STATE BOARD OF SOCIAL SERVICES

Title of Regulation: 22 VAC 40-41-10 et seq. Neighborhood Assistance Tax Credit Program.

Publication: 14:24 VA.R. 3875-3889 August 17, 1998.

#### Corrections to Proposed Regulation:

Page 3878, column 2, 22 VAC 40-41-20 D, line 4, change "Economic Opportunity Act" to "Neighborhood Assistance Act"

Page 3879, column 2, 22 VAC 40-41-50 C, line 6, after "credit" delete "pursuant"


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# CALENDAR OF EVENTS

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## Symbol Key


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

 Location accessible to handicapped

 Teletype (TTY)/Voice Designation

## NOTICE


Only those meetings which are filed with the Registrar of Regulations by the filing deadline noted at the beginning of this publication are listed. Since some meetings are called on short notice, please be aware that this listing of meetings may be incomplete. Also, all meetings are subject to cancellation and the *Virginia Register* deadline may preclude a notice of such cancellation.

For additional information on open meetings and public hearings held by the standing committees of the legislature during the interim, please call Legislative Information at (804) 698-1500 or Senate Information and Constituent Services at (804) 698-7410 or (804) 698-7419/TTY , or visit the General Assembly web site's Legislative Information System (<http://leg1.state.va.us/lis.htm>) and select "Meetings."


VIRGINIA CODE COMMISSION

## EXECUTIVE


### BOARD FOR ACCOUNTANCY

† **October 19, 1998 - 10 a.m.** -- Open Meeting  
Department of Professional and Occupational Regulation,  
3600 West Broad Street, Conference Room 5W, Richmond,  
Virginia. 

A meeting to conduct routine business. A public comment period will be held at the beginning of the meeting.

**Contact:** David E. Dick, Assistant Director, Department of Professional and Occupational Regulation, 3600 W. Broad St., Richmond, VA 23230-4917, telephone (804) 367-8505, FAX (804) 367-2475 or (804) 367-9753/TTY 

### BOARD OF AGRICULTURE AND CONSUMER SERVICES


† **September 29 1998 - 9 a.m.** -- Open Meeting  
Department of Agriculture and Consumer Services,  
Washington Building, 1100 Bank Street, Virginia. 

A regular meeting to discuss Virginia agriculture and consumer protection. The board will entertain public comment at the conclusion of all other business for a period not to exceed 30 minutes. Any person who needs any accommodation in order to participate at the meeting should contact Roy E. Seward at least five days before the meeting date so that suitable arrangements can be made.

**Contact:** Roy E. Seward, Secretary to the Board, Department of Agriculture and Consumer Services, P.O. Box 1163, Room 211, Richmond, VA 23218, telephone (804) 786-3538 or FAX (804) 371-7679.

## DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES


### Virginia Horse Industry Board

**October 6, 1998 - 10 a.m.** -- Open Meeting  
Virginia Cooperative Extension, Lower Level Meeting Room,  
168 Spotnap Road, Charlottesville, Virginia. 

A meeting to review and discuss budget items to date, grant guideline revisions, and marketing projects. The board will entertain public comments at the conclusion of all other business for a period not to exceed 30 minutes. Any person who needs any special accommodations in order to participate at the meeting should contact Andrea S. Heid at least five days before the meeting date so that suitable arrangements can be made.

**Contact:** Andrea S. Heid, Equine Marketing Specialist/Program Manager, Virginia Horse Industry Board, Washington Bldg., 1100 Bank St., Suite 1004, Richmond, VA 23219, telephone (804) 786-5842 or FAX (804) 371-7786.

### Virginia Irish Potato Board

**September 15, 1998 - 8 p.m.** -- Open Meeting  
The Happy Crab Restaurant, 550 Laskin Road, Virginia Beach, Virginia. 

The board will discuss its programs (including its promotion, research and education programs), the annual budget and other business that may come before the board. The board will entertain public comment at the conclusion of all other business for a period not to exceed 30 minutes. Any person who needs any special accommodations in order to participate at the meeting should contact J. William Mapp at least five days before the meeting date so that suitable arrangements can be made.



**Contact:** J. William Mapp, Program Director, Virginia Irish Potato Board, P.O. Box 26, Onley, VA 23418, telephone (757) 787-5867 or FAX (757) 787-5973.

## Pesticide Control Board

**October 15, 1998 - 9 a.m.** -- Public Hearing  
Department of Agriculture and Consumer Services, 1100 Bank Street, Room 204, Richmond, Virginia.

**November 2, 1998** - Public comments may be submitted until this date.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Pesticide Control Board intends to repeal regulations entitled: 2 VAC 20-50-10 et seq. Regulations Governing Pesticide Applicator Certification Under Authority of Virginia Pesticide Control Act and to adopt regulations entitled: 2 VAC 20-51-10 et seq. Regulations Governing Pesticide Applicator Certification Under Authority of Virginia Pesticide Control Act. The present proposed regulation is predicated on a Notice of Intended Regulatory Action published in the Virginia Register of Regulations on May 12, 1997, at page 1910. Although that Notice of Intended Regulatory Action indicated that the agency intended to amend 2 VAC 20-50-10 et seq., Regulations Governing Pesticide Applicator Certification Under Authority of Virginia Pesticide Control Act, the agency has determined, in consultation with the Registrar of Regulations, that it would be simpler to set out the amended language by repealing the entirety of the existing regulation and proposing a new regulation that contains much of the language of the existing regulation, along with the substantive amendments contemplated by the aforementioned Notice of Intended Regulatory Action. The substantive features of the proposed regulation not contained in the existing regulation will clarify requirements for certification of applicators of pesticides in accordance with statutory changes effective July 1, 1995, in §§ 3.1-249.27, 3.1-249.51, and 3.1-249.53 of the Code of Virginia as well as respond to comments from the general public and industry workers in response to the agency's review of regulations under the Governor's Executive Order 15 (94). The certification regulation sets standards of certification for persons specified by statute who use or supervise the use of pesticides in Virginia. Those persons governed by the regulation include, but are not limited to, farmers using restricted use pesticides (any pesticide classified for restricted use by the Administrator of the United States Environmental Protection Agency) on their own land and persons who apply pesticides commercially. The certification regulation does not apply to persons who use general use pesticides (any pesticide classified as general use by the Administrator of the United States Environmental Protection Agency) in and around their homes. The certification regulation will help to assure that those persons subject to the certification regulation are adequately trained and competent to use pesticides.

Several changes from the current regulation were made when the proposed regulation was being drafted. Several sections of the proposed regulation were developed to produce a document that is easier to read and comprehend. A few terms and definitions have been added to the proposed certification regulation where needed for clarification. The proposed certification regulation includes a summary of who must be certified to apply pesticides in Virginia. Lists of the various classifications of pesticide applicators and the procedures for becoming certified are also included.

In the section of the proposed certification regulation concerning exemptions (2 VAC 20-51-60), forestry applicators (commercial pesticide applicators who apply pesticides in forestry environments) using general use herbicides (any herbicide classified as general use by the Administrator of the United States Environmental Protection Agency) for forest vegetation control under the direct onsite supervision of a commercial pesticide applicator (an applicator who uses or supervises the use of any pesticide for any purpose, or on any property for compensation) have been added to the list of those persons who are exempt from certification. The categories for private pesticide applicator (an applicator who uses or supervises the use of any pesticide which is classified for restricted use for the purposes of producing any agricultural commodity) certification have been combined to form four categories rather than the current seven. A section has been added to the proposed certification regulation to provide details about the specific requirements for on-the-job training for registered technicians (an individual who renders services similar to those of a certified commercial pesticide applicator, but who has not completed all the training or time in service requirements to be eligible for examination for certification as a commercial pesticide applicator and is limited to application of general use pesticides).

2 VAC 20-50-120 was combined with 2 VAC 20-50-130 to make renewal of certification (training) and certificates (the document) occur at the same time instead of two different years. This proposed section also requires payment of the certificate fee on a biennial basis instead of an annual basis.

2 VAC 20-51-190 has been added to the proposed certification regulation to allow individuals who have received reciprocal certification to be recertified in Virginia by maintaining their training in the state where they are certified. Evidence of Financial Responsibility (2 VAC 20-50-220), a section that is included in the current certification regulation, has been deleted from the proposed certification regulation because it is not the Pesticide Control Board's intent to require Commercial Applicators-Not-for-Hire (a commercial pesticide applicator who uses or supervises the use of pesticides as part of his duties only on property owned or leased by him or his employer) to provide evidence of financial responsibility. This is a requirement placed on commercial firms that apply pesticides and is

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# Calendar of Events


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adequately covered by Rules and Regulations Governing Licensing of Pesticide Businesses by the Department of Agricultural and Consumer Services Operating Under Authority of the Virginia Pesticide Control Act (2 VAC 20-40-80).

Statutory Authority: § 3.1-249.30 of the Code of Virginia.

**Contact:** Dr. Marvin A. Lawson, Program Manager, Office of Pesticide Services, Virginia Department of Agriculture and Consumer Services, P.O. Box 1163, Room 401, Richmond, VA 23218-1163, telephone (804) 371-6558, FAX (804) 371-8598, toll-free (800) 552-9963 or (804) 371-6344 (TTY).

## Virginia Sweet Potato Board

**September 23, 1998 - 7 p.m.** -- Open Meeting  
The Island House Restaurant, Water Street, Wachapreague, Virginia. 

The board will discuss its programs (promotion, research and education programs), the annual budget and other business that may come before the board. The board will entertain public comment at the conclusion of all other business for a period not to exceed 30 minutes. Any person who needs any special accommodations in order to participate at the meeting should contact J. William Mapp at least five days before the meeting date so that suitable arrangements can be made.

**Contact:** J. William Mapp, Program Director, Virginia Sweet Potato Board, P.O. Box 26, Onley, VA 23418, telephone (757) 787-5867 or FAX (757) 787-5973.

## STATE AIR POLLUTION CONTROL BOARD

**September 28, 1998** -- Public comments may be submitted until 4:30 p.m. on this date.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the State Air Pollution Control Board intends to amend regulations entitled: **Regulations for the Control and Abatement of Air Pollution Control (Rev. ZZ); 9 VAC 5-20-10 et seq. General Provisions; 9 VAC 5-40-10 et seq. Existing Stationary Sources; 9 VAC 5-50-10 et seq. New and Modified Stationary Sources.** The regulation amendments concern provisions covering municipal solid waste (MSW) landfills and are summarized below.

Facilities to which the rule applies are MSW landfills which commenced construction, reconstruction, or modification before May 30, 1991. In the Northern Virginia VOC Control Area, the design capacity applicability criteria is 1.0 million megagrams (Mg) or more; the emission rate applicability criteria is emissions of nonmethane organic compounds (NMOCs) greater than or equal to 23 Mg per year. In the remainder of the Commonwealth, the design capacity applicability criteria and the emissions rate applicability criteria are 2.5

million Mg in capacity and 50 Mg per year or more in emissions, respectively.

Landfills with a design capacity equal to or greater than the design capacity applicability criteria must determine their NMOC emissions. If the NMOC emission rate is less than the emission rate applicability criteria, the landfill must submit an emission report, and recalculate the NMOC emission rate until it is equal to or greater than the emission rate applicability criteria or the landfill is closed. If the calculated NMOC emission rate is equal to or greater than the emission rate applicability criteria, a collection and control system design plan must be submitted, followed by the installation of a collection and control system.

Active collection systems must be designed to handle the maximum expected gas flow rate at a sufficient extraction rate and be designed to minimize off-site gas migration. Passive collection systems must be installed with liners, then either destroy the collected gas or treat it for sale or use. Operational standards direct how landfills must operate collection systems in order to minimize emissions and operate safely. Test methods and procedures are provided in order for sources to calculate the NMOC emission rate. Once the NMOC emission rate is established, the landfill is classified as Tier 1, 2, or 3 depending on whether the NMOC emission rate is less than or greater than the emission rate applicability criteria; if the NMOC concentration is determined using a specific sampling procedure; or if the NMOC mass emission rate is determined using specific equations.

Compliance is determined through specific methods. Monitoring of operations is achieved through the installation of various sampling ports and devices. Reporting and recordkeeping requirements are delineated. Finally, installation of emission collection and control equipment capable of meeting the standards must be accomplished by 30 months after the rule's effective date.

**Request for Comments:** The purpose of this notice is to provide the public with the opportunity to comment on the proposed regulation and the costs and benefits of the proposal.

**Localities Affected:** Facilities located in the Northern Virginia VOC Control Area (Arlington County, Fairfax County, Loudoun County, Prince William County, Stafford County, City of Alexandria, City of Fairfax, City of Falls Church, City of Manassas, City of Manassas Park) must meet more restrictive design capacity applicability criteria and emission rate applicability criteria. These special criteria are required in order to meet emission reduction requirements for serious nonattainment areas (as required by Part D of the federal Clean Air Act), rather than to meet requirements for designated pollutants (§ 111(d) of the federal Clean Air Act) and have been in place since 1996.

**Location of Proposal:** The proposal, an analysis conducted by the department (including a statement of purpose, a

statement of estimated impact and benefits of the proposed regulation, an explanation of need for the proposed regulation, an estimate of the impact of the proposed regulation upon small businesses, identification of and comparison with federal requirements, and a discussion of alternative approaches), and any other supporting documents may be examined by the public at the Department's Office of Program Development (Eighth Floor), 629 East Main Street, Richmond, Virginia and the department's regional offices (listed below) between 8:30 a.m. and 4:30 p.m. of each business day until the close of the public comment period.

Southwest Regional Office  
Department of Environmental Quality  
355 Deadmore Street  
Abingdon, Virginia  
Ph: (540) 676-4800

West Central Regional Office  
Department of Environmental Quality  
3019 Peters Creek Road  
Roanoke, Virginia  
Ph: (540) 562-6700

Lynchburg Satellite Office  
Department of Environmental Quality  
7705 Timberlake Road  
Lynchburg, Virginia  
Ph: (804) 582-5120

Valley Regional Office  
Department of Environmental Quality  
4411 Early Road  
Harrisonburg, Virginia 22801  
Ph: (540) 574-7800

Fredericksburg Satellite Office  
Department of Environmental Quality  
300 Central Road, Suite B  
Fredericksburg, Virginia  
Ph: (540) 899-4600

Northern Regional Office  
Department of Environmental Quality  
13901 Crown Court  
Woodbridge, Virginia  
Ph: (703) 583-3800

Piedmont Regional Office  
Department of Environmental Quality  
4949-A Cox Road  
Glen Allen, Virginia  
Ph: (804) 527-5020

Tidewater Regional Office  
Department of Environmental Quality  
5636 Southern Boulevard  
Virginia Beach, Virginia  
Ph: (757) 518-2000

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

Public comments may be submitted until 4:30 p.m., September 28, 1998, to the Director, Office of Program

Development, Department of Environmental Quality, P.O. Box 10009, Richmond, Virginia 23240.

**Contact:** Karen G. Sabasteanski, Policy Analyst, Office of Air Program Development, Department of Environmental Quality, P.O. Box 10009, Richmond, VA 23240, telephone (804) 698-4426, FAX (804) 698-4510, toll-free 1-800-592-5482 or (804) 698-4021/TTY ☎

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**September 17, 1998 - 9 a.m.** -- Public Hearing  
Department of Environmental Quality, 629 East Main Street, Training Room, Richmond, Virginia.

**October 6, 1998** - Public comments may be submitted until 4:30 p.m. on this date.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the State Air Pollution Control Board intends to amend regulations entitled: **9 VAC 5-30-10 et seq. and 9 VAC 5-70-10 et seq. Regulations for the Control and Abatement of Air Pollution (Rev. A97).** The regulation amendments concern provisions covering total suspended particulate (TSP) ambient air quality standards. The proposed action is to remove references to TSP from 9 VAC 5 Chapter 30, Ambient Air Quality Standards, and from 9 VAC 5 Chapter 70, Air Pollution Episodes.

Request for Comments: The purpose of this notice is to provide the public with the opportunity to comment on the proposed regulation and the costs and benefits of the proposal.

Localities Affected: There is no locality which will bear any identified disproportionate material air quality impact due to the proposed regulation which would not be experienced by other localities.

Location of Proposal: The proposal, an analysis conducted by the department (including: a statement of purpose, a statement of estimated impact and benefits of the proposed regulation, an explanation of need for the proposed regulation, an estimate of the impact of the proposed regulation upon small businesses, identification of and comparison with federal requirements, and a discussion of alternative approaches) and any other supporting documents may be examined by the public at the department's Office of Air Regulatory Development (Eighth Floor), 629 East Main Street, Richmond, Virginia and the department's regional offices (listed below) between 8:30 a.m. and 4:30 p.m. of each business day until the close of the public comment period.

Southwest Regional Office  
Department of Environmental Quality  
355 Deadmore Street  
Abingdon, Virginia  
Ph: (540) 676-4800

West Central Regional Office  
Department of Environmental Quality

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# Calendar of Events

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3019 Peters Creek Road  
Roanoke, Virginia  
Ph: (540) 562-6700

Lynchburg Satellite Office  
Department of Environmental Quality  
7705 Timberlake Road  
Lynchburg, Virginia  
Ph: (804) 582-5120

Valley Regional Office  
Department of Environmental Quality  
4411 Early Road  
Harrisonburg, Virginia 22801  
Ph: (540) 574-7800

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Ph: (540) 899-4600

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Department of Environmental Quality  
13901 Crown Court  
Woodbridge, Virginia  
Ph: (703) 583-3800

Piedmont Regional Office  
Department of Environmental Quality  
4949-A Cox Road  
Glen Allen, Virginia  
Ph: (804) 527-5020

Tidewater Regional Office  
Department of Environmental Quality  
5636 Southern Boulevard  
Virginia Beach, Virginia  
Ph: (757) 518-2000

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

Public comments may be submitted until 4:30 p.m., October 6, 1998, to the Director, Office of Air Regulatory Development, Department of Environmental Quality, P.O. Box 10009, Richmond, Virginia 23240.

**Contact:** Karen G. Sabasteanski, Environmental Program Planner, Office of Program Development, Department of Environmental Quality, P.O. Box 10009, Richmond, VA 23240, telephone (804) 698-4426, FAX (804) 698-4510, toll-free 1-800-592-5482 or (804) 698-4021/TTY ☎

\* \* \* \* \*

**September 17, 1998 - 9 a.m.** -- Public Hearing  
Department of Environmental Quality, 629 East Main Street,  
Training Room, Richmond, Virginia.

**October 6, 1998** - Public comments may be submitted until 4:30 p.m. on this date.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the State Air Pollution Control Board intends to amend regulations entitled: **9**

**VAC 5-40-10 et seq. Regulations for the Control and Abatement of Air Pollution (Rev. B97) (repealing Article 38, 9 VAC 5-40-5350 through 9 VAC 5-40-5480. Emission Standards for Dry Cleaning Systems (Rule 4-38)).** The amendments concern provisions covering perchloroethylene dry cleaning source emissions. The proposed action is to repeal the existing regulation.

Request for Comments: The purpose of this notice is to provide the public with the opportunity to comment on the proposed regulation and the costs and benefits of the proposal.

Localities Affected: There is no locality which will bear any identified disproportionate material air quality impact due to the proposed regulation which would not be experienced by other localities.

Location of Proposal: The proposal, an analysis conducted by the department (including: a statement of purpose, a statement of estimated impact and benefits of the proposed regulation, an explanation of need for the proposed regulation, an estimate of the impact of the proposed regulation upon small businesses, identification of and comparison with federal requirements, and a discussion of alternative approaches) and any other supporting documents may be examined by the public at the department's Office of Air Regulatory Development (Eighth Floor), 629 East Main Street, Richmond, Virginia and the department's regional offices (listed below) between 8:30 a.m. and 4:30 p.m. of each business day until the close of the public comment period.

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Glen Allen, Virginia  
Ph: (804) 527-5020

Tidewater Regional Office  
Department of Environmental Quality  
5636 Southern Boulevard  
Virginia Beach, Virginia  
Ph: (757) 518-2000

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

Public comments may be submitted until 4:30 p.m., October 6, 1998, to the Director, Office of Air Regulatory Development, Department of Environmental Quality, P.O. Box 10009, Richmond, Virginia 23240.

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

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**September 17, 1998 - 9 a.m.** -- Public Hearing  
Department of Environmental Quality, 629 East Main Street,  
Training Room, Richmond, Virginia.

**October 6, 1998** - Public comments may be submitted until 4:30 p.m. on this date.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the State Air Pollution Control Board intends to amend regulations entitled: **9 VAC 5-40-10 et seq. Regulations for the Control and Abatement of Air Pollution (Rev. E97)**. The regulation amendments concern provisions covering fuel burning equipment. The regulation has been revised in order to clarify the fact that internal combustion engines (stationary combustion turbines) are considered to be fuel burning equipment, and that stationary internal combustion engines have been specifically exempted from this rule.

**Request for Comments:** The purpose of this notice is to provide the public with the opportunity to comment on the proposed regulation and the costs and benefits of the proposal.

**Localities Affected:** There is no locality which will bear any identified disproportionate material air quality impact due to the proposed regulation which would not be experienced by other localities.

**Location of Proposal:** The proposal, an analysis conducted by the department (including: a statement of purpose, a

statement of estimated impact and benefits of the proposed regulation, an explanation of need for the proposed regulation, an estimate of the impact of the proposed regulation upon small businesses, identification of and comparison with federal requirements, and a discussion of alternative approaches) and any other supporting documents may be examined by the public at the department's Office of Air Regulatory Development (Eighth Floor), 629 East Main Street, Richmond, Virginia and the department's regional offices (listed below) between 8:30 a.m. and 4:30 p.m. of each business day until the close of the public comment period.

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Department of Environmental Quality  
5636 Southern Boulevard  
Virginia Beach, Virginia  
Ph: (757) 518-2000

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

Public comments may be submitted until 4:30 p.m., October 6, 1998, to the Director, Office of Air Regulatory

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# Calendar of Events

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Development, Department of Environmental Quality, P.O. Box 10009, Richmond, Virginia 23240.

**Contact:** Karen G. Sabasteanski, Environmental Program Planner, Office of Program Development, Department of Environmental Quality, P.O. Box 10009, Richmond, VA 23240, telephone (804) 698-4426, FAX (804) 698-4510, toll-free 1-800-592-5482 or (804) 698-4021/TTY ☎

\* \* \* \* \*

**September 17, 1998 - 9 a.m.** -- Public Hearing  
Department of Environmental Quality, 629 East Main Street, Training Room, Richmond, Virginia.

**October 6, 1998** - Public comments may be submitted until 4:30 p.m. on this date.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the State Air Pollution Control Board intends to amend regulations entitled: **9 VAC 5-40-10 et seq. Regulations for the Control and Abatement of Air Pollution (Rev. L97).** The amendments concern provisions covering pulp and paper mills. The regulation has been revised to clarify the rule's applicability.

Request for Comments: The purpose of this notice is to provide the public with the opportunity to comment on the proposed regulation and the costs and benefits of the proposal.

Localities Affected: There is no locality which will bear any identified disproportionate material air quality impact due to the proposed regulation which would not be experienced by other localities.

Location of Proposal: The proposal, an analysis conducted by the department (including: a statement of purpose, a statement of estimated impact and benefits of the proposed regulation, an explanation of need for the proposed regulation, an estimate of the impact of the proposed regulation upon small businesses, identification of and comparison with federal requirements, and a discussion of alternative approaches) and any other supporting documents may be examined by the public at the department's Office of Air Regulatory Development (Eighth Floor), 629 East Main Street, Richmond, Virginia and the department's regional offices (listed below) between 8:30 a.m. and 4:30 p.m. of each business day until the close of the public comment period.

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5636 Southern Boulevard  
Virginia Beach, Virginia  
Ph: (757) 518-2000

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

Public comments may be submitted until 4:30 p.m., October 6, 1998, to the Director, Office of Air Regulatory Development, Department of Environmental Quality, P.O. Box 10009, Richmond, Virginia 23240.

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

**September 17, 1998 - 10 a.m.** -- Open Meeting  
Via electronic communication. Persons interested in attending the meeting can do so by sitting in on the conference call at the Department of Environmental Quality, 629 East Main Street, Richmond, or by calling in. Persons who wish to call in should contact Cindy M. Berndt before Thursday, September 3, 1998.

A quarterly meeting held by conference call. The agenda is currently limited to consideration of White Top Mountain attainment redesignation. Additional items may be added. Information on the agenda will be available by September 1, 1998.

**Contact:** Cindy M. Berndt, Department of Environmental Quality, P.O. Box 10009, Richmond, VA 23240, telephone (804) 698-4378.

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† **October 28, 1998 - 9 a.m.** -- Public Hearing  
Department of Environmental Quality, 629 East Main Street,  
Training Room, Richmond, Virginia.

**November 13, 1998** - Public comments may be submitted until this date.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the State Air Pollution Control Board intends to amend regulations entitled: **Regulations for the Control and Abatement of Air Pollution (Rev. GG): 9 VAC 5-20-10 et seq. General Provisions and 9 VAC 5-40-10 et seq. Existing Sources.** The regulation amendments concern provisions covering municipal waste combustors (MWCs). The affected facility to which the provisions of the regulation apply is each MWC unit with a combustion capacity greater than 250 tons per day of municipal solid waste (MSW) for which construction was commenced on or before September 20, 1994.

Emissions limitations are established for particulate matter, carbon monoxide, cadmium, lead, sulfur dioxide, hydrogen chloride, dioxin/furan, nitrogen oxides (No<sub>x</sub>), opacity, and fugitive dust. Compliance provisions cover startup, shutdown, and malfunction; procedures for calculating unit capacity are specified. Nitrogen oxides emissions averaging, which may be used at the sources' discretion, is described in detail.

Compliance schedules are specified, Operating practices are delineated and include the regulation of particulate matter control device inlet temperature. An important component of the regulation is the operator training and certification provisions, which describe procedures and programs for assuring operator qualifications. Test methods and procedures describe which reference methods are to be used for determining compliance with each emission standard. Monitoring systems are specified, including specific performance specifications and averaging methods. Finally, reporting and recordkeeping requirements describe how all of the above information is to be gathered, stored, and reported.

Request for Comments: The purpose of this notice is to provide the public with the opportunity to comment on the proposed regulation and the costs and benefits of the proposal.

Localities Affected: There is no locality which will bear any identified disproportionate material air quality impact due to the proposed regulation which would not be experienced by other localities.

Location of Proposal: The proposal, an analysis conducted by the department (including: a statement of purpose, a

statement of estimated impact and benefits of the proposed regulation, an explanation of need for the proposed regulation, an estimate of the impact of the proposed regulation upon small businesses, identification of and comparison with federal requirements, and a discussion of alternative approaches) and any other supporting documents may be examined by the public at the department's Office of Air Regulatory Development (Eighth Floor), 629 East Main Street, Richmond, Virginia and the department's regional offices (listed below) between 8:30 a.m. and 4:30 p.m. of each business day until the close of the public comment period.

Southwest Regional Office  
Department of Environmental Quality  
355 Deadmore Street  
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Glen Allen, Virginia  
Ph: (804) 527-5020

Tidewater Regional Office  
Department of Environmental Quality  
5636 Southern Boulevard  
Virginia Beach, Virginia  
Ph: (757) 518-2000

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

Public comments may be submitted until 4:30 p.m., November 13, 1998, to the Director, Office of Air Regulatory

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# Calendar of Events

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Development, Department of Environmental Quality, P.O. Box 10009, Richmond, Virginia 23240.

**Contact:** Karen G. Sabasteanski, Policy Analyst, Office of Program Development, Department of Environmental Quality, P.O. Box 10009, Richmond, VA 23240, telephone (804) 698-4426, FAX (804) 698-4510, toll-free 1-800-592-5482 or (804) 698-4021/TTY ☎

## ALCOHOLIC BEVERAGE CONTROL BOARD

**September 21, 1998 - 9:30 a.m.** -- Open Meeting

**October 5, 1998 - 9:30 a.m.** -- Open Meeting

**October 19, 1998 - 9:30 a.m.** -- Open Meeting

Department of Alcoholic Beverage Control, 2901 Hermitage Road, Richmond, Virginia. ♿

A meeting to receive reports from and discuss activities of staff members, and to discuss other matters not yet determined.

**Contact:** W. Curtis Coleburn, Secretary to the Board, Department of Alcoholic Beverage Control, 2901 Hermitage Rd., P.O. Box 27491, Richmond, VA 23261, telephone (804) 213-4409 or FAX (804) 213-4442.

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

**September 17, 1998 - 9 a.m.** -- Open Meeting

Department of Professional and Occupational Regulation, 3600 West Broad Street, 5th Floor, Richmond, Virginia. ♿ (Interpreter for the deaf provided upon request)

The Landscape Architect Section will conduct board business.

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

**September 24, 1998 - 9 a.m.** -- Open Meeting

Department of Professional and Occupational Regulation, 3600 West Broad Street, 5th Floor, Richmond, Virginia. ♿ (Interpreter for the deaf provided upon request)

The Interior Design Section will conduct board business.

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

**September 24, 1998 - 9:30 a.m.** -- Open Meeting

Department of Professional and Occupational Regulation, 3600 West Broad Street, Conference Room 4 East, Richmond, Virginia. ♿

Members of the Land Surveyor Section of the board and invited subject matter experts will meet to conduct an exam workshop. A public comment period will be held at the beginning of the workshop. After the public comment period, the workshop will be conducted in closed executive session under authority of § 2.1-344 A 11 of the Code of Virginia due to the confidential nature of the examination.

**Contact:** Sharon M. Sweet, Examination Director, Department of Professional and Occupational Regulation, 3600 W. Broad St., Richmond, VA 23230-4917, telephone (804) 367-8572, FAX (804) 367-2474 or (804) 367-9753/TTY ☎

## VIRGINIA COMMISSION FOR THE ARTS

† **September 16, 1998 - 9 a.m.** -- Open Meeting

Lewis Ginter Botanical Gardens, 1800 Lakeside Avenue, Virginia. ♿ (Interpreter for the deaf provided upon request)

A quarterly board meeting to include discussion of millennium activities, orientation of board members, and miscellaneous policy issues. Agenda available upon request.

**Contact:** Peggy Baggett, Executive Director, Virginia Commission for the Arts, 223 Governor St., Richmond, VA 23219, telephone (804) 225-3132, FAX (804) 225-4327 or (804) 225-3132/TTY ☎

## BOARD FOR ASBESTOS AND LEAD

† **September 21, 1998 - 10 a.m.** -- Open Meeting

Department of Professional and Occupational Regulation, 3600 West Broad Street, Conference Room 5E, Richmond, Virginia. ♿

A meeting to adopt amendments to the proposed Asbestos Abatement Regulations to conform with advice from the Office of the Attorney General.

**Contact:** David E. Dick, Assistant Director, Department of Professional and Occupational Regulation, 3600 W. Broad St., Richmond, VA 23230-4917, telephone (804) 367-8505, FAX (804) 367-2475 or (804) 367-9753/TTY ☎


† **September 22, 1998 - 10 a.m.** -- Open Meeting

Department of Professional and Occupational Regulation, 3600 West Broad Street, Conference Room 5E, Richmond, Virginia. ♿


A meeting to adopt amendments to the proposed Lead-Based Paint Regulations to conform with advice from the Office of the Attorney General.

**Contact:** David E. Dick, Assistant Director, Department of Professional and Occupational Regulation, 3600 W. Broad St., Richmond, VA 23230-4917, telephone (804) 367-8505, FAX (804) 367-2475 or (804) 367-9753/TTY ☎




† **November 10, 1998 - 10 a.m.** -- Open Meeting  
Department of Professional and Occupational Regulation,  
3600 West Broad Street, Conference Room 5W, Richmond,  
Virginia. 


A meeting to conduct routine business. Public comment will be received at the beginning of the meeting.

**Contact:** David E. Dick, Assistant Director, Department of Professional and Occupational Regulation, 3600 W. Broad St., Richmond, VA 23230-4917, telephone (804) 367-8505, FAX (804) 367-2475 or (804) 367-9753/TTY 

## BOARD FOR BARBERS

**October 5, 1998 - 10 a.m.** -- Open Meeting  
Department of Professional and Occupational Regulation,  
3600 West Broad Street, Richmond, Virginia. 

An open meeting to discuss regulatory review and other matters requiring board action, including disciplinary cases. All meetings are subject to cancellation. Time of meeting subject to change. Call board office at least 24 hours in advance for confirmation. A public comment period will be held at the beginning of the meeting. Persons desiring to participate in the meeting and requiring special accommodations or interpreter services should contact the department at least 10 days prior to the meeting so that suitable arrangements can be made. The department fully complies with the Americans with Disabilities Act.

**Contact:** Nancy Taylor Feldman, Assistant Director, Department of Professional and Occupational Regulation, 3600 W. Broad St., Richmond, VA 23230-4917, telephone (804) 367-8590 or (804) 367-9753/TTY 

## BOARD FOR BRANCH PILOTS

**October 29, 1998 - 9:30 a.m.** -- Public Hearing  
Virginia Port Authority, 600 World Trade Center, 6th Floor,  
Norfolk, Virginia.


**October 30, 1998** - Public comments may be submitted until this date.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Board for Branch Pilots intends to amend regulations entitled: **18 VAC 45-20-10 et seq. Board for Branch Pilots Regulations.** The purpose of the proposed amendments is to increase fees to comply with § 54.1-113 of the Code of Virginia.

Statutory Authority: §§ 54.1-902 and 54.1-907 of the Code of Virginia.

**Contact:** Mark N. Courtney, Assistant Director, Department of Professional and Occupational Regulation, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-8514.


## CHARITABLE GAMING COMMISSION

**September 14, 1998 - 9 a.m.** -- Open Meeting  
J. Sargeant Reynolds Corporate Center, North Run Business  
Park, 1630 East Parham Road, Richmond, Virginia. 


A commission training session.

**Contact:** Kristi Leslie, Administrative Staff Assistant, Charitable Gaming Commission, 101 N. 14th St., 17th Floor, Richmond, VA 23219, telephone (804) 786-3014 or FAX (804) 786-1079.


## CHESAPEAKE BAY LOCAL ASSISTANCE DEPARTMENT

**September 21, 1998 - 10 a.m.** -- Open Meeting  
Department of Social Services Building, Conference Room 3,  
Lower Level, 730 East Broad Street, Richmond, Virginia.   
(Interpreter for the deaf provided upon request)


The board will conduct general business, including review of local Chesapeake Bay Preservation Area programs. Public comment will be taken in the meeting. A tentative agenda will be available September 1, 1998, from the Chesapeake Bay Local Assistance Department.


**Contact:** Carolyn J. Elliott, Executive Secretary, Chesapeake Bay Local Assistance Department, 805 E. Broad St., Suite 701, Richmond, VA 23219, telephone (804) 225-3440, FAX (804) 225-3447 or toll-free (800) 243-7229/TTY 

## CHESAPEAKE BAY LOCAL ASSISTANCE BOARD

**October 13, 1998 - 10 a.m.** -- Open Meeting  
Chesapeake Bay Local Assistance Department, 805 East  
Broad Street, Suite 701, Richmond, Virginia.  (Interpreter for the deaf provided upon request)

The Northern Area Review 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 meeting, however, written comments are welcome.

**Contact:** Carolyn J. Elliott, Executive Secretary, Chesapeake Bay Local Assistance Department, 805 E. Broad St., Suite 701, Richmond, VA 23219, telephone (804) 225-3440, FAX (804) 225-3447 or toll-free (800) 243-7229/TTY 

**October 13, 1998 - 2 p.m.** -- Open Meeting  
Chesapeake Bay Local Assistance Department, 805 East  
Broad Street, Suite 701, Richmond, Virginia.  (Interpreter for the deaf provided upon request)

The Southern Area Review Committee will review Chesapeake Bay Preservation Area programs for the

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# Calendar of Events

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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 meeting, however, written comments are welcome.

**Contact:** Carolyn J. Elliott, Executive Secretary, Chesapeake Bay Local Assistance Department, 805 E. Broad St., Suite 701, Richmond, VA 23219, telephone (804) 225-3440, FAX (804) 225-3447 or toll-free (800) 243-7229/TTY ☎

## STATE CHILD FATALITY REVIEW TEAM

† **September 23, 1998 - 10 a.m.** -- Open Meeting  
400 East Jackson Street, Richmond, Virginia. ♿

A meeting to discuss confidential cases of children whose deaths are under review.

**Contact:** Suzanne J. Keller, Coordinator, State Child Fatality Review Team, 400 East Jackson St., Richmond, VA 23219, telephone (804) 786-1047 or FAX (804) 371-8595.

## COMPENSATION BOARD

**September 24, 1998 - 11 a.m.** -- Open Meeting

**October 29, 1998 - 11 a.m.** -- Open Meeting  
202 North 9th Street, 10th Floor, Richmond, VA. ♿  
(Interpreter for the deaf provided upon request)

Monthly board meeting.

**Contact:** Cindy Waddell, Administrative Assistant, Compensation Board, 202 N. 9th St., Richmond, VA 23219, telephone (804) 786-0786, FAX (804) 371-0235 or (804) 786-0786/TTY ☎

## BOARD OF CONSERVATION AND RECREATION

† **October 19, 1998 - 10 a.m.** -- Open Meeting  
State Capitol, Capitol Square, House Room 1, Richmond, Virginia. ♿

A regular business meeting.

**Contact:** Leon E. App, Conservation and Development Programs Supervisor, Department of Conservation and Recreation, 203 Governor St., Suite 302, Richmond, VA 23219, telephone (804) 786-4570 or FAX (804) 786-6141.

## DEPARTMENT OF CONSERVATION AND RECREATION

### Chippokes Plantation Farm Foundation

† **September 18, 1998 - 10 a.m.** -- Open Meeting  
Chippokes Plantation State Park, Stewart Mansion House, 695 Chippokes Park Road, Conference Room, Surry, Virginia. ♿

A meeting of the Board of Trustees to report on the museum and activities of the summer and to receive an update on the board's concept for expanding its interpretive programming.

**Contact:** Kathy Wright, Executive Secretary, Department of Conservation and Recreation, 203 Governor St., Suite 326, Richmond, VA 23219, telephone (804) 786-7950 or FAX (804) 371-8500.

† **September 22, 1998 - 7 p.m.** -- Open Meeting  
Livingston Elementary School Library, Route 208, Spotsylvania, Virginia. ♿ (Interpreter for the deaf provided upon request)

The draft Lake Anna State Park master plan will be presented and the public will be asked to provide comment.

**Contact:** Derral Jones, Environmental Program Planner, Department of Conservation and Recreation, Division of Planning and Recreation Resources, 203 Governor St., Suite 326, Richmond, VA 23219, telephone (804) 786-9042 or (804) 786-2121/TTY ☎

† **October 7, 1998 - 7 p.m.** -- Open Meeting  
Agricultural Center Auditorium, Highway 60, Buckingham Courthouse, Virginia. ♿ (Interpreter for the deaf provided upon request)

The draft James River State Park master plan will be presented and the public will be asked to provide comment. The master plan was developed based on input received in previous public input sessions.

**Contact:** Robert Munson, Environmental Program Planner, Department of Conservation and Recreation, Division of Planning and Recreation Resources, 203 Governor St., Suite 326, Richmond, VA 23219, telephone (804) 786-6140 or (804) 786-2121/TTY ☎

### Board of Conservation and Development of Public Beaches


† **September 23, 1998 - 10 a.m.** -- Open Meeting  
City Council Chambers, Virginia Beach City Hall, Virginia Beach, Virginia. ♿ (Interpreter for the deaf provided upon request)

A meeting to discuss proposed projects by localities requesting matching grant funds; to review the budget for 98-00 biennium; to review progress on the Value of

Beaches study; and to receive public comments about public beaches or the activities of the board.

**Contact:** Carlton Lee Hill, Staff Advisor, Department of Conservation and Recreation, 203 Governor St., Suite 206, Richmond, VA 23219, telephone (804) 786-3998 or FAX (804) 786-1798.

## BOARD FOR CONTRACTORS

† **September 23, 1998 - 10 a.m.** -- Open Meeting  
Department of Professional and Occupational Regulation,  
3600 West Broad Street, Richmond, Virginia. 

A quarterly meeting of the Tradesman Committee to consider items of interest relating to the tradesmen section of the Board for Contractors.

**Contact:** George Bridewell, Administrator, Tradesman Certification Program, Department of Professional and Occupational Regulation, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-6166 or FAX (804) 367-2474.

\* \* \* \* \*

**October 2, 1998** - Public comments may be submitted through this date.


Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Board for Contractors intends to amend regulations entitled: **18 VAC 50-30-10 et seq. Board for Contractors Tradesman Rules and Regulations.** The proposed amendments add backflow prevention device workers to the trades regulated by the Tradesman Program. The voluntary, statewide certification program for backflow prevention device workers mandated by the General Assembly will enable such workers to practice in different areas of the Commonwealth without having to apply for certification in each jurisdiction separately. Except for fees for the new program, there are no changes in the current fee structure of the Tradesman Program. Some editorial changes are also made.

Statutory Authority: §§ 54.1-201, 54.1-1102 and Article 3 (§ 54.1-1128 et seq.) of Chapter 11 of Title 54.1 of the Code of Virginia.

Public comments may be submitted until October 2, 1998, to George O. Bridewell, Administrator, Board for Contractors, 3600 West Broad Street, Richmond, Virginia 23230.

**Contact:** Geralde W. Morgan, Assistant Director, Department of Professional and Occupational Regulation, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-6166 or FAX (804) 367-2474.


## BOARD OF CORRECTIONAL EDUCATION

**September 18, 1998 - 10 a.m.** -- Open Meeting  
Department of Correctional Education, James Monroe Building, 101 North 14th Street, 7th Floor, Richmond, Virginia.  (Interpreter for the deaf provided upon request)


A monthly meeting to discuss general business.

**Contact:** Patty Ennis, Board Clerk, Department of Correctional Education, James Monroe Bldg., 101 N. 14th St., 7th Floor, Richmond, VA 23219, telephone (804) 225-3314.


## BOARD FOR COSMETOLOGY

**September 14, 1998 - 10 a.m.** -- Open Meeting  
Department of Professional and Occupational Regulation,  
3600 West Broad Street, 5th Floor, Richmond, Virginia. 

An open meeting to discuss regulatory review and other matters requiring board action, including disciplinary cases. All meetings are subject to cancellation. Time of the meeting is subject to change. Call the board office at least 24 hours in advance. Persons desiring to participate in the meeting and requiring special accommodations or interpreter services should contact Nancy Taylor Feldman. The department fully complies with the Americans with Disabilities Act. Please notify the department of your request at least 10 days in advance.

**Contact:** Nancy Taylor Feldman, Assistant Director, Department of Professional and Occupational Regulation, 3600 W. Broad St., Richmond, VA 23230-4917, telephone (804) 367-8590 or (804) 367-9753/TTY 


## CRIMINAL JUSTICE SERVICES BOARD

**September 23, 1998 - 10 a.m.** -- Open Meeting  
General Assembly Building, 9th and Broad Streets, House Room D, Richmond, Virginia. 

A general business meeting to consider various grant applications.

**Contact:** Christine Y. Wiedemer, Administrative Staff Assistant, Department of Criminal Justice Services, 805 E. Broad St., Richmond, VA 23219, telephone (804) 786-8718.

## CRIMINAL JUSTICE SERVICES BOARD AND COMMITTEE ON TRAINING

**September 23, 1998 - 9 a.m.** -- Open Meeting  
General Assembly Building, 9th and Broad Streets, House Room D, Richmond, Virginia. 

A meeting of both groups to conduct general business. The Criminal Justice Services Board will also consider various grant applications.


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**Contact:** George B. Gotschalk, Regulatory Review Coordinator, Committee on Training, and Christine Y. Wiedemer, Administrative Staff Assistant, Criminal Justice Services Board, Department of Criminal Justice Services, 805 E. Broad St., Richmond, VA 23219, telephone (804) 786-8001.

## BOARD OF DENTISTRY

**September 17, 1998 - 9 a.m.** -- Open Meeting  
The Williamsburg Lodge, 310 England Street, Dominion Room, Williamsburg, Virginia.  (Interpreter for the deaf provided upon request)

A business meeting with committee reports, upcoming meetings, minutes, review of Consent Orders and general request made to the board. The board is planning to discuss the following items: (i) emergency regulations pursuant to § 54.1-2712.1 of the Code of Virginia, restricted volunteer license for certain dentists and § 54.1-2726.1 restricted volunteer license for certain dental hygienists; (ii) consider amending the current clinical examination contract to two or more examination per year in Virginia; (iii) consider outsourcing the jurisprudence and x-ray exams and (iv) election of officers for 98-99 year. Public comment will be received at the beginning of the meeting.

**Contact:** Marcia J. Miller, Executive Director, Board of Dentistry, 6606 W. Broad St., 4th Floor, Richmond, VA 23230-1717, telephone (804) 662-9906, FAX (804) 662-9943 or (804) 662-7197/TTY 

**September 18, 1998 - 9 a.m.** -- Open Meeting  
The Williamsburg Lodge, 310 England Street, Dominion Room, Williamsburg, Virginia.  (Interpreter for the deaf provided upon request)

A formal administrative hearing in the matter of a licensee. This is a public meeting, however, no public comment will be taken.

**Contact:** Marcia J. Miller, Executive Director, Board of Dentistry, 6606 W. Broad St., 4th Floor, Richmond, VA 23230-1717, telephone (804) 662-9906, FAX (804) 662-9943 or (804) 662-7197/TTY 

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**September 18, 1998 - 1 p.m.** -- Public Hearing  
The Williamsburg Lodge, 310 South England Street, Williamsburg, Virginia.

**October 2, 1998** - Public comments may be submitted until this date.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Board of Dentistry intends to amend regulations entitled: **18 VAC 60-20-10 et seq. Virginia Board of Dentistry Regulations.** Amendments are proposed pursuant to Executive Order 15 (94), which called for clarification, simplification, and

where possible, a reduction in the regulatory burden. The proposed amendments allow dentists to delegate acts which are not specifically reserved for dentists/dental hygienists and which are consistent with the training and experience of the assistant.

Statutory Authority: § 54.1-2400 and Chapter 27 (§ 54.1-2700 et seq.) of Title 54.1 of the Code of Virginia.

**Contact:** Marcia J. Miller, Executive Director, Board of Dentistry, 6606 W. Broad St., 4th Floor, Richmond, VA 23230-1717, telephone (804) 662-9906 or FAX (804) 662-9943.

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**September 18, 1998 - 1 p.m.** -- Public Hearing  
The Williamsburg Lodge, 310 South England Street, Williamsburg, Virginia.


**October 2, 1998** - Public comments may be submitted until this date.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Board of Dentistry intends to amend regulations entitled: **18 VAC 60-20-10 et seq. Virginia Board of Dentistry Regulations.** Amendments are proposed to increase fees for licensees of the Board of Dentistry in order to comply with a statutory mandate for the agency to raise revenues sufficient to meet expenses.

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

**Contact:** Marcia J. Miller, Executive Director, Board of Dentistry, 6606 W. Broad St., 4th Floor, Richmond, VA 23230-1717, telephone (804) 662-9906 or FAX (804) 662-9943.


## VIRGINIA ECONOMIC DEVELOPMENT PARTNERSHIP

**October 6, 1998 - 10 a.m.** -- Open Meeting  
Department of Economic Development, Riverfront Plaza, 901 East Byrd Street, West Tower, 19th Floor, Board Room, Richmond, Virginia.  (Interpreter for the deaf provided upon request)

A meeting of the Motion Picture Development Committee of the Virginia Tourism Corporation Board to discuss a production incentive plan in Virginia. Agenda available upon request. Public comment will be taken at the beginning of the meeting.

**Contact:** Judy Bulls, Assistant to the President and CEO of the Virginia Tourism Corporation, 901 E. Byrd St., Richmond, VA 23219, telephone (804) 371-8174 or FAX (804) 786-1919.

## BOARD OF EDUCATION

† **September 29, 1998 - 9 a.m.** -- Open Meeting  
Martha Washington Inn, 150 West Main Street, Abingdon,  
Virginia.  (Interpreter for the deaf provided upon request)

The Board of Education and the Board of Vocational Education will hold its regularly scheduled meeting. Business will be conducted according to items on the agenda. The agenda is available upon request.

**Contact:** Dr. James E. Laws, Jr., Executive Assistant, Department of Education, Monroe Bldg., 101 N. 14th St., P.O. Box 2120, Richmond, VA 23218-2120, telephone (804) 225-2540, FAX (804) 225-2524 or toll-free 1-800-292-3820.

## LOCAL EMERGENCY PLANNING COMMITTEE - CHESTERFIELD COUNTY


**October 1, 1998 - 5:30 p.m.** -- Open Meeting  
6610 Public Safety Way, Chesterfield, Virginia.

A regular meeting.

**Contact:** Lynda G. Furr, Emergency Services Coordinator, Chesterfield Fire Department, P.O. Box 40, Chesterfield, VA 23832, telephone (804) 748-1236.

## DEPARTMENT OF ENVIRONMENTAL QUALITY

### Virginia Ground Water Protection Steering Committee

**September 15, 1998 - 9 a.m.** -- Open Meeting  
Department of Environmental Quality, 629 East Main Street,  
First Floor, Training Room, Richmond, Virginia. 

A regularly scheduled meeting. Anyone interested in ground water protection issues is encouraged to attend. To obtain a meeting agenda, contact Mary Ann Massie.

**Contact:** Mary Ann Massie, Environmental Program Planner, Department of Environmental Quality, P. O. Box 10009, Richmond, VA 23240-0009, telephone (804) 698-4042 or FAX (804) 698-4032.

## STATE EXECUTIVE COUNCIL

† **September 25, 1998 - 9 a.m.** -- Open Meeting  
Theater Row Building, 730 East Broad Street, Lower Level,  
Room 2, Training Room, Richmond, Virginia.

The monthly meeting of the council is to discuss and make decisions; set policies; review and act appropriately on CSA related issues as they pertain to at-risk youth and families.

**Contact:** Alan G. Saunders, Director, State Executive Council, 730 E. Broad St., Richmond, VA 23219, telephone (804) 662-9815 or FAX (804) 662-9831.

## VIRGINIA FIRE SERVICES BOARD

† **September 17, 1998 - 9:30 a.m.** -- Open Meeting  
Roanoke County Fire and Rescue, 3568 Peters Creek Road,  
Roanoke, Virginia.

The following committees will meet to discuss fire training and policies. The meetings are open to the public for input and comments:

Fire Prevention and Control Committee at 9:30 a.m.

Fire/EMS Education and Training Committee at 1 p.m.

**Contact:** Troy H. Lapetina, Executive Director, Department of Fire Programs, James Monroe Bldg., 101 N. 14th St., 18th Floor, Richmond, VA 23219, telephone (804) 371-0220.

† **October 18, 1998 - 10 a.m.** -- Open Meeting  
English Inn, 2000 Morton Drive, Charlottesville, Virginia.

The following committee will meet to discuss fire training and policies. The meetings are open to the public for input and comments:

Legislative/Liaison Committee at 10 a.m.


**Contact:** Troy H. Lapetina, Executive Director, Department of Fire Programs, James Monroe Bldg., 101 N. 14th St., 18th Floor, Richmond, VA 23219, telephone (804) 371-0220.

† **October 18, 1998 - 1 p.m.** -- Open Meeting  
English Inn, 2000 Morton Drive, Charlottesville, Virginia.

A business meeting to discuss fire training and policies. The meeting is open to the public for comments and input.

**Contact:** Troy H. Lapetina, Executive Director, Department of Fire Programs, James Monroe Bldg., 101 N. 14th St., 18th Floor, Richmond, VA 23219, telephone (804) 371-0220.

## DEPARTMENT OF FORESTRY

**September 16, 1998 - 10 a.m.** -- Open Meeting  
Holiday Lake 4-H Educational Center, Appomattox,  
Virginia. 

The Reforestation of Timberlands Board will evaluate accomplishments and budget usage in 1997-98 fiscal year; review 1998-99 budget line items; discuss allowing RT cost-share availability to DOF employee landowners; and discuss draft of legislative report on RT Program and hardwood resource as needed.

**Contact:** Phil T. Grimm, Staff Forester, P.O. Box 3758, Charlottesville, VA 22903, telephone (804) 977-6555 or FAX (804) 296-2369.

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# Calendar of Events

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## BOARD OF FUNERAL DIRECTORS AND EMBALMERS

**September 16, 1998 - 9 a.m.** -- Open Meeting

**October 19, 1998 - 9 a.m.** -- Open Meeting

Department of Health Professions, 6606 West Broad Street, 4th Floor, Richmond, Virginia. ☎

A general board meeting. Public comment will be received during the first 15 minutes of the meeting. Formal hearings will follow at 1 p.m.

**Contact:** Cheri Emma-Leigh, Administrative Staff Assistant, Board of Funeral Directors and Embalmers, 6606 W. Broad St., 4th Floor, Richmond, VA 23230-1717, telephone (804) 662-9907, FAX (804) 662-9523 or (804) 662-7197/TTY ☎

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**September 17, 1998 - 9 a.m.** -- Public Hearing

Department of Health Professions, 6606 West Broad Street, 5th Floor, Conference Room 2, Richmond, Virginia.

**October 2, 1998** - Public comments may be submitted until this date.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Board of Funeral Directors and Embalmers intends to amend regulations entitled: **18 VAC 65-20-10 et seq. Regulations of the Board of Funeral Directors and Embalmers and 18 VAC 65-40-10 et seq. Resident Trainee Program for Funeral Service.** Amendments are proposed to increase fees for licensees of the Board of Funeral Directors and Embalmers in order to comply with a statutory mandate for the agency to raise revenues sufficient to meet expenses.

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

**Contact:** Elizabeth Young-Tisdale, Executive Director, Board of Funeral Directors and Embalmers, 6606 W. Broad St., 4th Floor, Richmond, VA 23230-1717, telephone (804) 662-9907 or FAX (804) 662-9943.

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**September 17, 1998 - 9 a.m.** -- Public Hearing

Department of Health Professions, 6606 West Broad Street, 5th Floor, Conference Room 2, Richmond, Virginia.

**October 2, 1998** - Public comments may be submitted until this date.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Board of Funeral Directors and Embalmers intends to amend regulations entitled: **18 VAC 65-20-10 et seq. Regulations of the Board of Funeral Directors and Embalmers.** Amendments are proposed pursuant to Executive Order 15 (94), which called for clarification, simplification and, where possible, a reduction in the regulatory burden.

Regulations which are duplicative of provisions of the Code of Virginia or the Funeral Industry Rule of the Federal Trade Commission are eliminated.

Statutory Authority: §§ 54.1-2400 and Chapter 28 (§ 54.1-2800 et seq.) of Title 54.1 of the Code of Virginia.

**Contact:** Elizabeth Young-Tisdale, Executive Director, Board of Funeral Directors and Embalmers, 6606 W. Broad St., 4th Floor, Richmond, VA 23230-1717, telephone (804) 662-9907 or FAX (804) 662-9943.

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**September 17, 1998 - 9 a.m.** -- Public Hearing

Department of Health Professions, 6606 West Broad Street, 5th Floor, Conference Room 2, Richmond, Virginia.

**October 2, 1998** - Public comments may be submitted until this date.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Board of Funeral Directors and Embalmers intends to amend regulations entitled: **18 VAC 65-30-10 et seq. Regulations for Preneed Funeral Planning.** Amendments are proposed pursuant to Executive Order 15 (94) in order to make regulations clearer, simpler, and less burdensome. The proposed amendments will eliminate the requirement for prior approval by the board of any preneed contract and disclosure statements.

Statutory Authority: §§ 54.1-2400, 54.1-2803 and 54.1-2820 of the Code of Virginia.

**Contact:** Elizabeth Young-Tisdale, Executive Director, Board of Funeral Directors and Embalmers, 6606 W. Broad St., 4th Floor, Richmond, VA 23230-1717, telephone (804) 662-9907 or FAX (804) 662-9943.

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**September 17, 1998 - 9 a.m.** -- Public Hearing

Department of Health Professions, 6606 West Broad Street, 5th Floor, Conference Room 2, Richmond, Virginia.

**October 2, 1998** - Public comments may be submitted until this date.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Board of Funeral Directors and Embalmers intends to amend regulations entitled: **18 VAC 65-40-10 et seq. Resident Trainee Program for Funeral Service.** Amendments are proposed pursuant to Executive Order 15 (94) in order to make regulations clearer, simpler, and less burdensome. Amendments will eliminate duplicative regulations and requirements such as a certain number of funerals and embalmings in one calendar year in one funeral establishment.

Statutory Authority: §§ 54.1-2400 and Chapter 28 (§ 54.1-2800 et seq. ) of Title 54.1 of the Code of Virginia.

**Contact:** Elizabeth Young-Tisdale, Executive Director, Board of Funeral Directors and Embalmers, 6606 W. Broad St., 4th Floor, Richmond, VA 23230-1717, telephone (804) 662-9907 or FAX (804) 662-9943.

## Special Conference Committee

**October 5, 1998 - 9 a.m.** -- Open Meeting


**October 6, 1998 - 9 a.m.** -- Open Meeting

† **October 28, 1998 - 9 a.m.** -- Open Meeting

† **October 29, 1998 - 9 a.m.** -- Open Meeting


Department of Health Professions, 6606 West Broad Street, 4th Floor, Richmond, Virginia. 

A meeting to conduct hearings. No public comment will be received.


**Contact:** Cheri Emma-Leigh, Administrative Staff Assistant, Board of Funeral Directors and Embalmers, 6606 W. Broad St., 4th Floor, Richmond, VA 23230-1717, telephone (804) 662-9970, FAX (804) 662-9523 or (804) 662-7197/TTY 

## DEPARTMENT OF GAME AND INLAND FISHERIES


**September 14, 1998 - 7 p.m.** -- Public Hearing

Jefferson Forest High School, Perrowville Road, Forest, Virginia.  (Interpreter for the deaf provided upon request)

**September 15, 1998 - 7 p.m.** -- Public Hearing

Fort Defiance High School, State Route 616, Fort Defiance, Virginia.  (Interpreter for the deaf provided upon request)


**September 16, 1998 - 7 p.m.** -- Public Hearing

Wytheville Community College, 1000 East Main Street, Wytheville, Virginia.  (Interpreter for the deaf provided upon request)

**September 17, 1998 - 7 p.m.** -- Public Hearing

James City-Williamsburg Community Center, 5301 Longhill Road, Williamsburg, Virginia.  (Interpreter for the deaf provided upon request)

**September 17, 1998 - 7 p.m.** -- Public Hearing

Lee Hill Community Center, 1 Hugh Cosner Drive, Fredericksburg, Virginia.  (Interpreter for the deaf provided upon request)

The Virginia Department of Game and Inland Fisheries (DGIF) is hosting five public meetings in September to receive suggestions from hunters, trappers, and all other interested parties for changes to the state hunting and trapping regulations. Interested individuals are invited to join the DGIF staff to discuss these regulations and department programs. The suggestions received will be considered by department staff as they develop recommendations for presentation to the Board of Game and Inland Fisheries in the spring of 1999.

**Contact:** Phil Smith, Policy Analyst, Department of Game and Inland Fisheries, 4010 W. Broad St., Richmond, VA 23230, telephone (804) 367-8341 or FAX (804) 367-2311.

† **October 22, 1998 - 9 a.m.** -- Open Meeting

† **October 23, 1998 - 9 a.m.** -- Open Meeting

Department of Game and Inland Fisheries, 4000 West Broad Street, Richmond, Virginia.  (Interpreter for the deaf provided upon request)


The board will address amendments to fish and fishing regulations proposed at its August 20, 1998, meeting. This is the regular biennial review of regulations governing freshwater fish and fishing, including seasons, creel limits, methods of take, and possession. The board will solicit comments from the public during the public hearing portion of the meeting; at which time any interested citizen present shall be heard. The board then intends to adopt fishing regulations to be effective from January 1999 through December 2000. The board reserves the right to adopt final amendments which may be more liberal than, or more stringent than the regulations currently in effect, or the regulation amendments proposed at the August 20, 1998, board meeting, as necessary for the proper management of wildlife resources.

The board may review proposals for legislation for the 1999 session of the General Assembly, and may discuss general and administrative issues. The board may hold an executive session before the public session begins on October 22. If the board completes its entire agenda on October 22, it may not convene on October 23.

**Contact:** Phil Smith, Policy Analyst, Department of Game and Inland Fisheries, 4010 W. Broad St., Richmond, VA 23230, telephone (804) 367-8341 or FAX (804) 367-2311.

## GEORGE MASON UNIVERSITY

**October 21, 1998 - TBA** -- Open Meeting

George Mason University, Mason Hall, Board Room D23, Fairfax, Virginia. 

A regular meeting of the Board of Visitors to hear reports of the standing committees of the board and to act on those recommendations presented by the standing committees. An agenda will be ready seven days prior to the board meeting for those individuals or organizations who request it.

**Contact:** Patricia E. Roney, Program Support Tech. Sr., George Mason University, President's Office, Fairfax, VA 22030, telephone (703) 993-8700.

## STATE HAZARDOUS MATERIALS TRAINING ADVISORY COMMITTEE

† **September 23, 1998 - 1 p.m.** -- Open Meeting

Doubletree Hotel, Oak Room, Virginia Beach, Virginia.

A meeting to discuss curriculum course development and to review existing hazardous materials courses. Individuals with a disability, as defined in the Americans

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# Calendar of Events

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with Disabilities Act, desiring to attend should contact the Department of Emergency Services at (804) 674-2489 10 days prior to the meeting so appropriate accommodations can be provided.

**Contact:** Ron Hargrave, Department of Emergency Services, 10501 Trade Court, Richmond, VA, telephone (804) 897-6573.

## STATE BOARD OF HEALTH

**September 21, 1998** -- Public comments may be submitted until this date.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the State Board of Health intends to amend regulations entitled: **12 VAC 5-90-10 et seq. Regulations for Disease Reporting and Control.** The proposed amendments include additions to and deletions from the reportable disease list, changes to the list of conditions and laboratory tests reportable by directors of laboratories, and other changes to enhance disease surveillance and control in the Commonwealth.

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

**Contact:** Diane Woolard, Ph.D., M.P.H., Director, Surveillance and Investigation, Department of Health, Office of Epidemiology, P.O. Box 2448, Room 113, Richmond, VA 23218, telephone (804) 786-6261, FAX (804) 371-4050 or toll-free 1-800-828-1120/TTY ☎

## Maternal and Child Health Council

**September 16, 1998 - 1 p.m.** -- Open Meeting  
General Assembly Building, 910 Capitol Square, Speaker's Conference Room, 6th Floor, Richmond, Virginia. ♿  
(Interpreter for the deaf provided upon request)

The meeting will focus on improving the health of the Commonwealth's mothers and children by promoting and improving programs and service delivery systems related to maternal and child health including prenatal care, school health, and teenage pregnancy.

**Contact:** Janice W. Hicks, Policy Analyst, Office of Family Health Services, Department of Health, 1500 E. Main St., Room 104-B, Richmond, VA 23219, telephone (804) 371-0478 or FAX (804) 692-0184.

## DEPARTMENT OF HEALTH PROFESSIONS

† **September 14, 1998 - 8:30 a.m.** -- Open Meeting  
Department of Health Professions, 6606 West Broad Street, 5th Floor, Conference Room 2, Richmond, Virginia. ♿  
(Interpreter for the deaf provided upon request)

A meeting of the Executive Committee to review the 1998-1999 workplan to include consideration of

proposed legislation, development of performance measures, development of strategies for educating policy-makers as well as current and future board members concerning the board's role, work on legislation to codify and recommend criteria and receive authority to authorize demonstration projects, seek funding for informational database on health care providers for delivery planning purposes and patient access to information, review issues and long-term strategies, and establish a plan to modify the practitioner self-referral act. Brief public comment will be received at the beginning of the meeting.

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

† **September 14, 1998 - 10 a.m.** -- Open Meeting  
Department of Health Professions, 6606 West Broad Street, 5th Floor, Conference Room 2, Richmond, Virginia. ♿  
(Interpreter for the deaf provided upon request)

A meeting of the Education Committee to review the 1998-1999 workplan to include discussion of strategies to evaluate and improve means for communicating the board's expectations, mission, and actions; discuss plans for an issues exchange with policy makers and other invited guests; and discuss plans for an issues forum and board president's meeting. Brief public comment will be received at the beginning of the meeting.


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

† **September 14, 1998 - 11 a.m.** -- Open Meeting  
Department of Health Professions, 6606 West Broad Street, 5th Floor, Conference Room 2, Richmond, Virginia. ♿  
(Interpreter for the deaf provided upon request)


A meeting of the Healthcare Payment Systems Review Committee to review the 1998-1999 workplan, specifically to review the existing memoranda of understanding with the Bureau of Insurance, Department of Health, Department of Medical Assistance Services and others and identify the need for potential changes. Other issues for discussion will include the need to establish a workplan to monitor and assess the use of unlicensed personnel in the delivery of health care, the need to establish a workplan to monitor the systems and roles of providers in these systems and to establish an advisory committee that includes other stakeholders in health care systems. Brief public comment will be received at the beginning of the meeting.


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




† **September 14, 1998 - 1 p.m.** -- Open Meeting  
Department of Health Professions, 6606 West Broad Street,  
5th Floor, Conference Room 2, Richmond, Virginia.   
(Interpreter for the deaf provided upon request)


A meeting of the Regulatory Research Committee to receive the report on its study of the need to regulate athletic trainers and to develop final recommendations. The committee will also review the 1998-99 workplan. The primary issue for discussion will be the development of strategies for resolution of scope of practice disputes, such as negotiated rulemaking. Brief public comment will be received at the beginning of the meeting.

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


† **September 14, 1998 - 3 p.m.** -- Open Meeting  
Department of Health Professions, 6606 West Broad Street,  
5th Floor, Conference Room 2, Richmond, Virginia.   
(Interpreter for the deaf provided upon request)


A meeting of the Enforcement Committee to review the 1998-99 workplan to include a review of the status of the work on its criminal history check study, consideration of an expanded database of practitioner information, and plan for a review of the department's enforcement processes for 1999-2000. Brief public comment will be received at the beginning of the meeting.

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

† **September 15, 1998 - 8:45 a.m.** -- Open Meeting  
Department of Health Professions, 6606 West Broad Street,  
5th Floor, Conference Room 2, Richmond, Virginia.   
(Interpreter for the deaf provided upon request)


A brief organizational discussion of the Practitioner Self-Referral Committee. Brief public comment will be received at the beginning of the meeting.


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

† **September 15, 1998 - 9 a.m.** -- Open Meeting  
Department of Health Professions, 6606 West Broad Street,  
5th Floor, Conference Room 2, Richmond, Virginia.   
(Interpreter for the deaf provided upon request)


A business meeting to hear committee reports, adopt 1998-99 committee workplans, and adopt the report and recommendations for the study into the need to regulate athletic trainers. Brief public comment will be received at the beginning of the meeting.

**Contact:** Robert A. Nebiker, Executive Director, Department of Health Professions, 6606 W. Broad St., 4th Floor,


Richmond, VA 23230-1717, telephone (804) 662-9919 or (804) 662-7197/TTY 

† **October 9, 1998 - 9 a.m.** -- Open Meeting  
Department of Health Professions, 6606 West Broad Street,  
5th Floor, Conference Room 4, Richmond, Virginia.   
(Interpreter for the deaf provided upon request)


The Intervention Program Committee will meet with its contractor and representatives to review reports, policies and procedures for the Health Practitioner's Intervention Program. The committee will meet in open session for general discussion of the program. The committee may meet in executive sessions for the purpose of consideration of specific requests from applicants or participants in the program.

**Contact:** John W. Hasty, Director, Department of Health Professions, 6606 W. Broad St., 4th Floor, Richmond, VA 23230-1717, telephone (804) 662-9424, FAX (804) 662-9114 or (804) 662-7197/TTY 

## BOARD FOR HEARING AID SPECIALISTS

**September 29, 1998 - 8:30 a.m.** -- Open Meeting  
Department of Professional and Occupational Regulation,  
3600 West Broad Street, 5th Floor, Richmond, Virginia.   
(Interpreter for the deaf provided upon request)

A meeting to discuss regulatory review and other matter requiring board action, including disciplinary cases. In addition, the Hearing Aid Specialist Licensing Examination will be administered to eligible candidates. All meetings are subject to cancellation. Time of meeting is subject to change. Call the board's office at least 24 hours in advance. A public comment period will be held at the beginning of the meeting. Persons desiring to participate in the meeting and requiring special accommodations or interpreter services should contact the department at least 10 days prior to the meeting so that suitable arrangements can be made. The department fully complies with the Americans with Disabilities Act.

**Contact:** Nancy Taylor Feldman, Assistant Director, Department of Professional and Occupational Regulation, 3600 W. Broad St., Richmond, VA 23230-4917, telephone (804) 367-8590, or (804) 367-9753/TTY 

## STATE REVIEW BOARD/HISTORIC RESOURCES BOARD

**September 16, 1998 - 10 a.m.** -- Open Meeting  
Fitzpatrick Hall at the Jefferson Center, 541 Luck Avenue,  
Suite 100, Roanoke, Virginia. 

A quarterly meeting to consider completed and proposed reports for the National Register of Historic Places and the Virginia Landmarks Register easements and highway markers.

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**Contact:** Marc C. Wagner, National Register Manager, Department of Historic Resources, 2801 Kensington Ave., Richmond, VA 23221, telephone (804) 367-2323, FAX (804) 367-2391 or (804) 367-2386/TTY ☎

## VIRGINIA HOUSING DEVELOPMENT AUTHORITY

**September 15, 1998 - 11 a.m.** -- Open Meeting  
601 South Belvidere Street, Richmond, Virginia. ♿

This will be the regular meeting of the Board of Commissioners of the Virginia Housing Development Authority. The Board of Commissioners will review and, if appropriate, approve the minutes from the prior monthly meeting; will consider for approval and ratification mortgage loan commitments under its various programs; will review the authority's operations for the prior month; and will consider such other matters and take such other actions as they may deem appropriate. Various committees of the Board of Commissioners 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 St., Richmond, VA 23220, telephone (804) 782-1986.

## VIRGINIA COUNCIL ON INDIANS

† **September 15, 1998 - 6 p.m.** -- Open Meeting  
State Capitol, Capitol Square, House Room 1, Richmond, Virginia. ♿

A monthly meeting of the council to work on issues relating to the indigenous population of the Commonwealth.

**Contact:** Mary Wade, Secretary, Virginia Council on Indians, 1915D Hopkins Road, Richmond, VA, telephone (804) 697-6342 or FAX (804) 697-4112.

## COUNCIL ON INFORMATION MANAGEMENT

† **September 18, 1998 - 10 a.m.** -- Open Meeting  
Location to be determined.

A regular bimonthly meeting.

**Contact:** Linda Hening, Administrative Staff Specialist, Council on Information Management, 1100 Bank St., Suite 901, Richmond, VA 23219, telephone (804) 225-3622, FAX (804) 371-7952, or toll-free 1-800-828-1120/TTY ☎

## DEPARTMENT OF LABOR AND INDUSTRY

**October 2, 1998** - Public comments may be submitted until this date.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Safety and Health Codes Board intends to amend regulations entitled: **16 VAC 25-50-10 et seq. Boiler and Pressure Vessel Rules and Regulations.** The proposed amendments incorporate the transfer of authority for setting various fee amounts from statute to regulation, and adopt several changes recommended individually or jointly by the regulated community, the National Board of Boiler and Pressure Vessel Inspectors, or the Chief Boiler and Pressure Vessel Inspector of the Commonwealth.

The proposed amendments also direct commonwealth inspectors to inspect uninsured boilers and pressure vessels in those geographic areas or limited time periods within which commercial services would not be available, set out the chief inspector's criteria for determining unavailability, and establish rates for certification inspections conducted by commonwealth inspectors. These changes eliminate a criticism of the current privatized inspection system and are directed by Chapter 212, 1997 Acts of Assembly.

Also included in these proposed amendments are changes suggested by the department's regulatory review and a request by the department to require the national board "R" and "VR" stamp certification for organizations performing repairs and alterations to boilers and pressure vessels, and the repair and resetting of safety valves. Current regulation requires that all boilers and pressure vessels be designed, constructed and installed in accordance with the ASME Boiler and Pressure Vessel Code. However, the ASME code does not establish standards for repair or alteration of these objects once they have been code stamped and installed.

Statutory Authority: § 40.1-51.6 of the Code of Virginia.

Public comments may be submitted until October 2, 1998, to Bonnie R. Hopkins, Regulatory Coordinator, Department of Labor and Industry, Powers-Taylor Building, 13 South 13th Street, Richmond, Virginia 23219.

**Contact:** Fred P. Barton, Boiler Chief Inspector, Department of Labor and Industry, Powers-Taylor Bldg., 13 S. 13th St., Richmond, VA 23219, telephone (804) 786-3262, FAX (804) 371-6524 or (804) 786-2376/TTY ☎


## Apprenticeship Council

**September 17, 1998 - 10 a.m.** -- Open Meeting  
Centreville Adult and Community Education Center, 5757 Spindle Court, Centreville, Virginia. ♿ (Interpreter for the deaf provided upon request)


A regular meeting.

**Contact:** Bev Donati, Assistant Program Director, Apprenticeship Program, Department of Labor and Industry, Powers-Taylor Bldg., 13 S. 13th St., Richmond, VA 23219, telephone (804) 786-2382, FAX (804) 786-8418, or (804) 786-2376/TTY ☎


## Migrant and Seasonal Farmworkers Board

**September 23, 1998 - 9:30 a.m.** -- Open Meeting  
George Washington Birthplace, Route 204, Oak Grove,  
Virginia.  (Interpreter for the deaf provided upon request)

A regular quarterly meeting of the board and the  
Interagency Migrant Worker Policy Committee.

**Contact:** Patti C. Bell, Board Administrator, Department of  
Labor and Industry, Powers-Taylor Bldg., 13 S. 13th St.,  
Richmond, VA 23219, telephone (804) 225-3083, FAX (804)  
786-8418 or (804) 786-2376/TTY .


## STATE LAND EVALUATION ADVISORY COUNCIL

**September 22, 1998 - 10 a.m.** -- Open Meeting  
Virginia Department of Taxation, 2220 West Broad Street,  
Richmond, Virginia. 

A meeting to adopt suggested ranges of values for  
agricultural, horticultural, forest and open-space land  
use and the use-value assessment program.

**Contact:** H. Keith Mawyer, Property Tax Manager,  
Department of Taxation, Office of Customer Services,  
Property Tax Unit, 2220 W. Broad St., Richmond, VA 23220,  
telephone (804) 367-8020.

## LIBRARY BOARD

**September 21, 1998 - 10:30 a.m.** -- Open Meeting  
The Library of Virginia, 800 East Broad Street, Room 702,  
Richmond, Virginia. 

A meeting of the Library Board to discuss matters  
pertaining to The Library of Virginia and the Library  
Board.

Committees of the board will meet as follows:

8:15 a.m. Public Library Development Committee

8:15 a.m. Publication and Educational Services  
Committee

8:15 a.m. Records Management Committee


9:30 a.m. Archival and Information Service Committee

9:30 a.m. Collection Management Committee


9:30 a.m. Legislative and Finance Committee

**Contact:** Jean H. Taylor, Secretary to the State Librarian,  
The Library of Virginia, 800 E. Broad St., Richmond, VA  
23219-1924, telephone (804) 692-3535.


## COMMISSION ON LOCAL GOVERNMENT

**September 14, 1998 - 10 a.m.** -- Open Meeting  
Commission on Local Government, Eighth Street Office  
Building, 805 East Broad Street, Room 702, Richmond,  
Virginia. 


A regular meeting of the commission.

**Contact:** Barbara Bingham, Administrative Assistant,  
Commission on Local Government, Eighth Street Office  
Bldg., 805 E. Broad St., Room 702, Richmond, VA 23219-  
1924, telephone (804) 786-6508, FAX (804) 371-7999 or  
(804) 786-1860/TTY 


## MARINE RESOURCES COMMISSION

**September 22, 1998 - 9 a.m.** -- Open Meeting  
Marine Resources Commission, 2600 Washington Avenue,  
Room 403, Newport News, Virginia.  (Interpreter for the  
deaf provided upon request)

The commission will hear and decide the following  
marine environmental matters at 9 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 the  
following fishery management items at approximately  
noon: regulatory proposals, fishery management plans;  
fishery conservation issues; licensing; shellfish leasing.  
Meetings are open to the public. Testimony will be  
taken under oath from parties addressing agenda items  
on permits and licensing. Public comments will be  
taken on resource matters, regulatory issues and items  
scheduled for public hearing. The commission is  
empowered to promulgate regulations in the areas of  
marine environmental management and marine fishery  
management.

**Contact:** LaVerne Lewis, Secretary to the Commission,  
Marine Resources Commission, P.O. Box 756, Newport  
News, VA 23607-0756, telephone (757) 247-2261, toll-free 1-  
800-541-4646 or (757) 247-2292/TTY 

## DEPARTMENT OF MEDICAL ASSISTANCE SERVICES

**September 17, 1998 - 2 p.m.** -- Open Meeting  
Department of Medical Assistance Services, 600 East Broad  
Street, Suite 1300, Board Room, Richmond, Virginia. 

A meeting to conduct routine business of the Drug  
Utilization Review Board.

**Contact:** Marianne Rollings, Pharmacist, Department of  
Medical Assistance Services, Program Operations,  
Pharmacy Services, 600 E. Broad St., Suite 1300,  
Richmond, VA 23219, telephone (804) 225-4268.

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**September 18, 1998** -- Public comments may be submitted  
until this date.

Notice is hereby given in accordance with § 9-6.14:7.1  
of the Code of Virginia that the Department of Medical  
Assistance Services intends to amend regulations  
entitled: **12 VAC 30-50-10 et seq. Amount, Duration,**

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**and Scope of Medical and Remedial Care and Services.** The proposed regulations clarify DMAS' coverage of breast reconstructive procedures and prostheses and establish parameters for the coverage of outpatient observation beds.

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

Public comments may be submitted until September 18, 1998, to Bonnie Winn, R.N., Manager, Division of Program Operations, Department of Medical Assistance Services, 600 East Broad Street, Suite 1300, Richmond, VA 23219.

**Contact:** Victoria P. Simmons, Regulatory Coordinator, Department of Medical Assistance Services, 600 E. Broad St., Suite 1300, Richmond, VA 23219, telephone (804) 371-8854 or FAX (804) 371-4981.

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**October 2, 1998** - Public comments may be submitted until this date.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Department of Medical Assistance Services intends to amend regulations entitled: **Home Infusion Therapy/Bundling Services and Supplies: 12 VAC 30-50-10 et seq. Amount, Duration and Scope of Medical and Remedial Care and Service and 12 VAC 30-80-10 et seq. Methods and Standards for Establishing Payment Rates; Other Types of Care.** The purpose of this proposal is to simplify the billing procedures of durable medical equipment providers and pharmacy providers when they are providing home infusion therapy services/bundling services and supplies (intravenous therapy, respiratory therapy and service agreements on equipment). This simplification will make providers' initial billing process easier and quicker but will also make it easier for DMAS to conduct postpayment reviews of providers' records.

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

Public comments may be submitted until the close of business on October 2, 1998, to Lynda Hamm, R.N., Division of Provider Operations, Department of Medical Assistance Services, 600 East Broad Street, Suite 1300, Richmond, Virginia 23219.

**Contact:** Victoria P. Simmons, Regulatory Coordinator, Department of Medical Assistance Services, 600 E. Broad St., Suite 1300, Richmond, VA 23219, telephone (804) 786-7959 or FAX (804) 786-3146.

**October 5, 1998 - 1 p.m.** -- Open Meeting  
Department of Medical Assistance Services, 600 East Broad Street, Suite 1300, Board Room, Richmond, Virginia.

The Pharmacy Liaison Committee will conduct routine business.

**Contact:** Marianne Rollings, Pharmacy Services, Client Services, Department of Medical Assistance Services, 600 E. Broad St., Suite 1300, Richmond, VA 23219, telephone (804) 225-4268.

## BOARD OF MEDICINE

**September 16, 1998 - 9 a.m.** -- Open Meeting  
Department of Health Professions, 6606 West Broad Street, 5th Floor, Board Room 4, Richmond, Virginia. (Interpreter for the deaf provided upon request)

The Advisory Board on Physical Therapy will meet to review public comments and make recommendations to the board regarding the regulatory review of 18 VAC 85-31-10 et seq., Regulations Governing the Practice of Physical Therapy, and such other issues which may be presented. The advisory board will entertain public comments during the first 15 minutes on agenda items.

**Contact:** Warren W. Koontz, M.D., Executive Director, Board of Medicine, Department of Health Professions, 6606 W. Broad St., 4th Floor, Richmond, VA 23230-1717, telephone (804) 662-9960, FAX (804) 662-9943 or (804) 662-7197/TTY

**September 16, 1998 - 9 a.m.** -- Open Meeting  
Sheraton Inn, 2801 Plank Road, Fredericksburg, Virginia.

The informal conference committee, composed of three members of the board, will inquire into allegations that certain practitioners may have violated laws and regulations governing the practice of medicine and other healing arts in Virginia. The committee will meet in open and closed sessions pursuant to § 2.1-344 A 7 and A 15 of the Code of Virginia. Public comment will not be received.

**Contact:** Karen W. Perrine, Deputy Executive Director, Board of Medicine, 6606 W. Broad St., 4th Floor, Richmond, VA 23230, telephone (804) 662-7693, FAX (804) 662-9517 or (804) 662-7197/TTY

**September 18, 1998 - 9 a.m.** -- Open Meeting  
Williamsburg Marriott, 50 Kingsmill Road, Williamsburg, Virginia.

An informal conference committee, composed of three members of the board, will inquire into allegations that certain practitioners may have violated laws and regulations governing the practice of medicine and other healing arts in Virginia. The committee will meet in open and closed sessions pursuant to § 2.1-344 A 7 and A 15 of the Code of Virginia. Public comment will not be received.

**Contact:** Karen W. Perrine, Deputy Executive Director, Board of Medicine, 6606 W. Broad St., 4th Floor, Richmond, VA 23230, telephone (804) 662-7693, FAX (804) 662-9517 or (804) 662-7197/TTY

**September 25, 1998 - 1 p.m.** -- Open Meeting  
Department of Health Professions, 6606 West Broad Street, 5th Floor, Richmond, Virginia. (Interpreter for the deaf provided upon request)

The Legislative Committee will discuss legislative issues related to board activities and regulation, review any pending regulations pursuant to regulatory review or legislative action, and consider any other information

that may come before the committee. The committee will entertain public comments during the first 15 minutes on agenda items.

**Contact:** Warren W. Koontz, M.D., Executive Director, Board of Medicine, Department of Health Professions, 6606 W. Broad St., 4th Floor, Richmond, VA 23230-1717, telephone (804) 662-9960, FAX (804) 662-9943 or (804) 662-7197/TTY ☎

**October 8, 1998 - 8 a.m.** -- Open Meeting

**October 9, 1998 - 8 a.m.** -- Open Meeting

**October 10, 1998 - 8 a.m.** -- Open Meeting

Department of Health Professions, 6606 West Broad Street, 5th Floor, Board Rooms 1-4, Richmond, Virginia. ♿ (Interpreter for the deaf provided upon request)

The full board will meet on October 8, in open session, to conduct general board business, receive committee and board reports, and discuss any other items which may come before the board. The board will also meet on October 8, 9 and 10 to review reports, interview licensees/applicants, conduct administrative proceedings, and make decisions on disciplinary matters. The board will review any regulations that may come before it. The committee will entertain public comments during the first 15 minutes on agenda items.

**Contact:** Warren W. Koontz, M.D., Executive Director, Board of Medicine, Department of Health Professions, 6606 W. Broad St., 4th Floor, Richmond, VA 23230-1717, telephone (804) 662-9960, FAX (804) 662-9943 or (804) 662-7197/TTY ☎

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**September 18, 1998** -- Public comments may be submitted until this date.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Board of Medicine intends to amend regulations entitled: **18 VAC 85-110-10 et seq. Regulations Governing the Practice of Licensed Acupuncturists**. Amendments are proposed pursuant to Executive Order 15 (94) which called for agencies to simplify, clarify and reduce the burden of regulations. Proposed amendments would reduce the application fee from \$200 to \$150, eliminate the undergraduate education requirements, eliminate the requirement for an applicant from another state to have an approved tutorial, and specify that an applicant whose acupuncture education was in English is not required to take the Test of English as a Foreign Language. Another amendment changes the required time for examination by the referring doctor from six months to three months prior to referral.

Statutory Authority: §§ 54.1-2400 and 54.1-2956.9 of the Code of Virginia.

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

## DEPARTMENT OF MENTAL HEALTH, MENTAL RETARDATION AND SUBSTANCE ABUSE SERVICES

**September 15, 1998 - 4 p.m.** -- Public Hearing  
Woodrow Wilson Rehabilitation Center, Anderson Room, Route 250, Fishersville, Virginia. ♿ (Interpreter for the deaf provided upon request)

**September 15, 1998 - 4 p.m.** -- Public Hearing  
Wytheville Community College, Training Center Room, 1000 East Main Street, Wytheville, Virginia. ♿ (Interpreter for the deaf provided upon request)

**September 24, 1998 - 4 p.m.** -- Public Hearing  
Hampton Public Library, Room A, 4207 Victoria Boulevard, Hampton, Virginia. ♿ (Interpreter for the deaf provided upon request)

The department, lead agency for Infants and Toddlers with Disabilities (Part C of the Individuals with Disabilities Education Act), is conducting a public hearing to solicit public comments on the state application to the U.S. Department of Education, Office of Special Education, Part C Early Intervention for Infants and Toddlers with Disabilities Programs. Written comments will be accepted from August 17, 1998, through October 16, 1998.

**Contact:** Anne Lucas, Part C Coordinator, Department of Mental Health, Mental Retardation and Substance Abuse Services, P.O. Box 1797, Richmond, VA 23218, telephone (804) 371-6592 or FAX (804) 371-7159.

## STATE MENTAL HEALTH, MENTAL RETARDATION AND SUBSTANCE ABUSE SERVICES BOARD

† **September 29, 1998 - 1 p.m.** -- Open Meeting  
Department of Mental Health, Mental Retardation and Substance Abuse Services, Madison Building, 109 Governor Street, Richmond, Virginia. ♿ (Interpreter for the deaf provided upon request)

A regular business meeting. There will be a public comment period at the beginning of the meeting.

**Contact:** Marlene Butler, State Board Secretary, Department of Mental Health, Mental Retardation and Substance Abuse Services, P.O. Box 1797, Richmond, VA 23218, telephone (804) 786-7945 or FAX (804) 371-2308.

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**October 2, 1998** - Public comments may be submitted until 5 p.m. on this date.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the State Mental Health, Mental Retardation and Substance Abuse Services Board intends to repeal regulations entitled: **12 VAC 35-140-10 Mandatory Standards for Community Mental**

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# Calendar of Events

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**Health Programs.** The Department of Mental Health, Mental Retardation and Substance Abuse Services proposes to repeal this regulation, which established administrative and clinical standards for community mental health programs. This regulation was superseded by 12 VAC 35-102-10 et seq., Rules and Regulations for the Licensure of Facilities and Providers of Mental Health, Mental Retardation and Substance Abuse Services, which became effective January 13, 1995.

Statutory Authority: §§ 37.1-10, 37.1-179.1 and 37.1-199 of the Code of Virginia.

**Contact:** Marion Greenfield, Policy Analyst, Department of Mental Health, Mental Retardation and Substance Abuse Services, P.O. Box 1797, Richmond, VA 23218-1797, telephone (804) 786-6431.

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**October 2, 1998** - Public comments may be submitted until 5 p.m. on this date.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the State Mental Health, Mental Retardation and Substance Abuse Services Board intends to repeal regulations entitled: **12 VAC 35-150-10 Mandatory Standards for Community Mental Retardation Programs.** The Department of Mental Health, Mental Retardation and Substance Abuse Services proposes to repeal this regulation, which established administrative and clinical standards for community mental retardation programs. This regulation was superseded by 12 VAC 35-102-10 et seq., Rules and Regulations for the Licensure of Facilities and Providers of Mental Health, Mental Retardation and Substance Abuse Services, which became effective January 13, 1995.

Statutory Authority: §§ 37.1-10, 37.1-179.1 and 37.1-199 of the Code of Virginia.

**Contact:** Marion Greenfield, Policy Analyst, Department of Mental Health, Mental Retardation and Substance Abuse Services, P.O. Box 1797, Richmond, VA 23218-1797, telephone (804) 786-6431.

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**October 2, 1998** - Public comments may be submitted until 5 p.m. on this date.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the State Mental Health, Mental Retardation and Substance Abuse Services Board intends to repeal regulations entitled: **12 VAC 35-160-10 Mandatory Standards for Community Substance Abuse Programs.** The Department of Mental Health, Mental Retardation and Substance Abuse Services proposes to repeal this regulation, which established administrative and clinical standards for

community substance abuse programs. This regulation was superseded by 12 VAC 35-102-10 et seq., Rules and Regulations for the Licensure of Facilities and Providers of Mental Health, Mental Retardation and Substance Abuse Services, which became effective January 13, 1995.

Statutory Authority: §§ 37.1-10, 37.1-179.1 and 37.1-199 of the Code of Virginia.

**Contact:** Marion Greenfield, Policy Analyst, Department of Mental Health, Mental Retardation and Substance Abuse Services, P.O. Box 1797, Richmond, VA 23218-1797, telephone (804) 786-6431.

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**October 26, 1998** - Public comments may be submitted until 5 p.m. on this date.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the State Board of Mental Health, Mental Retardation and Substance Abuse Services intends to adopt regulations entitled: **12 VAC 35-210-10 et seq. Certification of the Qualifications of Providers of Behavior Consultation Services.** The proposed regulation defines the specific knowledge, skills, and abilities that mental retardation behavior consultants must have at entry level for Medicaid reimbursement for mental retardation waiver services. The regulation further defines who is subject to certification, the application procedure, the conditions under which a certification can be revoked and subsequently reinstated, provider agreement to inspection of records, and notification that all certified behavior consultants are subject to the department's human rights regulations.

Statutory Authority: §§ 37.1-10 and 37.1-182.2 of the Code of Virginia.

Public comments may be submitted until 5 p.m. on Monday, October 26, 1998, to Cathy Rowe, Office of Mental Retardation Services, Department of Mental Health, Mental Retardation and Substance Abuse Services, P.O. Box 1797, Richmond, VA 23218.

**Contact:** Marion Greenfield, Policy Analyst, Department of Mental Health, Mental Retardation and Substance Abuse Services, P.O. Box 1797, Richmond, VA 23218, telephone (804) 786-6431 or FAX (804) 371-0092.

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† **October 27, 1998 - 2 p.m.** -- Public Hearing  
George Mason University, 4400 University Drive, Fairfax, Virginia.

† **October 28, 1998 - 6 p.m.** -- Public Hearing  
Richard Bland College, Ernst Hall, 11301 Johnson Road, Petersburg, Virginia.

† **October 29, 1998 - 1 p.m.** -- Public Hearing  
Augusta County Government Center, 4801 Lee Highway,  
Verona, Virginia.

† **October 29, 1998 - 6 p.m.** -- Public Hearing  
Hampton City Hall, North King and Lincoln Streets,  
Hampton, Virginia.

† **October 30, 1998 - 1 p.m.** -- Public Hearing  
Wytheville Community College, 1000 East Main Street,  
Wytheville, Virginia.

**November 13, 1998** - Public comments may be submitted  
until this date.

Notice is hereby given in accordance with § 9-6.14:7.1  
of the Code of Virginia that the State Mental Health,  
Mental Retardation and Substance Abuse Services  
Board intends to repeal regulations entitled: **12 VAC 35-  
110-10 et seq. Rules and Regulations to Assure the  
Rights of Residents of Facilities Operated by the  
Department of Mental Health, Mental Retardation  
and Substance Abuse Services.** The proposed  
regulation protects the legal and human rights of all  
clients who receive treatment in state operated mental  
health and mental retardation facilities. This regulation  
is being repealed and will be superseded by a new  
human rights regulation, which establishes a single  
standard for community and facility, public and private  
human rights programs; addresses consumer and family  
concerns; and reflects current practices and  
terminology.

Statutory Authority: § 37.1-84.1 of the Code of Virginia.

Public comments may be submitted until 5 p.m., November  
13, 1998, to Marlene Butler, State Board Secretary,  
Department of Mental Health, Mental Retardation and  
Substance Abuse Services, P.O. Box 1797, Richmond, VA  
23218-1797.

**Contact:** Kli Kinzie, Secretary, Office of Human Rights,  
Department of Mental Health, Mental Retardation and  
Substance Abuse Services, P.O. Box 1797, Richmond, VA  
23218-1797, telephone (804) 786-3988 or FAX (804) 371-  
0092.

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† **October 27, 1998 - 2 p.m.** -- Public Hearing  
George Mason University, 4400 University Drive, Fairfax,  
Virginia.

† **October 28, 1998 - 6 p.m.** -- Public Hearing  
Richard Bland College, Ernst Hall, 11301 Johnson Road,  
Petersburg, Virginia.

† **October 29, 1998 - 1 p.m.** -- Public Hearing  
Augusta County Government Center, 4801 Lee Highway,  
Verona, Virginia.

† **October 29, 1998 - 6 p.m.** -- Public Hearing  
Hampton City Hall, North King and Lincoln Streets,  
Hampton, Virginia.

† **October 30, 1998 - 1 p.m.** -- Public Hearing  
Wytheville Community College, 1000 East Main Street,  
Wytheville, Virginia.

**November 13, 1998** - Public comments may be submitted  
until this date.

Notice is hereby given in accordance with § 9-6.14:7.1  
of the Code of Virginia that the State Mental Health,  
Mental Retardation and Substance Abuse Services  
Board intends to adopt regulations entitled: **12 VAC 35-  
115-10 et seq. Rules and Regulations to Assure the  
Rights of Clients in Facilities and Programs  
Operated, Funding or Licensed by the Department of  
Mental Health, Mental Retardation and Substance  
Abuse Services.** The proposed regulation protects the  
legal and human rights of all clients who receive  
treatment in state operated mental health and mental  
retardation facilities and other agencies, public or private  
that receive or benefit from state funding under the  
provisions of Chapter 10, Title 37.1 of the Code of  
Virginia, and all other providers that are required to be  
licensed by the Department of Mental Health, Mental  
Retardation and Substance Abuse Services.

Statutory Authority: § 37.1-84.1 of the Code of Virginia.

Public comments may be submitted until 5 p.m., November  
13, 1998, to Marlene Butler, State Board Secretary,  
Department of Mental Health, Mental Retardation and  
Substance Abuse Services, P.O. Box 1797, Richmond, VA  
23218-1797.

**Contact:** Kli Kinzie, Secretary, Office of Human Rights,  
Department of Mental Health, Mental Retardation and  
Substance Abuse Services, P.O. Box 1797, Richmond, VA  
23218-1797, telephone (804) 786-3988 or FAX (804) 371-  
0092.

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† **October 27, 1998 - 2 p.m.** -- Public Hearing  
George Mason University, 4400 University Drive, Fairfax,  
Virginia.

† **October 28, 1998 - 6 p.m.** -- Public Hearing  
Richard Bland College, Ernst Hall, 11301 Johnson Road,  
Petersburg, Virginia.

† **October 29, 1998 - 1 p.m.** -- Public Hearing  
Augusta County Government Center, 4801 Lee Highway,  
Verona, Virginia.

† **October 29, 1998 - 6 p.m.** -- Public Hearing  
Hampton City Hall, North King and Lincoln Streets,  
Hampton, Virginia.

† **October 30, 1998 - 1 p.m.** -- Public Hearing  
Wytheville Community College, 1000 East Main Street,  
Wytheville, Virginia.

**November 13, 1998** - Public comments may be submitted  
until this date.

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# Calendar of Events

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Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the State Mental Health, Mental Retardation and Substance Abuse Services Board intends to repeal regulations entitled: **12 VAC 35-120-10 et seq. Rules and Regulations to Assure the Rights of Patients of Psychiatric Hospitals and Other Psychiatric Facilities Licensed by the Department of Mental Health, Mental Retardation and Substance Abuse Services.** The proposed regulation protects the legal and human rights of all clients who receive treatment in psychiatric hospitals and other psychiatric facilities licensed by the Department of Mental Health, Mental Retardation and Substance Abuse Services. This regulation is being repealed and will be superseded by a new human rights regulation, which establishes a single standard for community and facility, public and private human rights programs; addresses consumer and family concerns; and reflects current practices and terminology.

Statutory Authority: § 37.1-84.1 of the Code of Virginia.

Public comments may be submitted until 5 p.m., November 13, 1998, to Marlene Butler, State Board Secretary, Department of Mental Health, Mental Retardation and Substance Abuse Services, P.O. Box 1797, Richmond, VA 23218-1797.

**Contact:** Kli Kinzie, Secretary, Office of Human Rights, Department of Mental Health, Mental Retardation and Substance Abuse Services, P.O. Box 1797, Richmond, VA 23218-1797, telephone (804) 786-3988 or FAX (804) 371-0092.

\* \* \* \* \*

† **October 27, 1998 - 2 p.m.** -- Public Hearing  
George Mason University, 4400 University Drive, Fairfax, Virginia.

† **October 28, 1998 - 6 p.m.** -- Public Hearing  
Richard Bland College, Ernst Hall, 11301 Johnson Road, Petersburg, Virginia.

† **October 29, 1998 - 1 p.m.** -- Public Hearing  
Augusta County Government Center, 4801 Lee Highway, Verona, Virginia.

† **October 29, 1998 - 6 p.m.** -- Public Hearing  
Hampton City Hall, North King and Lincoln Streets, Hampton, Virginia.

† **October 30, 1998 - 1 p.m.** -- Public Hearing  
Wytheville Community College, 1000 East Main Street, Wytheville, Virginia.

**November 13, 1998** - Public comments may be submitted until this date.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the State Mental Health, Mental Retardation and Substance Abuse Services Board intends to repeal regulations entitled: **12 VAC 35-**

**130-10 et seq. Rules and Regulations to Assure the Rights of Clients in Community Programs.** The proposed regulation protects the legal and human rights of all clients who receive treatment in community programs funding or licensed by the Department of Mental Health, Mental Retardation and Substance Abuse Services. This regulation is being repealed and will be superseded by a new human rights regulation, which establishes a single standard for community and facility, public and private human rights programs; addresses consumer and family concerns; and reflects current practices and terminology.

Statutory Authority: § 37.1-84.1 of the Code of Virginia.

Public comments may be submitted until 5 p.m., November 13, 1998, to Marlene Butler, State Board Secretary, Department of Mental Health, Mental Retardation and Substance Abuse Services, P.O. Box 1797, Richmond, VA 23218-1797.

**Contact:** Kli Kinzie, Secretary, Office of Human Rights, Department of Mental Health, Mental Retardation and Substance Abuse Services, P.O. Box 1797, Richmond, VA 23218-1797, telephone (804) 786-3988 or FAX (804) 371-0092.

## STATE MILK COMMISSION

**September 23, 1998 - 10:30 a.m.** -- Open Meeting  
Department of Forestry, Natural Resources Drive, 2nd Floor Board Room, Charlottesville, Virginia. (Interpreter for the deaf provided upon request)

A regular meeting to discuss industry issues, distributor licensing, Virginia base transfers, Virginia baseholding license amendments, regulations, and fiscal matters and to review reports from the staff of the Milk Commission. The commission may consider other matters pertaining to its responsibilities. Any persons who require accommodations in order to participate in the meeting should contact Edward C. Wilson, Jr., at least five days prior to the meeting date so that suitable arrangements can be made.

**Contact:** Edward C. Wilson, Jr., Deputy Administrator, State Milk Commission, 200 N. 9th St., Suite 915, Richmond, VA 23219-3414, telephone (804) 786-2013 or (804) 786-2013/TTY

## DEPARTMENT OF MINES, MINERALS AND ENERGY

**October 16, 1998** - Public comments may be submitted until this date.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Department of Mines, Minerals and Energy intends to repeal regulations entitled: **4 VAC 25-50-10 et seq. Rules and Regulations Governing the Certification of Diesel**



**Engine Mechanics in Underground Coal Mines.** The regulation is being repealed because the essential elements in the regulation have been incorporated in the certification regulation for coal miners.

Statutory Authority: § 45.1-161.28 of the Code of Virginia.

**Contact:** Frank Linkous, Mine Division Chief, Department of Mines, Minerals and Energy, Division of Mines, U. S. Route 23 South, P. O. Drawer 900, Big Stone Gap, VA 24219, telephone (540) 523-8224, FAX (540) 523-8239 or toll-free 1-800-1120 (VA Relay Center)

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**October 16, 1998** - Public comments may be submitted until this date.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Department of Mines, Minerals and Energy intends to amend regulations entitled: **4 VAC 25-60-10 et seq. Rules and Regulations Governing the Installation and Use of Automated Temporary Roof Support (ATRS) Systems.** The regulation serves to protect miners from unsupported roof falls before permanent roof supports are installed in a newly mined area of an underground coal mine. Amendments to the regulation make the requirements consistent with current safety standards for ATRS systems and consistent with the rules of the Mine Safety and Health Administration.

Statutory Authority: §§ 45.1-161.3, 45.1-161.106, and 45.1-161.114 of the Code of Virginia.

**Contact:** Frank Linkous, Mine Division Chief, Department of Mines, Minerals and Energy, Division of Mines, U. S. Route 23 South, P. O. Drawer 900, Big Stone Gap, VA 24219, telephone (540) 523-8224, FAX (540) 523-8239 or toll-free 1-800-1120 (VA Relay Center)

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**October 16, 1998** - Public comments may be submitted until this date.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Department of Mines, Minerals and Energy intends to amend regulations entitled: **4 VAC 25-70-10. Rules and Regulations Governing Disruption of Communications in Mines.** The regulation ensures that there is a system of communication between those mining coal underground and mine personnel on the surface so miners can get help in case of an emergency. Amendments to the regulation address important hazards not addressed by the Mine Safety and Health Administration (MSHA), avoid conflicts with MSHA regulations and federal law, and eliminate duplicative information.

Statutory Authority: §§ 45.1-161.3, 45.1-161.106 and 45.1-161.191 of the Code of Virginia.

**Contact:** Frank Linkous, Mine Division Chief, Department of Mines, Minerals and Energy, Division of Mines, U. S. Route 23 South, P. O. Drawer 900, Big Stone Gap, VA 24219, telephone (540) 523-8224, FAX (540) 523-8239 or toll-free 1-800-1120 (VA Relay Center)

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**October 16, 1998** - Public comments may be submitted until this date.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Department of Mines, Minerals and Energy intends to repeal regulations entitled: **4 VAC 25-80-10. Rules and Regulations Governing Advanced First Aid.** The regulation sets forth requirements for first aid training and the number of persons with first aid training needed on the mine site. However, the regulation is no longer needed as stand-alone requirements because they are incorporated in the certification requirements for coal miners promulgated by the Board of Coal Mining Examiners.

Statutory Authority: § 45.1-161.3, 45.1-161.101, 45.1-106 and 45.1-161.254 of the Code of Virginia.

**Contact:** Frank Linkous, Mine Division Chief, Department of Mines, Minerals and Energy, Division of Mines, U. S. Route 23 South, P. O. Drawer 900, Big Stone Gap, VA 24219, telephone (540) 523-8224, FAX (540) 523-8239 or toll-free 1-800-1120 (VA Relay Center)

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**October 16, 1998** - Public comments may be submitted until this date.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Department of Mines, Minerals and Energy intends to amend regulations entitled: **4 VAC 25-110-10 et seq. Rules and Regulations Governing Blasting in Surface Mining Operations.** The regulation ensures that blasting performed in conjunction with coal mining is performed safely and efficiently. It serves to protect miners, persons living close to mines, and property from fly rock and other hazards associated with blasting. Amendments to the regulation address important hazards not addressed by the Mine, Safety and Health Administration (MSHA) and to avoid conflicts with MSHA regulations in federal law, address changes in technology and eliminate duplicative information.

Statutory Authority: §§ 45.1-161.3, 46.1-161.254 and 45.1-161.286 of the Code of Virginia.

**Contact:** Frank Linkous, Mine Division Chief, Department of Mines, Minerals and Energy, Division of Mines, U. S. Route 23 South, P. O. Drawer 900, Big Stone Gap, VA 24219, telephone (540) 523-8224, FAX (540) 523-8239 or toll-free 1-800-1120 (VA Relay Center)

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# Calendar of Events

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**October 16, 1998** - Public comments may be submitted until this date.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Department of Mines, Minerals and Energy intends to amend regulations entitled: **4 VAC 25-120-10 et seq. Rules and Regulations Governing Installation and Use of Cabs and Canopies.** The regulation protects persons operating self-propelled mobile equipment at the face of coal mines from roof falls. Amendments are needed to address important hazards not addressed by the Mine Safety and Health Administration (MSHA), to avoid conflicts with MSHA regulations and federal law, and to adopt standards for loads and capacities.

Statutory Authority: §§ 45.1-161.3 and 45.1-161.106 of the Code of Virginia.


**Contact:** Frank Linkous, Mine Division Chief, Department of Mines, Minerals and Energy, Division of Mines, U. S. Route 23 South, P. O. Drawer 900, Big Stone Gap, VA 24219, telephone (540) 523-8224, FAX (540) 523-8239 or toll-free 1-800-1120 (VA Relay Center)

## MOTOR VEHICLE DEALER BOARD

**September 14, 1998 - 9 a.m.** -- Open Meeting  
Department of Motor Vehicles, 2300 West Broad Street, Room 702, Richmond, Virginia.  (Interpreter for the deaf provided upon request)

Committees of the board will meet as follows:  
Transaction Recovery Fund Committee - 9 a.m.  
Licensing Committee - 10 a.m.  
Dealer Practices Committee - 1 p.m.  
Advertising Committee - 3 p.m.


**Contact:** Alice R. Weedon, Administrative Assistant, Motor Vehicle Dealer Board, 2201 W. Broad St., Suite 104, Richmond, VA 23220, telephone (804) 367-1100 or FAX (804) 367-1053.

**September 15, 1998 - 8:45 a.m.** -- Open Meeting  
Department of Motor Vehicles, 2300 West Broad Street, Richmond, Virginia.  (Interpreter for the deaf provided upon request)

The board will meet as follows:  
Finance Committee - 8:45 a.m. -- Room 702  
Franchise Law Committee - 9 a.m. -- Executive Conference Room, 7th Floor  
Full board - 9:30 a.m. -- Room 702


**Contact:** Alice R. Weedon, Administrative Assistant, Motor Vehicle Dealer Board, 2201 W. Broad St., Suite 104, Richmond, VA 23220, telephone (804) 367-1100 or FAX (804) 367-1053.

## VIRGINIA MUSEUM OF FINE ARTS

**September 15, 1998 - 11 a.m.** -- Open Meeting  
Virginia Museum of Fine Arts, 2800 Grove Avenue, Auditorium, Richmond, Virginia. 


A meeting of the Collections Committee for consideration of gift offers, purchase recommendation, and loans of art objects for referral to the Full Board of Trustees for final approval. Public comment will not be received at the meeting. An executive session will be held.

**Contact:** Emily C. Robertson, Secretary of the Museum, Virginia Museum of Fine Arts, 2800 Grove Ave., Richmond, VA 23221, telephone (804) 367-0553 or FAX (804) 367-2633.

**September 25, 1998 - 10 a.m.** -- Open Meeting  
Virginia Museum of Fine Arts, 2800 Grove Avenue, The Payne Room, Members' Suite, 4th Floor, Richmond, Virginia. 


A meeting of the Buildings and Grounds Committee for continued review of the renovation of the Center for Education and Outreach (CEO) and other ongoing/upcoming maintenance projects.

**Contact:** Emily C. Robertson, Secretary of the Museum, Virginia Museum of Fine Arts, 2800 Grove Ave., Richmond, VA 23221, telephone (804) 367-0553 or FAX (804) 367-2633.

**September 25, 1998 - 10 a.m.** -- Open Meeting  
Virginia Museum of Fine Arts, 2800 Grove Avenue, location TBA, Richmond, Virginia. 

A meeting of the Communications and Marketing Committee for review of ongoing marketing issues. Public comment will not be received.

**Contact:** Emily C. Robertson, Secretary of the Museum, Virginia Museum of Fine Arts, 2800 Grove Ave., Richmond, VA 23221, telephone (804) 367-0553 or FAX (804) 367-2633.

**September 25, 1998 - 10 a.m.** -- Open Meeting  
Virginia Museum of Fine Arts, 2800 Grove Avenue, Auditorium, Richmond, Virginia. 

A meeting of the Exhibitions Committee for consideration/discussion of upcoming exhibitions; review of current/recent exhibitions. Public comment will not be received.

**Contact:** Emily C. Robertson, Secretary of the Museum, Virginia Museum of Fine Arts, 2800 Grove Ave., Richmond, VA 23221, telephone (804) 367-0553 or FAX (804) 367-2633.

**September 25, 1998 - 11 a.m.** -- Open Meeting  
Virginia Museum of Fine Arts, 2800 Grove Avenue, location TBA, Richmond, Virginia. 

A meeting of the Finance Committee for quarterly budget review and report on FY1997-98. Public comment will not be received.

**Contact:** Emily C. Robertson, Secretary of the Museum, Virginia Museum of Fine Arts, 2800 Grove Ave., Richmond, VA 23221, telephone (804) 367-0553 or FAX (804) 367-2633.

**September 25, 1998 - 12:30 p.m.** -- Open Meeting  
Virginia Museum of Fine Arts, 2800 Grove Avenue, Virginia Museum Auditorium, Richmond, Virginia. ♿

A quarterly meeting of the Board of Trustees. Reports from the president, committees, foundation and staff; budget review; approval of art acquisitions and loans. Public comment will not be received. There will be an executive session.

**Contact:** Emily C. Robertson, Secretary of the Museum, Virginia Museum of Fine Arts, 2800 Grove Ave., Richmond, VA 23221, telephone (804) 367-0553 or FAX (804) 367-2633.

**October 6, 1998 - 8 a.m.** -- Open Meeting  
Virginia Museum of Fine Arts, 2800 Grove Avenue, Conference Room, Richmond, Virginia.

The Executive Committee will hold a monthly briefing/work session with the staff. Public comment will not be received at the meeting.

**Contact:** Emily C. Robertson, Secretary of the Museum, Virginia Museum of Fine Arts, 2800 Grove Ave., Richmond, VA 23221, telephone (804) 367-0553 or FAX (804) 367-2633.

**November 3, 1998 - 8 a.m.** -- Open Meeting  
Virginia Museum of Fine Arts, 2800 Grove Avenue, Conference Room, Richmond, Virginia. ♿

The Executive Committee will hold a monthly briefing/work session with the staff. Public comment will not be received at the meeting.

**Contact:** Emily C. Robertson, Secretary of the Museum, Virginia Museum of Fine Arts, 2800 Grove Ave., Richmond, VA 23221, telephone (804) 367-0553 or FAX (804) 367-2633.

## BOARD OF NURSING

**September 18, 1998** -- Public comments may be submitted until this date.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Board of Nursing intends to amend regulations entitled: **18 VAC 90-20-10 et seq. Regulations of the Board of Nursing.** Amendments are proposed pursuant to Executive Order 15 (94), which called for agencies to simplify and clarify regulations and eliminate unnecessary requirements. Amendments also include: (i) requirements for nurses to wear identification indicating their name and type of

licensure; (ii) establishment of a standard protocol for persons with prescriptive authority to operate adult vaccine clinics; and (iii) an increase in the renewal fee for certified nurse aides in order to operate the investigative and disciplinary functions related to that program.

Statutory Authority: § 54.1-2400 and Chapter 30 (§ 54.1-3000 et seq.) of Title 54.1 of the Code of Virginia.

**Contact:** Nancy K. Durrett, R.N., Executive Director, Board of Nursing, 6606 W. Broad St., 4th Floor, Richmond, VA 23230-1717, telephone (804) 662-9909 or FAX (804) 662-9943.

† **September 21, 1998 - 1 p.m.** -- Open Meeting

† **September 23, 1998 - 8:30 a.m.** -- Open Meeting

† **September 24, 1998 - 8:30 a.m.** -- Open Meeting  
Department of Health Professions, 6606 West Broad Street, 5th Floor, Richmond, Virginia. ♿ (Interpreter for the deaf provided upon request)

A panel of the board will conduct formal hearings with licensees and certificate holders. Public comment will not be received.

**Contact:** Nancy K. Durrett, R.N., Executive Director, Board of Nursing, 6606 W. Broad St., 4th Floor, Richmond, VA 23230-1717, telephone (804) 662-9909, FAX (804) 662-9943 or (804) 662-7197/TTY ☎

† **September 21, 1998 - 9 a.m.** -- Open Meeting

Department of Health Professions, 6606 West Broad Street, 5th Floor, Richmond, Virginia. ♿ (Interpreter for the deaf provided upon request)

The Education Special Conference Committee will meet to review proposals and reports from nursing and nurse aide education programs and prepare recommendations for the board. Public comments will not be received.

**Contact:** Nancy K. Durrett, R.N., Executive Director, Board of Nursing, 6606 W. Broad St., 4th Floor, Richmond, VA 23230-1717, telephone (804) 662-9909, FAX (804) 662-9943 or (804) 662-7197/TTY ☎

† **September 21, 1998 - 9 a.m.** -- Open Meeting

Department of Health Professions, 6606 West Broad Street, 5th Floor, Richmond, Virginia. ♿ (Interpreter for the deaf provided upon request)

A Special Conference Committee will conduct informal conferences with licensees and certificate holders. Public comments will not be received.

**Contact:** Nancy K. Durrett, R.N., Executive Director, Board of Nursing, 6606 W. Broad St., 4th Floor, Richmond, VA 23230-1717, telephone (804) 662-9909, FAX (804) 662-9943 or (804) 662-7197/TTY ☎

† **September 22, 1998 - 9 a.m.** -- Open Meeting

Department of Health Professions, 6606 West Broad Street, 5th Floor, Richmond, Virginia. ♿ (Interpreter for the deaf provided upon request)

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# Calendar of Events

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A meeting to consider matters relating to education programs, discipline of licensees, licensure by examination and other matters under the jurisdiction of the board. Public comments will be received during an open forum beginning at 11 a.m. until noon.

**Contact:** Nancy K. Durrett, R.N., Executive Director, Board of Nursing, 6606 W. Broad St., 4th Floor, Richmond, VA 23230-1717, telephone (804) 662-9909, FAX (804) 662-9943 or (804) 662-7197/TTY ☎

## BOARD OF NURSING HOME ADMINISTRATORS

† **September 22, 1998 - 9 a.m.** -- Open Meeting  
Chesapeake Conference Center, 900 Greenbrier Circle, Chesapeake, Virginia.

A meeting of the Special Conference Committee to conduct informal disciplinary hearings. No public comments will be heard.

**Contact:** Senita Booker, Administrative Staff Assistant, Board of Nursing Home Administrators, 6606 W. Broad St., 4th Floor, Richmond, VA 23230-1717, telephone (804) 662-9111, FAX (804) 662-9523 or (804) 662-7197/TTY ☎

† **September 24, 1998 - 9 a.m.** -- Open Meeting  
Department of Health Professions, 6606 West Broad Street, 5th Floor, Conference Room 4, Richmond, Virginia.

A meeting of the Legislative/Regulatory Committee to review comments received on the current proposed regulations.

**Contact:** Senita Booker, Administrative Staff Assistant, Board of Nursing Home Administrators, 6606 W. Broad St., 4th Floor, Richmond, VA 23230-1717, telephone (804) 662-9111, FAX (804) 662-9523 or (804) 662-7197/TTY ☎

† **October 7, 1998 - 9:30 a.m.** -- Open Meeting  
Department of Health Professions, 6606 West Broad Street, 5th Floor, Conference Room 4, Richmond, Virginia.

A board meeting to discuss general business. Public comments will be received for 15 minutes prior to the beginning of the meeting.

**Contact:** Senita Booker, Administrative Staff Assistant, Board of Nursing Home Administrators, 6606 W. Broad St., 4th Floor, Richmond, VA 23230-1717, telephone (804) 662-9111, FAX (804) 662-9523 or (804) 662-7197/TTY ☎

## BOARDS OF NURSING AND MEDICINE

**September 18, 1998** -- Public comments may be submitted until this date.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Boards of Nursing and Medicine intend to amend regulations entitled: **18 VAC 90-30-10 et seq. Regulations Governing the Licensure of Nurse Practitioners.** The proposed

amendments are the board's response to the review of regulations pursuant to Executive Order 15 (94). The proposed amendments clarify several definitions, add a requirement for guidelines on "availability" in the protocol between the nurse practitioner and supervising physician, and eliminate the process for board approval of a nurse practitioner education program.

Statutory Authority: §§ 54.1-2400 and 54.1-2957 of the Code of Virginia.

**Contact:** Nancy K. Durrett, R.N., Executive Director, Board of Nursing, 6606 W. Broad St., 4th Floor, Richmond, VA 23230-1717, telephone (804) 662-9909 or FAX (804) 662-9943.

## BOARD OF NURSING HOME ADMINISTRATORS

**September 18, 1998** -- Public comments may be submitted until this date.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Board of Nursing Home Administrators intends to amend regulations entitled: **18 VAC 95-20-10 et seq. Regulations of the Board of Nursing Home Administrators.** Pursuant to Executive Order 15 (94) to clarify, simplify and reduce the number of regulations, less restrictive requirements are proposed for the definition of "full-time employment," for notification of a change of address, and for continuing education. Amendments also clarify application, licensure, and preceptorship requirements.

Statutory Authority: § 54.1-2400 and Chapter 31 (§ 54.1-3100 et seq.) of Title 54.1 of the Code of Virginia.

**Contact:** Elizabeth Young Tisdale, Executive Director, Board of Nursing Home Administrators, 6606 W. Broad St., 4th Floor, Richmond, VA 23230-1717, telephone (804) 662-9111 or FAX (804) 662-9943.

## OLD DOMINION UNIVERSITY

**September 17, 1998 - 9 a.m.** -- Open Meeting  
Old Dominion University, Board Room, Webb University Center, Norfolk, Virginia. ♿ (Interpreter for the deaf provided upon request)

Quarterly meeting of the Board of Visitors to discuss business of the University as determined by the Rector and President of the University.

**Contact:** Donna W. Meeks, Secretary to the Board of Visitors, 225 New Administration Building, Norfolk, VA 23529, telephone (757) 683-3072 or FAX (757) 683-5679.

## BOARD OF OPTOMETRY

**September 16, 1998 - 9 a.m.** -- Public Hearing  
Department of Health Professions, 6606 West Broad Street,  
5th Floor, Conference Room 3, Richmond, Virginia.

**September 18, 1998** -- Public comments may be submitted  
until this date.

Notice is hereby given in accordance with § 9-6.14:7.1  
of the Code of Virginia that the Board of Optometry  
intends to amend regulations entitled: **18 VAC 105-20-  
10 et seq. Regulations of the Virginia Board of  
Optometry.** Amendments are proposed pursuant to  
Executive Order 15 (94), which called agencies to  
simplify and clarify regulations and eliminate  
unnecessary requirements. Proposed amendments  
provide for a listing of approved providers of continuing  
education courses and eliminate the burden and  
expense of submitting for board approval all of the  
materials for each course offered.

Statutory Authority: § 54.1-2400 and Chapter 32 (§ 54.1-  
3200 et seq.) of Title 54.1 of the Code of Virginia.

**Contact:** Elizabeth Carter, Executive Director, Board of  
Optometry, 6606 W. Broad St., 4th Floor, Richmond, VA  
23230-1717, telephone (804) 662-9910 or FAX (804) 662-  
9943.

## BOARD OF PHARMACY


**October 2, 1998** - Public comments may be submitted until  
this date.

Notice is hereby given in accordance with § 9-6.14:7.1  
of the Code of Virginia that the Board of Pharmacy  
intends to amend regulations entitled: **18 VAC 110-20-  
10 et seq. Virginia Board of Pharmacy Regulations.**  
Amendments are proposed pursuant to Executive Order  
15 (94) to clarify and simplify the regulations and to  
conform them to current pharmacy practice.


Statutory Authority: §§ 54.1-2400, 54.1-3307 and 54.1-3312  
of the Code of Virginia.

**Contact:** Elizabeth Scott Russell, Executive Director, Board  
of Pharmacy, 6606 W. Broad St., 4th Floor, Richmond, VA  
23230-1717, telephone (804) 662-9911 or FAX (804) 662-  
9943.


## BOARD FOR PROFESSIONAL AND OCCUPATIONAL REGULATION

**September 14, 1998 - 10 a.m.** -- Open Meeting  
† **November 16, 1998 - 10 a.m.** -- Open Meeting  
Department of Professional and Occupational Regulation,  
3600 West Broad Street, Richmond, Virginia. 

A general business meeting.

**Contact:** Debra S. Vought, Agency Analyst, Department of  
Professional and Occupational Regulation, 3600 W. Broad  
St., Richmond, VA 23230, telephone (804) 367-8519 or  
(804) 367-9753/TTY 


## BOARD OF LICENSED PROFESSIONAL COUNSELORS, MARRIAGE AND FAMILY THERAPISTS AND SUBSTANCE ABUSE TREATMENT PROFESSIONALS

**September 21, 1998 - 9 a.m.** -- Open Meeting  
Department of Health Professions, 6606 West Broad Street,  
Conference Room 4, Richmond, Virginia. 

Informal administrative hearings will be held pursuant to  
§ 9-6.14:11 of the Code of Virginia. No public comment  
will be received.

**Contact:** Evelyn Brown, Executive Director, Board of  
Licensed Professional Counselors, Marriage and Family  
Therapists and Substance Abuse Professionals, 6606 W.  
Broad St., 4th Floor, Richmond, VA 23230, telephone (804)  
662-9967 or FAX (804) 662-9343.


## BOARD OF PSYCHOLOGY

† **September 22, 1998 - 10 a.m.** -- Open Meeting  
Department of Health Professions, 6606 West Broad Street,  
5th Floor, Conference Room 4, Richmond, Virginia. 

A regular meeting to discuss board business and receive  
committee reports. Public comments will be received at  
the beginning of the meeting.

**Contact:** LaDonna Duncan, Administrative Assistant, Board  
of Psychology, 6606 W. Broad St., 4th Floor, Richmond, VA  
23230, telephone (804) 662-9913 or FAX (804) 662-9943.

## VIRGINIA RACING COMMISSION

**September 16, 1998 - 9:30 a.m.** -- Open Meeting  
Administrative Building, 12007 Courthouse Circle, New Kent,  
Virginia. 

A monthly meeting of the commission including a review  
of the current thoroughbred race meeting and plans for  
the inaugural running of the Virginia Derby.

**Contact:** William H. Anderson, Policy Analyst, Virginia  
Racing Commission, 10700 Horsemen's Rd., New Kent, VA  
23124, telephone (804) 966-4200 or FAX (804) 966-8906.


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# Calendar of Events


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## REAL ESTATE BOARD


### Common Interest Community Management Information Fund Advisory Committee

† **October 22, 1998 - 3 p.m.** -- Open Meeting  
Department of Professional and Occupational Regulation,  
3600 West Broad Street, Richmond, Virginia. 


A general business meeting. Persons desiring to participate in the meeting and requiring special accommodations or interpreter services should contact the board at least two weeks prior to the meeting. The department fully complies with the Americans with Disabilities Act.

**Contact:** Karen W. O'Neal, Assistant Director, Department of Professional and Occupational Regulation, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-8526, FAX (804) 367-2475, or (804) 367-9753/TTY 

## REAL ESTATE APPRAISER BOARD

**October 27, 1998 - 10 a.m.** -- Open Meeting  
Department of Professional and Occupational Regulation,  
3600 West Broad Street, Richmond, Virginia. 


A general business meeting. Persons desiring to participate in the meeting and requiring special accommodations or interpreter services should contact the board at least two weeks prior to the meeting. The department fully complies with the Americans with Disabilities Act.

**Contact:** Karen W. O'Neal, Assistant Director, Department of Professional and Occupational Regulation, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-8526, FAX (804) 367-2475, or (804) 367-9753/TTY 


## VIRGINIA RECYCLING MARKETS DEVELOPMENT COUNCIL

**September 15, 1998 - 10 a.m.** -- Open Meeting  
Central Virginia Waste Management Authority, 2104 West  
Laburnum Avenue, Board Room, Richmond, Virginia.


A quarterly meeting. Meetings are dependent on a quorum of 10. Subcommittee meetings may be held prior to or after the general council meeting. Call Mike Murphy for details or e-mail [mpmurphy@deq.state.va.us](mailto:mpmurphy@deq.state.va.us).

**Contact:** Michael P. Murphy, Director, Environmental Enhancement, Department of Environmental Quality, P.O. Box 10009, Richmond, VA 23240-0009, telephone (804) 698-4003, FAX (804) 698-4319, (804) 698-4021/TTY  or e-mail [mpmurphy@deq.state.va.us](mailto:mpmurphy@deq.state.va.us).


## BOARD OF REHABILITATIVE SERVICES

**September 18, 1998 - 9 a.m.** -- Open Meeting  
Woodrow Wilson Rehabilitation Center, Fishersville,  
Virginia.  (Interpreter for the deaf provided upon request)

A quarterly business meeting.

**Contact:** Sandra Prince, Administrative Staff Specialist, Department of Rehabilitative Services, 8004 Franklin Farms Dr., P.O. Box 300 K Richmond, VA 23288-0300, telephone (804) 662-7010, or toll-free 1-800-552-5019/Voice and 1-800-464-9950/TTY 

## SEWAGE HANDLING AND DISPOSAL APPEAL REVIEW BOARD

**September 23, 1998 - 10 a.m.** -- Open Meeting  
General Assembly Building, 910 Capitol Square, Senate  
Room B, Richmond, Virginia. 

A meeting to hear appeals of health department denials of septic tank permits.

**Contact:** Gary L. Hagy, Acting Secretary, Sewage Handling and Disposal Appeal Review Board, P.O. Box 2448, Room 115, Richmond, VA 23218, telephone (804) 225-4022 or FAX (804) 225-4003.

## SMALL BUSINESS ENVIRONMENTAL COMPLIANCE ADVISORY BOARD

† **September 17, 1998 - 10 a.m.** -- Open Meeting  
Fairfax County Government Center, 12000 Government  
Center Parkway, Fairfax, Virginia.

A regular meeting.

**Contact:** Richard Rasmussen, Department of Environmental Quality, P.O. Box 10009, Richmond, VA 23240, telephone (804) 698-4394.

## VIRGINIA SMALL BUSINESS FINANCING AUTHORITY

† **September 22, 1998 - 10 a.m.** -- Open Meeting  
Department of Business Assistance, 707 East Main Street,  
3rd Floor, Main Board Room, Richmond, Virginia.

A meeting of the Loan Committee to review applications for loans submitted to the authority for approval. The time is subject to being moved to 8:30 a.m. in the event the VSBFA Board of Directors decides to combine meeting dates with the VSBFA Loan Committee.

**Contact:** Cathleen M. Surface, Executive Director, Virginia Small Business Financing Authority, 707 E. Main St., 3rd Floor, Richmond, VA 23219, telephone (804) 371-8254 or FAX (804) 225-3384.

## STATE BOARD OF SOCIAL SERVICES

**October 16, 1998** - Public comments may be submitted until this date.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the State Board of Social Services intends to repeal regulations entitled: **22 VAC 40-40-10 et seq. Rules of the Neighborhood Assistance Act.** The purpose of the proposed action is to repeal outdated and burdensome regulations. New regulations are being promulgated.

Statutory Authority: §§ 63.1-25 and 63.1-323 of the Code of Virginia.

**Contact:** Phyllis Parrish, Special Projects Coordinator, Department of Social Services, 730 E. Broad St., Richmond, VA 23219, telephone (804) 692-1895 or FAX (804) 692-1869.

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**October 16, 1998** - Public comments may be submitted until this date.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Board of Social Services intends to adopt regulations entitled: **22 VAC 40-41-10 et seq. Neighborhood Assistance Tax Credit Program.** The purpose of the regulation action is to replace regulations which are being repealed and reflect changes which have developed over time and through legislation. The regulations will set out criteria for approving projects, allocating tax credits and appealing decisions made by Department of Social Services staff. The regulations will also require applicant organizations to submit an audit as a prerequisite to approval.

Statutory Authority: §§ 63.1-25 and 63.1-323 of the Code of Virginia.

**Contact:** Phyllis Parrish, Special Projects Coordinator, Department of Social Services, 730 E. Broad St., Richmond, VA 23219, telephone (804) 692-1895 or FAX (804) 692-1869.

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**October 16, 1998** - Public comments may be submitted until this date.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the State Board of Social Services intends to repeal regulations entitled: **22 VAC 40-140-10 et seq. Minimum Standards for Independent Foster Homes.** The purpose of the proposed action is to repeal the current standards, which were promulgated in 1949. Concurrently with this action, new standards are being promulgated.

Statutory Authority: §§ 63.1-25 and 63.1-202 of the Code of Virginia.

**Contact:** Doris Jenkins, Child-Placing/Residential Licensing Manager, Department of Social Services, 730 E. Broad St., Richmond, VA 23219, telephone (804) 692-1773 or FAX (804) 692-2370.

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**October 16, 1998** - Public comments may be submitted until this date.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the State Board of Social Services intends to adopt regulations entitled: **22 VAC 40-141-10 et seq. Minimum Standards for Independent Foster Homes.** The proposed regulation establishes minimum standards that independent foster homes must meet in order to be licensed to provide care to children.

Statutory Authority: §§ 63.1-25 and 63.1-202 of the Code of Virginia.

**Contact:** Doris Jenkins, Child-Placing/Residential Licensing Manager, Department of Social Services, 730 E. Broad St., Richmond, VA 23219, telephone (804) 692-1773 or FAX (804) 692-2370.

## BOARD OF SOCIAL WORK

**October 2, 1998** - Public comments may be submitted through this date.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Board of Social Work intends to amend regulations entitled: **18 VAC 140-20-10 et seq. Regulations Governing the Practice of Social Work.** The purpose of the proposed amendment is to clarify and reformat the regulations and include an endorsement provision to expedite licensure of applicants with lengthy experience licensed in other jurisdictions and to comply with a statutory mandate enacted by the 1994 General Assembly by endorsing regulations promulgated by the Board of Psychology for voluntary certification of licensees as sex offender treatment providers.

Statutory Authority: § 54.1-2400 and Chapter 37 (§ 54.1-3700 et seq.) of Title 54.1 of the Code of Virginia.


**Contact:** Janet Delorme, Deputy Executive Director, Board of Licensed Professional Counselors, Marriage and Family Therapists and Substance Abuse Treatment Professionals, 6606 W. Broad St., 4th Floor, Richmond, VA 23230, telephone (804) 662-9575, FAX (804) 662-9943 or (804) 662-7197/TTY ☎

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# Calendar of Events


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## VIRGINIA SOIL AND WATER CONSERVATION BOARD

**September 16, 1998 - 7 p.m.** -- Open Meeting  
Howard Johnson's Motel, 100 Tower Drive, Danville, Virginia. 

A regular business meeting followed by public comment period.

**Contact:** Leon App, Regulatory Coordinator, Department of Conservation and Recreation, 203 Governor St., Suite 302, Richmond, VA 23219, telephone (804) 786-4570, FAX (804) 786-6141 or (804) 786-2121/TTY 

**September 17, 1998 - 8 a.m.** -- Open Meeting  
Howard Johnson's Motel, 100 Tower Drive, Danville, Virginia. 

Tour of Pittsylvania Soil and Water Conservation District.

**Contact:** Leon App, Regulatory Coordinator, Department of Conservation and Recreation, 203 Governor St., Suite 302, Richmond, VA 23219, telephone (804) 786-4570, FAX (804) 786-6141 or (804) 786-2121/TTY 


## VIRGINIA COMMERCIAL SPACE FLIGHT AUTHORITY

**October 13, 1998 - 10 a.m.** -- Open Meeting  
Old Dominion University, Webb University Center, Board Room, Norfolk, Virginia.  (Interpreter for the deaf provided upon request)

Quarterly meeting of the governing board of the authority to discuss business of the authority as determined by the chairman.


**Contact:** Robert G. Templin, Jr., Chairman, Virginia Commercial Space Flight Authority, CIT, 2214 Rock Hill Rd., Suite 600, Herndon, VA 20170, telephone (703) 689-3010 or toll-free (800) 689-3001.

## COMMONWEALTH TRANSPORTATION BOARD

**September 16, 1998 - 2 p.m.** -- Open Meeting  
Holiday Inn, 3005 Linden Drive, Bristol, Virginia.  (Interpreter for the deaf provided upon request)

A work session of the board and the Department of Transportation staff.

**Contact:** Shirley J. Ybarra, Secretary of Transportation, 1401 E. Broad St., Richmond, VA 23219, telephone (804) 786-6675.


**September 17, 1998 - 10 a.m.** -- Open Meeting  
Holiday Inn, 3005 Linden Drive, Bristol, Virginia.  (Interpreter for the deaf provided upon request)

A monthly meeting of the board to vote on proposals presented regarding bids, permits, additions and

deletions to the highway system, and any other matters requiring board approval. Public comment will be received at the outset of the meeting on items on the meeting agenda for which the opportunity for public comment has not been afforded the public in another forum. Remarks will be limited to five minutes. Large groups are asked to select one individual to speak for the group. The board reserves the right to amend these conditions. Separate committee meetings may be held on call of the chairman. Contact Department of Transportation Public Affairs at (804) 786-2715 for schedule.

**Contact:** Shirley J. Ybarra, Secretary of Transportation, 1401 E. Broad St., Richmond, VA 23219, telephone (804) 786-6675.

## BOARD OF VETERINARY MEDICINE

**† September 17, 1998 - 10 a.m.** -- Open Meeting  
Department of Health Professions, 6606 West Broad Street, 5th Floor, Conference Room 3, Richmond, Virginia.  (Interpreter for the deaf provided upon request)

Informal conferences. Public comments will not be received.

**Contact:** Terri H. Behr, Administrative Assistant, Department of Health Professions, 6606 W. Broad St., 4th Floor, Richmond, VA 23230-1717, telephone (804) 662-9915 or (804) 662-7197/TTY

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**September 17, 1998 - 9 a.m.** -- Public Hearing  
Department of Health Professions, 6606 West Broad Street, 5th Floor, Conference Room 4, Richmond, Virginia.

**October 2, 1998** - Public comments may be submitted until this date.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Board of Veterinary Medicine intends to amend regulations entitled: **18 VAC 150-20-10 et seq. Regulations Governing the Practice of Veterinary Medicine.** Amendments are proposed pursuant to Executive Order 15 (94) in order to make regulations clearer, simpler, and less burdensome. The proposed amendments will streamline requirements for veterinary facilities, clarify the practice of surgery, allow continuing education through journals or information networks, and specify that continuing education must pertain to clinical areas of practice.

Statutory Authority: §§ 54.1-2400 and Chapter 38 (§ 54.1-3800 et seq.) of Title 54.1 of the Code of Virginia.

**Contact:** Elizabeth Carter, Ph.D., Executive Director, Board of Veterinary Medicine, 6606 W. Broad St., 4th Floor, Richmond, VA 23230-1717, telephone (804) 662-9915 or FAX (804) 662-9943.



## VIRGINIA-ISRAEL ADVISORY BOARD

**September 24, 1998 - 10 a.m.** -- Open Meeting  
State Capitol, Room No. 1, Richmond, Virginia.


A meeting to discuss approval of minutes for June 9, 1998 meeting; the Executive Director position; adoption of by-laws; Holocaust education; Governor's trade mission; financial matters; and year-end report.

**Contact:** Mel Chaskin, telephone (703) 934-6300.

## BOARD FOR THE VISUALLY HANDICAPPED


**October 14, 1998 - 11 a.m.** -- Open Meeting  
Jefferson Madison Regional Library, 201 East Market Street, Charlottesville, Virginia.  (Interpreter for the deaf provided upon request)

A regular quarterly meeting to receive information regarding department activities and operations, review expenditures from the board's institutional fund, and discuss other issues raised by board members.


**Contact:** Katherine C. Proffitt, Executive Secretary Senior, Department for the Visually Handicapped, 397 Azalea Ave., Richmond, VA 23227, telephone (804) 371-3140, toll-free 1-800-622-2155, FAX (804) 371-3351 or (804) 371-3140/TTY 

## DEPARTMENT FOR THE VISUALLY HANDICAPPED

### Vocational Rehabilitation Advisory Council

**September 26, 1998 - 10 a.m.** -- Open Meeting  
Department for the Visually Handicapped, Administrative Headquarters, 397 Azalea Avenue, Richmond, Virginia.  (Interpreter for the deaf provided upon request)

A quarterly meeting of the council to advise the Department for the Visually Handicapped on matters related to vocational rehabilitation services for the blind and visually impaired citizens of the Commonwealth.

**Contact:** James G. Taylor, Vocational Rehabilitation Program Director, Department for the Visually Handicapped, 397 Azalea Ave., Richmond, VA 23227, telephone (804) 371-3111, toll-free 1-800-622-2155, or (804) 371-3140/TTY 


## VIRGINIA VOLUNTARY FORMULARY BOARD

† **October 22, 1998 - 10:30 a.m.** -- Open Meeting  
Washington Building, 1100 Bank Street, 2nd Floor Conference Room, Richmond, Virginia.


A meeting to review the public hearing comments and product data for drug products being considered for inclusion in the Virginia Voluntary Formulary.

**Contact:** James K. Thomson, Director, Bureau of Pharmacy Services, Virginia Voluntary Formulary, James Monroe Bldg., 101 N. 14th St., Room S-45, Richmond, VA 23219, telephone (804) 786-4326.


## VIRGINIA WAR MEMORIAL FOUNDATION

**September 15, 1998 - Noon** -- Open Meeting  
Virginia War Memorial, 621 Belvidere Street, Richmond, Virginia.  (Interpreter for the deaf provided upon request)

The annual meeting of the Board of Trustees to elect officers and review annual reports.

**Contact:** Sandra H. Williams, Department of General Services, 805 E. Broad St., Room 101, Richmond, VA 23219, telephone (804) 786-3263, FAX (804) 371-7934 or (804) 786-6152/TTY 

## VIRGINIA WASTE MANAGEMENT BOARD

† **September 16, 1998 - 10 a.m.** -- Open Meeting  
Department of Environmental Quality, 629 East Main Street, Richmond, Virginia.  (Interpreter for the deaf provided upon request)

A meeting of the Technical Advisory Committee to discuss the development of the proposed Regulation for Transportation of Solid and Medical Wastes on State Waters, 9 VAC 20-170-10 et seq. Persons wishing to receive notification of future meetings of the Technical Advisory Committee should contact Lily Choi.

**Contact:** Lily Choi, Environmental Engineer Senior, Department of Environmental Quality, P.O. Box 10009, Richmond, VA 23240, telephone (804) 698-4054 or FAX (804) 698-4032.

## STATE WATER CONTROL BOARD

**September 24, 1998 - 10 a.m.** -- Public Hearing  
Department of Environmental Quality, Piedmont Regional Office, 4949 A Cox Road, Glen Allen, Virginia.

**October 16, 1998** - Public comments may be submitted until 4 p.m. on this date.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the State Water Control Board intends to repeal regulations entitled: **9 VAC 25-150-10 et seq. Virginia Pollutant Discharge Elimination System (VPDES) General Permit Regulation for Storm Water Discharges Associated with Industrial Activity from Heavy Manufacturing.** This general permit expires on June 30, 1999, and is not going to be reissued. Therefore, the board intends to repeal the regulation. Future discharges of industrial storm water may be authorized under the new general permit, 9 VAC 25-151-10 et seq.

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# Calendar of Events

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

Request for Comments: The board is seeking comments from interested persons on the proposed repeal of this general permit regulation, as well as comments regarding the costs and benefits of the proposal or any other alternatives.

Localities Affected: The repeal of this regulation will be applicable statewide and will not affect any one locality disproportionately.

Comparison with Statutory Mandates: The repeal of this general permit regulation does not exceed the specific minimum requirements of any legally binding state or federal mandate.

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

**Contact:** Richard Ayers, Technical Services Administrator, Department of Environmental Quality, 629 E. Main St., Richmond, VA 23219, telephone (804) 698-4075.

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**September 24, 1998 - 10 a.m.** -- Public Hearing  
Department of Environmental Quality, Piedmont Regional Office, 4949 A Cox Road, Glen Allen, Virginia.

**October 16, 1998** - Public comments may be submitted until 4 p.m. on this date.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the State Water Control Board intends to adopt regulations entitled: **9 VAC 25-151-10 et seq. General Virginia Pollutant Discharge Elimination System (VPDES) Permit for Discharges of Storm Water Associated with Industrial Activity.** This regulation will authorize point source discharges of storm water runoff from industrial sites. Discharges may be directly to surface waters or through separate storm sewer systems. This general permit will replace industrial storm water general permits, 9 VAC 25-150-10 et seq., 9 VAC 25-160-10 et seq., and 9 VAC 25-170-10 et seq., which expire June 30, 1999.

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

Request for Comments: The board is seeking comments from interested persons on the proposed repeal of this general permit regulation, as well as comments regarding the costs and benefits of the proposal or any other alternatives.

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

Comparison with Statutory Mandates: The repeal of this general permit regulation does not exceed the specific minimum requirements of any legally binding state or federal mandate.

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

**Contact:** Richard Ayers, Technical Services Administrator, Department of Environmental Quality, 629 E. Main St., Richmond, VA 23219, telephone (804) 698-4075.

\* \* \* \* \*

**September 24, 1998 - 10 a.m.** -- Public Hearing  
Department of Environmental Quality, Piedmont Regional Office, 4949 A Cox Road, Glen Allen, Virginia.

**October 16, 1998** - Public comments may be submitted until 4 p.m. on this date.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the State Water Control Board intends to repeal regulations entitled: **9 VAC 25-160-10 et seq. Virginia Pollutant Discharge Elimination System (VPDES) General Permit Regulation for Storm Water Discharges Associated with Industrial Activity from Light Manufacturing Facilities.** This general permit expires on June 30, 1999, and is not going to be reissued. Therefore, the board intends to repeal the regulation. Future discharges of industrial storm water may be authorized under the new general permit, 9 VAC 25-151-10 et seq.

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

Request for Comments: The board is seeking comments from interested persons on the proposed repeal of this general permit regulation, as well as comments regarding the costs and benefits of the proposal or any other alternatives.

Localities Affected: The repeal of this regulation will be applicable statewide and will not affect any one locality disproportionately.

Comparison with Statutory Mandates: The repeal of this general permit regulation does not exceed the specific minimum requirements of any legally binding state or federal mandate.

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

**Contact:** Richard Ayers, Technical Services Administrator, Department of Environmental Quality, 629 E. Main St., Richmond, VA 23219, telephone (804) 698-4075.

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**September 24, 1998 - 10 a.m.** -- Public Hearing  
Department of Environmental Quality, Piedmont Regional  
Office, 4949 A Cox Road, Glen Allen, Virginia.

**October 16, 1998** - Public comments may be submitted until  
4 p.m. on this date.

Notice is hereby given in accordance with § 9-6.14:7.1  
of the Code of Virginia that the State Water Control  
Board intends to repeal regulations entitled: **9 VAC 25-  
170-10 et seq. Virginia Pollutant Discharge  
Elimination System (VPDES) General Permit  
Regulation for Storm Water Discharges Associated  
with Industrial Activity from Transportation  
Facilities, Landfills, Land Application Sites and  
Open Dumps, Materials Recycling Facilities, and  
Steam Electric Power Generating Facilities.** This  
general permit expires on June 30, 1999, and is not  
going to be reissued. Therefore, the board intends to  
repeal the regulation. Future discharges of industrial  
storm water may be authorized under the new general  
permit, 9 VAC 25-151-10 et seq.

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

Request for Comments: The board is seeking comments  
from interested persons on the proposed repeal of this  
general permit regulation, as well as comments regarding  
the costs and benefits of the proposal or any other  
alternatives.

Localities Affected: The repeal of this regulation will be  
applicable statewide and will not affect any one locality  
disproportionately.

Comparison with Statutory Mandates: The repeal of this  
general permit regulation does not exceed the specific  
minimum requirements of any legally binding state or federal  
mandate.

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

**Contact:** Richard Ayers, Technical Services Administrator,  
Department of Environmental Quality, 629 E. Main St.,  
Richmond, VA 23219, telephone (804) 698-4075.

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**September 24, 1998 - 10 a.m.** -- Public Hearing  
Department of Environmental Quality, Piedmont Regional  
Office, 4949 A Cox Road, Glen Allen, Virginia.

**October 16, 1998** - Public comments may be submitted until  
4 p.m. on this date.

Notice is hereby given in accordance with § 9-6.14:7.1  
of the Code of Virginia that the State Water Control  
Board intends to amend regulations entitled: **9 VAC 25-**

**180-10 et seq. Virginia Pollutant Discharge  
Elimination System (VPDES) General Permit  
Regulation for Storm Water Discharges from  
Construction Sites.** This regulation authorizes  
discharges of storm water runoff from construction  
activities. The amendment is proposed in order to  
reissue the general permit for an additional five year  
term.

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

Request for Comments: The board is seeking comments  
from interested persons on the proposed repeal of this  
general permit regulation, as well as comments regarding  
the costs and benefits of the proposal or any other  
alternatives.

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

Comparison with Statutory Mandates: The repeal of this  
general permit regulation does not exceed the specific  
minimum requirements of any legally binding state or federal  
mandate.

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

**Contact:** Richard Ayers, Technical Services Administrator,  
Department of Environmental Quality, 629 E. Main St.,  
Richmond, VA 23219, telephone (804) 698-4075.

**October 1, 1998 - 9:30 a.m.** -- Open Meeting  
General Assembly Building, 9th and Broad Streets, House  
Room C, Richmond, Virginia.

A regular meeting of the board.

**Contact:** Cindy M. Berndt, Department of Environmental  
Quality, P.O. Box 10009, Richmond, VA 23240, telephone  
(804) 698-4378.

## BOARD FOR WATERWORKS AND WASTEWATER WORKS OPERATORS

† **October 29, 1998 - 8:30 a.m.** -- Open Meeting  
Department of Professional and Occupational Regulation,  
3600 West Broad Street, Conference Room 5W, Richmond,  
Virginia. ☎

A routine business meeting. A public comment period  
will be held at the beginning of the meeting.

**Contact:** David E. Dick, Assistant Director, Department of  
Professional and Occupational Regulation, 3600 W. Broad  
St., Richmond, VA, telephone (804) 367-8505, FAX (804)  
367-2475 or (804) 367-9753/TTY ☎


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# Calendar of Events

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## INDEPENDENT

### STATE LOTTERY BOARD


**October 14, 1998 - 9:30 a.m.** -- Open Meeting  
State Lottery Department, 900 East Main Street, Richmond, Virginia.  (Interpreter for the deaf provided upon request)

A regular business meeting of the board. Public comment will be received at the beginning of the meeting. This meeting replaces the September 23rd meeting, which has been canceled.

**Contact:** Barbara L. Robertson, Board, Legislative and Regulatory Coordinator, State Lottery Department, 900 E. Main St., Richmond, VA 23219, telephone (804) 692-7105 or FAX (804) 692-7603.


**October 14, 1998 - 9:30 a.m.** -- Open Meeting  
State Lottery Department, 900 East Main Street, Richmond, Virginia.  (Interpreter for the deaf provided upon request)

An annual meeting of the Board of Directors.

**Contact:** Edward Scarborough, Public Affairs Director, State Lottery Department, 900 E. Main St., Richmond, VA 23219, telephone (804) 692-7771, FAX (804) 692-7775 or (804) 692-7115/TTY 

## LEGISLATIVE

### ADMINISTRATIVE LAW ADVISORY COMMITTEE


**September 16, 1998 - 10 a.m.** -- Public Hearing  
General Assembly Building, 9th and Broad Streets, House Room C, Richmond, Virginia.  (Interpreter for the deaf provided upon request)

A public hearing on the efficiency, effectiveness and equity of Virginia's regulatory process. Contact Lyn Hammond Coughlin by September 9, 1998, to arrange an interpreter. Written comments may be submitted until September 25, 1998.


**Contact:** Lyn Hammond Coughlin, Program Coordinator, Administrative Law Advisory Committee, General Assembly Bldg., 910 Capitol Square, Richmond, VA 23219, telephone (804) 786-3591 or FAX (804) 692-0625.

### SENATE COMMITTEE ON AGRICULTURE, CONSERVATION AND NATURAL RESOURCES


#### Subcommittee on HB 1207

**September 22, 1998 - 2 p.m.** -- Open Meeting  
General Assembly Building, 9th and Broad Streets, Senate Room A, Richmond, Virginia.  (Interpreter for the deaf provided upon request)


A scheduled meeting. Individuals requiring interpreter services or other special assistance should contact the Committee Operations Office at least 10 working days prior to the meeting.

**Contact:** Brian B. Taylor, Senate Committee Operations, P.O. Box 236, Richmond, VA 23218, telephone (804) 698-7450 or (804) 698-7419/TTY 


### SPECIAL JOINT SUBCOMMITTEE OF THE SENATE COMMITTEE ON EDUCATION AND HEALTH AND THE HOUSE COMMITTEE ON HEALTH, WELFARE AND INSTITUTIONS TO STUDY THE CERTIFICATE OF PUBLIC NEED

† **September 14, 1998 - 10 a.m.** -- Open Meeting  
† **November 12, 1998 - 10 a.m.** -- Open Meeting  
General Assembly Building, 9th and Broad Streets, Senate Room B, Richmond, Virginia.  (Interpreter for the deaf provided upon request)

A regular meeting. Individuals requiring interpreter services or other accommodations should call or write Senate Committee Operations at least 10 working days prior to the meeting.

**Contact:** Brian B. Taylor, Senate Committee Operations, P.O. Box 396, Richmond, VA 23218, telephone (804) 698-7450 or (804) 698-7419/TTY 


### COMMISSION ON THE CONDITION AND FUTURE OF VIRGINIA'S CITIES (HJR 432, 1998)

**September 16, 1998 - 1 p.m.** -- Open Meeting  
Sheraton Norfolk Waterside Hotel, 777 Waterside Drive, Norfolk, Virginia.  (Interpreter for the deaf provided upon request)


**October 6, 1998 - 10 a.m.** -- Open Meeting  
Roanoke Conference Center, 110 Shenandoah Avenue, Roanoke, Virginia.

**October 13, 1998 - 10 a.m.** -- Open Meeting  
Omni Hotel, Charlottesville, Virginia.

A regular meeting. Questions regarding the meeting should be addressed to Jeff Sharp or Nikki Rovner, Division of Legislative Services, (804) 786-3591. Individuals requiring interpreter services or other special assistance should contact the Committee Operations Office at least 10 working days prior to the meeting.

**Contact:** Barbara Regen, House Committee Operations, P.O. Box 406, Richmond, VA 23218, telephone (804) 698-1540 or (804) 786-2369/TTY 


## VIRGINIA CODE COMMISSION

**November 18, 1998 - 10 a.m.** -- Open Meeting  
General Assembly Building, 9th and Broad Streets,  
Speaker's Conference Room, 6th Floor, Richmond,  
Virginia.  (Interpreter for the deaf provided upon request)


A meeting to continue with the recodification of Titles 2.1 and 9 of the Code of Virginia and to conduct any other business of the commission.

**Contact:** Jane Chaffin, Registrar of Regulations, General Assembly Bldg., 9th and Broad Streets, 2nd Floor, Richmond, VA 23219, telephone (804) 786-3591, FAX (804) 692-0625 or e-mail jchaffin@leg.state.va.us.


## COMMISSION ON COORDINATION OF SERVICES TO FACILITATE SELF-SUFFICIENCY AND SUPPORT OF PERSONS WITH PHYSICAL AND SENSORY DISABILITIES (HJR 274)

**September 15, 1998 - 9 a.m.** -- Open Meeting  
General Assembly Building, 910 Capitol Square, House Room D, Richmond, Virginia.  (Interpreter for the deaf provided upon request)


A regular meeting. Questions regarding the meeting should be addressed to Brian Parsons or Barbara Ettner at the Virginia Board for People with Disabilities, (804) 786-0016. Individuals requiring interpreter services or other special assistance should contact the Committee Operations Office at least 10 working days prior to the meeting.

**Contact:** Barbara Regen, House Committee Operations, P.O. Box 406, Richmond, VA 23218, telephone (804) 698-1540 or (804) 786-2369/TTY 


## COMMISSION ON EDUCATIONAL INFRASTRUCTURE (HJR 165)

**October 28, 1998 - 10 a.m.** -- Open Meeting  
**November 23, 1998 - 2 p.m.** -- Open Meeting  
General Assembly Building, 9th and Broad Streets, House Room D, Richmond, Virginia.  (Interpreter for the deaf provided upon request)


A regular meeting. Questions regarding the meeting should be addressed to Norma Szakal, Division of Legislative Services, (804) 786-3591. Individuals requiring interpreter services or other special assistance should contact the Committee Operations Office at least 10 working days prior to the meeting.

**Contact:** Lois V. Johnson, House Committee Operations, P.O. Box 406, Richmond, VA 23218, telephone (804) 698-1540 or (804) 786-2369/TTY 


## EDUCATION AND HEALTH SUBCOMMITTEE STUDYING ALTERNATIVE CONTINUING CONTRACTS FOR TEACHERS AND ADMINISTRATORS (SB 122, 1998)

**September 15, 1998 - 2 p.m.** -- Open Meeting  
General Assembly Building, 9th and Broad Streets, Senate Room B, Richmond, Virginia.  (Interpreter for the deaf provided upon request)


A regular meeting. Questions regarding the meeting should be addressed to Norma Szakal, Division of Legislative Services, (804) 786-3591. Individuals requiring interpreter services or other accommodations should call or write Senate Committee Operations at least 10 working days prior to the meeting.

**Contact:** Patricia J. Lung, Senate Committee Operations, P.O. Box 396, Richmond, VA 23218, telephone (804) 698-7450 or (804) 698-7419/TTY 

## JOINT SUBCOMMITTEE STUDYING POTENTIAL CHANGES IN RESTRUCTURING THE ELECTRICAL UTILITIES INDUSTRY IN THE COMMONWEALTH (SJR 91, 1998)


**September 23, 1998 - 10 a.m.** -- Open Meeting  
Hotel Roanoke, Ballroom, Roanoke, Virginia.  (Interpreter for the deaf provided upon request)

A regular meeting. Individuals requiring interpreter services or other accommodations should call or write Thomas C. Gilman seven working days before the meeting.


**Contact:** Thomas C. Gilman, Senate Committee Operations, P.O. Box 396, Richmond, VA 23218, telephone (804) 698-7450 or (804) 698-7419/TTY 

## CORPORATIONS, INSURANCE AND BANKING SPECIAL SUBCOMMITTEE STUDYING EMINENT DOMAIN POWERS OF PUBLIC SERVICE COMPANIES (HJR 274)

NOTE: CHANGE IN MEETING DATE AND LOCATION

† **September 22 1998 - 10 a.m.** -- Open Meeting  
State Capitol, House Room 4, Richmond, Virginia.  (Interpreter for the deaf provided upon request)

A regular meeting. Questions regarding the meeting should be addressed to Arlen Bolstad, Division of Legislative Services, (804) 786-3591. Individuals requiring interpreter services or other special assistance should contact the Committee Operations Office at least 10 working days prior to the meeting.

**Contact:** Kimberly Rockhold, House Committee Operations, P.O. Box 406, Richmond, VA 23218, telephone (804) 698-1543 or (804) 786-2369/TTY 


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# Calendar of Events


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## HOUSE COMMITTEE ON FINANCE


### Business Tax Incentive Subcommittee

† **September 15, 1998 - 10 a.m.** -- Open Meeting  
General Assembly Building, 9th and Broad Streets, 4th Floor  
West Conference Room, Richmond, Virginia.  (Interpreter for the deaf provided upon request)


A regular meeting. Questions regarding the meeting should be addressed to Joan E. Putney or Stephanie L. Hamlett, Division of Legislative Services, (804) 786-3591. Individuals requiring interpreter services or other special assistance should contact the Committee Operations Office at least 10 working days prior to the meeting.

**Contact:** Lois V. Johnson, House Committee Operations, P.O. Box 406, Richmond, VA 23218, telephone (804) 698-1540 or (804) 786-2369/TTY 


### Property Tax Subcommittee

**September 21, 1998 - 10:30 a.m.** -- Open Meeting  
General Assembly Building, 9th and Broad Streets, 4th Floor  
West Conference Room, Richmond, Virginia.  (Interpreter for the deaf provided upon request)


A regular meeting. Questions regarding the meeting should be addressed to Joan E. Putney or Stephanie L. Hamlett, Division of Legislative Services, (804) 786-3591. Individuals requiring interpreter services or other special assistance should contact the Committee Operations Office at least 10 working days prior to the meeting.

**Contact:** Lois V. Johnson, House Committee Operations, P.O. Box 406, Richmond, VA 23218, telephone (804) 698-1540 or (804) 786-2369/TTY 


### Special Subcommittee Studying Sales Tax Exemptions

† **September 28, 1998 - 2:30 p.m.** -- Open Meeting  
General Assembly Building, 9th and Broad Streets, House  
Room C, Richmond, Virginia.  (Interpreter for the deaf provided upon request)


A regular meeting. Questions regarding the meeting should be addressed to Joan E. Putney or Stephanie L. Hamlett, Division of Legislative Services, (804) 786-3591. Individuals requiring interpreter services or other special assistance should contact the Committee Operations Office at least 10 working days prior to the meeting.

**Contact:** Lois V. Johnson, House Committee Operations, P.O. Box 406, Richmond, VA 23218, telephone (804) 698-1540 or (804) 786-2369/TTY 

## Special Subcommittee Studying Sales Tax on Food


† **September 28, 1998 - 1 p.m.** -- Open Meeting  
General Assembly Building, 9th and Broad Streets, House  
Room C, Richmond, Virginia.  (Interpreter for the deaf provided upon request)

A regular meeting. Questions regarding the meeting should be addressed to Joan E. Putney or Stephanie L. Hamlett, Division of Legislative Services, (804) 786-3591. Individuals requiring interpreter services or other special assistance should contact the Committee Operations Office at least 10 working days prior to the meeting.


**Contact:** Lois V. Johnson, House Committee Operations, P.O. Box 406, Richmond, VA 23218, telephone (804) 698-1540 or (804) 786-2369/TTY 

## HOUSE COMMITTEE ON GENERAL LAWS

### Subcommittee 6

**October 27, 1998 - 10 a.m.** -- Open Meeting  
General Assembly Building, 9th and Broad Streets, House  
Room C, Richmond, Virginia.  (Interpreter for the deaf provided upon request)

A meeting to consider the following resolutions: HJR 181 Study - Motion Picture Production Industry and HJR 260 Study - Waste Tires. Questions regarding the meeting agenda should be addressed to Maria Everett, Division of Legislative Services, (804) 786-3591. Individuals requiring interpreter services or other special assistance should contact the Committee Operations Office at least 10 working days prior to the meeting.


**Contact:** Lois V. Johnson, House Committee Operations, P.O. Box 406, Richmond, VA 23218, telephone (804) 698-1540 or (804) 786-2369/TTY 

## JOINT COMMISSION ON HEALTH CARE


**September 23, 1998 - 10 a.m.** -- Open Meeting

**October 20, 1998 - 10 a.m.** -- Open Meeting

**November 17, 1998 - 10 a.m.** -- Open Meeting


General Assembly Building, 9th and Broad Streets, Senate  
Room A, Richmond, Virginia.  (Interpreter for the deaf provided upon request)

A regular meeting. Individuals requiring interpreter services or other special assistance should contact Kathleen Myers at least 10 working days prior to the meeting.


**Contact:** Kathleen Myers, Committee Operations, House of Delegates, State Capitol, P.O. Box 406, Richmond, VA 23218, telephone (804) 698-1547 or (804) 786-2369/TTY 

## **JOINT SUBCOMMITTEE STUDYING LAND DEVELOPMENT PATTERNS AND WAYS TO ADDRESS DEMANDS RESULTING FROM RESIDENTIAL GROWTH (HJR 195)**

**September 25, 1998 - 10 a.m.** -- Open Meeting and Public Hearing


General Assembly Building, 9th and Broad Streets, House Room C, Richmond, Virginia.  (Interpreter for the deaf provided upon request)

A meeting and public hearing. Questions regarding the meeting should be addressed to Jeff Sharp, Division of Legislative Services, (804) 786-3591. Individuals requiring interpreter services or other special assistance should contact the Committee Operations Office at least 10 working days prior to the meeting.


**Contact:** Kathleen Myers, House Committee Operations, P.O. Box 406, Richmond, VA 23218, telephone (804) 698-1540 or (804) 786-2369/TTY 

## **JOINT SUBCOMMITTEE STUDYING THE FUTURE DELIVERY OF PUBLICLY FUNDED MENTAL HEALTH, MENTAL RETARDATION AND SUBSTANCE ABUSE SERVICES (HJR 225)**


**September 25, 1998 - 10 a.m.** -- Open Meeting

General Assembly Building, 9th and Broad Streets, House Room D, Richmond, Virginia.  (Interpreter for the deaf provided upon request)


**October 27, 1998 - 10 a.m.** -- Open Meeting

General Assembly Building, 9th and Broad Streets, House Room D, Richmond, Virginia.  (Interpreter for the deaf provided upon request)

**December 16, 1998 - 10 a.m.** -- Open Meeting


General Assembly Building, 9th and Broad Streets, House Room C, Richmond, Virginia.  (Interpreter for the deaf provided upon request)

A regular meeting. Individuals requiring interpreter services or other special assistance should contact Dawn Smith at least 10 working days prior to the meeting.

**Contact:** Dawn B. Smith, Committee Operations, House of Delegates, State Capitol, P.O. Box 406, Richmond, VA 23218, telephone (804) 698-1540 or (804) 786-2369/TTY 

## **VIRGINIA HOUSING STUDY COMMISSION**

**† September 18, 1998 - 10 a.m.** -- Public Hearing

Virginia Housing Development Authority, 601 South Belvidere Street, 4th Floor Board Room, Richmond, Virginia. 

A meeting to discuss HB 208 (creation of a nonprofit corporation or foundation to foster the preservation of

affordable housing). Questions regarding the meeting should be addressed to Nancy Ambler.


**Contact:** Nancy M. Ambler, Virginia Housing Study Commission, 601 South Belvidere St., Richmond, VA 23220, telephone (804) 225-3797.

## **INTERSTATE ROUTE 73 COMMUNICATIONS COMMITTEE (HJR 153, 1998)**

**October 8, 1998 - 10 a.m.** -- Open Meeting


Henry County Administration Building, Kings Mountain Road, Board Room, Martinsville, Virginia.

A regular meeting. Questions regarding the meeting should be addressed to Alan Wambold, Division of Legislative Services, (804) 786-3591. Individuals requiring interpreter services or other special assistance should contact the Committee Operations at least 10 working days prior to the meeting.


**Contact:** Barbara Regen, House Committee Operations, P.O. Box 406, Richmond, VA 23218, telephone (804) 698-1540 or (804) 786-2369/TTY 

## **SPECIAL AGRICULTURE SUBCOMMITTEE STUDYING THE IMPACT OF INDUSTRIAL SWINE PRODUCTION IN VIRGINIA (HJR 573)**

**September 21, 1998 - 2 p.m.** -- Open Meeting


General Assembly Building, 9th and Broad Streets, House Room C, Richmond, Virginia.  (Interpreter for the deaf provided upon request)

A regular meeting. Questions regarding the meeting should be addressed to Nicole Rovner, Division of Legislative Services, (804) 786-3591. Individuals requiring interpreter services or other special assistance should contact the Committee Operations Office at least 10 working days prior to the meeting.


**Contact:** Kathleen Myers, House Committee Operations, P.O. Box 406, Richmond, VA 23218, telephone (804) 698-1547 or (804) 786-2369/TTY 

## **VIRGINIA COMMISSION ON INTERGOVERNMENTAL COOPERATION**

**† September 30, 1998 - 1:30 p.m.** -- Open Meeting

General Assembly Building, 9th and Broad Streets, Senate Room B, Richmond, Virginia.  (Interpreter for the deaf provided upon request)

A regular meeting. Individuals requiring interpreter services or other accommodations should call or write Senate Committee Operations at least 10 working days prior to the meeting.


**Contact:** Brian B. Taylor, Senate Committee Operations, P.O. Box 396, Richmond, VA 23218, telephone (804) 698-7450 or (804) 698-7419/TTY 

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# Calendar of Events

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## JOINT SUBCOMMITTEE STUDYING REMEDIATION (HJR 62)

**October 2, 1998 - 10:30 a.m.** -- Open Meeting  
General Assembly Building, 9th and Broad Streets, House Room C, Richmond, Virginia.  (Interpreter for the deaf provided upon request)


A regular meeting. Questions regarding the meeting should be addressed to Brenda Edwards, Division of Legislative Services, (804) 786-3591. Individuals requiring interpreter services or other special assistance should contact the Committee Operations Office at least 10 working days prior to the meeting. Persons making audiovisual presentation to the committee should call for specifications.

**Contact:** Dawn B. Smith, House Committee Operations, P.O. Box 406, Richmond, VA 23218, telephone (804) 698-1540 or (804) 786-2369/TTY 


## COMMISSION ON THE COMMONWEALTH'S PLANNING AND BUDGETING PROCESS (SJR 94, 1998)

**† September 14, 1998 - 2 p.m.** -- Open Meeting  
General Assembly Building, 9th and Broad Streets, House Room D, Richmond, Virginia.  (Interpreter for the deaf provided upon request)


A regular meeting. Individuals requiring interpreter services or other accommodations should call or write Senate Committee Operations at least 10 working days prior to the meeting.

**Contact:** Patricia J. Lung, Senate Committee Operations, P.O. Box 396, Richmond, VA 23218, telephone (804) 698-7450 or (804) 698-7419/TTY 


## COMMITTEE ON PRIVILEGES AND ELECTIONS

**† September 14, 1998 - 1:30 p.m.** -- Open Meeting  
General Assembly Building, 9th and Broad Streets, House Room C, Richmond, Virginia.  (Interpreter for the deaf provided upon request)

A meeting to consider carry-over legislation. Questions regarding the carry-over bills should be addressed to Mary Spain, Division of Legislative Services, (804) 786-3591. Individuals requiring interpreter services or other special assistance should contact the Committee Operations Office at least 10 working days prior to the meeting.

**Contact:** Barbara Regen, House Committee Operations, P.O. Box 406, Richmond, VA 23218, telephone (804) 698-1540 or (804) 786-2369/TTY 

## JOINT COMMISSION ON TECHNOLOGY AND SCIENCE

**† September 16, 1998 - 10 a.m.** -- Open Meeting  
General Assembly Building, 9th and Broad Streets, House Room D, Richmond, Virginia.  (Interpreter for the deaf provided upon request)

A meeting to include a presentation by the Honorable Donald W. Upson, Virginia's Secretary of Technology; presentations about state agency applications of electronic signatures and geographic information systems; and a discussion of the nuclear reactor facility at the University of Virginia. For more information please visit the commission's website at <http://legis.state.va.us/jcots/jcots.htm>, under meeting information.

**Contact:** Diane E. Horvath, Director, Joint Commission on Technology and Science, General Assembly Bldg, 2nd Floor, Richmond, VA 23219, telephone (804) 786-3591, FAX (804) 371-0169 or e-mail [DHorvath@elg.state.va.us](mailto:DHorvath@elg.state.va.us).

## CHRONOLOGICAL LIST

### OPEN MEETINGS

#### September 14

† Certificate of Public Need, Special Joint Subcommittee of the Senate Committee on Education and Health and the House Committee on Health, Welfare and Institutions to Study the Charitable Gaming Commission Corporations, Insurance and Banking Special Subcommittee Studying Eminent Domain Powers of Public Service Companies (HJR 173)  
Cosmetology, Board for  
† Health Professions, Board of

- Education Committee

- Enforcement Committee

- Executive Committee

- Healthcare Payment System Review Committee

- Regulatory Research Committee

Motor Vehicle Dealer Board

- Advertising Committee

- Dealer Practices Committee

- Licensing Committee

- Transaction Recovery Fund Committee

Local Government, Commission on

† Planning and Budgeting Process, Commission on the Commonwealth's

† Privileges and Elections, Committee on Professional and Occupational Regulation, Board for

#### September 15

Agriculture and Consumer Services, Department of

- Virginia Irish Potato Board

Disabilities, Commission on Coordination of Services to Facilitate Self-Sufficiency and Support of Persons with Physical and Sensory



Education and Health Subcommittee Studying  
Alternative Continuing Contracts for Teachers and  
Administrators

Environmental Quality, Department of  
- Virginia Ground Water Protection Steering  
Committee

† Finance, House Committee on  
- Special Subcommittee on Business Tax Incentive

† Health Professions, Board of  
- Practitioner Self-Referral Committee

Housing Development Authority, Virginia

† Indians, Virginia Council on

Motor Vehicle Dealer Board

- Finance Committee  
- Franchise Law Committee  
- Transaction Recovery Fund Committee

Museum of Fine Arts, Virginia  
- Collections Committee

Recycling Markets Development Council, Virginia  
War Memorial Foundation, Virginia  
- Board of Trustees

## September 16

† Arts, Virginia Commission for the  
Cities, Commission on the Condition and Future of  
Virginia's

Forestry, Department of

- Reforestation of Timberlands Board

Funeral Directors and Embalmers, Board of

Historic Resources, Department of  
- State Review Board/Historic Resources Board

Maternal and Child Health Council

Medicine, Board of

- Advisory Board on Physical Therapy  
- Informal Conference Committee

Racing Commission, Virginia

Soil and Water Conservation Board, Virginia

† Technology and Science, Joint Commission on

Transportation Board, Commonwealth

† Waste Management Board, Virginia

- Technical Advisory Board

## September 17

Air Pollution Control Board, State  
Architects, Professional Engineers, Land Surveyors and

Landscape Architects, Board for  
- Landscape Architect Section

Dentistry, Board of

† Fire Services Board, Virginia

- Fire/EMS Education and Training Committee  
- Fire Prevention and Control Committee

Labor and Industry, Department of

- Apprenticeship Council

Medical Assistance Services, Department of

- Drug Utilization Review Board

Old Dominion University

- Board of Visitors

† Small Business Environmental Compliance Advisory  
Board

Soil and Water Conservation Board, Virginia

Transportation Board, Commonwealth

† Veterinary Medicine, Board of

## September 18

† Conservation and Recreation, Department of  
- Chippokes Plantation Farm Foundation

Correctional Education, Board of  
Dentistry, Board of

† Housing Study Commission, Virginia

† Information Management, Council on  
Medicine, Board of

Rehabilitative Services, Board of

## September 21

Alcoholic Beverage Control Board

† Asbestos and Lead, Board for

Chesapeake Bay Local Assistance Department

Finance, House Committee on

- Property Tax Subcommittee

† Industrial Swine Production in Virginia, Special  
Agriculture Subcommittee Studying the Impact of  
Library of Virginia, The

- Archival and Information Service Committee

- Collection Management Committee

- Legislative and Finance Committee

- Public Library Development Committee

- Publication and Educational Services Committee

- Records Management Committee

† Nursing, Board of

- Special Conference Committee

Professional Counselors, Marriage and Family

Therapists and Substance Abuse Professionals, Board  
of Licensed

Swine Production in Virginia, Joint Subcommittee  
Studying Industrial (HJR 573)

## September 22

Agriculture, Conservation and Natural Resources,  
Senate Committee on

- Subcommittee on HB 1207

† Asbestos and Lead, Board for

† Conservation and Recreation, Department of

† Eminent Domain Powers of Public Service

Companies, Subcommittee Studying

Land Evaluation Advisory Council, State

Marine Resources Commission

† Nursing, Board of

† Nursing Home Administrators, Board of

- Special Conference Committee

† Psychology, Board of

† Small Business Financing Authority

- Loan Committee

## September 23

Agriculture and Consumer Services, Department of  
- Virginia Sweet Potato Board

† Child Fatality Review Team, State

† Conservation and Recreation, Department of

- Board on Conservation and Development of Public  
Beaches

† Contractors, Board for

- Tradesman Committee

Criminal Justice Services Board

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# Calendar of Events

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Criminal Justice Services Board and Committee on Training  
Electrical Utilities Industry in the Commonwealth, Joint Subcommittee Studying Potential Change in Restructuring the (SJR 91)  
† Hazardous Materials Emergency Response Training Committee  
Health Care, Joint Commission on  
Labor and Industry, Department of  
- Migrant and Seasonal Farmworkers Board  
Milk Commission, State  
† Nursing, Board of  
Sewage Handling and Disposal Appeal Review Board

## September 24

Architects, Professional Engineers, Land Surveyors and Landscape Architects, Board for  
- Interior Design Section  
- Land Surveyor Section  
Compensation Board  
† Nursing, Board of  
† Nursing Home Administrators, Board of  
- Legislative/Regulatory Committee  
Virginia-Israel Advisory Board

## September 25

† Executive Council, State  
Land Development Patterns and Ways to Address Demands Resulting from Residential Growth, Joint Subcommittee Studying (HJR 195)  
Museum of Fine Arts, Virginia  
- Board of Trustees  
- Buildings and Grounds Committee  
- Communications and Marketing Committee  
- Exhibitions Committee  
- Finance Committee  
- Legislative Committee  
Publicly Funded Mental Health, Mental Retardation and Substance Abuse Services, Joint Subcommittee  
Evaluating the Future Delivery of (HJR 225)

## September 26

Visually Handicapped, Department for the  
- Vocational Rehabilitation Advisory Council

## September 28

† Finance, House Committee on  
- Special Subcommittee Examining Sales Tax Exemptions  
- Special Subcommittee Examining Sales Tax on Food

## September 29

† Agriculture and Consumer Services, Board of  
† Conservation and Recreation, Board of  
† Education, Board of  
Hearing Aid Specialists, Board for  
† Mental Health, Mental Retardation and Substance Abuse Services, State Board of

## September 30

† Intergovernmental Cooperation, Virginia Commission on

## October 1

Local Emergency Planning Committee of Chesterfield County  
Water Control Board, State

## October 2

Remediation, Joint Subcommittee Studying (HJR 62)

## October 5

Alcoholic Beverage Control Board, State  
Barbers, Board for  
Funeral Directors and Embalmers, Board of  
- Special Conference Committee  
Medical Assistance Services, Department of  
- Pharmacy Liaison Committee

## October 6

Agriculture and Consumer Services, Department of  
- Virginia Horse Industry Board  
Cities, Commission on the Condition and Future of Virginia's  
Funeral Directors and Embalmers, Board of  
- Special Conference Committee  
Museum of Fine Arts, Virginia  
- Executive Committee  
Tourism Corporation Board, Virginia  
- Motion Picture Development Committee

## October 7

† Conservation and Recreation, Department of  
† Nursing Home Administrators, Board of

## October 8

Interstate Route 73 Communications Committee  
Medicine, Board of

## October 9

† Health Professions, Department of  
- Health Practitioner's Intervention Program  
Medicine, Board of

## October 10

Medicine, Board of

## October 13

Chesapeake Bay Local Assistance Board  
- Northern Area Review Committee  
- Southern Area Review Committee  
Cities, Commission on the Condition and Future of Virginia's  
Commercial Space Flight Authority, Virginia

## October 14

Lottery Board, State  
Visually Handicapped, Board for the

## October 18

† Fire Services Board, Virginia  
- Legislative/Liaison Committee

## October 19

† Accountancy, Board for  
Alcoholic Beverage Control Board  
† Conservation and Recreation, Board of  
Funeral Directors and Embalmers, Board of

- October 20**  
Health Care, Joint Commission on
- October 21**  
George Mason University  
- Board of Visitors
- October 22**  
† Game and Inland Fisheries, Board of  
† Real Estate Board  
- Common Interest Community Management  
Information Fund Advisory Committee  
† Voluntary Formulary Board, Virginia
- October 23**  
† Game and Inland Fisheries, Board of
- October 27**  
General Laws, House Committee on  
- Subcommittee 6  
Publicly Funded Mental Health, Mental Retardation and  
Substance Abuse Services, Joint Subcommittee  
Evaluating the Future Delivery of (HJR 225)  
Real Estate Appraiser Board
- October 28**  
Educational Infrastructure, Commission on  
† Funeral Directors and Embalmers, Board of
- October 29**  
Compensation Board  
† Funeral Directors and Embalmers, Board of  
† Waterworks and Wastewater Works Operators, Board  
for
- November 3**  
Museum of Fine Arts, Virginia  
- Executive Committee
- November 10**  
† Asbestos and Lead, Board for
- November 16**  
† Professional and Occupational Regulation, Board for
- November 17**  
Health Care, Joint Commission on
- November 18**  
Code Commission, Virginia
- November 23**  
Educational Infrastructure, Commission on
- December 16**  
Publicly Funded Mental Health, Mental Retardation and  
Substance Abuse Services, Joint Subcommittee  
Evaluating the Future Delivery of (HJR 225)
- September 16**  
Mental Health, Mental Retardation and Substance Abuse  
Services, Department of  
Administrative Law Advisory Committee  
Game and Inland Fisheries, Department of  
Optometry, Board of
- September 17**  
Air Pollution Control Board, State  
Funeral Directors and Embalmers, Board of  
Game and Inland Fisheries, Department of  
Veterinary Medicine, Board of
- September 18**  
Dentistry, Board of
- September 24**  
Mental Health, Mental Retardation and Substance Abuse  
Services, Department of  
Water Control Board, State
- September 25**  
Land Development Patterns and Ways to Address  
Demands Resulting from Residential Growth, Joint  
Subcommittee Studying (HJR 195)
- October 15**  
Pesticide Control Board
- October 27**  
† Mental Health, Mental Retardation and Substance  
Abuse Services, State Board of
- October 28**  
† Air Pollution Control Board, State  
† Mental Health, Mental Retardation and Substance  
Abuse Services, State Board of
- October 29**  
Branch Pilots, Board for  
† Mental Health, Mental Retardation and Substance  
Abuse Services, State Board of
- October 30**  
† Mental Health, Mental Retardation and Substance  
Abuse Services, State Board of

## PUBLIC HEARINGS

- September 14**  
Game and Inland Fisheries, Department of
- September 15**  
Game and Inland Fisheries, Department of

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